

## Development Management Report

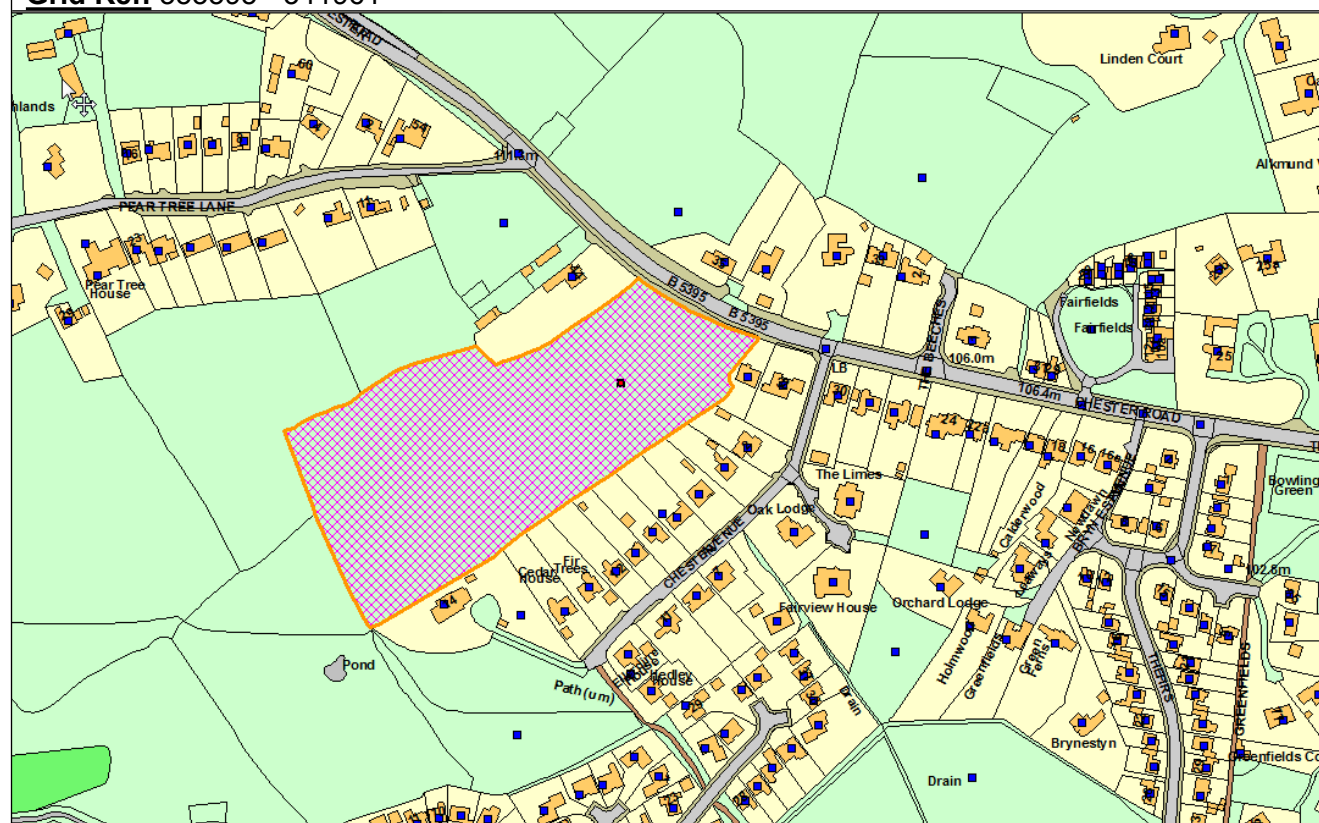
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 15/05047/REM	<b><u>Parish:</u></b>	Whitchurch Urban
<b><u>Proposal:</u></b> Reserved matters application pursuant to 14/02222/OUT for the erection of 52 no. dwellings to include appearance, landscaping, layout and scale		
<b><u>Site Address:</u></b> Proposed Residential Development Land South Of Chester Road Whitchurch Shropshire		
<b><u>Applicant:</u></b> Hollins Homes		
<b><u>Case Officer:</u></b> Karen Townend	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 353395 - 341961



