

Development Management Report

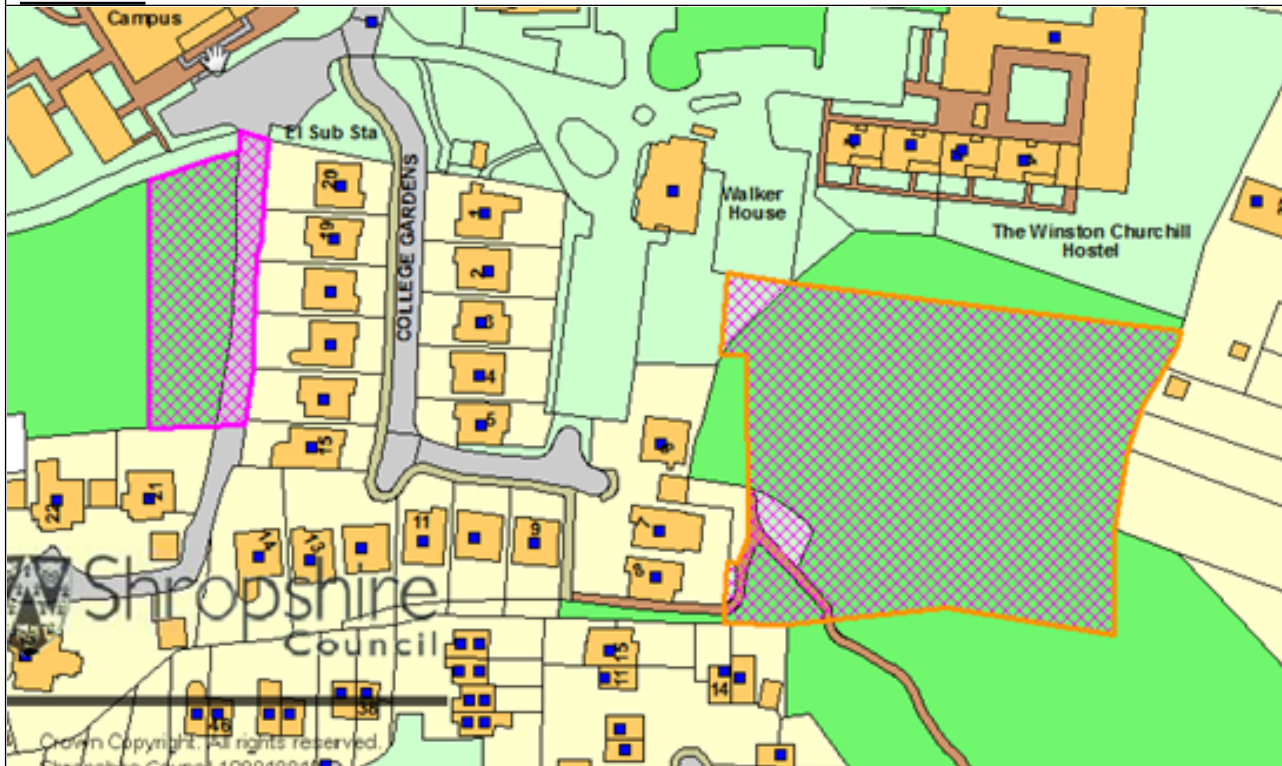
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Summary of Application

<u>Application Number:</u> 17/00823/COU	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath		
<u>Site Address:</u> Shrewsbury College Of Arts And Technology Radbrook Road Shrewsbury Shropshire SY3 9BL		
<u>Applicant:</u> Floreat Living Ltd		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 347389 - 311794



Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure a sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath which will be a public right of way.

1.2 The application has been submitted concurrently with Reserved matters application 17/00821/REM and 17/00823/REM to provide 126 homes on the former Radbrook College site.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site relates to two separate pieces of land. The largest part is a privately owned piece of scrub land to the East of the Radbrook College site and West of Torrin Drive. The smaller strip is to the West of College Gardens and includes the existing private drive that is to be relocated further West.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The associated applications for Reserved Matters are to be determined at committee as members approved the outline applications subject to any subsequent application for reserved matters being considered by Committee. The Area Planning Manager in consultation with the Committee Chairman agrees that this application should be determined by committee as it is considered that it should be determined at the same time as the related reserved Matters applications are being determined.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Ecology:

Habitat Management Plan

The Soft Landscape Mitigation Strategy which has been submitted in support of this proposal indicates that habitat management within the COU site boundary will include;

- Proactive management of existing trees with thinning of canopies, coppicing, selective tree removal and vegetation clearance to improve the aesthetic and general health of trees.
- Clearance of depression area to create an area of permanent open water supported by appropriate planting to increase the site habitat network
- Removal of garden and household (fly-tipped) rubbish
- Removal of scrub and trees along the eastern boundary. Planting of wide

