



Committee and date

Central Planning Committee

16 July 2015

Development Management Report

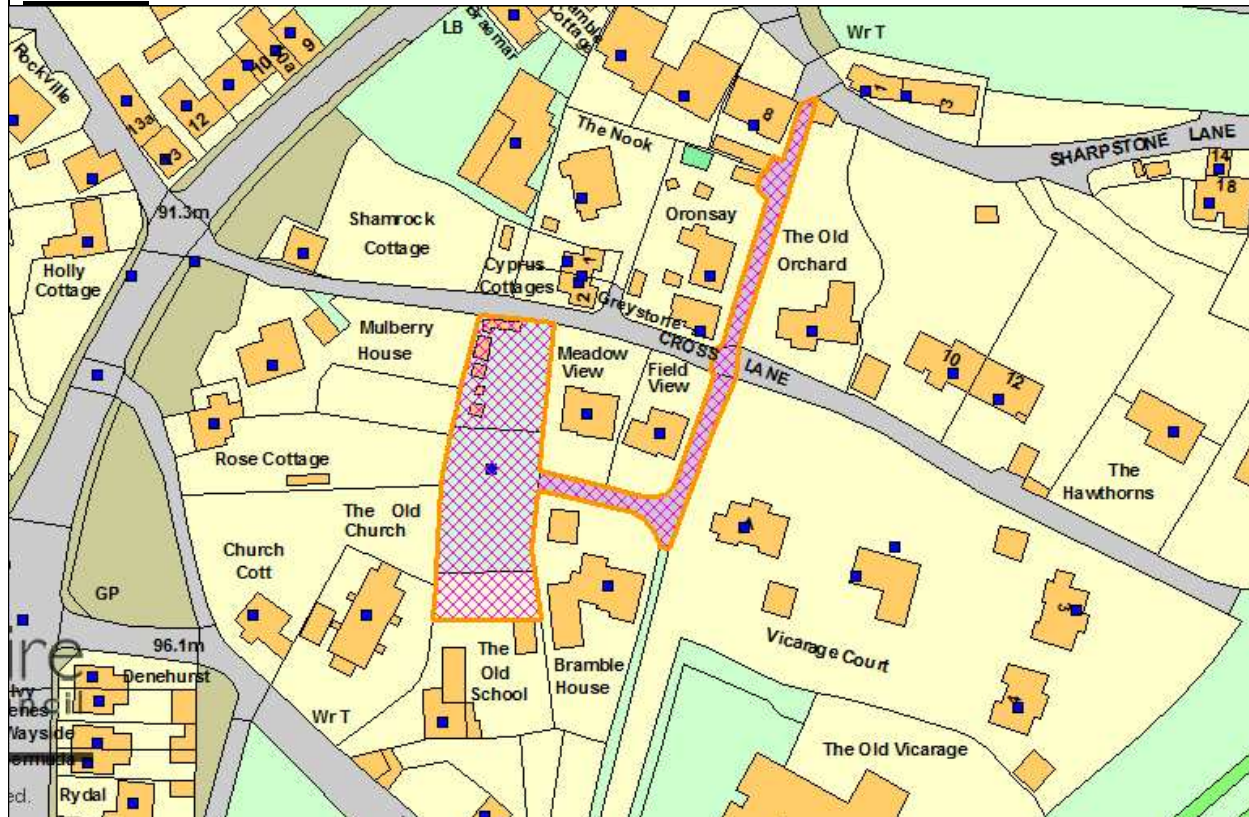
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 15/01107/FUL	Parish:	Bayston Hill
Proposal: Erection of 2 no. dwellings and extension to an existing private drive		
Site Address: Proposed Residential Development To The South Of Cross Lane Bayston Hill Shrewsbury Shropshire		
Applicant: Rev Tim Lomax		
Case Officer: Aileen Parry	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348745 - 308874



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Contact: Tim Rogers (01743) 258773