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**Recommendation:- That delegated powers be given to the Area Planning Manager to grant planning permission subject to resolution of drainage matters and subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 The current application is for approval of reserved matters of layout, scale appearance and landscaping on the site south Chester Road, Whitchurch. Outline consent was granted in December 2015 subject to conditions and subject to a S106 legal agreement to secure affordable housing.
- 1.2 The application has been submitted with full plans and supporting information to seek to deal with the matters reserved on the outline consent and details a proposal for 52 detached and semi detached dwellings, mainly two storey with a small number having rooms in the roof. Access to the site was approved at the outline stage, therefore the key matters for consideration now are the layout, scale and appearance and the landscaping of the site. Condition 6 on the outline consent also required the submission of the number of units, the means of enclosure, levels, access for disabled people, finished floor levels and foul and surface water drainage proposals. All of this information was submitted with the application. Although other information has also been provided in relation to highways, ecology and trees these matters will also need to be considered under a separate application for discharge of the conditions on the outline consent.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site lies between the existing dwellings on Chester Avenue, the large detached dwelling at 44 Chester Road and the recently approved land to the south of the housing on Pear Tree Lane and the area of land identified as open space associated with that consent (13/04268/OUT). The site is approximately 2.2 hectares and is currently made up of two agricultural fields with established hedge boundaries. The design and access statement advises that the site frontage onto Chester Road is 70 metres.
- 2.2 The houses on Chester Avenue and Pear Tree Lane are predominately large detached houses and bungalows in large plots built of red brick and pitched tile roofs with some render introduced in the newer dwellings.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Town Council view is contrary to the officer recommendation and raises material planning considerations which the local member, chair and vice chair

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

- 4.1.1 **Town Council – Object** on the grounds of: the proposed area for development is not in the SAMDev, loss of green space, over development of the site. Over capacity on sewerage infrastructure and land is situated on a flood plain with risk of water contamination.
- 4.1.2 **Affordable Housing** – The Design and Access statement shows 5 affordable units

on site, plots 43- 47 which are 3 bedroomed houses.

- 4.1.3 **Open Space** – 184 bedrooms would require 5520m<sup>2</sup> POS. If the application is providing 4300m<sup>2</sup> that would be 1220m<sup>2</sup> short.

The previous standard formula for financial contributions was based on S106 calculation and not the current CIL costs. Therefore suggests that the contribution be based on leisure and recreation facilities identified with in the Whitchurch place plan. For example. replacing 4 pieces of play and recreational equipment would be £20,000. Average of £5K to remove old play equipment and install new. A new BMX track would be a similar cost.

- 4.1.4 **Highways** – No Objection subject to the development being carried out in accordance with the approved details and the recommended informatives.

The proposed development is considered acceptable from a highways and transport perspective, to specifically fulfil the planning requirements.

It should be noted, that there may be some minor alterations to the access, road, footway and street lighting and landscaping necessary to fulfil any Highway Authority technical approvals and constructional requirements, should any of the proposed infrastructure be considered for future adoption, as highway maintainable at public expense.

- 4.1.5 **Waste Management** – sent standing advice note

- 4.1.6 **Ecology** – Welcomes retention of the existing hedgerows and trees as shown on the landscape proposal however SC Ecology would recommend that Native Species of local variety are used in the planting scheme as they are more likely to benefit wildlife than none native species.

- 4.1.7 **Trees** – No objection to the proposal which retains the important trees identified on the survey submitted at outline.

Following receipt of the Tree Protection Plan advised no objection subject to a condition to protect the trees.

No comments on revised landscape proposals.

- 4.1.8 **Drainage** – Surface water drainage details, plans and calculations should be submitted.

- 4.1.9 **Welsh Water** – The developer does not intend to communicate surface water run-off from the site with the public sewer, therefore would not wish to raise any technical objections to the drainage strategy.

