

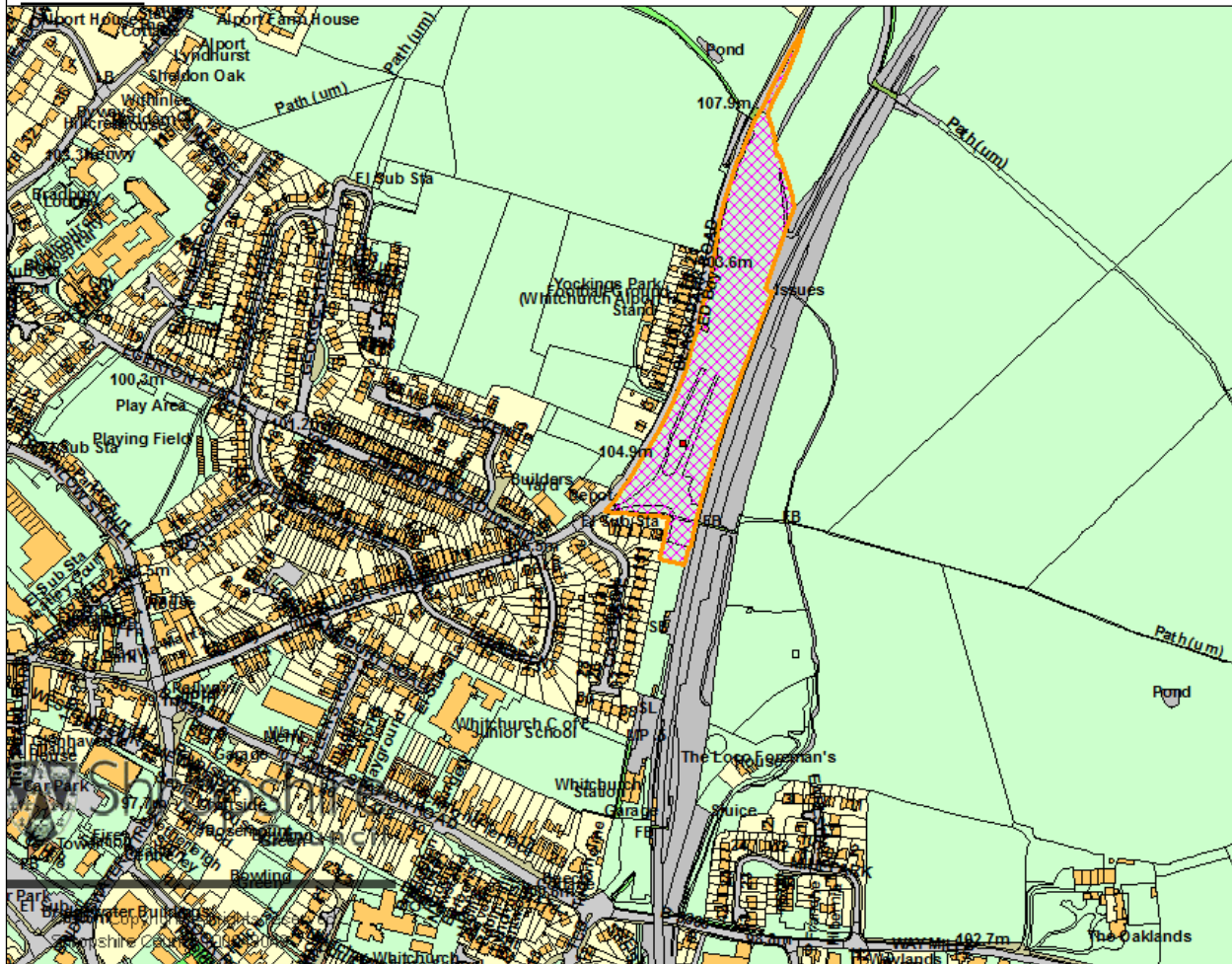
Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 13/01405/OUT	<u>Parish:</u> Whitchurch Urban
<u>Proposal:</u> Outline application (access) for residential development	
<u>Site Address:</u> Land East Of Black Park Road Black Park Whitchurch Shropshire	
<u>Applicant:</u> Calibre Commercial Ltd	
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk
<u>Grid Ref:</u> 355007 - 341746	



