

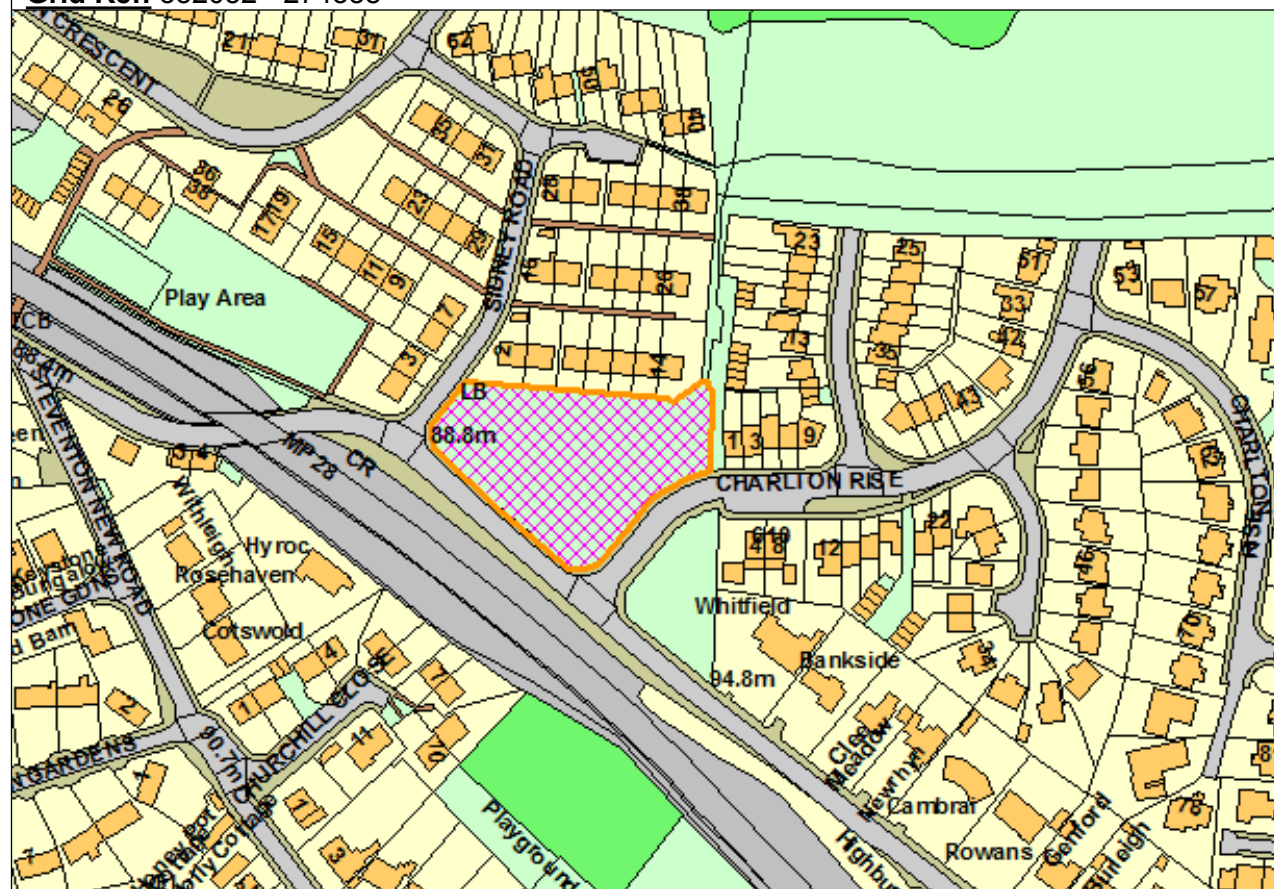
Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 17/05170/FUL		<u>Parish:</u>	Ludlow Town Council
<u>Proposal:</u> Construction of 5 No. Independent Living Affordable residential dwellings			
<u>Site Address:</u> Housing Development Site Sidney Road Ludlow Shropshire SY8 1SQ			
<u>Applicant:</u> Connexus			
<u>Case Officer:</u> Tim Rogers		<u>email:</u> planningdmnw@shropshire.gov.uk	
<u>Grid Ref:</u> 352052 - 274558			



