



Committee and Date

North Planning Committee

29<sup>th</sup> November 2016

Item

9

Public

## Development Management Report

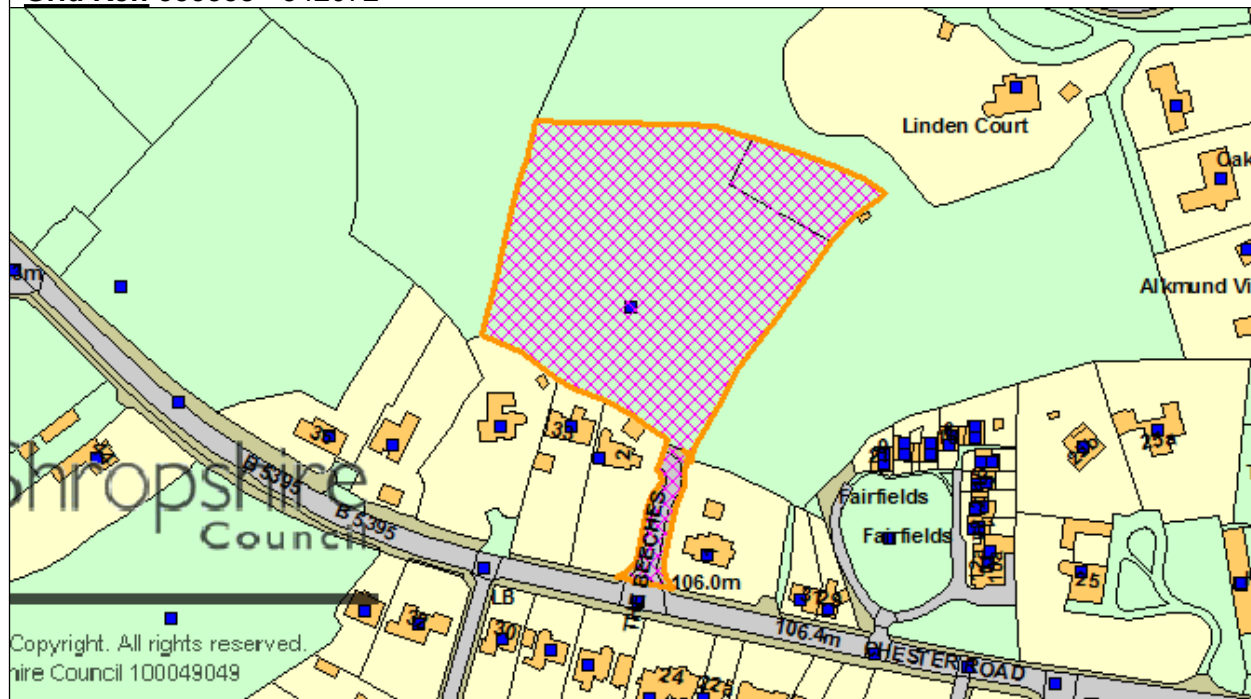
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 15/05325/REM	<b>Parish:</b> Whitchurch Urban
<b>Proposal:</b> Application for Reserved Matters (appearance, landscaping, layout and scale) pursuant to permission 14/02830/OUT for the erection of up to 15 no. dwellings	
<b>Site Address:</b> Proposed Residential Development Land Off The Beeches Chester Road Whitchurch Shropshire	
<b>Applicant:</b> Shingler Homes Ltd	
<b>Case Officer:</b> Jane Preece	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 353558 - 342072



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**Recommendation:- Approval is recommended, subject to conditions set out in Appendix 1. It is also recommended that the approval be withheld until the UU relating the gifting of the land has been finalised.**

## REPORT

### 1.0 THE PROPOSAL

1.1 Outline planning permission for the erection of up to 15 dwellings to include means of access was granted in June 2015. The site will utilise an existing access connecting the land to Chester Road.

1.2 Access is not therefore a reserved matter. Access was included at the outline stage and the full design and engineering details are to be secured through pre-commencement condition 9 of the outline planning permission.

Condition 9 reads as follows:

*Prior to the commencement of development full design layout and engineering details shall be submitted of the means of access to the site from Chester Road and internal road layout; the development hereby permitted not be first occupied until the means of access and junction onto Chester Road has been constructed fully in accordance with the approved details.*

*Reason: In the interests of highway safety.*

1.3 Only matters relating to the layout, scale, appearance and landscaping are reserved for later approval – condition 1 of the outline consent refers:

*Details of the scale, appearance, landscaping and layout (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 the Town and Country Planning (Development Management Procedure) Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.*

1.4 This current application therefore seeks reserved matters approval for the layout, scale, appearance and landscaping of development in accordance with the outline pursuant to permission 14/02830/OUT for the erection of up to 15 dwellings.

1.5 None the less, the Highway Authority have been consulted on the reserved matters application, in so far as the scale, layout and landscaping have implications for highway matters.