Recommendation: Subject to resolving the Council Ecologist's objections grant planning permission subject to the applicants entering into a S106 agreement to secure affordable housing and open space and subject to the conditions listed in appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for residential development of the former railway goods yard in Whitchurch. Access is submitted for consideration at this outline stage with all other matters of appearance, landscaping, layout and scale reserved for later approval. At the time of the submission of the application the access was proposed directly off Black Park Road. Following significant levels of objections and concern from Council Officers the access has been amended to remove direct access off Black Park Road and propose access through the adjacent site to the south, across the railway station car park.
- 1.2 To assist in the consideration of the application the submission is accompanied by a design and access statement, indicative layout and ecology survey. The indicative layout was withdrawn during consideration of the application and additional information was provided with regard to the change of the access position and the potential impact on the railway station car park.
- 1.3 This application needs to be considered alongside the application on the adjacent site, 15/03751/OUT, due to the proposed access being across the adjacent land and therefore this site is not developable without the adjacent site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a 2.25 hectare parcel of land which was formerly the goods yard of the railway station. The site is enclosed with a steel fence to the western boundary with the railway line and an embankment to the east up to Black Park Road. Existing houses lie to the south of the site, on the opposite side of the railway footbridge, and there is an existing vehicular access to the south west off Black Park Road. The site is currently disused with areas of hard standing and overgrown planting.
- 2.2 The site was part of a larger allocated site in the North Shropshire Local Plan. However this has since been superseded by the SAMDev and is no longer allocated. It does however fall within the development boundary for the town, as detailed later in the report.
- 2.3 The houses to the west, Castillon Drive, are modern, two storey, houses which are similar in form and design. In the wider area the houses are more varied with a mix of traditional and modern, semi detached and terrace houses to the point where Black Park Road/ Talbot Road joins the B5395 on the edge of the town centre.
- 2.4 Access to the site is proposed off Station Road (B5398) and through the railway

station car park. Station Road runs nearly parallel with Black Park Road/ Talbot Street but is a much wider road with wider footpaths. The housing is again a mix of terraced and semi detached interspersed with commercial premises and the school playground.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Whitchurch Town Council have objected to the application which is therefore contrary to the Officer recommendation for approval. Two of the Whitchurch Councillors have requested that the application be determined by committee due to potential implications for traffic movements and parking at the railway station.

Following discussion with the Chair and Vice Chair of the North Planning Committee it was resolved that the application should be determined by committee to allow the issues raised by the Town Council and local members be debated.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** – Request a traffic movement survey of this area due to committee's concerns over access.

Following receipt of the amended details raised concerns about traffic flow and parking at the railway station.

4.1.2 **Council Affordable Housing Officer** – If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards to affordable housing in accordance with Policy CS11 of the Core Strategy. The level of contribution would be at the prevailing percentage rate given in the SPD on the Type and Affordability of Housing applicable at the date of the Reserved Matters.

The current prevailing target rate for affordable housing during 2013 is 13%. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for shared ownership and they would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Housing Allocation Policy and Scheme.

4.1.3 **Network Rail** – The development is located on an area of land previously under the ownership of Network Rail. Often these sites are sold and are subject to a demarcation or covenant agreement which may include particular rights in relation to the safe operation of the railway and associated infrastructure. It must be considered when Network Rail has access rights over the development site; access must not be blocked or restricted at any time. The applicant must comply with all post sale covenants in the demarcation agreement and understand the implications this will have on the implementation of this development.

Any representations made are without prejudice to those rights and obligations and on the basis that they do not imply that Network Rail's approval under the demarcation agreement will be given for the proposed development or for any part of it.

EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

GROUND DISTURBANCE

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system, Soakaways are not acceptable on this site.

METHOD STATEMENT & RISK ASSESSMENTS

It is recommended that all Method Statements and Risk Assessments are reviewed by Network Rail prior to any works taking place particularly where any substantial excavations are planned.

LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

It is strongly recommended that the Developer contact Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

- 4.1.3 **Council Public Protection Officer** – Looking at historical maps old railway lines can be seen running through the site. There has also been a timber works on site in the past. As a result there is the potential for contamination to be present that may require remediation prior to development commencing. As such recommends the imposition of the standard contaminated land condition.
- 4.1.4 **Council Highway Officer** – The highway authority raised **no objection** to the granting of outline consent subject to Condition(s) imposed as set out below.

