

Development Management Report

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Summary of Application

Application Number: 16/04719/FUL

Parish:

Kinnerley

Proposal: Erection of residential development of 18 no. dwellings; formation of vehicular access

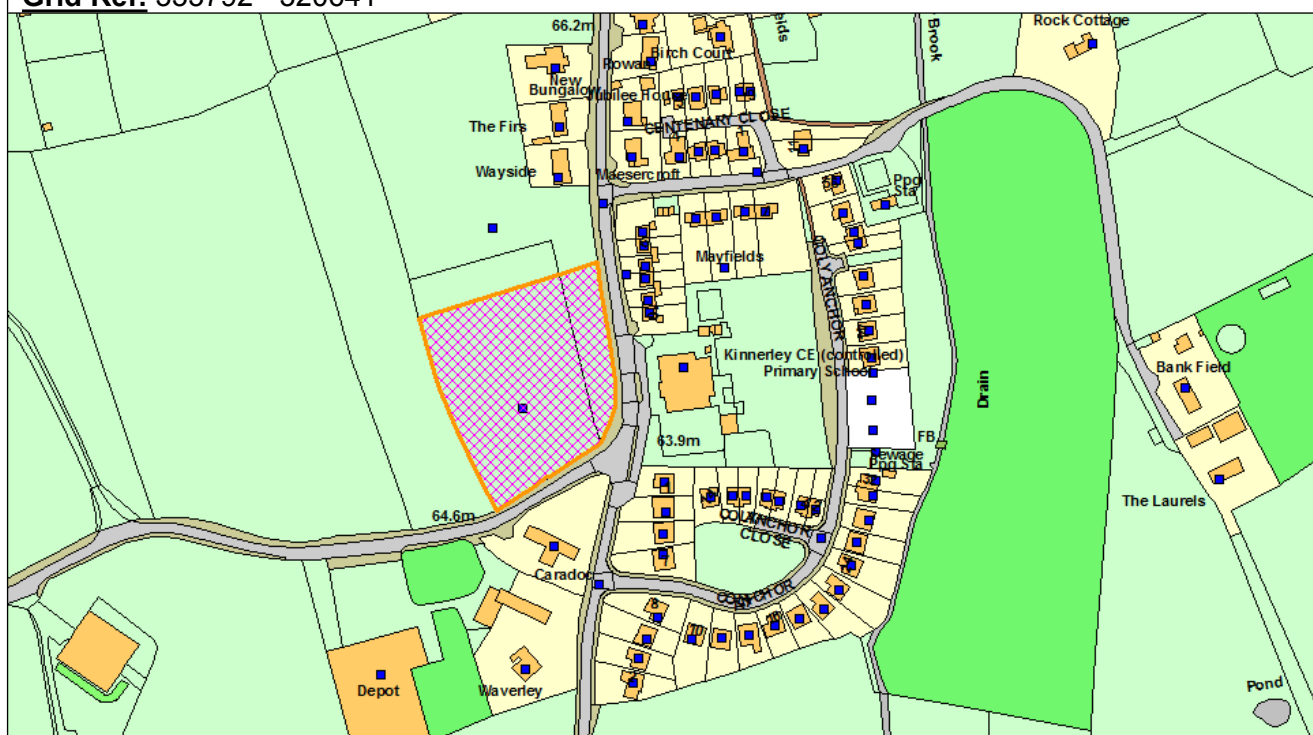
Site Address: Proposed Residential Development Opposite School Kinnerley Shropshire