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

## 4.2 **Public Comments**

- 4.2.1 4 letters have been received raising the following concerns:

- ☐ Over-development of the site
- ☐ Designs do not tie into local character or features
- ☐ Will overshadow neighbouring properties and gardens
- ☐ Scale of development will cause traffic problems
- ☐ Increase in existing surface water drainage problems
- ☐ Concern over maintenance of the drainage ditches

## **5.0 THE MAIN ISSUES**

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

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & principle of development**

6.1.1 The granting of the outline planning consent has accepted the principle of the development proposed. The site is located on the edge of Whitchurch which is identified within both the Shropshire Core Strategy and the SAMDev as a key settlement and market town. It is accepted that the site is outside the development boundary shown in the adopted SAMDev and the comments of the Town Council relating to the site not being in the SAMDev are noted, however the current application is not seeking consent for the principle of the development and this matter can not be revisited as part of this application.

6.1.2 With regard to affordable housing the current reserved matters application includes 5 affordable dwellings which the Council Affordable Housing Officer has confirmed is acceptable and meets the current requirements. Plot numbers are shown in the information submitted and the agent has confirmed that 2 of the units will be shared ownership and 3 for rent. A financial contribution will also be required to ensure that the proposed development complies with the S106 on the outline consent and this has been agreed at £20,000.

### **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 and ensure sustainable design and construction principles are incorporated within the new development.

6.2.2 Layout, scale and appearance are submitted as matters for consideration in this application and have been amended during the consideration of the application following negotiations between officers and the applicant. As noted above the access to the site was previously approved as part of the outline consent and forms the entrance to the site. It is considered that the proposed layout submitted with this reserved matters application is a significant improvement on the indicative layout shown with the outline planning application. The indicative layout with the

outline did not take into account the context of the site or any of the constraints within or adjoining the site. The current layout submitted as part of this reserved matters application is considered to overcome these shortcomings in the outline.

- 6.2.3 The access, as previously approved, is proposed between proposed houses laid out to face over Chester Road. These road facing houses are set back from the road frontage both by the existing footpath along the roadside and also by the private driveway serving the three properties to the south of the access. As such these proposed dwellings are in line with the adjacent dwellings to the south of the site. Behind these four houses facing Chester Road the estate road runs the full length of the site with spurs and private drives leading off this road. The layout provides housing facing over the new estate road and facing over the spurs and drives. The existing boundary hedges and fences are to be retained and the houses back onto the existing boundary, except at the far end of the site in the southern corner where the proposed houses face over an area of open space.
- 6.2.4 The layout was amended during the consideration of the application which has reduced the density of the northern edge of the site, it is accepted that the density overall is higher than the immediate surrounding area. However, it does relate to the wider area and the town as a whole. Furthermore, the outline consent was considered as up to 57 dwellings and the Council 5 year housing land supply relies on this site providing around 57 dwellings. As such the current proposal for 52 houses is considered to provide a suitable layout and density without harming the land supply or the viability of the site.
- 6.2.5 This parcel of open space in the southwestern corner is the largest part which connects to open space either side of the existing hedge which dissects the site. The agent has accepted that the proposed layout is an under provision of open space when considered against adopted SAMDev policy and has agreed to pay a financial contribution to meet the requirements. The financial contribution will be paid to the Council to be used for improvement of existing open space in Whitchurch.
- 6.2.5 With regard to scale and design amended house types have been submitted which have altered some of the designs to reduce the pitch of the front projections and also reduced the overall scale of the houses facing over Chester Road. On first submission the house types with front gable projections had very steep pitches on these projections which officers considered were not appropriate and altered the appearance of the dwelling. Furthermore this is not a feature that is local to North Shropshire. The amended plans reduce the pitch of these elements to 50 degrees or less and are now more in keeping with the design of other properties in the area, both traditional and modern.
- 6.2.6 The houses facing over Chester Road were two and a half storey and as such officers advised that these were not appropriate along this road as there was no other two and a half on the road frontage. These have since been replaced with large two storey houses which officers consider better reflect local context and character.
- 6.2.7 Overall the proposed house types are brick and tile with eaves details, stone heads and cills and some with gable projections, dormer windows and porches. There are