The application was originally submitted with access derived from Black Park Road. This raised significant local opposition having regard to the route to the site, where parking demand is high along Black Park Road given the lack of off-street parking provision. At the time also, indicative drawings had been provided to show how the site could be developed and the density that could be accommodated on the application site area. The highway authority acknowledges the local constraints of Black Park Road and would not have wished to see a material increase in new housing development traffic and not as shown on the indicative drawings. That said the view of the highway authority is that a limited scale development would be difficult to resist on highway grounds.

The revised application access position is now shown via the proposed outline application reference 15/03751/OUT and therefore access derived from Station Road, which serves the Railway Station car park and Station Motors Services. The development of 13/01405/OUT and 15/03751/OUT are inextricably linked. Having said that, the later application site is particularly slender in shape and the

provision of potential road space clearly would impact upon the development of the site.

The Railway Station car park junction onto Station Road is substandard in terms of the measure of visibility available in both directions for drivers emerging onto Station Road. In addition the junction is not properly formalised in terms of providing a more standardised bellmouth arrangement and which recognises the pedestrian movement to the Railway Station. The junction also is located opposite the junction of Wayland Road. The current highway situation therefore raises both highway and pedestrian safety concerns .

In considering the fallback position of both applications, the Station Road access serves the Station Motor Service site and the railway station car park and therefore a traffic generator. No assessment has been carried out of the current permitted site use and no assessment of the current access situation onto Station Road. That said, the highway authority would accept that limited development would be acceptable but would have significant concerns at the indicative scale shown as part of both submissions, albeit that scale and layout are reserved for subsequent approval.

Concerns have been raised by the Town Council at the potential loss of car parking provision. In this regard the principal Railway Station car park is marked out with further spaces available more adhoc within the land which would form the internal access route to both sites. Both applications show how the railway car park can be maximised. No information however is provided as to the current operating capacity of the car park and desirability of car parking area being fully utilised to meet the needs of future proofing car parking to serve the Railway Station.

The development of both site does provide the opportunity of providing a footway link between Black Park Road and the Railway Station.

In the circumstances the highway authority have no objection to the principle of developing of either site. As part of *any* development proposal the highway authority will require improvement of the current Station Road/Railway Station junction arrangement. The scope however of those works will be dependent upon the scale of the development coming forward as part of reserved matters applications. The highway authority however is satisfied that the scope of any highway junction improvement scheme could be accommodated within the highway limits.

The highway authority therefore raised no objection to the granting of consent subject to the following condition being imposed on both applications:-

- Prior to the commencement of development full engineering details of improvements to the junction of the Railway Station access and Station Road have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the junction improvement works have been implemented fully in accordance with the approved details. Reason: In the interests of highway safety.

The highway authority would point out that the re-configuration of the Railway Station car park as shown on Dwg's 2.3 and 4a fall outside the red line area and therefore outside of the scope to condition.

- 4.1.5 **Council Waste Team** – Will need confirmation from the applicant that the roadways will be of adequate size and construction to allow access, turning and exit of vehicles up to 32 tonne GVW rigid body refuse collection vehicle including overhang for tailgate and bin lift and minimum single axle loading of 11 tonnes. Please ask the applicant to provide a plan showing the track of the vehicles within the new development, which must not cross any parking places nor involve reversing in or out of the development.
- 4.1.6 **Council Rights of Way Officer** – A footpath runs through the southernmost section of the site before crossing the railway via a footbridge. I note that this path has been correctly identified on the site plans and that both indicative proposed plans show the route unaffected.
- 4.1.7 **Council Ecologist** – The further ecological survey work recommended below should be submitted before the application is determined. In the absence of this additional information (detailed below) recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010), Wildlife and Countryside Act (1981 as amended) or The Badgers Act (1992). Protected species should not be conditioned.

The Initial Ecological and Protected Species survey recommends further ecological survey for the following:

Great crested newts
Badgers
Reptiles

Additional surveys should also be carried out for bats and water voles.

The Councils Tree Service do not appear to have been consulted on this application, which involves removal of a large number of trees.

