

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**

**ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE**

14 APR 2009

London Borough of Merton  
Planning Development Control

ISSUED BY THE LONDON BOROUGH OF MERTON

1. **THIS IS A FORMAL NOTICE** issued by the Council because it appears that there has been a breach of planning control under Section 171A(1)(a) of the above Act, at the land described below. The Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. **THE LAND AFFECTED**

**Land at rear of 125 Ashbourne Road Mitcham CR4 2BF**, in the London Borough of Merton shown edged red on the attached plan ('the Land').

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, a material change of use of the Land from a single story residential garage to a commercial storage unit of building materials.

4. **REASONS FOR ISSUING THIS NOTICE**

- (a) It appears to the Council that the above breach of planning control has occurred within the last ten years.
- (b) The unauthorised use of the garage on the Land as a commercial storage of building materials causes unacceptable harm to the amenity of the occupiers of the neighbouring properties by failing to ensure protection of amenities from visual intrusion and failure to ensure that the living conditions of existing and future residents are not diminished by increased noise or disturbance, contrary to the following policy of the Merton Unitary Development Plan adopted October 2003:

BE 15 (New buildings and Extensions, Daylight, Sunlight, Privacy, Visual Intrusion and Noise)

A copy of the above policy is attached.

5. **WHAT YOU ARE REQUIRED TO DO**

- (a) To cease the use of the garage on the Land at the rear of 125 Ashbourne Road, Mitcham as a commercial storage unit for building materials.
- (b) Remove all equipment, fixtures and fittings associated with the unauthorised use from the Land.

Time for Compliance: within 7 days from the date this notice takes effect

London Borough of Merton

**6. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 10 May 2009 unless an appeal is made against it beforehand.

14 APR 2009

Planning Development Control

Dated: 9/14 APRIL 2009

Signed: *D. N. Admin*  
Head of Civic and Legal Services

Address to which all communication should be sent:-  
Head of Civic and Legal Services, London Borough of Merton, Merton Civic Centre,  
London Road, Morden, Surrey SM4 5DX (Ref:CS/PT/ENVP1456)

**YOUR RIGHT OF APPEAL**

You can appeal against this notice by using the Enforcement Notice Appeal forms enclosed with this notice or by submitting an appeal online ([www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)). Please note however that any appeal must be received, or posted in time to be received, by the Planning Inspectorate before the date this notice takes effect. The enclosed booklet "Making Your Enforcement Appeal" sets out your rights and the procedure to be followed. Read it carefully. You should also read sections 171-177 of the Act which are also enclosed. If you decide to appeal, you should send two copies of the enclosed appeal forms and one copy of the enforcement notice, to the Planning Inspectorate. The other appeal form and the other copy of the enforcement notice are for you to keep for your own records.