Ilex aquifolium hedge to the western boundary. Hedge to be maintained at 2.5m minimum height

- Coppice all Salix caprea trees. Selective coppicing and pollarding of Salix fragilis trees
- Removal of trees within the 'natural' depression
- Create habitat piles with brush and cord-wood removed from trees and cleared vegetation stacked in a haphazard fashion
- Removal of trees within the 'natural' depression. Excavation of permanent pond with surrounding wetland / marsh area. Removal of trees from the south shore / margin and selective removal of trees that will cast a shadow over the surface of the pond. Planting of pond with wild-life friendly plants
- Creation of a single chamber artificial badger sett within a non-flooding / water logged area
- Clearance of existing plants including Cornus sanguinea and plant additional understorey planting of: Ribes uva-crispa, Viburnum opulus, Ribes robrum, Corylus avellana, Ilex aquifolium and Lonicera periclymenum
- Clearance of common nettle dominated areas. Planting of these areas and areas of bare ground with a mixture of woodland shade-tolerant herb plant species
- Installation of two 'Schwegler Hedgehog Domes' and two 'Hogitat Hedgehog Homes'

Badgers

The development site has been surveyed for evidence of badgers on a number of occasions between March 2016 and 25th April 2017. No evidence of badger was found on the application site or within 30m of the surveyor accessible land surrounding the application site.

Great Crested Newts

eDNA analysis of 3 ponds within close proximity of the site has been undertaken. eDNA is an accepted survey technique by Natural England for determining presence/absence of great crested newts in a pond. The survey was conducted at the appropriate time of year (April 2017). The ponds recorded absence of great crested newts.

SC Ecology has made a site visit to inspect the proposed development site and has concluded that due to the lack of water the wet areas present would not be suitable for breeding great crested newts. The habitat enhancements as part of this planning application will ensure that a suitable breeding pond is available for amphibians in the future. This will therefore enhance the area for biodiversity. As there has been a great crested newt recorded in the surrounding area an Ecological Clerk of Works will be provided to oversee site clearance work, including the removal of vegetation. If a great crested newt is found at any stage of the development, works must halt and the ecologist and Natural England contacted for advice. The developer is aware of this.

Trees

Trees were inspected for bats and the Radbrook Village Site does not provide potential roosting habitat and trees are not (likely to be) used by bats for roosting purposes.

8 purpose made bird boxes and 8 bat boxes will be installed on mature trees within the application site. SC Ecology requests that the location of these boxes are clearly displayed on a site plan, this can be provided once they are installed, this is so that the condition is enforceable for the lifetime of the development.

Nesting Birds

Additional bird nesting opportunities will be provided as indicated on the Landscape Plan prepared by AHR Architects.

Star Ecology has concluded that the change of use proposal will result in a structurally improved and native species diverse semi-natural woodland with a restored pond.

On completion of the approved landscaping, a landscaping, habitat and open space management plan shall be submitted to and approved in writing by the LPA. The plan shall include full details of the future maintenance, management and monitoring of all landscaped areas and open space (other than privately owned, domestic gardens) including a 5 year project register, annual work plan and the means by which the plan will be rolled forward annually and details of who shall take responsibility for implementation of the plan. The future maintenance, management and monitoring of the site shall be implemented in accordance with the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

4.1.2 **SC Trees:** No objection to this application subject to conditions.

The area forms part of the proposed landscaping across the wider site. I am satisfied that the change of use will not be detrimental to the current amenity of this area and would enhance and improve its value in the longer-term subject to the conditions recommended below. The provision of paths within the site will improve accessibility and allow for more interaction with this natural asset. I consider that the proposed change of use is compliant with policy CS6 of Shropshire Council Core Strategy, policies MD2 & MD12 of the adopted SAMDev scheme and the general principles of sustainable development described in the NPPF.

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

4.1.4 **SC Parks and Recreation:** Officers are aware of complaints made about a locked gate on one of the urban footways that leads from College Gardens onto the area in question. We note that there is a proposed footpath through the wooded area, which would allow access through the site providing a needed link in the urban footways network. The majority of these urban footways through Radbrook are on the Council's Highways map as maintainable footways and we would like to see the new routes through the development placed on the Highways map as such routes; this will protect the routes in the future.

4.2 - **Public Comments**

4.2.1 **Shrewsbury Town Council:** The Town Council has no objection to this parcel of land being incorporated within the development site to facilitate the provision of open space provided that the necessary landscaping conditions and s106 agreement for future maintenance. In relation to open space we believe that the provision of infant and junior play provision cannot be accommodated on site and meet the 25m/50m buffer zones between play and the nearest property. We would like to see that play space is removed in lieu of improvements to neighbouring infant and junior space for which a sum of £60k for provision being conditioned.