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 Permission is sought to build a terrace of five “Independent Living Affordable residential dwellings” on an area of public open space in Ludlow. The row of houses would be built parallel to a row of houses at 2 to 14 Sidney Road. Each home would be around 48 sqm in area (measured internally), providing space for a one bedroom wheelchair accessible home. The design of the houses is traditional low level single storey bungalow-style with steeply pitched roofs. Materials will include facing bricks, concrete roof tiles and uPVC windows.
- 1.2 A rear communal garden is proposed that would serve all the houses. Car parking for the development includes a row of ten spaces in a bay off Charlton Rise of which one would be designed to disabled access dimensions. A refuse collection area is proposed on the Sidney Road frontage of the site.
- 1.3 There are three prominent maple trees on the site that are subject to a TPO. Two would be retained and one in the centre would be lost to make way for the development. The applicant has identified that six new trees would be planted as a replacement. The site has other constraints that restrict the extent and footprint of development. These include two water mains / drainage easements, a right of way and bridleway that skirts the western edge of the site.
- 1.4 The South Planning Committee considered a scheme for five dwellings on this site at its 1st August 2017 meeting and refused planning permission (contrary to officer advice) for the following reason:
- It is acknowledged that the proposed development would be in a sustainable location, contributing to the social and economic roles of sustainable development through the provision of small affordable bungalows, which is a type of accommodation for which there is an acknowledged need in Ludlow. However, the proposal, by reasons of the loss of the large Maple tree, which is the subject of a Tree Preservation Order, and reduction in the area of open space, would remove features that make significant contributions to the character and quality of the townscape and local amenity. In addition, the proposed footpath layout within the development, with the path linking Charlton Rise with Sidney Road passing very close to the front doors of the bungalows, is likely to be used by the public and would adversely affect the amenity and perception of security for the occupants of the bungalows. Consequently, the proposed development would not satisfy the environmental role of sustainable development as set out in the National Planning Policy Framework and would be contrary to Core Strategy Policies CS6, CS8 and CS17, and SAMDev Plan Policies MD2 and MD12.*
- 1.5 This latest scheme differs from the previous one in that there are fewer new footpaths proposed on the site and the main footpath that links the proposed houses with the bin stores and the car parking spaces is now marginally over 3m from the front building line of the houses. The applicant has submitted elevational drawings

that show a dark brick being used. The applicant has shown six additional trees being planted on the site.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site is located on the edge of an existing development of bungalows to the south east of Ludlow. The site is currently an area of open space that includes two small groups of mature trees; one on the south east edge and one within the centre of the site.
- 2.2 The site has a slight slope in a general north to south direction towards Sheet Road with a slight hollow evident in the middle of the site. To the immediate north across a footpath is a row of bungalows that face across the site. The front boundaries of these dwellings are marked by a low hedge and picket-style fencing, in part. Beyond to the north and west lie other, similar bungalows on slightly rising ground.
- 2.3 To the east lies Charlton Rise which serves a development of two storey dwellings and a three storey group close to the entrance off Sheet Road that includes commercial uses at ground floor level.
- 2.4 The proposal is to introduce a terraced row of five small single-storey one-bedroom properties which will be slightly stepped to take account of the slope on the site. A footpath will be provided across the site running in front of the proposed dwellings. This will also provide residents access to a bin collection area in the north-west part of the site and a dedicated parking area to the southeast of the site accessed off Charlton Rise. The remainder of the site, which is constrained by two main sewer easements will remain open. The proposal includes the loss of one of three protected trees on the site, but does provide for some additional new planting of smaller trees across the site avoiding the easements.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Ludlow Town Council oppose the proposal. The Chairman and Vice Chairman of the South Planning Committee in discussion with the Area Planning Manager are in agreement that the application should be determined by Committee.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