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC in accordance with the Councils adopted policy.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the erection of two open market, four+ bed dwellings and an extension to an existing private drive off of Cross Lane Bayston Hill Shrewsbury.
- 1.2 The agent has advised that the dwellings will be constructed from red brick with a plain clay roof; with features of the houses including timber porches, decorative chimneys, timber barges and fascia boards, and dormer windows. They have also advised that the existing hedgerows along the boundaries are to be retained, with the exception of the short section where the access crosses into the site, in the centre of the site a small number of trees are to be removed and replaced with suitable native species tree planting and that the trees at the southern end of the site along the boundary are to be retained.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies within the development boundary of Bayston Hill and occupies a plot adjacent to and bounded by Cross Lane to the north and residential housing to the south, east and west. Access is proposed to be off an existing private driveway off of Cross Lane and a small lane leading down to Sharpstone Lane. Both lanes are of the type unmade single track lanes approximately one cars width. The site is gently sloping and currently screened in part along the front, rear and sides by high hedges.
- 2.2 Access to and from the nearby A49 which is approximately 70 metres to the west of the site will be via the single track lane to Sharpstone Lane and then the A49., The A49 connects Bayston Hill to Shrewsbury to the north and Ludlow / Leominster to the south as well as the A5 Shrewsbury By-pass to the north.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Bayston Hill Parish Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments
- 4.1.1 SC Drainage
No objection. Drainage details, plan and calculations could be conditioned if

planning permission were to be granted along with informatives.

4.1.2 SC Affordable Houses

The proforma attached shows an incorrect calculation, the formula should be 0.3×100 (as it is capped at 100sqm) $\times 900$ which gives a contribution of £27,000.

4.1.3 SC Ecology

No objection. Conditions and informatives recommended.

4.1.4 - SC Archaeology

No objection. Overall, the archaeological potential of the proposed development site itself is therefore considered to be low. Condition recommended.

4.2 - Historic England Advice

The proposed development is within the setting of the 'The Burgs' Scheduled Ancient Monument (UID: 1003016), a small multivallate hillfort. As such non-designated archaeology associated with the hillfort may be within the proposed development boundary. The advice of the Local Authorities archaeological advisor should be sought and implemented in full.

4.3 - Parish Council

Bayston Hill Parish Council Planning Committee met on 13 April 2015 and voted by a majority to object to this application on the following grounds:

The type of housing proposed is not appropriate for the setting and will have an adverse effect on neighbouring properties. The type of housing proposed is not required in Bayston Hill. There is a shortage of affordable properties in the village, but there is not a shortage of executive housing. There are concerns about the access which is via an unadopted road. The road is in a poor state of repair. When planning permission was granted in 2011 for the building of three homes off Cross Lane, it was on condition that the road would be brought up to an acceptable standard, but this work has never been done. If more houses are built and more vehicles use this unadopted road, it will have an even more adverse effect on the road surface.

4.4 - Public Comments

Eight neighbours have been consulted and a site notice forwarded for display. Officers have photographic evidence that the notice has been displayed.

Three objections have been received. The points raised include:

- Adverse effect on residential amenity
- Closeness to and effect on listed buildings
- Over development of land
- Loss of green space and hedgerows
- Loss of facility
- Potential for future loss of privacy
- Road not suitable and increased traffic
- Old village character further eroded.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Impact on neighbouring amenities
Impact on setting of heritage asset
Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination sessions in November & December and these are being published for a 6 week consultation. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications. Given the stage of advancement of this Plan, it is considered that considerable weight can be given to the proposed policies within it.

6.1.2 Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the 'Revised Preferred Options' stage and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

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 significant weight can be attached.

6.1.3 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. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

6.1.4 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 However, following the submission of the SAMDev Final Plan to the Planning Inspectorate in August 2014, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as the document proceeds closer to 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.

However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications. The NPPF sets out that the priority is therefore to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so.

6.1.6 Bayston Hill is coming forward as a Community Hub with a housing guideline of around 50-60 additional dwellings over the period to 2025, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. This site is within Bayston Hill Development Boundary and considered as infill by officers and therefore complies with the emerging SAMDev principles in this respect.