Great crested newts

Any ponds within 250m of a major planning application (over 10 houses) should be assessed in terms of broad suitability for Great Crested Newts by carrying out a Habitat Suitability Index (HSI). If any pond is suitable then it may be necessary to carry out a presence/absence survey for Great Crested Newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If Great Crested Newts are discovered on the site then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period. The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Great Crested Newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The Great Crested Newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning application.

Badgers

The Proposed Site Layout Drwg 4 indicates badgers but provides no further information on the status of the sett and a buffer zone or an undisturbed strip as recommended in the survey report. This will have implications on the site layout and capacity.

Bats

This application site meets the trigger point for requiring a bat survey since it may involve development close to, or felling or lopping of mature trees, or removal of hedgerows. Trees should be assessed in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines by a licensed bat ecologist and if deemed necessary activity surveys should be undertaken. The bat survey should be as follows:

1. Trees to be removed should be assessed for potential bat roost habitat as described in The Bat Conservation Trusts Bat Surveys Good Practice Guidelines (2nd Edition 2012).
2. Transect surveys should be carried out in line with the Bat Conservation Trusts Bat Surveys Good Practice Guidelines (2nd Edition 2012) particularly focussing effort on any hedgerows to be lost.

Water Vole

There is potential for Water Vole to be present in close proximity to the proposed development site. They have been recorded on Staggs Brook to the east of the site. A Water Vole survey of any surrounding water courses should be carried out by an experienced ecologist using the methods set out in the Water Vole Conservation Handbook.

Environmental Networks

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework. This proposed development site is within the Environmental Network and as such the proposed scheme must clearly demonstrate how the development will promote the preservation, restoration and re-creation of priority habitats and ecological networks as required by paragraph 117 of the National Planning Policy Framework.

- 4.1.8 **Council Tree Officer** – The SC Ecology comments refer to the loss of a large number of trees. As these are not shown on any of the plans and an arboricultural impact assessment has not been submitted I am unable to support the application due to lack of information.
- 4.1.9 **Council Drainage Engineer** – On the EA Flood Map, part of the site is in Flood Zone 3 and a Flood Risk Assessment should be submitted in accordance with the

National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

The site is also classed as brownfield, therefore a 50% betterment to the current surface water flows should be provided in accordance with Shropshire Council requirements. SUDs applicability for the site is Infiltration or Attenuation. The use of soakaways should be investigated in the first instance for surface water disposal. The betterment requirement will be assumed to have been achieved if all surface water is disposed of via soakaways. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a brownfield run-off rate should be based on a rainfall intensity of 35mm/hr as stated in paragraph 4.3.3 of the SUDs Manual plus 50% betterment should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change and will not cause flooding of any property either within the proposed development or any other in the vicinity. There must be no discharge to a surface water body or sewer that results from the first 5mm of any rainfall event.

As part of the SuDS, the applicant should consider employing measures such as surface water soakaways (Designed in accordance with BRE Digest 365), swales, infiltration basins, attenuation ponds, water butts, rainwater harvesting system, permeable surfacing on any new driveway, parking area/ paved area, attenuation, greywater recycling system, green roofs. The use of above ground SuDS at source should be considered in the first instance for the disposal of the surface water. Please refer to CIRIA SuDS Manual C697 and details of the use of SuDS should be indicated on the drainage plan.

Gully spacing calculations and a contoured plan demonstrating that proposed highway gullies will be able to transfer the 1 in 100 year + 30% climate change storm event into the surface water system efficiently, or a plan indicating where exceedance flows will be stored prior to entering the system should be submitted. Confirmation is required that these exceedance flows will not flood any adjacent property.

The proposed method of foul sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the removal of the existing culverted watercourse/ diversion of watercourse will require consent from Shropshire Council.

The above drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission will to be granted.