Applicant: Milford Investments Ltd

Case Officer: Mark Perry

email: planningdmnw@shropshire.gov.uk

Grid Ref: 333792 - 320641



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and the applicant signing a S106 to secure 2 affordable dwellings.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is a full application for the erection of 18 dwellings to include the creation of a new vehicular access with provision of car parking spaces and formation of pedestrian access to School Road. The scheme proposes a mix of 2, 3 and 4 bedroom dwellings, detached and semi-detached. All are two storeys although some have their first floor accommodation set into the roof.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a plot of agricultural grazing land located adjacent to the highway through Kinnerley and the Kinnerley/ Meverley road, and lies opposite the primary school. It has thick hedgerows to the west, north and eastern boundaries and some mature trees, and has a gentle slope downhill to the South.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The comments of the Parish Council are contrary to the recommendation from officers. The Council scheme of delegation therefore requires discussion with the local member Chair and Vice Chair. Following these discussions with the Principal Planning Officer the relevant members confirmed that the Parish Council's concerns about the development are material planning considerations and warrant consideration by the planning committee.

4.0 Community Representations

- Consultee Comments

- 4.1 **Parish Council** - Kinnerley Parish Council maintains its support for development of this site but upholds its objection to eighteen houses.

The Parish Council appreciates that the size of the site means that additional houses are achievable and would accept an increase in the number of houses but it maintains its position that eighteen houses is too many. In SAMDev the site was designated as being acceptable for twelve houses by Shropshire Council and this is supported in the Kinnerley Parish Neighbourhood Plan. The housing stock in Kinnerley Village has already significantly been increased over and above the levels planned in SAMDev which means a proportionate increase in car and other vehicle movements on the narrow country lanes leading into and out of the village.

Support therefore cannot be given for eighteen new houses due to the cumulative effect of additional residents and traffic which will affect the residential amenity of the existing residents and create extra traffic on the rural roads. Existing road safety concerns will consequently be worsened particularly around the area of the school.

- 4.2 **Highways** - No objection subject to conditions and informatives

- 4.3 **Drainage**- The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

- 4.4 **Affordable Housing**- The affordable housing proforma shows a slight over provision of 2 dwellings on site. It is noted that these will be 2 bedroomed properties at plots 15 and 16, which will meet some of the identified need in the area.
- 4.5 **Trees**- no objection subject to conditions to ensure protection of the trees on the site.
- 4.6 **Archaeology**- The site is deemed to have low-moderate archaeological potential. A programme of archaeological should be conditioned.
- 4.7 **Police**- The applicant should aim to achieve the Secured By Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment.
- 4.8 **Conservation**- The site is not within the newly designated conservation area nor is it considered to have the potential to impact on any other designated or non-designated heritage assets.

5.0 THE MAIN ISSUES

Principle of development
Design, scale and character
Highways
Ecology
Trees
Archaeology
Other issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that '*Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise*'.
- 6.1.2 The application site is approximately four fifths of the site that is allocated for housing in SAMDev (KYN002). The area allocated does extend beyond the application site up to the boundary hedge to the north of the application site which includes a series of mature trees.
- 6.1.3 The settlement of Kinnerley is part of a community cluster along with Maesbrook, Dovaston and Knockin Heath which will provide growth of around 50 dwellings during the plan period. The allocation site, within which the application site sits, is shown in SAMDev as providing 12 dwellings, the development guidelines also details, "the retention of the existing hedges; vehicular access via Argoed Road

only; and the provision of parking spaces to help address existing parking issues at the school”.

