

## Development Management Report

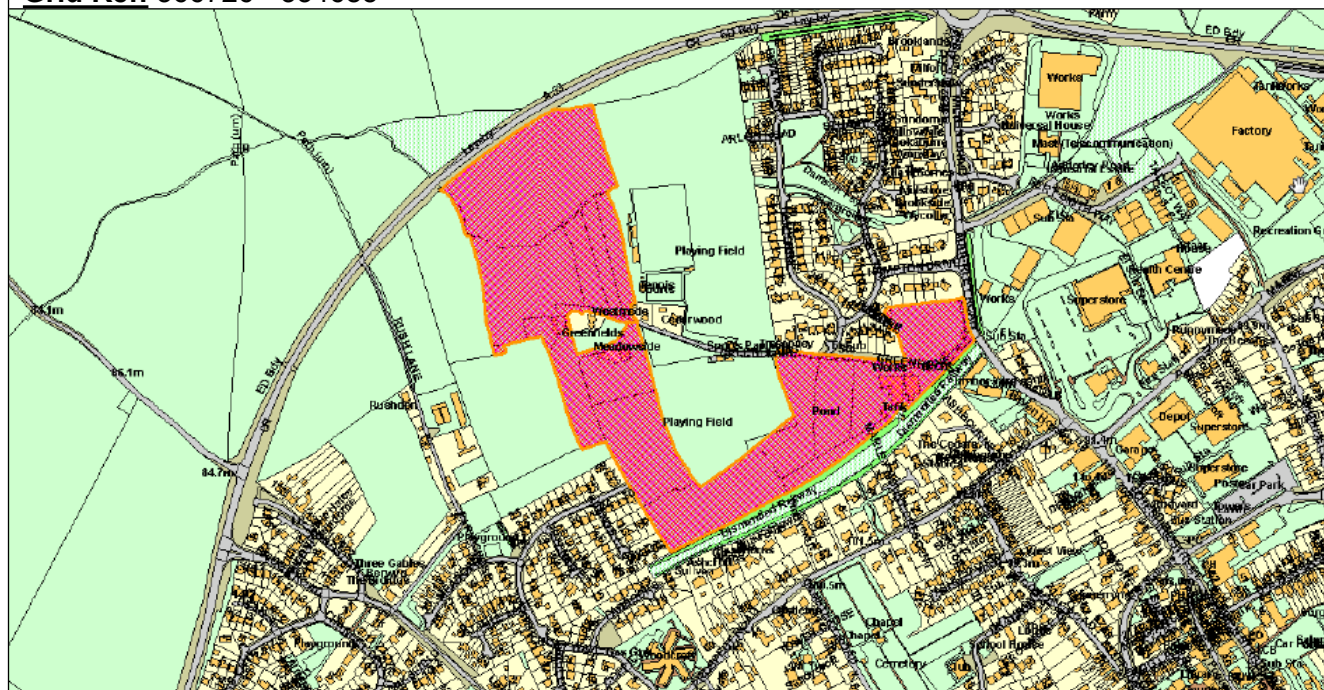
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 14/03782/OUT	<b><u>Parish:</u></b>	Market Drayton Town
<b><u>Proposal:</u></b> Outline application (access for approval) for the residential development of up to 250 dwellings; to include demolition of existing structures on site; formation of vehicular accesses from the A53 and Hampton Drive		
<b><u>Site Address:</u></b> Land Off Greenfields Lane Market Drayton Shropshire		
<b><u>Applicant:</u></b> Danbank Developments Ltd		
<b><u>Case Officer:</u></b> Karen Townend	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 366726 - 334685



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**Recommendation:- Grant Planning Permission subject to the applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport and also subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This report relates to an outline planning application which was previously considered by members in November 2014, February 2015 and July 2015 for residential development of 250 dwellings on a 11 hectare site on the northern side of Market Drayton, on the inside of the A53. The application was originally presented to committee alongside an application on adjacent land to the west by Gladman Developments. The adjacent site has since been granted reserved matters consent and the housing is under construction. The application for this site is still pending a decision.
- 1.2 The July 2015 report was approved subject to the deletion of the proposed access off the A53 as the development of this site was required to be connected to the adjacent development site and served off the new roundabout provided by that development, and also from the existing estate road Hampton Drive. Members previously resolved to support the proposal.
- 1.3 This report is before members as the application site area has reduced and as Committee previously determined the application the changes to the proposal need to be considered by members. The change to the site area is the deletion of the land occupied by PD Stevens business. As such the applicant has also submitted a noise assessment to consider the potential impact on the future residents of the application site from the PD Stevens business which will remain. The previously approved site area is shown on page 1 of this report, the new site area is as follows:



### 2.0 SITE LOCATION/DESCRIPTION

2.1 This application site is L shaped around the existing sports pitches off Greenfields Lane and lies to the south of the A53. Greenfields Lane, which is a bridleway, runs through the site and is currently used by the existing businesses, sports facilities and a small number of houses. The sports facilities include rugby and football pitches and tennis courts and their associated buildings and structures. The disused Market Drayton railway line sits to the south of the site on an embankment with residential development to the south and the modern housing estate of Hampton Drive lies to the east.