eight different house types which are mixed across the site which officers consider therefore provides variety through the development site but with an element of character the creation of a group of houses. It is officers opinion that the designs are now appropriate and relate sufficiently to other housing in Whitchurch, that the layout takes account of the existing features and site constraints and that the scale is acceptable. As such it is officers opinion that the proposed development will comply with policy CS6 of the Shropshire Core Strategy.

### **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. The development of the site should not result in unacceptable loss of privacy or light to existing dwellings or to the future residents of the site. It is not a matter of protecting views of existing properties or protecting properties from all overlooking or the feeling of overlooking. It is a subjective matter whether an impact is unacceptable or not. However, for ease officers regularly seek to ensure that there is at least 5m undeveloped around existing windows to ensure that the impact on right to light is not unacceptable and seek to ensure that there is around 21m between direct facing windows.

6.3.2 There are existing properties to the north, east (on the opposite side of Chester Road) and to the south (Chester Avenue development). The single property to the north is 44 Chester Road and is a large detached dwelling set within a substantial curtilage, this dwelling is one of the older ones on Chester Road and has retained its large curtilage. Many of the other properties along this road have been infilled with other development and as such this dwelling is not typical of the area. The proposed development is to the south of this existing dwelling and there will be houses all along the southern boundary with 44 Chester Road. These proposed dwellings will all have gardens of around 10m deep which will reduce the potential for overlooking to what officers consider would be not unacceptable levels of overlooking. The existing residents will feel more overlooked but the existing house is over 25m from these proposed dwellings and the gardens are considered to be an appropriate depth. Furthermore there are existing trees within the garden of 44 Chester Road which will help to break up the opportunities for overlooking.

6.3.3 The houses on the opposite side of Chester Road will be over 38m from the proposed development with the road in between as such this is more than sufficient distance to ensure that these existing properties are not adversely affected. The existing properties on Chester Avenue, to the south, are more spacious in their layout than the proposed development, however Chester Avenue was built at a time when the financial climate and planning policy allowed for lower density. The current layout, as detailed above, is considered to be appropriate and officers advise that it would be unlikely to be able to defend a refusal on density based on the current proposal. The houses to the south have very long domestic gardens and as such provide adequate space between the existing and proposed dwellings.

6.3.4 The main impact, except for the effect on the garden of 44 Chester Road, is on 34 Chester Road, the dwelling immediately to the south of the site. The existing dwelling has ground floor windows facing towards the site, however these are understood to be secondary windows to habitable rooms. As such the proposed dwelling on plot 52 has been moved so that it is 5m away from these existing

windows. This will therefore ensure that these windows still benefit from some natural light, albeit likely to be reduced, there is no direct overlooking between windows and, as noted above, these windows are not the primary windows to habitable rooms. As such the impact on this property is not considered to be unacceptable.

- 6.3.5 Overall it is considered that the revisions to the layout and scale of the houses ensures that the proposed development will not have an unacceptable impact on the amenities of the existing residents around the application site and therefore complies with the relevant parts of policies CS6 and MD2.