**FEE PAYABLE FOR THE DEEMED APPLICATION**

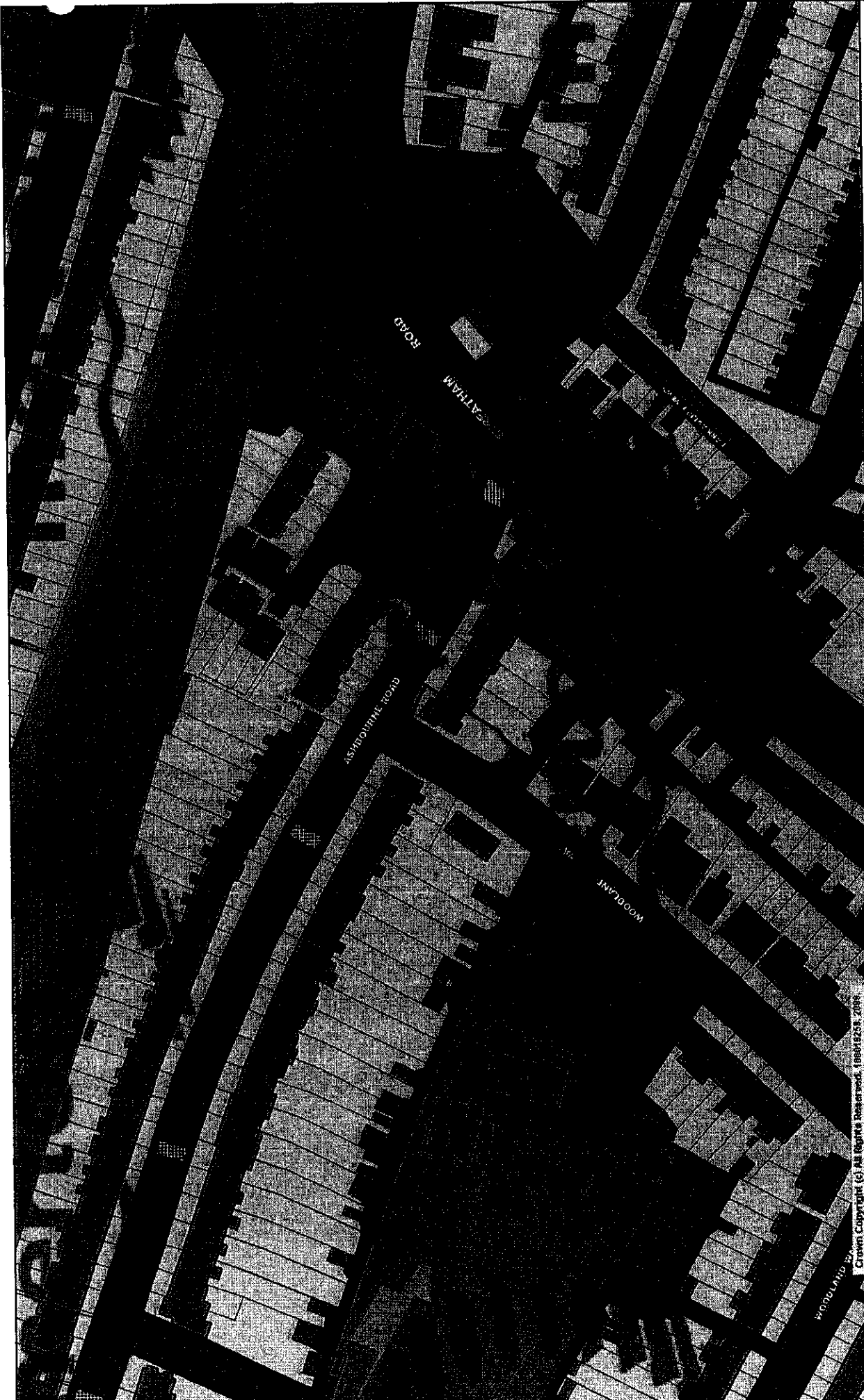
If your ground of appeal is, or includes ground (a) that planning permission should be granted, you must include with your appeal a fee, which is double that payable for a normal planning application. The total fee payable is **£770**. Half the fee is payable to the Planning Inspectorate and half to the Council. You should therefore send:  
One cheque for **£335** payable to 'DCLG' to the Planning Inspectorate  
One cheque for **£335** payable to 'London Borough of Merton' to the Council  
The fee can be sent with your appeal form.

**WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date indicated above and you must then ensure that the notice is complied with. Failure to comply with an enforcement notice that has taken effect, is a criminal offence and can result in legal proceedings and/or remedial action by the Council.

**PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE**

1. The Directors of South London Land Limited of 7F Earlsfield Road ,London SW18 3DB
2. Mr Andrew Watson ,Crastock Manor Berry Lane ,Woking, Surrey,GU 22 ORJ
3. Mr David Huxley 20 Buckmaster Road, London SW11 1EN