2.2 The land is generally level with only a small change in fall but is lower than the A53 and also has Sych Brook, an existing watercourse, running across the site which itself is at a lower level than the surrounding land. One dwelling at the end of Greenfields Lane would be retained as it is outside the applicants' ownership. The site will be highly visible from the A53 and also from the surrounding housing development, including the new housing being developed to the west.

2.3 The site lies on the northern edge of Market Drayton, within the bypass formed by the A53. The town centre is south of the site and approximately 2km away. Market Drayton is identified in the Shropshire Core Strategy as a Market Town and as such a key focus for new development.

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

3.1 The application was previously considered by the members of the North Planning Committee. As such the changes to the proposal also need member consideration.

### **4.0 COMMUNITY REPRESENTATIONS – ON AMENDED SCHEME**

#### **4.1 Consultee Comments**

4.1.1 **Regulatory Services – No objection.** Having considered the latest noise assessment which considers noise from existing noise sources on the proposed residential properties it is noted that the noise assessment finds that outdoor and internal areas can achieve acceptable noise levels by careful positioning and orientation. As a result we propose an additional condition, to require a noise mitigation plan to be submitted with the reserved matters application.

### **5.0 THE MAIN ISSUES**

- ☐ Policy & principle of development
- ☐ Removal of part of site
- ☐ Impact on amenity
- ☐ Highways matters
- ☐ Other matters

### **6.0 OFFICER APPRAISAL**

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

6.1.1 The principle of developing the site for housing has previously been accepted by members resolving to approve the application in 2014 and 2015. The site is also an allocation site for housing development in the SAMDev. 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. The NPPF advises that proposed development

that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The development plan for consideration of this application is the Shropshire Core Strategy and the SAMDev. Policy CS3 of the Core Strategy notes that Market Drayton is proposed to have “substantial development that balances business development with housing development and enhances the town’s infrastructure and facilities and its role as a centre for food production”. As noted above the site is allocated as a housing development site in the SAMDev. The whole of the allocation is formed from three sites, two identified as ‘MD030’ and one identified as ‘MD010 and MD028’. All three have guidelines of the development being part of a coordinated scheme including access improvements, cycle and pedestrian links, provision of open space and a landscaped buffer along the A53. Overall the three sites together will provide an allocation of 400 houses. The current application forms part of all three sites.

6.1.3 The issue of providing a coordinated scheme was considered by members in July 2015 following the appeal decision on the adjacent housing development. The conditions as listed in appendix 1 include conditions which require the site to be developed up to the boundary to provide connecting roads through to the adjacent site to provide access for vehicles, cycles and pedestrians. This issue is not affected by the change now proposed to the site. The PD Stevens land does not affect the connectivity to the adjacent site and the remainder of the SAMDev allocation.

## 6.2 **Removal of part of site**

6.2.1 As detailed above this report is presented to members as the application site area has been changed. The land occupied by the business known as PD Stevens was previously part of the application site and the business was going to relocate and the all the buildings removed and the land redeveloped for housing. The business is no longer looking to move. As such the application for outline planning permission for housing has changed to remove the land occupied by this business.

6.2.2 This parcel of land is in the eastern corner of the wider application site. The removal of this part of the site will reduce the overall housing numbers deliverable on the site, however there is no reason that the land could not come forward for housing development in the future. It remains within the allocation and within the development boundary for Market Drayton. The removal of this part of the site, as noted above, does not affect connectivity to the adjacent housing development and the main access into the SAMDev allocation off the A53. It does not impact on the link to Hampton Drive estate or pedestrian access onto Greenfields Lane. As such it is officers’ opinion that the removal of this part of the site from the application is not detrimental to the overall outline application.

## 6.3 **Impact on amenity**

6.3.1 The key consideration of removing the PD Stevens land from the application site is the potential for the business to impact on the amenities of the future residents

of the application site. The proposal is for housing to the north and west of PD Stevens land. A noise assessment has therefore been submitted with the amended plan and considered by the Council Regulatory Services Officer. The report concludes that through orientation and layout of the housing the gardens and habitable rooms can be screened from commercial noise and as such the report does not consider that noise should be an issue.

6.3.2 In carrying out the assessment the consultant undertook noise measurements during daytime and night time periods measuring from within the business and within the application site. The report shows the noise levels and concludes that the noise is from HGV movements, fixed plant and the jet wash. Mitigation is proposed in terms of appropriate glazing to habitable rooms and orientating the housing so that private gardens are not backing onto the existing business (as a 3m high fence would not be acceptable).

6.3.3 The Council Regulatory Services Officer has no objection to the amended plan and has considered the noise assessment. The officer has recommended a further condition be added to the previously approved conditions to require the submission of a noise mitigation plan. This would ensure that the design and layout of the reserved matters application for the houses adjacent to the business takes into account the potential for noise. With this added condition, having regard to the impact on amenities considered in the previous reports in 2014 and 2015, the impact on amenities of existing and future residents can be mitigated and therefore can comply with local adopted policy.

#### 6.4 **Highways matters**

6.4.1 The application as originally submitted and previously considered included a new access off the A53 and also access off Hampton Drive. The principle of access off Hampton Drive was previously accepted, however the new access off the A53 was not and the resolution to approve in July 2015 was subject to the deletion of that access. This was required as the Council Highway Officer advised that only one access point onto the A53 should be permitted and the preference was for the access into the adjacent development site. The revised plans have deleted the access off the A53 and are therefore considered to comply with the previous resolution of members.

6.4.1 Access will be from Hampton Drive and also from the adjacent site which is currently under construction. Previous concerns about delivery of the access through the adjacent site are therefore reduced as the adjacent site is under construction and this application site is still pending an outline consent. This application site will need the details of the layout, design and landscaping to be submitted and the adjacent site will continue in the meantime.

#### 6.5 **Other matters**

6.5.1 All other matters including ecology, trees, contamination, flood risk and other highways and accessibility impacts have been considered previously and, as noted above, the members of the North Planning Committee resolved to approve the application. The amended plan does not alter any other consideration other than amenity and highways. As such officers advise that members refer to the previous reports for consideration of other matters.

**7.0 CONCLUSION**

7.1 The site is allocated as part of a housing development site within the SAMDev and is within the development boundary for Market Drayton. As such the principle of developing the site is acceptable. Furthermore the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. The development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed accesses via the adjacent housing development and off Hampton Drive are acceptable in principle as means of access to the site, the development of the site would not result in severe traffic impacts, increase flood risk or adversely affect statutorily protected species and can be developed in a way that would not significantly affect the amenities of existing or future residents, including the dwellings to be built adjacent to PD Stevens business. It is accepted by the Council that the application site can be developed independently of the surrounding land and conditions can ensure the application site will form part of the wider allocation and comprehensive development of the wider allocation.

7.3 Accordingly, it is considered that, in principle, the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.

7.4 It is therefore recommended that planning permission be granted subject to:

- The applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport;
- The amended conditions set out in Appendix 1; and
- Submission of Reserved Matters Application to be considered if requested by the North Planning Committee (as previously requested by committee).

**8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL****8.1 Risk Management**

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

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

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or

perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose 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

### National Planning Policy Framework

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

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

**11. ADDITIONAL INFORMATION**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Roger Hughes Cllr David Minnery
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Appendices APPENDIX 1 - Conditions
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**APPENDIX 1****Conditions****STANDARD CONDITIONS**

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

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

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

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

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

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

4. Work shall be carried out strictly in accordance with the Bat Mitigation Strategy to be submitted.

Reason: To ensure the protection of bats, a European Protected Species

**CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

5. The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian and cycle routes through the site, linking to the eastern and western boundaries. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

6. The layout submitted as part of any reserved matters application shall include details of vehicular routes to be provided from the approved eastern access to a point on the western boundaries of the site. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

7. The layout submitted as part of any reserved matters application shall include details of a play area including a safe pedestrian route to it, and the provision of informal, natural and semi-natural open space on the site, along with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

8. A noise mitigation plan shall be submitted with any reserved matters application which describes how noise levels in external and internal areas meets good noise criteria and as a minimum standard. This shall be submitted with approval provided in writing prior to any development starting on the site.

Reason: to protect the health and wellbeing of future residents.

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

10. Prior to the commencement of the development, including any works of demolition, a Construction Traffic Statement shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall restrict the use of Hampton Drive for construction traffic to the construction of the first 50 dwellings only and shall show alternative means of construction traffic access for development beyond the first 50 dwellings. The approved Statement shall be adhered to throughout the construction period.

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

11. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in

accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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

12. No site clearance works within 30 metres of the badger sett on site shall commence until the sett on site has been closed under licence accordance with details given in the Ecological Assessment by FPCR submitted on 22nd April 2014. The provision of herras fencing shall be provided to create a 30m buffer to the badger sett prior to works commencing and no ground works or material storage shall be permitted within the 30m buffer fencing.

Reason: To ensure the protection of badgers, under the Badgers Act (1992).

13. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

14. No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

15. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off, to reduce the risk of flooding and to protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

16. Demolition of Building 4 as identified in Figure 1 of the Ecology Survey Report by Penny Anderson Associates dated August 2014 shall not in any circumstances commence unless the local planning authority has been provided with either:
- a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or
  - b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of bats, a European Protected Species

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

## **CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

18. As part of the reserved matters details of the location and design of bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

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

19. Buildings 9 to 12 shall only be demolished between the months of September to April unless otherwise agreed with the Local Planning Authority.

Reason: To minimise disturbance to bats, a European Protected Species.

### **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

20. Prior to occupation, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To minimise disturbance to bats, a European Protected Species.

21. During the demolition and construction of the site no burning shall occur on site at any time. This includes the burning of vegetation from clearance work.

Reason: to protect the amenity of the area

22. Construction work, including the arrival of deliveries and unloading of deliveries, shall only be carried out between the following hours: Monday to Friday 07:30-18:00, Saturday 08:00-13:00. No work shall be permitted on Sundays or Bank Holidays without written consent from the Local Planning Authority.

Reason: to protect nearby residential amenity and the health and wellbeing of residents living in close proximity to the development.