1.6 Condition 4 attached to the outline consent also requires:

*The following information shall be submitted to the local planning authority*

*concurrently with the first submission of reserved matters:*

*The means of enclosure of the site  
The levels of the site, to include cross sections (both before and after development and in relation to the surrounding development)  
The means of access for disabled people  
The finished floor levels*

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

- 1.6 The site is to remain to be enclosed by the existing boundary hedges/trees. Some reinforcement of the hedges with hedging plants is proposed as part of the landscaping proposals. A strip of land along the southern boundary is to be gifted to the three neighbouring properties and a new boundary created in the form of a 2.1 m high close boarded fence. Otherwise, cross sections accompany the submission, together with information on finished floor levels and confirmation that all properties are to have level thresholds in compliance with Part M of the Building Regulations.

## 2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The proposal relates to a parcel of agricultural land located on the northern side of the B5395 Chester Road and on the edge Whitchurch. The land lies directly behind frontage development on Chester Road, with an access point positioned between numbers 1 and 2 The Beeches.
- 2.2 The site occupies higher ground than the frontage development on Chester Road and the relief of the land generally rises away from the existing development in a north easterly direction.
- 2.3 The land appears unmanaged for agricultural purposes. The site contains several mature trees and is surrounded by a mix of hedgerows.
- 2.4 Members visited the site when the outline planning application was before them for consideration.

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

- 3.1 The outline application was considered by the Northern Planning Committee at their meeting held on 20 January 2015. At that meeting the following resolution was passed, as noted in the minutes:

**RESOLVED:**

*That Planning Permission be approved in accordance with the Officer's recommendation subject to:*

- The applicants entering into a S106 agreement to secure the affordable housing contribution;*
- The conditions set out in Appendix 1;*
- The description of development being amended to read "up to 15"; and*
- The application for Reserved Matters being considered by the North Planning Committee.*

3.2 Taking into consideration the positioning and topography of the site, the Local Members expressed particular concern in relation to issues of drainage, density and the type of dwelling that may be associated with a reserved matters application.

3.3 Like access, drainage is not a reserved matter and the final approval of drainage details are secured through conditions imposed on the outline consent. Nonetheless, SUDs and Welsh Water have been consulted on the application in so far as the scale, layout and landscape have implications for drainage matters.

#### 4.0 **Community Representations**

##### 4.1 **Consultee Comments**

4.1.1 **SC Highways – Original comments**: As I understand it, layout and scale are the only matters being considered as part of this REM application. The access condition at the outline stage therefore still remains.

My only query is with regard to the narrowing of the access road either side of the mature tree. It is not clear what the dimensions of the carriageway narrowing are and how the tree routing is to be considered within what is likely to be adoptable highway footway. My concern is that the tree canopy clearly overhangs the proposed footway and carriageway construction so just wanting confirmation in this regard.

Re-consultation comments: (15.11.16)

##### **Recommendation**

**No Objection** – subject to the development being carried out in accordance with the approved plans and the following condition and informatives.

**Observations/Comments**: [27<sup>th</sup> October 2016]

The application seeks approval to the detailed layout of the site which follows the approval in principle of the means of access via The Beeches under the Outline planning permission 14/02830/OUT.

In considering the means of access, concerns over the construction of the initial section of road (The Beeches) resulted in Condition 9 of the above Outline permission which seeks to address deficiencies in the existing section of road along with the extension of the residential estate road into the development site.

The concerns raised at the Outline stage relate to observed deficiencies in the existing road and junction and a lack of knowledge in terms of the construction and drainage arrangements, issues which are likely to remain outstanding until a full Section 38 agreement technical check, supported by on-site testing and investigation, have been undertaken. The future adoption of the new residential road will depend on the existing condition of The Beeches and whether it can be brought up to a suitable standard for adoption as Highway, however, there are a number of additional concerns relating to the submitted road layout as set out below: -

1. The construction arrangements necessary to safeguard the existing trees (T1-T3) and the width proposed to accommodate a fire appliance. It is noted that a “no-dig” construction is proposed in this area at a carriageway width of 3.5 metres with a single footway of 2 metres. As the minimum kerb-to-kerb requirements of the Shropshire Fire and Rescue Service is 3.7 metres it is considered that the carriageway width should be increased to 3.7 metres and the footway width reduced to 1.8 metres within the same available width overall,
2. The horizontal alignment of the above narrowed section is considered to require amendment to ensure an appropriate vehicle tracking route through the narrowing and to avoid vehicle conflict with the angled kerbs on the approaches,
3. No refuse vehicle tracking has been demonstrated and it is considered that the horizontal alignment of the narrowed section should be determined with reference to a swept path analysis of both a Refuse Collection Vehicle and a Fire Appliance. Any limitations imposed by the canopies of the retained trees should also be considered in terms of access by a service or emergency vehicle,
4. It would appear from the submitted information that sections of the new access road and footway may exceed the maximum gradient set out in the Shropshire Council design standards. The gradients will need to be demonstrated as part of the Section 38 technical check process with appropriate longitudinal sections,
5. The relationship between the proposed road levels and adjacent land and Plots is also of concern, for example, the expected driveway gradients to Plots 14/15. It is considered that further cross sections are required on the approaches to, and through, the narrowing and the above driveways, showing any necessary retaining structures.