- 6.1.4 SAMDev also states that development proposals will be expected to demonstrate that they have taken account of the adopted guidance from the Community Led Neighbourhood Plan for Kinnerley.
- 6.1.5 Prior to the adoption of SAMDev the applicant did obtain outline planning permission for the erection of 12 dwellings on the site with all matters except access reserved for later approval (14/00581/OUT). This was approved on the 2nd March 2015 and remains an extant permission until March 2018. The outline planning permission specified 12 dwellings in the description and therefore as this scheme proposes more it was necessary for a new full application to be submitted rather than a reserved matters application.
- 6.1.6 It is acknowledged that both the Kinnerley Neighbourhood Plan and SAMDev give the allocated site a provision of 12 dwellings. This in turn contributed to the development guideline for the number of dwellings in the cluster. As stated in paragraph 3.21 of SAMDev the guideline is not a maximum figure but development beyond it by too great a degree could result in unsustainable development. Policy MD3 recognises that housing guideline is a “significant policy consideration” and it also sets out considerations to which regard will be had in determining applications which would result in the provision of more dwellings than indicated by the guideline for a settlement. This includes, the benefits arising from the development; and the impacts of the development, including the cumulative impacts of a number of developments in a settlement; and the presumption in favour of sustainable development.
- 6.1.7 The principle of a residential development on the site has already been established by the previous outline planning consent and the site’s allocation in SAMdev. Consideration must now be given to the extra six dwellings that are proposed as part of this new full planning application, in addition to the normal Development Management considerations.
- 6.2 **Design, scale and character**
- 6.2.1 When the previously approved outline planning permission was considered it included an indicative layout showing the 12 dwellings. This indicative scheme showed all of the dwellings in very substantial plots with the smallest dwellings shown as having an internal floor area of around 125 sqm. The provision of 12 dwellings would represent a very low density of development on the site.
- 6.2.2 This new scheme is for the erection of 18 dwellings and comprises a mix of 4 x 2-bed, 12 x 3-bed and 2 x 4-bed dwellings, ranging from 62 sqm to 157 sqm. Eight of the dwellings are proposed to be 100 sqm or smaller. The Kinnerley Neighbourhood Plan specifically identifies a need for smaller dwellings. It states that Kinnerley Parish Design Statement and the results of the Neighbourhood Plan Consultation, the following policies are established, which:
i) propose to address the need for smaller housing to restore the balance over the period 2012 – 2026, acknowledging the fall in average household size over the last 20-30 year period.

ii) propose that larger 4/5 bedroom houses should be built only on an infill site and only if the developer can demonstrate a particular community need.

- 6.2.3 The previous outline planning permission for 12 dwellings would likely deliver larger and more expensive dwelling in spacious plots in order to make the scheme viable financially. The applicant has advised that in order to deliver more smaller dwellings, which in this case also includes 2 dormer bungalows on plots 4 and 9, it is necessary to increase the number of dwellings on the site as a whole. As part of the planning consideration and increase in density still needs to be at a level that is appropriate for the site, and its surroundings.
- 6.2.4 The proposed scheme shows that the dwellings would be accessed by a single vehicular access from Argoed Road, but there would also be a secondary pedestrian access onto School Road. As required by policy S14.2(vii) the scheme also incorporates the provision of a parking area to help address the existing parking issues at the school. This parking area would be sited in the north eastern corner of the site and would provide 10 parking spaces with access provided directly to School Road.
- 6.2.5 The layout proposes a mix of dwelling types and sizes which are of a style and character that make a positive contribution to the area. Some of the dwellings have the character of agricultural barns with the two dwellings to the north and south of the site of a more traditional farmhouse type character. The rest of the dwellings are generally smaller with dropped eaves, exposed rafter feet, dormer windows and detailing to the eaves. The dwellings on the eastern side of the estate road (plots 12 to 17) are linked together by open fronted car ports. The car ports help to tie the buildings together and create a strong street scene. The provision of car ports allows occupiers vehicles to be more discreetly parked than they would be on driveways to the front of dwellings. This row of dwellings also follows the curved line of the pavement around to the two corners on the estate road.
- 6.2.6 The dwellings that would be most visible from and closest to the main road would be plots 9 and 18. Plot 9 would be a dormer bungalow and plot 18 a smaller barn type dwellings with lowered eaves. Both dwellings would be accessed from within the estate but both have been designed so that they have attractive elevations facing towards the rest of the village.
- 6.2.7 The proposed development is for six more dwellings than the outline permission consented and the figure quoted in SAMDev. The appropriate amount of housing for a site can only be fully considered once the type and scale of the dwellings is known. All of the dwellings shown on the submitted plan are considered to have good sized gardens and all of the properties have at least 2 off street parking spaces. It is considered by Officers that the provision of 18 dwellings, of the type and size proposed, would not result in the over development of the site and would provide a good mix of dwelling types and sizes, in particular the provision of smaller dwellings.
- 6.2.8 It is considered by Officers that the number and type of dwellings proposed would enhance the character and appearance of the site and this part of the village.