**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 can be reduced.
- 6.4.2 The access to the site was submitted with the outline planning application and approved at that time, subject to conditions. A separate application will be required to discharge the conditions on the outline which will deal with the technical requirements of the access junction. The applicant will also be required to submit an application to the Highways Department to create the junction as works to a highway as advised by the Council Highway Officer in his comments.
- 6.4.3 The proposed layout shows an internal estate road with footways on both sides for the majority of the road leading to a turning head near the end of the site. Off the two sections of the turning head are two lower order roads both still of sufficient width to allow for service vehicles and both with turning heads and reduced width footways. There is also a similar lower order road within the site and four private driveways off the main estate road and the one lower order road. These roads are considered to provide a good quality development with small groups of houses served off private drives but the majority of the housing served by roads which are to an adoptable standard.
- 6.4.4 Each of the proposed dwellings is shown with sufficient space to park two vehicles, either within a garage and on a drive or just on a drive. This allows for sufficient off-road parking for the whole of the development though some on-street parking is likely it is not considered that this development will be dominated by on-street parking. Each property will have sufficient space for waste storage and the case officer has checked the distance of the private drives to ensure that the development complies with the Council standards. Two of the private drives are over 25m long (the maximum distance a resident should be required to move their bin) but with adding the 15m the waste collection staff will move the bin all of the properties should be capable of being serviced by waste collection facilities.
- 6.4.5 It is therefore considered that the layout of the development is acceptable in highway terms and although residents and the Parish Council have raised concerns about the level of traffic this was a matter which was dealt with during the

consideration of the outline planning application and it was confirmed that the development of this site would not result in severe traffic movements. This is both on its own and also taking into account the potential cumulative impact of the potential traffic from the various developments approved along Chester Road and in the wider area.

## **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 potential for impact on protected species was considered in detail during the determination of the outline planning application and conditions were imposed accordingly to enable improvements to ecology. The current application has been submitted with details of the layout and also details required by condition.

6.5.2 The proposed layout retains the existing landscaping both within and on the boundaries of the site and supplements this with new planting within the site both in the open space and in front gardens of the proposed dwellings. The planting within gardens will thereafter be a matter for the owners and residents of the dwellings with the open space retained and maintained either by the Town Council or by a management company set up by the developers.

6.5.3 The Council Ecologist has advised that they welcome the retention of the existing hedgerows and trees as shown on the landscape proposal. Amended landscaping details were submitted which provided native species in the planting scheme as requested by the Council Ecologist to benefit wildlife. Other ecology impacts were dealt with at the outline stage of the application and conditions were imposed on that consent which will still need to be discharged at the relevant time.

6.5.4 Following receipt of a tree protection plan the Council Tree Officer has confirmed that they have no objection to the revised layout which retains the better trees on site in the public open space. The Tree Officer has recommended a condition to ensure protection of the trees. Subject to this condition officers consider that the landscaping and tree considerations and the ecological considerations of CS17 are met.

## **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. Drainage details are required to be submitted with the reserved matters application under condition 6 of the outline consent and as such this information was requested from the agent.

6.6.2 Further information has been provided during the consideration of the application, however additional information is still required by the Council Drainage Consultant to fully detail the surface water drainage scheme to ensure that the development does not result in increased flood risk either on the site or in the surrounding area.

6.6.3 This matter therefore remains outstanding at the time of writing this report to



committee. The recommendation therefore reflects this and requests delegated powers are given to the Area Planning Manager to approve this proposal following resolution of the drainage. A solution is likely to be achievable and there is no advice to counter this. As such the recommendation is as detailed at the start of the report.

## **7.0 CONCLUSION**

7.1 It is considered that the revised layout, scale, appearance and landscaping of the site are acceptable and would not have an unacceptable adverse impact on the character and appearance of the locality or the amenity of neighbouring properties. A safe means of access and adequate parking and turning space will be provided and subject to conditions the proposal would have no adverse highway or ecological implications. It is therefore considered that the proposal accords with Core Strategy Policy CS6.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## **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

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

### Relevant planning history:

14/02222/OUT Outline application for residential development to include access GRANT 17th December 2014

## 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 Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

2. The proposed surface water drainage schemes shall be installed in accordance with the approved drainage plan and details prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that the surface water drainage systems are adequate and to minimise flood risk.

3. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

#### **CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

4. The proposed site layout has taken account of the trees identified in the Arboricultural Impact Assessment prepared to support the original application. Where trees are to be retained the layout has provided sufficient space to allow for their protection in accordance with BS 5837: 2012 guidance.

No objection is raised to the scheme, however the following condition is recommended:

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

5. 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.