Whilst a number of the previous and current concerns relate to the adoptability of the roads and footways as public Highway, it is considered that the possibility of access restrictions, particularly by a fire appliance, needs to be addressed before the development is commenced. The following condition is therefore considered to be appropriate.

*Pre-commencement:* -

1. No development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interest of Highway Safety.

**Informatives:**

**Refuse Collection Vehicle/Fire Appliance**

In the submission of details for the above condition, reference should be made to

the Shropshire Council Refuse and Recycling Advice note For Developers and the Shropshire Fire and Rescue Service development guidance.

### **Works on, within or abutting the public highway**

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway
- or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public
- highway including any a new utility connection, or
- undertake the disturbance of ground or structures supporting or abutting the
- publicly maintained highway
- 

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

### **Technical Approval**

This highway advice relates to the requirements of fulfilling the planning process only. In no way does the acceptance of these details constitute or infer specific "technical approval" of any changes to the existing public highway or any new infrastructure proposed for adoption by Shropshire Council. Any works undertaken, prior to the appropriate Highway Agreement, Permit or Licence being formally completed, is done so at the developer's own risk, and there is no guarantee that these works will be deemed acceptable and subsequently adopted as highway maintainable at public expense, in the future. Please refer to the following informative notes for details of securing an appropriate highway approval and agreement.

### **Section 38 Agreement details**

If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.

**Drainage details for Section 38**

It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Unless adequate storm water disposal arrangements can be provided, Shropshire Council, as Highway Authority, will be unable to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering details referred to in this conditional approval to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND at an early date to enable surface water disposal arrangements to be assessed.

**Design of street lighting for Section 38 and 278**

The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 38 and/or 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system.

**Landscaping**

Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure, appropriate root protection systems (to be approved) will need to be constructed in order to mitigate against any future root damage to roads, footways and services beneath. Also any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements in order to maintain any required visibility splays and to keep leaf litter clear of footways and carriageways, etc., in the interests of highway safety.

- 4.1.2 **SC Affordable Houses** – Original comments: The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. We note that the affordable is a 2 bed, plot 13 and confirm that there is a need for affordable rent of this size in this area.

Re-consultation comments: The proforma shows the correct affordable housing contribution, however the plot number for the affordable property on site was 13 could the applicant now confirm that the affordable dwelling is located at plot 3?

(The agent has consequently confirmed to officers that the affordable unit is now relocated to plot 3 and the Housing Enabling & Development Officers query has therefore been satisfied in this regard)

- 4.1.3 **SC Archaeology (Historic Environment)** - We note Condition 8 of planning permission ref. 14/02830/OUT. We understand that the fieldwork for the required archaeological evaluation was completed in September 2015, although a final report on the trial trenching component of this work is still pending. Once we have received this report will be able to advise further on whether the requirements of the condition have been satisfied and can be fully discharged. In the meantime, we have no further comments to make with respect to the application for reserved matters.

Archaeology update: I am confirm that I am now in receipt of a final report on the archaeological evaluation that was conducted at the above site under Condition 8 of planning permission ref. 14/02830/OUT. On the basis of the results I can advise that no further archaeological work will be required. I can therefore now recommend that the condition can be fully discharged at the appropriate time.

- 4.1.4 **SC Trees** Original comments: I am satisfied with the findings of the submitted tree report and the layout would appear to accommodate the mature trees on site without causing proximity issues. I would however request that a Tree Protection Plan (TPP) is submitted at this stage which can be made a condition of any approval in order that the trees can be properly protected prior to commencement of development.

Re-consultation comments: (15.6.16)

I have read the submitted Tree Protection Plan and am satisfied with the scheme overall however it appears that the proposed access road to plot 15 is well within the root protection areas (RPA) shown on the plan. Whilst this can be achieved specialised methods to avoid damage to the roots and therefore the trees in the longer term should be shown on the plan. Systems such as 3 dimensional grid over no dig should be used.

Therefore I am prepared to support the scheme if an arboricultural method statement is added to the tree protection plan to protect the two "A" category Oaks T4 and T6.

Further re-consultation comments: (1.8.16)

I have revisited the plans and what I had not picked up on is that the RPA of T4 and T6 was shown different on the layout plan than that in the submitted Tree Survey to accommodate the driveway – it had been moved and “off sett” which is acceptable up to about 20% if rooting conditions are favourable on the off side. Therefore I would accept the plans if the following condition is applied instead:

All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

Further re-consultation comments: (24.10.16)

Following submission of a Tree Protection Plan I have no further comments on this scheme.

- 4.1.5 **Natural England** - Natural England has no comments to make on this application.



The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England.

#### 4.1.6 **SC Ecology** – Original comments: No objection on ecology grounds.

##### Designated sites

Natural England have no comments on this application in relation to internationally or nationally designated sites.