4.2 Public Comments

4.2.1 27 letters of representation have been received raising the following concerns:

- Development of this site has previously been refused
- Loss of space for dog walking
- No need for development
- Inappropriate mix of housing
- Noisy and will result in loss of light
- Increase in traffic
- Currently difficult to drive up Talbot Street especially for emergency vehicles
- Already have large vehicles, tractors and traffic for the football grounds
- Talbot Street serves 14 other roads
- Risk to pedestrian safety, especially children
- Affect on public right of way and listed bridge structure
- Removal of earth adjacent to existing properties will undermine their stability
- Potential for loss of light and overlooking
- Impact on protected species including badgers, barn owls and bats
- Affect on insects, trees and other wildlife
- Loss of mature trees
- Potential contamination
- Will impact on house prices
- Loss of views and tranquillity
- Affect on already oversubscribed services

4.2.2 In addition a petition of 66 signatures has been received raising the same concerns to those listed above.

4.2.3 3 representatives consider the development would tidy up the site and provide homes for local people but this would not outweigh the highway issues and an alternative access should be found.

4.2.4 The assistant Ramblers Footpath Secretary for this area has also written to insist that the activities associated with this application do not interfere with the use of or impede the passage along the right of way 0234/1/1 nor should materials be stored on the right of way. There should be access at all times to the Right of Way.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 Since the NPPF the Council have also adopted the Site Allocations and Management of Development (SAMDev) Plan which was in the early stages of the policy at the time the application was submitted but has since progressed through several stages of public consultation, the examination in public and to full adoption by the Council on the 17th December 2015. The Core Strategy and the SAMDev are therefore the development plan for planning decision purposes and both hold full weight in the determination process.
- 6.1.3 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to ‘boost significantly the supply of housing’, with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan.
- 6.1.4 Whitchurch is defined in the SAMDev as a Market Town and therefore housing and employment development is promoted on allocated sites and non-allocated sites within the development boundary set within the policy. The current application site is inside the development boundary for Whitchurch set within the SAMDev plan, is close to existing built development and is also previously developed land. As such the principle of developing the site for housing is acceptable and the redevelopment of a brownfield site should be promoted. The key issues with this site are access, the shape of the site, the close proximity of existing residential properties and the railway line and the potential impact on ecology, flooding and drainage.
- 6.1.5 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location. This contribution will be provided through the payment of Community Infrastructure Levy (CIL).

- 6.1.6 In accordance with policy CS11 a contribution to affordable housing will also be required. As this is an outline application the agreement will set out the formula for calculating the amount once the reserved matters have been determined. A S106 Legal Agreement will be required to ensure that the appropriate amount is paid.
- 6.1.7 Local representations have commented that development of this site has previously been refused, however the planning history search for the site only shows the application for the larger, NSLP allocated site, which was withdrawn as not determined. The application had progressed to a point where officers were minded to support it and a S106 was drafted, however it was not taken forward by the applicant and the main part of the site has since been taken out from the development boundary. Comments have also been received noting that there is no need for the development however this comment would conflict with both national and local policy seeking to boost housing supply and provide new housing in sustainable locations. Furthermore the concerns raised about impact on services is noted, however the town is planned to grow with additional growth in services and facilities both as part of the overall plan and also through CIL payments.
- 6.1.8 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The remainder of this report will consider the impacts and benefits of the development proposed.
- 6.2 **Layout, scale and design**
- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.2 An indicative layout was submitted with the application and subsequently withdrawn following concerns raised about the layout indicated and the access to the site. Two further indicative layouts were submitted but are only intended to show how the site could possibly be developed. These plans are not submitted for consideration at this time. Both show semi detached and terrace houses however both are very limited in not showing whether the plots are sufficient size to accommodate a dwelling, parking and amenity space. Furthermore, neither show open space at 30sqm per person which is required under policy MD2 or whether the layout meets the requirement of Network Rail. The indicative layouts show two options for the estate road, one through the middle of the site and the other up the side of the railway line. However, as an outline application with layout reserved for later approval this would be a matter for consideration at the time of the submission of reserved matters.
- 6.2.3 The matters of layout, scale and design are therefore fully reserved for later

consideration and it is only the principle of developing the site for houses and the detail of the access which are submitted for approval. As noted above the access was also altered during the consideration of the application and is now proposed off the south of the site, through the adjacent site, across the railway station car park to join Station Road. The consideration of the suitability of the access in highway terms is considered later in this report. With regard to potential layout etc the existence of the railway footbridge will constrain the access point as the vehicular access will need to come through the short section where the two sites join but is not considered to be grounds on which to base a refusal.