London Borough of Merton  
100 London Road  
Morden  
Surrey  
SM4 5DX

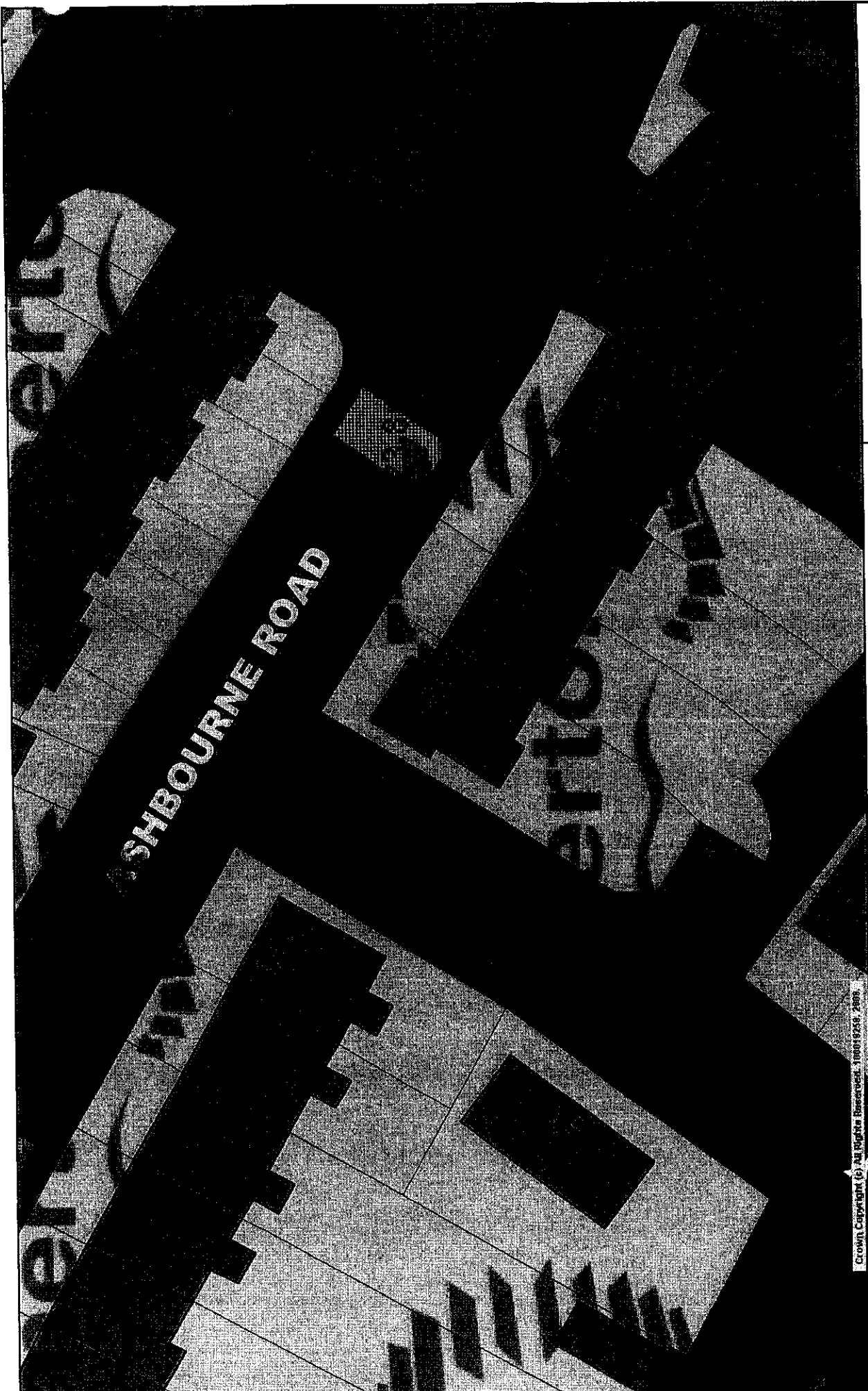
Scale 1/1250

Date 23/1/2009

r/o 125 Ashbourne Road

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DEVELOPMENT CONTROL



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r/o 125 Ashbourne Road

Scale 1/355  
Date 23/1/2009

  
London Borough of Merton  
100 London Road  
Morden  
Surrey  
SM4 5DX

DEVELOPMENT CONTROL

### **POLICY BE.14: ARCHAEOLOGICAL EVALUATION**

BEFORE DEVELOPMENT COMMENCES ON SITE, REFERENCE SHOULD BE MADE TO THE COUNCIL'S SUPPLEMENTARY PLANNING GUIDANCE NOTE ON ARCHAEOLOGY.

WHERE DEVELOPMENT IS PROPOSED WITHIN AN ARCHAEOLOGICAL PRIORITY ZONE, AS SHOWN ON THE PROPOSALS MAP, THE COUNCIL MAY REQUIRE A PRELIMINARY ARCHAEOLOGICAL ASSESSMENT BEFORE PROPOSALS ARE CONSIDERED. THIS REQUIREMENT MAY ALSO BE APPLIED TO SITES OUTSIDE THE ARCHAEOLOGICAL PRIORITY ZONES ESPECIALLY WHERE THEY ARE OVER 0.6 HA OR WHERE THERE IS PROVEN OR KNOWN ARCHAEOLOGICAL POTENTIAL.