A Habitats Regulations Assessment was completed for outline application 144/02830/OUT as the Council considers the on-site provision of usable informal open space to be sufficient so as not to result in a significant increase in recreational visit to Brown Moss or Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses.

##### Bats

The two 1FQ Schwegler bat roosts and four Schwegler 32mm bird boxes indicated on the Soft Landscaping Proposals plan are an acceptable design. The positions are yet to be determined.

##### Landscaping

The landscaping scheme shown on the Soft Landscaping Proposals 2875 10 01 15 03 1B is considered acceptable on ecology grounds. I would comment that the rectangular storm water attenuation areas could be designed to be more natural looking with curves.

Re-consultation comments: SC Ecology have no additional comments to make on this application.

Further re-consultation comments: SC Ecology have no comments to make on this application.

#### 4.1.7 **SC Parks and Recreation** – Original comments: Under Shropshire Council's LDF planning regulations and MD2 policy requirement, all development should provide 30sqm of public open space per bedroom. The proposed development indicates that there are 54 bedrooms, therefore the POS provision should be a minimum of 1620m<sup>2</sup>. The development design provides only 1445m<sup>2</sup> of POS.

Therefore, there is a shortfall of POS and currently the design doesn't meet SC policy requirement. It is recommended that the development is re-designed to meet SC MD2 policy.

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

Re-consultation comments: Regarding comments in relation to the issue of open space as referred to on pages 3 and 4 of the letter to SC 16.06.10.

As I see it there are 2 options

Revert back to the original site boundaries and the garden areas to be put back into the areas of open space within the development site to provide 100% of the required open space as per the policy requirement

Keep the scheme as is and the developer pay an offsite contribution towards POS provision and improvements

Further re-consultation comments: None received at time of writing.

#### 4.1.8 **Welsh Water** – Original comments: (5.1.16)

The planning statement which has accompanied the application refers to drainage under section 3.9. The document also refers to a drainage layout plan ref: CR-GA-600 but I cannot locate this plan on the Council's website. I would be grateful if this plan could be made available to me at the earliest convenience.

The Planning Statement also indicates that surface water will be attenuated on site before discharging to a surface water main. It is not clear if the applicant intends to discharge to a public sewer or to a private drain. Further clarification on this matter will be required. If the applicant is intending to connection surface water run-off to the public sewer, they will have to first demonstrate that they have explored and exhausted all other options, as set out in Part H3 of the Building Regulations.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Re-consultation comments: (27.7.16)

#### **SEWERAGE**

The drainage regime is considered to be acceptable in principle.

#### **Advisory Notes**

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section

104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Further re-consultation comments: (31.8.16)

**SEWERAGE** - We have reviewed drawing reference CR-GA-600: Rev F which shows the proposed drainage layout and comment as follows:

The applicant has demonstrated adequate foul and surface water removal methods, the developer has proposed surface water attenuation rates of 5 l/s we are satisfied with this.

Welsh Water have no objection for the application for reserved matters (appearance, landscaping, layout and scale)

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

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Further re-consultation comments: None received at time of writing.

#### 4.1.9 **SUDS** – Original comments: (2.3.16)

The following drainage details, plan and calculations should be submitted for approval prior to the approval of the Reserved Matters as per Drainage Conditions 10 and 11 on Outline Application 14/02830/OUT

1. A contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of

the development site.

Exceedance flow path should be provided to ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

Alternatively calculations should be provided demonstrating that the gullies will be able to convey the 100 year plus 30% storm to the piped network.

2. Confirmation is required of the ownership of the outfall in Chester Avenue and that it has sufficient capacity for the additional flow from the proposed development.

3. A cross sectional detail is required through the attenuation structure and backfill, ground profile and existing property to the south to ensure the properties are adequately protected against the tank failure.

4. It should be demonstrated that the appropriate allowance for urban creep has been included in the design of the drainage system. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance

% of impermeable area

Less than 25 | 10%

30 | 8%

35 | 6%

45 | 4%

More than 50 | 2%

Flats & apartments | 0%

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage' means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

5. A Flood Risk Assessment should be completed using Shropshire Council's Strategic Flood Risk Assessment (SFRA) documents for guidance. The SFRA's are available on the Shropshire Council website. The criteria for a FRA are set out in National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework. Reference should also be made to the Environment Agency West Area (Midlands) Flood Risk Assessment Guidance notes.

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) including the flooding identified in outline application 14/02830/OUT.