6.3 **Highways**

- 6.3.1 As referred to above there would be a single vehicular access to the site plus the access to the parking area. A new pedestrian pavement would be provided around the road facing sides of the site providing safe pedestrian access for future occupiers and those parking in the proposed school parking area.
- 6.3.2 In order to provide an acceptable level of visibility at the junction into the proposed estate and at the junction between Argoed Lane and School Road it has been necessary to remove some small sections of hedgerow. These hedges will then be replanted back behind the required visibility splays. The junction of Argoed Road and School Road already has restricted visibility for emerging vehicles; as such improving the available visibility will benefit not just those living in the proposed development but also the wider community who may also use this section of road.
- 6.3.3 Following consultation with the Council's Highways Department there have been no objections raised subject to addition of appropriate conditions. Conditions will be imposed to secure the provision of a 1.8m footway and a formal pedestrian crossing point between the site and the primary school.
- 6.3.4 The Parish Council have expressed concerns about the increase from 12 to 18 dwellings and the increase in vehicle movements on the lanes leading into and out of the village and the impact that this will have on road safety around the school. No concerns have been raised by the Highways Officer subject to ensuring that the necessary improvements, referred to above, are made.
- 6.4 **Ecology**
- 6.4.1 The scheme included the submission of an ecology report and this has been assessed by the Planning Ecologist who has recommended a number of conditions and informatives ensuring that the development is carried out in accordance with the ecological recommendations.
- 6.5 **Affordable Housing**
- 6.5.1 The proposed scheme is for 18 dwellings and therefore it is liable to make a contribution towards the provision of affordable housing. The policy requirement, as set out in the Type and Affordability of Housing SPD, requires a 10% affordable housing provision which would equate to 1.8 dwellings. This would be made up of one affordable dwelling provided on site plus a financial contribution equivalent to 0.8n of a dwelling. The applicant has chosen to provide two on site affordable dwellings, this is a slight over provision against the policy requirement. As affordable housing is only required on developments of more than 5 dwellings, given the size of Kinnerley there is unlikely to be many future occasions where developments would be required to provide affordable housing on site. Other than the allocated sites most development would be for single infill plots or for very small numbers of dwellings.
- 6.5.2 The applicant has identified that plots 15 and 16 would be provided as affordable dwellings and these are two small 2-bed properties. The applicant would be required to enter into a S106 legal agreement in order to secure the affordable dwellings.

6.6 Trees

- 6.6.1 The application site contains a number of mature trees, the most significant of which is located in the hedgerow in between the school parking area and plot 8, with other smaller trees in the north western and southern corners of the site. The applicant has submitted an arboricultural impact assessment which has been considered by the Tree Officer. The Tree Officer is satisfied that it has been adequately demonstrated that the development has made provision to retain the significant trees on the site and that they would be appropriately integrated into the scheme. The Impact assessment also set out how the trees will be protected during the construction phase of the development to ensure their long term future.

6.7 Archaeology

- 6.7.1 The Council's archaeologist has commented that the site is deemed to have low-moderated archaeological potential because to a number of cropmark archaeological sites within 500m of the site. It is considered appropriate for a condition to be imposed requiring a programme of archaeological work to be carried out.

7.0 CONCLUSION

- 7.1 The proposed residential development of the site for 18 dwellings is considered acceptable in principle given its sustainable location and designation as an allocated site. It is considered by Officers that the figure of 12 dwellings set out in the Kinnerley Neighbourhood Plan and SAMDev should not be seen as an upper limit for the site but as a development guideline. A scheme of 18 dwellings needs to be considered on its individual merits. The development proposed includes a significant number of smaller dwellings providing a wide mix of dwellings helping to meet the housing need locally which include 2 affordable dwellings. The provision of smaller dwellings is encouraged by the Kinnerley Neighbourhood Plan. The scheme is not considered to represent the over development of the site and the likely extra traffic generated is not considered to impact upon the safety of highway users.