#### **Justification**

- 4.62 The purpose of such evaluation will be to determine the nature and extent of archaeological remains on the development site and thus to aid the process of decision making.

#### **Residential amenity and urban design**

### **POLICY BE.15: NEW BUILDINGS AND EXTENSIONS; DAYLIGHT, SUNLIGHT, PRIVACY, VISUAL INTRUSION AND NOISE.**

THE ORIENTATION AND DESIGN OF NEW BUILDINGS AND EXTENSIONS TO EXISTING BUILDINGS WILL BE EXPECTED TO:

- (i) PROVIDE FOR LEVELS OF SUNLIGHT AND DAYLIGHT TO ADJOINING BUILDINGS AND LAND TO ENSURE PROPER LIVING CONDITIONS OF ALL RESIDENTS AND ENJOYMENT OF AMENITY SPACES
- (ii) ENSURE GOOD LEVELS OF PRIVACY FOR OCCUPIERS OF ADJOINING PROPERTIES AND FOR FUTURE OCCUPIERS OF THE DEVELOPMENT BUILDINGS,
- (iii) PROTECT AMENITIES FROM VISUAL INTRUSION.
- (iv) ENSURE THAT THE LIVING CONDITIONS OF EXISTING AND FUTURE RESIDENTS ARE NOT DIMINISHED BY INCREASED NOISE OR DISTURBANCE.

#### **Justification**

- 4.63 Careful design of residential properties and of other buildings, such as offices, where the amount of incoming light is important can ensure that sufficient sunlight can enter main rooms to provide comfort and also reduce the need for artificial lighting and thus energy use. Enjoyment of amenity spaces is also greatly enhanced by their ability to receive adequate daylight and direct sunlight. Daylight and sunlight considerations are, therefore, important in view of the Plan's objective of ensuring both the protection and improvement of the environment. The Council considers that the Building Research Establishment publication 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice' 1991 provides the best comprehensive advice available on the subject. A summary of the Guidance on this subject is set out in Supplementary Planning Guidance on New Residential Development. Supplementary Planning Guidance on Residential Extensions provides advice on how to protect neighbouring properties from loss of daylight and sunlight.

- 4.64 The Council considers it essential that new development does not adversely affect the amenities of neighbouring properties or amenity spaces. In the interests of land economy the Council would prefer to see privacy ensured by attention to the alignment of dwellings and new buildings and their relationships to each other. Where design solutions cannot be achieved, the Council will seek a minimum separation between windows. The Supplementary Planning Guidance Notes for New Residential Development and Residential Extensions provides advice on how to retain adequate privacy and prevent unreasonable overlooking and/or unreasonable visual intrusion.
- 4.65 Pollution in the form of noise or disturbance can have an adverse effect on health. PPG24 "Planning and Noise" refers to the need to separate sources of noise from noise sensitive developments, and to control noise at source where possible. Further guidance on noise pollution is set out in the Council's Supplementary Planning Guidance Notes on Minimising Pollution.
- 4.66 Urban design is about the complex relationships between buildings and the design and treatment of spaces between them, which together make up the public domain. It includes the way places work and matters such as community safety, as well as how they look. It concerns the connections between people and places, movement and urban form, nature and the built fabric.
- 4.67 The design of buildings is a distinct but closely interrelated subject, which will impact on the public realm and therefore needs to be a consideration in the policy. Similarly, a building's context and relationship to other buildings and spaces will be a consideration in Policy BE.22, Design of New Development, concerning the design of buildings.
- 4.68 The Department of the Environment, Transport and the Regions, in partnership with the Commission for Architecture and the Built Environment, has produced a series of objectives of good urban design to indicate what should be sought to create a successful place. These are put forward in their document 'By Design. Urban Design in the Planning System: Towards Better Practice':
- ▲ Character - To promote a place with its own identity by responding to and reinforcing local distinctiveness
  - ▲ Continuity and Enclosure - To promote a place where public and private spaces are clearly defined through the continuity of street frontages and the enclosure of space
  - ▲ Quality of the Public Realm - To promote a place with attractive and successful outdoor areas
  - ▲ Ease of Movement - To promote a place that is easy to get to and move through
  - ▲ Legibility - To promote a place that has a clear image and is easy to understand
  - ▲ Adaptability - To promote a place that can change easily
  - ▲ Diversity - To promote a place with variety and choice.