' 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)

Re-consultation comments: (22.6.16)

The following drainage details, plan and calculations should be submitted for approval prior to the approval of the Reserved Matters as per Drainage Condition 10 on Outline Application 14/02830/OUT

1. Confirmation is required from Welsh Water that they have adopted the piped outfall system in and beyond Chester Road and that sufficient capacity exists for the proposed flow.
2. Calculations should be provided demonstrating that there are sufficient gullies to ensure there are no exceedance flows for storms up to the 1 in 100 years plus climate change and that flows will be able to enter the piped network to ensure no flooding occurs in more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.
3. It should be demonstrated in the design that an appropriate allowance for urban creep has been accounted for.
4. A cross sectional detail is required through the attenuation structure and backfill, ground profile and existing property to the south to ensure the properties are adequately protected against the tank failure.
5. It has been highlighted that the existing ground is made up of heavy clay, although permeable type surfacing will be provided where possible to reduce and delay surface water drainage run-off, with drives potentially laid to paviers or permeable tarmac to slow and delay run-off with collection made in the lower layers of the construction. Details of the construction materials should be provided and where surface water will drain to.

Further re-consultation comments: (27.7.16)

1. It is accepted that Welsh Water have indicated that there is sufficient capacity to discharge to their network.
2. The attached 100 year plus 30% calculation demonstrates there is sufficient capacity in the piped network, assuming stormwater can flow to the pipes. Please provide calculations demonstrating there are sufficient gullies for stormwater to transfer the 100 year plus 30% flows from the carriageway surface to the piped network.
3. Please confirm what allowance for urban creep has been made and provide calculations demonstrating the allowance.
4. From the section provided, it shows that the attenuation tanks are below FFL of the neighbouring property therefore it is accepted that attenuated water cannot flood the existing property in the event of a tank failure.

5. As the permeable paving is founded on heavy clay, please demonstrate how water will soakaway.

Further re-consultation comments: (19.8.16)

1. The gully calculation are acceptable which demonstrate there are sufficient gullies to transfer a 1 in 100 year storm plus CC to the piped system.
2. No drawing appears to be on the planning portal showing that urban creep has been taken in to account. Please provide this drawing for approval.
3. It is accepted that the drainage channel units will intercept surface water run-off from the driveways.

Further re-consultation comments: (21.10.16)

The Drainage Area Plan demonstrates that urban creep has been accounted for in the design therefore the surface water drainage proposals are acceptable.

## 4.2 Public Comments

- 4.2.1 **Whitchurch Town Council – Original comments: Object on the grounds of:** the proposed area for development is not in the SAMDev, out of keeping with the area, loss of green space, overdevelopment of the site, drainage issues and question were raised over the sewerage capacity of existing pipe work. The committee noted that a lesser number bungalows would be better suited to this site.

Additional comments: I have spoken to the Chairman of the Planning Committee. At the time that the original Chester Road applications were submitted the Town Council did not realise that all of these developments were for the same area until the last meeting that was held in January. The Town Council understands that the grounds for objection previously stated were insufficient relating to the planning issues which were open for discussion at the January meeting i.e. layout, scale, appearance and landscaping. However, the Town Council do not wish to withdraw its original comments as the Planning Committee still believes that this area will be considerably over developed.

- 4.2.1 **Public representations** – Ten representations of objection have been received. Eight are from local residents; one is from a planning consultant on behalf of the local residents and one is from the Local Member.

The main **objections** raised relate to:

- Access and road width/construction. Parking provision.
- Scale and density. Houses are not in keeping with surrounding area.
- Drainage: flooding, surface water disposal, main sewer capacity. Potential failure of holding tanks
- Inadequate open space provision and gifted land
- Overlooking
- Steep slope of site/topography/site levels
- Tree and hedge retention/safeguarding

Some of the objections have since been addressed by ongoing negotiations and

the submission of revised plans. As a consequence, three of the former objectors have since written in updating their stance from one of objection to one of **support** as the proposed development now stands. (The comments of support come from the residents of Haffod House, 33 The Beeches and 2 The Beeches. The remaining objectors have failed to make representations on the revised proposals).

The main points in **support** are:

Despite some well founded objections recognise current proposal has only materialised as a result of the good will of the developer.

The proposal now affords some compromise to residents. We are grateful to the developer for the concessions he has made and do not wish to object to the application as it now stands.

Recent meetings have resulted in amended plans which have addressed the residents concerns.

The number of bungalows has been increased from 1 to 3; the two additional bungalows will be on plots 13 and 14, alleviating privacy/overlooking concerns; drainage/flooding concerns addressed with addition of/connection to road gullies; additional gifted land will provide buffer between existing properties and development; footpath extension to plot 14 frontage will provide crossing and safer access.

As all the points raised by the residents have been addressed no longer have any objections to make.

The full content of all consultee comments and public representations are available to view on line.

## 5.0 **THE MAIN ISSUES**

5.1 The main issues therefore relate to the acceptability of the details submitted for consideration in respect of:

- Appearance
- Layout and scale
- Landscaping

### **Technical matters:**

- Highways
- Drainage

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Appearance, Scale and Layout**

6.1.1 The application (as amended) proposes a mix of 2, 3 and 4 bed dwellings, with parking, integral or detached garaging. Of the 15 dwellings, there are three detached bungalows, a pair of semi's and ten detached, two storey houses.