6.3 **Impact on residential amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. In addition SAMDev policy MD2 also deals with the issue of sustainable design. Concern has been raised by local residents about the potential for noise, overlooking, loss of light, loss of view and reduced property values. These latter two comments are not material planning considerations.

6.3.2 As an outline application it is not possible to provide a detailed assessment on the impact on the amenities of existing properties. There are existing dwellings to the northeast of the site, on the opposite side of Black Park Road, and existing dwellings to the south on Castillon Drive. All of these existing dwellings will need to be considered when assessing the layout of the site and the proposed houses. At this time, without detail of the layout or window orientation, it is not possible to assess the potential for loss of light or overlooking. However the site is considered to be of sufficient size to enable development to be undertaken that would not result in unacceptable loss of light or overlooking to any of these existing dwellings.

6.3.3 Consideration of the amenities of the future residents on the site will also be necessary given the close proximity of the railway line. Although not specifically noted by the Council Public Protection Officer it is considered necessary to impose a condition requiring a noise assessment and subsequent noise mitigation for the properties to ensure that the railway line does not adversely affect amenity and that the layout of the site and houses takes into consideration this noise generating use.

6.4 **Highways, access, parking and rights of way**

6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. The application form advises that a new access is proposed and a new estate road within the site. As noted previously the access was originally proposed off Black Park Road and during the consideration of the application was amended to be off Station Road, through the railway station car park.

6.4.2 Concerns have been raised by local representations and the Town Council to both

access proposals. Objections were raised to the access being off Black Park Road due to the width of the existing road and the level of on-street parking, especially where it turns into Talbot Street. Objections have also been received to the use of Station Road on the basis of the potential impact on the parking at the railway station and the loss of land which could provide additional car parking. These matters have been considered by both the Council Highway Officer and also Network Rail.

- 6.4.3 Network Rail's response is fully detailed under section 4 above. Network Rail retain access rights over the application site and would need to ensure that this is retained. Network Rail have also commented, on the second application, that their consent to use the land for access would not be given if it resulted in a reduction in car parking spaces. The agent has therefore submitted a plan showing the level of car parking as existing and the potential road layout and car park after development which indicates the possibility of increasing the level of car parking available for the train station. As such it is officers opinion that the development will not have a detrimental impact on the car parking available at the station. This is also agreed by the Council Highway Officer.
- 6.4.4 Some local concern has been raised that the development of these two sites with access across the car park will remove the ability for the train station car park to expand onto the land being proposed for the access road. This is acknowledged by officers; once the development has proceeded the land taken up by the road can not be used for any other use. However, the proposed development will not result in any greater pressure for car parking at the station as it is highly unlikely that the residents of the site will drive to the car park and are more likely to leave their cars at home. Whether there is sufficient car parking at the train station is not a matter for the current applications to resolve. If this is an issue for the Town Council and Network Rail it is not something which either has sought to resolve to date. Furthermore, the land taken up by the road would not provide a significant amount of additional parking and officers suggest that it would be more appropriate to look for an alternative solution such as off-site parking facilities.
- 6.4.5 The Council Highway Officer's advice is provided in full at section 4 above. Overall the technical consultee has no objection to the proposal to provide access off Station Road. The Highway Officer has advised that a limited scale of development off Black Park Road could be difficult to sustain but this is not currently part of the application.
- 6.4.6 The Highway Officer has advised that the junction from the car park onto Station Road has substandard visibility in both directions and does not provide sufficient recognition of pedestrian movements and as such raises both highway and pedestrian safety concerns. Noting that the access currently serves the station and the existing motor service business (which would not continue if consent is granted to the second application) the Highway Officer's advice is that a limited scale of development could be permitted but has raised concerns about the indicative scale shown as part of both submissions, albeit that scale and layout are reserved for subsequent approval. Furthermore, the Highway Officer has also acknowledged the benefit that the proposed access road would provide in terms of a separate pedestrian footpath from Station Road into the site which would also provide pedestrian access through to Black Park Road and the station.