There is currently a 'presumption in favour of sustainable development' and the need to boost the housing supply (a government priority) is a significant material consideration when determining planning applications for housing. It is considered that the key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Bayston Hill.

- 6.1.7 The application site is situated in the old village part of Bayston Hill, and is within the Bayston Hill Development Boundary as shown on the Inset Map attached to the SABC Local Plan. The principle of residential development within the boundary is acceptable under saved SABC Local Plan Policy H3: Housing in villages with development boundary.

It is therefore considered that the site is situated in a sustainable location with regard to both accessibility and proximity to essential day to day services in Bayston Hill, Meole Brace and Shrewsbury without having an over reliance for long journeys by private motor car.

- 6.1.8 However 'sustainable development' isn't 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.

- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of two additional houses will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes creates a stimulus to the economy and addresses the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing.
- 6.1.10 Social role – Villages and Hubs 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 smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of

present and future generations.

- 6.1.11 Environmental role – The site forms part of a garden SC Ecology has provided conditions and informatives. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Bayston Hill and Shrewsbury.
- 6.1.12 Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development.

6.2 Siting, scale and design of structure

- 6.2.1 It is considered that the site is an appropriate location for two additional dwellings as it is situated within the Bayston Hill Hub and development boundary.

6.3 Impact on neighbouring amenities

- 6.3.1 Only one listed building has been identified using the in house Conservation mapping system which is The Old Church. Measurements indicate that there will be a distance of approximately 11.5m from the back of The Old Church to the nearest new dwelling. The agent has provided that the existing hedgerows along the boundaries are to be retained, with the exception of the short section where the access crosses into the site. Officers also consider that with the retention of this natural screening and there being considered to be sufficient distance between the proposal and neighbouring properties that any impact on or to residential and area amenity will be minimal.

6.4 Impact on setting of heritage asset

- 6.4.1 SC Historic Environment Archaeology has raised no objection to the proposal and neither has English Heritage. The proposed development site is deemed to hold a low archaeological potential, but a condition will be placed on any planning permission granted.

6.5 Highways

- 6.5.1 Formal comments to be reported by additional representations.

6.6 Affordable Housing

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council's unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council's position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue.

The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council's current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self-interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council's position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

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 It is appreciated that by approving this proposal for full planning permission for the erection of a single dwelling would be contrary to the Parish Councils wishes. The NPPF sets out that the priority is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is an appropriate location for two additional dwellings as it is situated adjacent to existing housing and within the Development Boundary of Bayston Hill Hub. The proposal is also considered would no or little environmental or ecological implications and would not adversely impact on residential amenity of neighbours.

7.2 It is considered that the proposal represents sustainable development as the site is within Bayston Hill and therefore considered as infill. It is within range of local services within Bayston Hill, Meole Brace and Shrewsbury. The development will therefore not result in an over reliance on the private motor car. It will provide two additional dwellings and will help support existing facilities and services therefore promoting 'strong, vibrant and healthy communities'. The existing infrastructure is considered sufficient to support the proposed development and the proposal will provide an Affordable Housing Contribution (AHC) and will be liable for the required CIL payment.

7.3 It is therefore recommended that members support this application and grant planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure an AHC in accordance with the Councils adopted policy and a unilateral undertaking regarding highways.

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

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies: CS4, SABC H3

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)
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Cllr M. Price

Local Member(s)

Cllr Jon Tandy

Cllr Ted Clarke

Cllr Jane Mackenzie

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. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

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

4. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. SuDS Applicability for the site is Attenuation. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

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

5. Prior to the first occupation of the dwellings a minimum of three artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

6. Prior to the first occupation of the dwellings details of a minimum of one bat box 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 box must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. 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.

7. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

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

8. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

Informatives

1. As part of the SuDS, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Attenuation

Greywater recycling system

Green roofs

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

2. Consent is required from the service provider to connect into the foul main sewer.
3. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

4. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.