6.1.2 In more detail, the housing mix is as follows:

Plot 1 – 117.8 sq m – 3 bed bungalow. Detached single garage and parking  
Plot 2 – 86.8 sq m – 3 bed semi. Tandem parking  
Plot 3 – 62.4 sq m – 2 bed semi. Tandem parking  
Plot 4 – 124.5 sq m – 4 bed dwelling. Integral double garage and parking  
Plot 5 – 157.5 sq m – 4 bed dwelling. Integral double garage and parking  
Plot 6 – 170.7 sq m – 4 bed dwelling. Detached double garage and parking  
Plot 7 – 86.8 sq m – 3 bed dwelling. Integral single garage and parking  
Plot 8 – 86.8 sq m – 3 bed dwelling. Integral single garage and parking  
Plot 9 – 157.5 sq m – 4 bed dwelling. Integral double garage and parking  
Plot 10 - 157.5 sq m – 4 bed dwelling. Integral double garage and parking  
Plot 11 - 170.7 sq m – 4 bed dwelling. Detached double garage and parking  
Plot 12 - 170.7 sq m – 4 bed dwelling. Detached double garage and parking  
Plot 13 - 93 sq m - 3 bed bungalow. Detached single garage and parking  
Plot 14 – 117.8 sq m – 3 bed bungalow. Detached double garage and parking  
Plot 15 – 153.5 sq m – 4 bed dwelling. Detached double garage and parking

6.1.3 It is considered that the mix as proposed here offers a suitable range and includes the provision of a 2 bed affordable dwelling on site (plot 3), which together with the financial contribution of £45, 000, will satisfy local need and adopted policy.

6.1.4 In terms of external design and appearance, seven house types are generally proposed with an element of variety provided through design detailing, size and use of materials. All house types will be finished externally with a mix of walling material to include red brick and render. Roofing will be a mix of roof slates and tiles. As no specific details have been provided at this stage, the final choices of external materials will need to be subject to conditional approval. Roofs are to be dual pitched, with some variation in the pitch and the incorporation of eye brow dormer features on some house types. Otherwise, architectural details include chimneys; projecting gables; bay windows, arched brick heads, overhanging eaves to garage frontages and canopy porches.

6.1.5 In all it is considered that the scale and appearance of the proposal are appropriate for the area and of sufficient visual interest, which when coupled with the layout and landscaping, will create an attractive environment. It is considered therefore, that the proposed development would be acceptable in scale and design as required by Core Strategy policy CS6, SAMDev policy MD2 and the Housing SPD and would not adversely detract from the quality of the environment and setting to this part of Whitchurch, satisfying also Cores Strategy policy CS17 and the NPPF.

6.1.6 As submitted the application attracted objections in relation to density/the number of dwelling proposed (15) and the fact that all but one were two storey. The objections largely bore out of the location and topography of the site. The site lies to the rear of three existing dwellings (known as Haffod House, 33 The Beeches and 2 The Beeches) and occupies higher ground, which rises away from the existing dwellings. Residents of these properties were therefore concerned that development would adversely impact on their amenity in terms of



overlooking and loss of privacy.

- 6.1.7 In relation to density officers are satisfied that the proposals provide adequate space about the proposed buildings and that the site will not appear unduly cramped or out of context in relation to surrounding development. The development is in fact of a lower density than other developments recently approved along Chester Road.
- 6.1.8 Otherwise, in relation to scale and layout issues have been ongoing for some time; involving meetings with the applicant, agent, Local Members and neighbouring residents and the submission of various amendments and additional information. This has culminated in the latest set of revisions which are considered acceptable and to have addressed neighbours concerns. Most notably, as amended, the scheme now proposes to increase the number of bungalows from one to three; bungalows will now occupy plots 13 and 14 in addition to plot 1. Plots 1, 13 and 14 are those plots closest to the rear of the neighbouring properties. Although sited a significant distance away to meet with planning standards, the provision of bungalows rather than houses on these plots, coupled with a slight increase in the width of the strip of land that is to be gifted to existing residents to buffer their privacy along their rear gardens, has helped to address the residents perception of overlooking and loss of privacy concerns to the point where they are now supportive of the scheme. A condition can also be imposed to remove permitted development rights to alter the roofs on plots 1 and 14 to maintain control over the appearance and the residential amenity issue.
- 6.1.9 A further issues in relation to layout is that of the landscaping of the site and in particular the provision of open space. This issue is discussed further below.
- 6.2 Landscaping**
- 6.2.1 The application is accompanied by a detailed landscaping scheme, prepared by Lingard Styles Landscape Architects, together with a tree protection plan. As part of the landscaping proposals, existing boundary hedges will be retained together with key trees around the periphery of the site. Some existing trees will be removed. However, to mitigate against any loss of existing trees, the landscaping plan shows the planting of 36 replacement trees (including 8 English Oaks). The plan also identifies three areas designated as public open space (POS).
- 6.2.2 Both the Council's Tree and Ecology Officers have been consulted on the landscaping proposals. Both are satisfied with the proposals. It is the POS provision that has attracted unsupportive comments from the Council's Park and Recreational Officer and neighbouring residents. The main concern is that the provision falls short of the amount required as set out in policy MD2.
- 6.2.3 As amended, the scheme now proposes a total of 52 bedrooms and an on-site POS provision of 1460m<sup>2</sup>. To fully accord with policy MD2 there is a requirement for 1560 sq m. As part of the proposals an additional 276m<sup>2</sup> of land is to gifted to neighbouring properties (as an extension of their rear gardens) but as this land is transferring into private ownership then this should not be added to the on-site POS provision. As amended, there is then a shortfall of 100m<sup>2</sup>. This is an