- 6.4.7 As part of their support for the development the Highway Officer is requiring the junction access to be improved but comments that the scale of the improvement will depend on the scale of the development and as such this will need to be dealt with as a condition. The highway authority however is satisfied that the scope of any highway junction improvement scheme could be accommodated within the highway limits. The improvements to the existing junction are also a benefit which would only be achieved through the development of the site.
- 6.4.8 The Council Waste Team have also made comments with regard to servicing the development with refuse collection vehicles. This will be a matter for the detailed design at reserved matters stage and the applicant will be made aware of the Council requirements on this matter.
- 6.4.9 Both the Council Rights of Way Officer and the assistant Ramblers Footpath Secretary for this area note that there is a public footpath running through the south section of the site before crossing the railway via a footbridge and that this path should remain unaffected and un-impeded. This can be managed through an informative advising the applicant of the need to ensure the footpath is retained and usable.
- 6.4.10 Overall it is officers opinion that the principle of developing the site, as being considered through this outline planning application, is acceptable in terms of highway safety, traffic movements, waste collection and rights of way. The concerns of the local community are noted however the proposed development will increase parking available, provide improvements to the access junction and also provide better pedestrian access to the railway station. As such the harm of developing on land which could possibly be used for car parking is considered to outweigh the benefits of the development, especially when taking into account that other land further afield could be used for off-site car parking.
- 6.5 **Ecology and trees**
- 6.5.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The applicant has acknowledged the potential for ecology to be present on the site on the application form and through the submission of an ecology survey and also acknowledges the presence of trees within and around the site.
- 6.5.2 The ecology report submitted with the application noted on site and surrounding area surveys and record searches. The report also notes that there are a small number of mature trees and over 100 early mature trees on the site many of which are multi stemmed and therefore, it is the ecologists view, will become unstable. There are 3 ponds near the site at 65m, 290m, and 310m but no formally protected sites within 1km. The report considers that the site may be used by bats for foraging, that the nearby ponds may be suitable for great crested newts, there is evidence of badgers in the vicinity, nesting birds and potential for water voles.
- 6.5.3 The report therefore makes recommendations for water voles, badgers and general ecology impacts and recommended further survey requirements and this

formed the justification for the Council Ecologist requesting additional information. It is not possible to understand the ecological impact of a development without full survey information to understand the mitigation requirements. The further information required by the Council Ecologist has now been received and reconsulted on. At the time of writing this report the Ecologist had not submitted comments but it is hoped that members can be updated at the meeting.

- 6.5.4 The additional survey information advises of the details of the surveys undertaken which include site assessments and trapping surveys at the ponds. Pond 1 had no evidence of newts, whilst pond 2 had a small number of mature great crested newts on the third visit. The ecological surveyor considers that the distance from pond 2 to the site and the high quality habitat between means that it is unlikely that GCN are present at the application site. Furthermore, there was no evidence of reptiles present on site. The report advises that precautionary measures should be carried out with regard to site clearance and dealing with potential refuges.
- 6.5.5 As noted in the recommendation and above the Council Ecologist has yet to formally comment on this latest submitted information. However, providing the applicant's ecologist is correct there should be no reason to prevent the granting of outline planning consent, subject to conditions. There are no protected species directly affected by the development and the scheme appears to be able to comply with policy in this regard.
- 6.5.6 Local objection has also been received on the grounds of the loss of mature trees. The Council Tree Officer has commented that the SC Ecology comments refer to the loss of a large number of trees which are not shown on any of the plans and an arboricultural impact assessment has not been submitted. The Council Tree Officer has therefore advised that they are unable to support the application due to lack of information. This comment is noted, however it is officer's opinion that an assessment could be submitted as part of the application for approval of reserved matters and the impact on trees could be considered in detail at that time. The site may also need additional or replacement landscaping and the comments regarding the size of the trees from Network Rail will need to be taken into account.
- 6.5.7 The comments of residents, the tree officer and Network Rail are noted, however it is officers opinion that a site assessment can be carried out at a later date and can ensure that the development of the site does not adversely affect existing trees. A condition is therefore recommended to require this information to be submitted as part of the reserved matters.
- 6.6 **Drainage**
- 6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The application form advises that foul drainage is to be connected to the existing mains drainage system and surface water is to be discharged either by soakaway or existing watercourse.
- 6.6.2 The Council Drainage Consultant has provided a detailed response which is provided in full under section 4 above. Overall the Drainage team do not have an

objection to the principle of the development but have noted that a Flood Risk Assessment is required and that a detailed drainage scheme will also need to be submitted. However, they have advised, as technical consultees on drainage matters, that all of the information required can be dealt with by condition and that none of the information is required prior to making a decision on the outline application.