4.2.2 **Shropshire Wildlife trust:** (Comment received in relation to application as first submitted).

The development will result in the loss of a significant area of habitat from the site and from the documents provided we are unable to agree with the claim that the remaining area of green space will in fact provide a greater wildlife or amenity value.

Given our experience of habitat management plans for other developments we would ask that a clearer but more detailed document is produced. The current plan does not contain sufficient detail to ensure that biodiversity gains will be delivered and that this could be demonstrated for the life of the development. It also makes reference to numerous other documents and so generates confusion.

For example:

- We can find no details of swift nesting features, bird nesting features, bat roosting features. What are the specifications? Where are the locations?
- No details of pond excavation methods.
- Inclusion of inappropriate species in planting plans, e.g. *Cotoneaster simonsii* (a non-native invasive listed in Schedule 9 Part 2 of the Wildlife & Countryside Act 1981 and advised against by Plantlife and RHS).
- No details of grass/wildflower seed mix or subsequent management.
- No details of management after 5 years from completion (condition 5 requires the plan shall be carried out for the lifetime of the development).

We have additionally been made aware of a recent sighting of a gravid female great crested newt within 75m of Pond 1 on the development site. It would therefore appear likely that despite the low HIS scores pond 1 still provides a breeding opportunity for great crested newts and this should be further investigated and measures and enhancements incorporated into an updated and improved habitat management plan.

4.2.4 Three responses have been received from the public that directly relate to this application site summarised as follows:

- ☐ Welcomes the reinstatement of the former pond adjoining Torrin Drive that will provide a wonderful wetland habitat.
- ☐ Pleased that local Radbrook Estate residents will still be able to use the footpath from Torrin Drive to the new estate which will provide an important

route for local school children and residents to access the Radbrook Community shops and schools.

- ☐ Can some untidy areas be retained important for wildlife such as birdlife, frogs, slow worms, grass snakes and toads.
- ☐ Pleased to see that wildflower grassland is planned for the site.
- ☐ Concerned about the impact of the proposed pool and any effects on the marshy land adjacent to 21Torrin Drive.
- ☐ Floreat Homes should not be allowed to add this piece of land to provide additional open space and ecology areas not being provided on the other sites that have outline planning permission.

4.2.5 Over 20 letters of objection have been received which do not directly relate to this site but refer to the development on the adjacent sites and are the same as those submitted in relation to the RM applications and summarised in the relevant reports. These have not been repeated here but are available to read on the file.

5.0 THE MAIN ISSUES

- ☐ Principle
- ☐ Landscaping and trees
- ☐ Ecology and protected species
- ☐ Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is situated within the urban development boundary for Shrewsbury where residential development of the site is supported by CS2 that identifies Shrewsbury as the focus for all new housing development. The application site is currently privately owned land that is not public open space. Its change of use to either residential use and/or public open space in association with the residential schemes on the adjacent site (or as a stand alone application for public open space for the benefit of existing residents) is considered acceptable in principle.

6.1.2 One resident has commented that this additional land should not be added to the overall development proposal for the former Radbrook College sites to compensate for the loss of green areas or lack of open space on those sites. However a single full application for all three sites for exactly the same layout and including this private land to provide public open space could have been submitted instead and that would have been considered acceptable. It is therefore considered acceptable that this piece of land can be included in the overall development of the Radbrook site and that the proposal can be dealt with as three separate applications.

6.1.3 The addition of this land to the overall proposed development has not resulted in an increased density of housing on the other two sites. The overall density and

number of dwellings has actually reduced compared to that indicated on the illustrative plan submitted at the outline stage.

6.1.4 The inclusion of this land into the overall proposed housing development as well as providing open space to meet the needs of new residents will also benefit existing residents and will also provide a public footpath link from Torrin Drive through the Radbrook site and on to Radbrook Road. There is already a footpath further South that connects to College Gardens but the public are unable to use this as the College Gardens footpath is private and access to it by the public is barred by a locked gate.

6.2 **Landscaping and trees**

6.2.1 The proposal includes the management of existing trees including the thinning of canopies, coppicing, selective tree removal and vegetation clearance to improve the aesthetic and general health of trees. The tree officer is satisfied that the change of use will not be detrimental to the current amenity of this area and would enhance and improve its value in the longer-term subject to the recommended conditions. The provision of paths within the site will improve accessibility and allow for more interaction with this natural asset.