improvement on the shortfall originally commented on by SC Parks and Recreation, in that was previously 175m<sup>2</sup>. SC Parks and Recreation have failed to comment on the revised proposals. Nonetheless, officers are minded to take a balanced view, having regard to the landscaping proposals as a whole and the allocation of ample private garden areas to individual plots. On this basis, it is considered that the shortfall is not now so significant as to in itself justify refusal of the scheme.

- 6.2.4 For clarification, the gifting of a strip of land along the length of the rear gardens of the neighbouring residents is an element that that has formed part of the reserved matters application from the outset. It has not been included at the request of officers and is not considered necessary by officers to make the scheme acceptable in planning terms. On this basis, it has not been given weight in the planning balance. Nonetheless, it is something that has been offered by the developer and which residents consider necessary to safeguard their privacy. To ensure that it is delivered, a draft unilateral undertaking (UU) now accompanies the application. The draft UU is presently with the Council's Solicitor for consideration at the time of writing this report.

### **Technical Matters**

#### **6.3 Highways**

- 6.3.1 As referred to in 1.2 above access is not a reserved matter. Means of access was included at the outline stage and the full design and engineering details of the access are to be secured through pre-commencement condition 9 of the outline planning permission. None the less, as further referred to in 1.5 above, the Highway Authority have been consulted on the reserved matters application, in so far as the scale, layout and landscaping have implications for highway matters.
- 6.3.2 The Highway Manager originally commented on the application back in January. His only query was with regard the narrowing of the access road either side of the mature tree at the site entrance. He required clarity on the dimensions of the carriageway and how the tree rooting was to be considered, given that the tree canopy clearly overhangs the proposed footway and carriageway construction.
- 6.3.3 Several re-consultations have been issued to Highways since that time on the ensuing submission of revised plans and additional information but no further comments provided. This was identified as a source of concern to local residents, who had raised objections on highway grounds and expressed particular concern about the narrowing of the access entrance; internal footpath provision; parking arrangements and the gradient of the access road etc.
- 6.3.4 Importantly, Highway comments have now been received on the latest revisions. The re-consultation comments are provided in full at section 4.1.1 above. The concerns of the Highway Authority align with those of local residents in relation to the narrow width of the carriageway to both accommodate the retained tree and facilitate fire/refuse vehicles and the gradient of the access road and some access drives. It is noted by the Highway Officer that a number of the concerns relate to the adoptability of the roads and footways as a public highway. However, it is considered by the Highway Authority that '*... the possibility of*

*access restrictions, particularly by a fire appliance, needs to be addressed before the development is commenced ... ' and that this can be achieved with the imposition of the recommended pre-commencement condition:*

*No development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.*

*Reason: In the interest of Highway Safety.*

6.3.5 Overall, the Highway Authority raises no objection to the revised scheme, subject to the development being carried out in accordance with the approved plans and the above condition and recommended informatives.

#### 6.4 **Drainage**

6.4.1 Likewise drainage was covered at the outline stage and the final drainage details, plans and calculations remain controlled through conditions of approval imposed on the outline consent. Nonetheless, SUDs and Welsh Water have been consulted on the application in so far as the scale, layout and landscaping have implications for drainage matters.

6.4.2 As with access, the application has attracted particular objections from local residents on drainage grounds. However, it is considered that the drainage issues have now been largely resolved.

6.4.3 Foul drainage is to be disposed of to the mains sewer in Chester Road in compliance with condition 13 of the outline planning permission. Welsh Water is satisfied that the applicant has demonstrated adequate foul water removal methods and envisage no problems with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

6.4.4 Surface water drainage is covered by pre-commencement condition 10 imposed on the outline consent, ie:

*10. No development shall commence until full details, plans and calculations of the proposed surface water drainage proposals and network have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall illustrate how the development will comply with the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area; Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. The approved scheme shall be completed before the development is occupied.*

*Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to minimise the risk of surface water flooding and flood risk elsewhere as a result of the*