- 7.2 The proposed scheme includes sensitively designed dwellings of varying styles and have been laid out to respect the existing trees and hedgerow in the locality. It is considered by Officers that the proposed development complies with policies CS4, CS6, S11 and CS17 of the Core Strategy and policies MD3 and S14.2(viii) of SAMDev.

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 1970.

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:
Planning Policy Guidance
National Planning Policy Framework

Core Strategy and Saved Policies:
Type and Affordability of Housing SPD
CS4- Community Hubs and Clusters
CS6- Sustainable Design and Development Principles
CS11- Type and Affordability of Housing

CS17- Environmental Networks

MD3- Delivery of Housing Development

MD12- Natural Environment

S14.2(vii)- Kinnerley, Maesbrook, Dovaston and Knockin Heath

Relevant planning history:

14/00581/OUT Outline application for the erection of 12 dwellings to include alterations to vehicular access with provision of car parking spaces and formation of new pedestrian access to School Road GRANT 2nd March 2015

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 Arthur Walpole

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. 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.

3. 1. Work shall be carried out strictly in accordance with the Survey for Badger Sett report prepared by Greenscape Environmental Ltd (July 2016) attached as an appendix to this planning permission. This includes development works to cease two hours before sunset. Within 90 days prior to the commencement of development the approved badger reasonable avoidance measures secured through Condition 1 shall be reviewed by an ecological consultant and, where necessary, amended and updated. The review shall be informed by further ecological survey commissioned to i) establish if there have been any changes in presence and/or abundance of badgers and their setts, and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for the implementation, will be submitted to and approved by writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection of Badgers protected by the Protection of Badgers Act 1992.

4. The programme of archaeological work for the development approved by this permission shall be carried out in complete accordance with the specification (Written Scheme of Investigation) by Castlering Archaeology dated 2 June 2016.

Reason: The development site is known to hold archaeological interest.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. 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) 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 method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

d) 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.

e) 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.

6. Prior to the commencement of the development full engineering details of the proposed vehicular accesses and minimum 1.8 metre footways along Argoed Road and School Road as indicated on the Proposed Site Plan (Revision C) and including surface water drainage arrangements, shall be submitted to, and approved in writing by, the Local Planning Authority. The access and footway works shall be fully implemented in accordance with the approved details before any of the dwellings are first occupied.

Reason: To ensure a satisfactory means of access to the highway.

7. Prior to the commencement of the development full engineering details of an uncontrolled pedestrian crossing point to School Road, between the development site and primary school in conjunction with the footway works required under Condition 1 above, shall

be submitted to, and approved in writing by, the Local Planning Authority. The crossing point works shall be fully implemented in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interests of pedestrian safety.

8. Prior to the commencement of the development the land between the visibility splay lines and Highway at the new access road junction onto Argoed Road and to the north of the Argoed Road/ School Road junction, as shown on the Proposed Site Plan (Revision C) shall be cleared with any boundary fence, hedge, wall or other means of enclosure set back behind the visibility splay lines and the land within the visibility splays maintained at all times free from any obstruction exceeding 225mm above the level of the adjacent carriageway.

Reason: In the interests of highway safety

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

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

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

10. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

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

11. The car port for plots 13, 14 and 17 as shown on the approved plans shall remain open fronted for the lifetime of the development.

Reason: To ensure an adequate provision of off street parking.

12. The car parking area indicated on the Proposed Site Plan (Revision C) shall be surfaced in a bound material and drained before any of the dwellings are first occupied and shall thereafter be retained free of any impediment to its designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

13. A minimum of 2 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

14. A minimum of two 2F Schwegler Bat Box (General Purpose) or similar woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.