6.3 **Ecology and protected species**

6.3.1 In addition to the management of the trees the proposed landscape and habitat improvements to this part of the site include the removal of garden and household (fly-tipped) rubbish, clearance of the existing depression area and excavation of a permanent pond with surrounding wetland / marsh area and planting of pond with wild-life friendly plants. The landscape improvements include clearance of common nettle dominated areas and planting of these areas and other areas of bare ground with a mixture of woodland shade-tolerant herb plant species and the planting of wide Ilex aquifolium hedge to the western boundary. Habitat enhancements include the creation of habitat piles with brush and cord-wood removed from trees, and cleared vegetation stacked in a haphazard fashion, the creation of a single chamber artificial badger sett within a non-flooding / water logged area, and the installation of two 'Schwegler Hedgehog Domes', two 'Hogitat Hedgehog Homes', eight purpose made bird boxes and eight bat boxes.

6.3.2 The submitted ecological surveys and reports include a final bat mitigation strategy and badger mitigation plan. No evidence of badger was found on the application sites or within 30m of the surveyor accessible land surrounding the application sites. The bat survey has recorded no bats using the trees or buildings as a place of rest or shelter and there were no bat roost features on the buildings or the trees. Although a great crested newt (GCN) has been recorded in the area the ponds recorded the absence of GCN and the Councils Ecologist has made a site visit to inspect the proposed development site and has concluded that due to the lack of water the wet areas present would not be suitable for breeding GCN. The submitted surveys and reports also conclude that an EPS licence is not required.

6.3.3 Shropshire Wildlife Trust objected to all three proposals as first submitted but the revised landscaping details have addressed the issues that they raised. As

mentioned above this includes the restoration of a pond, and ecological enhancement of this site. The planting has also been amended in accordance with the Councils tree officer and ecologists recommendations, the ecological connectivity will be retained and enhanced across all three sites and it is considered that the proposal will enhance the area for biodiversity. Star Ecology has concluded that the change of use proposal will result in a structurally improved and native species diverse semi-natural woodland with a restored pond and the Councils Ecologist has confirmed that the proposed landscaping of the site will provide significant ecological enhancement .

- 6.3.4 It is understood that Floreat Homes intend to transfer their responsibilities for maintaining and managing this proposed public open space to Shrewsbury Town Council. Although the developer will enter into a separate agreement with the Town Council to ensure the long term management and maintenance of these areas a condition will be imposed to ensure that this detail is approved.

6.4 **Developer contributions**

- 6.4.1 It is usual for a development of this size to include on site equipped children's play areas and this was originally included and would have been adopted (along with the open space) by Shrewsbury Town Council. However local residents agree with the Town Council that the developers should contribute to the development of the existing infant and junior play areas in the Radbrook ward, which would benefit the community as a whole. The sum of £60,000 requested for this will be secured by a S106 attached to this planning application.

7.0 **CONCLUSION**

- 7.1 The proposed open space, landscaping and ecological enhancements can be secured for both existing and future residents, improving their environment, and will also benefit wildlife. A sum of £60, to contribute to the development of the existing infant and junior play areas in the Radbrook ward, can be secured by a S106. Officers recommend approval subject to a S106 and the conditions within Appendix 1.

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: NPPF

Core Strategy Policies: CS2

11. Additional Information

List of Background Papers: File 17/00823/COU

Cabinet Member (Portfolio Holder): Cllr R. Macey

Local Member: Cllr Keith Roberts

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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. 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 last 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 all tree protection measures specified in the submitted Tree Protection Plan ref: 691-AHR-DR-L-ZZ-90-026 P13 & Arboricultural Method Statement ref: AMS-AIA-IC-050717-V7 have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. 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. A responsible person will be 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.

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

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.

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

4. All hard and soft landscape works (including wildlife habitat and features) shall be carried out in accordance with the approved plans. The landscape works shall be carried out prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA). 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.

5. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority for approval demonstrating implementation of the Risk Avoidance Measures (RAMs) for Great Crested Newts (22nd May 2017), and completion of habitat management as agreed by the 'Soft Landscape Mitigation Strategy', drawing number 691-AHR-DR-L-ZZ-90-018 REV P8, prepared by AHR Architects Ltd.

Reason: To demonstrate compliance with the Great Crested Newt, Bat RAMS and ecological enhancements.

6. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM a habitat management plan for the lifetime of the development must be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Monitoring and remedial/contingencies measures triggered by monitoring;
- i) The financial and legal means through which the plan will be implemented.

The future maintenance, management and monitoring of the site shall be implemented in accordance with the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

7. If non permeable surfacing is used on the domestic curtilage land and formal public open space including the construction of a footpath, the applicant should submit for approval a surface water drainage system. The surface water drainage shall be implemented as approved.

Reason: To ensure that, for the disposal of surface water drainage is undertaken in a sustainable manner.