*development.*

- 6.4.5 However, to assist the overall understanding of the reserved matters proposals a suite of surface water drainage information and plans accompany the application. The information and plans has been added to/amended during the consideration of the application and in response to drainage issues that have been raised.
- 6.4.6 In brief, surface water is to be disposed of to a modular cell storm water attenuation system. The system incorporates two underground attenuation tanks, positioned on the lower section of the site and beneath the open space area on the southern portion of the site. Sections have been provided showing the attenuation tanks are below finished floor level of neighbouring property. Of the two tanks, the first is capable of accommodating the 1 in 30 year event and is linked to the second, which is capable of accommodating storms up to the 1 in 100 year plus 30% climate change and any potential exceedance flows and potential urban creep.
- 6.4.7 The attenuation system will discharge to into the existing drainage system (at the head of The Firs) in a controlled manner, ie via a flow control vortex system at a rate agreed with Welsh Water of 5 litres per second (typical greenfield run-off rates). Both Welsh Water and the Council's Drainage Engineer have confirmed these surface water drainage arrangements to be acceptable.
- 6.4.8 With particular regard to residents concerns regarding tank failure and potential flooding the Drainage Engineer has commented: *'From the section provided, it shows that the attenuation tanks are below FFL of the neighbouring property therefore it is accepted that attenuated water cannot flood the existing property in the event of a tank failure.'*
- 6.4.9 Otherwise, following on from discussions with local residents regarding drainage and in relation to the latest set of revisions the agent has confirmed that:
- 'Additional gulleys are included at chainage 0-0.*
- The 2 existing gullies within Chester Road are picked up by the new outfall to The Firs.*
- When the drainage connections are installed within Chester Road the existing manhole will be inspected. Consideration will be given to picking up the whole of the existing manhole subject to findings and statutory authority consent.'*
- 6.4.10 The Council's Drainage Engineer remains satisfied that the surface water drainage proposals are acceptable. Welsh Water have failed to respond with any additional comments. Residents have either confirmed their support or have not responded with any further drainage comments.

## 7.0 **CONCLUSION**

- 7.1 The principle of a residential development on this land, along with the access has

been accepted with the grant of outline planning permission reference 14/02830/OUT.

- 7.2 It is considered that the proposals (as amended) are acceptable in terms of layout, scale, appearance and landscaping taking into consideration local context and character and will not adversely detract from the immediate locality or the wider landscape setting of Whitchurch; nor adversely impact on neighbour amenity. The main issues of concern and/or objection identified at the outset have been largely resolved through the submission of revised plans and additional details.
- 7.3 The approval of the final drainage arrangements will be secured through a discharge of conditions application pursuant to the requirements of conditions imposed on the outline consent. Nonetheless, drainage issues that have identified and raised through during the consideration of this reserved matters application have largely been addressed and the drainage details that have been provided (as amended) are now considered acceptable.
- 7.4 Similarly, the full design layout and engineering details of the means of access to the site from Chester Road and the internal road layout remain covered for prior approval by a pre-commencement condition imposed on the outline consent. However, the consideration of this reserved matters application has identified a concern with the narrowing of the carriageway at the site entrance to accommodate the tree retention whilst also facilitating access by fire/refuse vehicles. Nonetheless, a further pre-commencement condition is recommended to address this issue, together with other recommended informatives.
- 7.5 On balance, it is therefore considered that the application proposals meet with adopted Core Strategy policies CS6, CS11 and CS17; adopted SAMDev policies MD2 and MD12; the Council's adopted SPD on the Type and Affordability of Housing and the National Planning Policy Framework – all subject to compliance with planning conditions.
- 7.6 On this basis approval is recommended, subject to conditions. It is also recommended that the approval be withheld until the UU relating the gifting of the land has been finalised.
- 7.7 In arriving at this decision the Council has used its best endeavours to work with the applicant 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, i.e. written

representations, hearing or inquiry.

- The decision may be 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 made 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 gives 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 1990.

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar 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

#### **Central Government Guidance:**

National Planning Policy Framework

#### **Core Strategy and Site Allocation and Management of Development Plan Policies:**

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

14/02830/OUT Outline application for the erection of up to 15 dwellings to include access  
GRANT 3rd June 2015

16/02404/REM Reserved Matters application to include appearance landscaping layout and scale of development in accordance with Outline Planning Permission 14/02830/OUT granted on the 3rd June 2015 INV

## 11. Additional Information

[View details online:](#)

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 BEFORE THE DEVELOPMENT COMMENCES**

2. Notwithstanding the details hereby approved, no development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interest of Highway Safety.

3. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

4. No built development shall commence until full details and/or samples of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

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

5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. 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 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**

6. Notwithstanding the details shown on the approved plans, no windows shall be installed within the side elevation of the master bedroom of house type J on plots 6, 11 and 12 and no windows shall be installed within the side elevation of bedroom two of house type J on plot 11. Furthermore, the bathroom and ensuite windows and the ensuite window within the side elevations of house types J and D on plots 12 and 15 respectively shall be obscure glazed in perpetuity. No additional first floor windows or other openings shall be formed in these elevations.

Reason: To preserve the amenity and privacy of adjoining properties.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development in the form of any alteration and/or addition to the roof of the bungalows on plots 1 and 15 as otherwise permitted under schedule 2 part 1 class B shall be carried out without the granting of a further consent by the Local Planning Authority.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenities.