

## Development Management Report

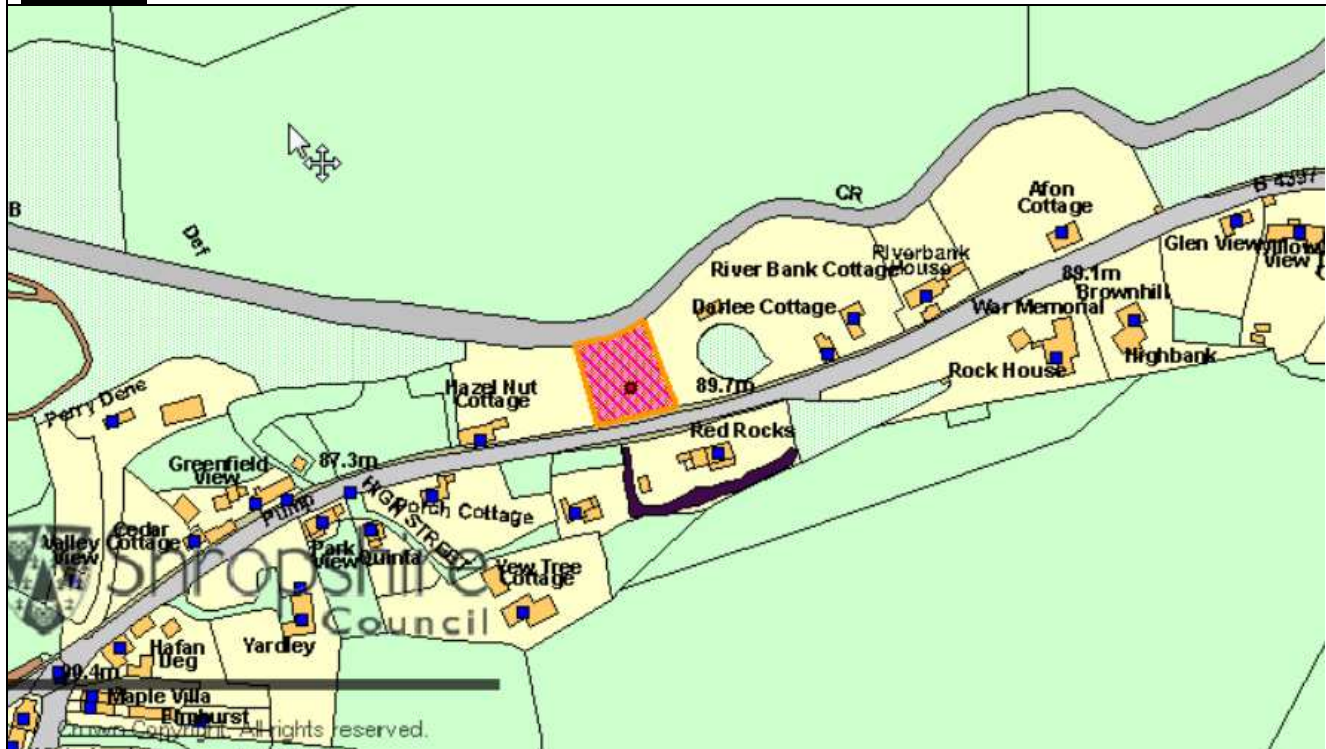
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/04168/OUT	<b>Parish:</b>	Ruyton XI Towns
<b>Proposal:</b> Outline application for the erection of 2 no. dwellings to include means of access		
<b>Site Address:</b> Proposed Residential Development West Of Darlee Cottage Brownhill Ruyton XI Towns Shropshire		
<b>Applicant:</b> Mr & Mrs B Grainger		
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 339775 - 322254



**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 subject to the applicant entering into a S106 to secure an affordable housing contribution.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The submitted application is for outline planning consent for the erection of two dwellings. The applicant is only seeking to establish the principle of erecting two dwellings on the site and the means of access. The appearance, landscaping, layout and scale are all reserved for later approval.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the Ruyton XI Towns development boundary. The application site covers an area of 0.2 hectares and sits between the B4397, which passes through the centre of the village, and the River Perry to the north. The land drops away steeply from the road before it levels out close to the river's banks. There is a drop of approximately 14 metres between the road and the land next to the river. The northern boundary of the site just clips flood zones 2 and 3, although the vast majority of the flood zone is to the northern side of the river.
- 2.2 To the east of the site there is the applicant's property (Darlee Cottage) which is located adjacent to, but well below the passing highway from where only its rooftop is visible. Access to Darlee Cottage is by a stepped path from a parking area located at the same level as the highway. Access to the application site is currently possible from a gravel track leading away from the parking area referred to above, which traverses the hillside. This same access also leads towards the self-catering holiday chalet operated by the applicant.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the application and the Local Member considers that the scheme raises material planning issues which should be considered by the committee. The matter has been discussed by the Principal Planning Officer, Chair and Vice Chair of the planning committee who have agreed that the issues raised are material and that the application should be considered by the committee.

### 4.0 Community Representations

#### - Consultee Comments

- 4.1 **Parish Council-** At the Ruyton XI Towns parish council meeting on 11th May 2015 The councillors noted the changes to the application and the SC Highways comments which it endorses but these do not affect the Parish Councils original decision to oppose the application.

1. It conflicts with OBC policies H13; which is now encapsulated into Shropshire Councils CS6;and also conflicts with CS11;
2. Recent remedial work in the area suggests that a structural survey might be appropriate to ensure safe development;
3. The proposed development is out of character with existing properties on Brownhill.
4. There are issues of sustainability as outlined in NPPF; paragraphs 7;14 and 109 which do not support the development.

#### 4.2 **SC Affordable Housing–**

Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing.

#### 4.3 **SC Drainage –**

The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted, with the conditions being found in full in the planning file.

#### 4.4 **SC Ecology-** No objection subject to conditions and informative

#### 4.5 **SC Highways-** No objections subject to condition requiring provision of visibility splays.

#### 4.6 **Community responses**

Comments received from 4 individuals (3 objections, 1 support) commenting on the following issues:

- Ground stability
  - Access to existing log cabin retained.
  - Impact on street scene
  - Development does not protect and enhance our natural, built and historic environment.
  - Impact on highways safety
  - Local traffic includes 10% HGVs
  - Dwellings not accessible to old/ disabled persons
  - No demand for more houses with sites in the village undeveloped
  - Scheme does not meet manual for streets guidance
  - Loss of trees
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- Size is of sufficient size to accommodate 2 dwelling
  - Suggest condition that the ridge of the dwellings shall not be more than 2 metres above level of the road

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of structure  
Visual impact and landscaping  
Ecological Impact  
Highway Safety

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 The site is situated adjacent to the main road passing through Ruyton XI Towns. The application site is within the development boundary on the proposals map of the Adopted Oswestry Borough Local Plan, the development boundary extends down to the edge of the River Perry which passes to the northern side of Ruyton XI Towns. Ruyton XI Towns is being promoted as a community hub within the emerging SAMDev and no changes to the position of the development boundary are proposed. SAMDev proposes that the village will provide for sustainable development of around 15 dwellings by infilling, small groups of houses and conversions on suitable sites within the development boundary.

6.1.2 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 Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. 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.

6.1.3 The emerging 'Site Allocations and Management of Development' Plan (SAMDev) has been submitted to the Planning Inspector with the examination in public held in in December 2014. SAMDev has not yet been adopted and does not yet hold full weight. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where weight can be attached but, pending adoption, this needs to be considered with care alongside the other material considerations.

6.1.4 Paragraph 14 of the NPPF states that:

'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole; or
- Specific policies in [the] Framework indicate development should be restricted.'

With regards to housing development paragraph 49 of the NPPF states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

and that

'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

- 6.1.5 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing until SAMDev is formally adopted by the Council.
- 6.1.6 In this intervening period between submission and adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.7 In this instance the site is within the development boundary shown in the adopted Local Plan and is proposed to remain so as part of SAMDev. The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.
- 6.2 Assessment of Sustainability**
- 6.2.1 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and

the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.2.2 The proposed site will result in residential development being located within the Ruyton XI Towns development boundary; a village that has already been demonstrated as being sustainable by its identification as a community hub and its commitment to providing further dwellings. The site will have easy access onto the main road which has a roadside pavement to enable occupants to access the local facilities including a primary school, convenience shop, public house, village hall, recreation facilities, church, local bus service and employment opportunities on foot. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over reliance on the private motor car.

6.2.3 However 'sustainable development' is not solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- An economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- A social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- An environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

### **6.3 Economic Consideration**

6.3.1 The proposal will, to a small extent, help boost the supply of housing in Shropshire and will provide employment during the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment which will provide financial

contributions towards infrastructure and opportunities identified in the Place Plan.

- 6.3.2 Objectors have commented on the impact the development will have on the existing self-catering chalet run by the applicant as the proposed dwellings would affect the access to the chalet. The loss of holiday accommodation would be an economic harm as tourism contributes to the local economy. The applicant's agent has confirmed that it is the intention of the applicant to continue operating the holiday accommodation and that its access arrangements could be included within the reserved matters application. In any case the applicant could cease the use of the holiday let at any time should they choose as such officers advise that the impact on the development on the holiday use is awarded little weight in consideration of this application.

#### **6.4 Social Considerations**

- 6.4.1 The proposal will provide 2 houses which will help to boost the supply of open market housing. The proposal will provide an affordable housing contribution at the prevailing rate at the time of the reserved matters application. The current rate of 10% would provide an affordable housing contribution to be spent on local affordable housing. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations.

#### **6.5 Environmental Considerations**

- 6.5.1 The application sits adjacent to the road. The ground level falls away steeply before levelling out closer the edge of the river. The site affords views across the river and out across open farm land which is crossed by a public footpath which is around 240 metres from the edge of the application site. The view of Ruyton XI Towns from the footpath consists of dwellings interspersed along, up and on top of the steep hillside. Existing dwellings are varied in their design and scale; ranging from small two-storey cottages to larger split level properties which respond to their hillside setting and their gardens are partially screened by the varied trees and vegetation. Whilst the site is attractive and has character because of the way it falls away from the road providing view across the surrounding farm land it has no heritage, cultural or ecological designation. It is considered that the loss of this piece of land is not significant and the proposal would not result in any adverse ecological or environmental implications. The site contains a mix of trees and shrubs and some of which need to be removed to allow the development of the site. The applicant has stated that suitable distances between the proposed dwellings and mature trees can be maintained to ensure their roots and crowns are unaffected. This impact can be considered at the reserved matters stage when the scale and location of the dwellings is known. The proposal would also help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by public transport to the range of services and facilities in the adjacent village.
- 6.5.2 Accompanying the planning application is a Phase 1 Environmental Survey which has been assessed and accepted by the Council's Ecologist. The survey concludes

that the proposed development is unlikely to impact current biodiversity on the site. The Council's Ecologist has suggested a number of planning conditions which includes the protection of a 7 metre wide buffer along the edge of the river during the construction phase.

- 6.5.3 The balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable. Ruyton XI Towns as a whole has been identified as being sustainable settlement by its proposed designation as a community hub in SAMDev. The proposed site is considered to be in accordance with the sustainable objectives that are set out in the National Planning Policy Framework by providing economic, social and environmental benefits. Accordingly, it is considered that the principle of a residential development in this location is acceptable.

## **6.2 Siting, scale and design of structure**

- 6.2.1 The applicant is only seeking to establish the principle of a two dwelling development and its means of access. At this stage the plans showing the proposed dwellings are only indicative to show how the site could be developed. Whilst the plans are only indicative it is clear that to develop the site would require substantial earthworks and engineering to provide a useable parking and turning area and to provide the dwellings. The indicative layout shows the parking area and garage adjacent to the highway would require the making up of ground levels and the dwelling provided slightly lower. From the road the dwelling would appear as a dormer bungalow but from the river side it would be three and a half storeys as it responds to the hillside. This is a very similar arrangement to the neighbouring dwelling to the east called Riverbank House. Whilst the construction of two dwelling on the site is likely to be a significant engineering operation which will need to take into consideration the stability of the land, it is considered that it can be achieved, and could, subject to an appropriate design and scale, be in keeping with character and appearance of the area. The scale, appearance and layout of the proposed dwellings would only be fully considered upon submission of a reserved matters application.

## **6.3 Impact on Neighbours**

- 6.3.1 The nearest neighbours are the applicant property (Darlee Cottage) to the north, Hazel Nut Cottage to the west and on the opposite side of the road there is a property called Red Rocks which is slightly elevated above the road. Whilst the details provided at this outline stage are only indicative, they do show that it is possible to develop the site for two dwellings without impacting on the amenities of neighbouring occupiers.

## **6.4 Highway Safety**

- 6.4.1 Following the initial comments by the Council's Highways Officer the proposed access arrangements have been revised so that the access to the two new dwellings is via the existing access instead of requiring a new separate access and a new gap being created in the existing roadside sandstone wall. This will require the deepening of the existing access and the removal of the existing gates to allow vehicles to enter the site unimpeded. The applicant has demonstrated that visibility splays measuring 2.4 by 60 metres can be provided in both directions which ensure that drivers leaving the site have adequate visibility towards oncoming vehicles. The new shared access will continue to be used for the parking of vehicles on the



existing area of hardstanding.

- 6.4.2 It is considered by Officers that the proposed development can be served by an appropriate means of access which would not cause any harm to the safety of highway users.

## **6.5 Affordable Housing**

- 6.5.1 A S106 will secure a financial contribution towards the provision of affordable housing in accordance with the Shropshire Viability Index as set out in the adopted SPD.

- 6.5.2 Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15')

- 6.5.3 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

## **7.0 CONCLUSION**

- 7.1 The site is within the current Ruyton XI Towns development boundary and accords with paragraphs 7 and 8 of the NPPF where a presumption in favour of sustainable development. Although the Council has now demonstrated that it has 5 years worth of housing land the NPPF must still be awarded significant weight given the age of the North Shropshire Local Plan policies.

- 7.2 It is considered that the site is of a sufficient size to accommodate two dwellings and would not result in an unacceptable form of development within the village. It is considered that the site could be developed so that it has no adverse environmental effects, impact upon neighbours or detrimentally effects the safety of highway users. The detailed, appearance, landscaping, and scale designs would be considered at the reserved matters stage.

## **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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

OS/03/12690/FUL Proposed garage and fitness studio REFUSE 12th August 2003

OS/03/12894/FUL Erection of double garage/studio GRANT 4th December 2003

OS/06/14498/FUL Alterations and extensions to dwelling

GRANT 12th September 2006

## 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 M. Price
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Local Member Cllr Nick Bardsley
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Appendices APPENDIX 1 - Conditions
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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the appearance, landscaping, layout and scale of the development and the landscaping of 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 2010 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. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Numbers SA16214-01 Rev A and SA16214-02 Rev A received on 7th May 2015, these plans do not purport to grant consent for the scale, layout etc of the dwellings shown.

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

5. The first reserved matters application shall include the submission of an arboricultural impact assessment.

Reason: To enable full consideration of the development and its impact upon existing trees.

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of development the access alterations shown indicatively on drawing SA16214/02 Rev A together with 2.4 x 60 metres visibility splays and the setting back of any access gates a minimum distance of 5.0 metres from the highway boundary shall be fully implemented in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

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

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

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

9. Prior to the commencement of work on site a minimum 7m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone.

Reason: To protect features of recognised nature conservation importance.