6.6.3 Network Rail have advised that surface water should be directed to the mains system to direct it away from Network Rail's land and that soakaways would not be acceptable. This comment will be passed to the developer of the site, however taking into account the advice of the Council Drainage Consultant, the surface water drainage proposals for the site would need to be submitted for approval. Soakaways are the Council preferred means of dealing with surface water but this does not mean that the site could not be drained. An alternative scheme would need to be drawn up and submitted for approval as part of the application for reserved matters and could provide attenuation to ensure that surface water run off did not exceed existing rates, and in accordance with the Council requirements could provide betterment.

6.6.4 As such it is considered that an appropriate drainage scheme could be designed to deal with both foul and surface water drainage of the site which would comply with the requirements of policy CS18.

6.7 **Other matters**

6.7.1 The Council Public Protection Officer and local representations have noted the potential for the site to be contaminated due to its previous uses. The potential for contamination is not in itself a reason to refuse the application as, as noted by the Council Public Protection Officer, this can be dealt with by a suitably worded condition requiring on site survey work being done before development commences.

6.7.2 The comments from Network Rail regarding excavations, earthworks and underground services will also need to be taken into account in the future development of the site to ensure that the development does not affect the integrity of the railway line or services. Excavations close to existing dwellings should also be carefully considered, or prevented if possible, where they may risk the stability of neighbouring properties. However, this is a civil matter and not something which can be controlled by planning or a condition.

7.0 **CONCLUSION**

7.1 The proposed development would make efficient use of a parcel of previously developed land located in a sustainable location where there is good access to services and facilities. Access to the site is achievable with work required to the access junction which can be controlled by condition and drainage can also be dealt with by condition. The site is of sufficient size to ensure that the amenities of the existing residents and future residents of the site are not impacted to an unacceptable level and the scheme will not have an impact on statutorily protected species.

7.2 It is considered that the proposed development complies with policies CS1, CS3, CS6, CS11 and CS17 of the adopted Core Strategy and MD1, MD2 and MD3 of

SAMDev. Therefore subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with Council Policy, it is recommended that the application be approved.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of

being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

National Planning Policy Framework

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS10 - Managed Release of housing Land

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD12 - Natural Environment

Settlement: S18 - Whitchurch

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Gerald Dakin
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The levels of the site
- The drainage of the site
- The finished floor levels

Reason: To ensure the development is of an appropriate standard.

5. As part of the first submission of reserved matters a Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted for approval. A FRA should include, as a minimum:

Assessment of the Fluvial flooding (from watercourses)

Surface water flooding (from overland flows originating from both inside and outside the development site) On the Pluvial Flood Map, part of the site is at risk of surface water flooding.

Groundwater flooding

Flooding from artificial drainage systems (from a public sewerage system, for example)

Flooding due to infrastructure failure (from a blocked culvert, for example)

Flood compensation storage, finished floor levels and evacuation plan should be detailed.

The potential impact of flood water from the new site on adjacent properties should be considered, and mitigation proposals described.

Reason: To ensure that it complies with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

6. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

7. As part of the first submission of reserved matters a noise survey shall be carried out on the site to establish any mitigation measures required to protect the amenities of the future residents of the site from the adjacent railway line. The results of the noise survey shall be taken into account in the design of the layout of the application site.

Reason: To protect the amenities of the residents.

8. As part of the first submission of reserved matters an Arboricultural Impact Assessment shall be carried out and submitted for approval by the Local Planning Authority. The layout of the reserved matters application should take into account the results of the AIA and landscaping details shall be provided which enhance the results of the AIA. It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

Reason: To ensure suitable landscaping proposals

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

10. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken. All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail.

Reason: To ensure the integrity of Network Rail land

11. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

12. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

13. Prior to the commencement of development full engineering details of improvements to the junction of the Railway Station access and Station Road have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the junction improvement works have been implemented fully in accordance with the approved details.

Reason: In the interests of highway safety.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

14. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the first dwelling. The landscape plan shall be carried out as approved and retained thereafter.

Reason: To ensure the long term maintenance of the amenity green space.