- 4.1.1 **SC Affordable Housing:** Support
There is high evidenced local need for the type and tenure of affordable housing being proposed.
- 4.1.2 **SC Ecology:** No objection subject to conditions
Habitats on the site consist of amenity grassland, hardstanding, scattered trees and defunct hedgerows. None of the trees contain any potential bat roosting features but the site may be used by foraging and commuting bats. No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Have recommended conditions if permission is granted

4.1.3 SC Regulatory Services: No objection.

Have considered proximity of site of railway line.

4.1.4 SC SUDS: Comment

Recommend that drainage be conditioned if planning permission is granted.

4.1.5 SC Rights of Way Comment

Footpath 17 runs through the site and will be affected by the development. Officers are in receipt of a section 257 application to extinguish the footpath under the terms of the Town & Country Planning Act 1990. This is the subject of a public consultation.

4.1.6 SC Highways: No objection.

From the potential householders' view, the length of driveway/footpath, is the trip which they will have to make, weekly, to put refuse and recycling bins out for emptying. The recommended maximum distance is 25m. Collection is made from the roadside. These bungalows are being built in an area isolated from immediate access to roads which will involve an even further walk with bins and boxes to the roadside space which is proposed to be set aside for refuse collection storage off Sidney Road.

Consideration should be given to providing new-builds with either a joint open aspect outside the front doors or a linked path, to provide easy access for door to door deliverers between the dwellings.

Has recommended conditions if permission is granted.

4.1.7 SC Trees: Comment

Remind officers of policy context.

The landscape proposal differs from the one submitted with application 17/01387/FUL, the Tree Service accepted the previous landscape proposal on good faith but the revised layout offered in this application on plan 2930-17-03-02 Rev.E has been revised due to the agent's failure to properly assess the viability of the original planting proposal with regards to the wayleave. The revised tree planting plan replaces the roadside planting with a triangle of trees in the middle of the meadow over an electric supply cable; following discussions regarding the cable it appears that the applicant's agents would like to move the cable but cannot offer any assurance that this will be possible. In the light of this it is not clear that the loss of amenity resulting from the loss of tree T3 will be sustainably compensated for.

We acknowledge that there is a balance to be made between the importance of maintaining the character and amenity of an area and the need for social housing and that the social or economic benefits of new social housing at this site might justify the adverse effects on amenity derived from the loss of tree T3. Should it be the case that it is the decision of the Planning Committee or Delegated Officer to

grant planning permission, that decision would overrule the TPO in relation to tree T3. The Council would however be able to make the case for the expedience of protecting the proposed new planting if the applicant's agents can give solid assurance that the planting is not and will not be in conflict with existing services.

Recommends conditions in the event that planning permission is granted.

4.2 Public Comments

4.2.1 13 objections received at the time of writing raising the following points:

- Proposal has been refused on many occasions.
- Development will result in loss of popular and well used open space of amenity value.
- Loss of trees covered by a tree preservation order (TPO). Tenants paid for the trees.
- Ludlow is losing its green space.
- Will affect footpath/ bridleway.
- Overdevelopment. Only 18m from neighbouring houses
- Housing for disabled people. How will they empty bins?
- Highway safety concerns – extra traffic, congestion. Conflict with bus, funeral undertaker. Vehicle access obscured.
- Noise concerns from development.

4.2.2 Styche Brook and Gallows Bank Millennium Trust: Object Make some of the same objections above but also identify site has ecological value. Additional storm-water would go into culvert.

5.0 THE MAIN ISSUES

- Reassessing the merits of the scheme
- Principle of development
- Siting, scale and design
- Impact on neighbours/ residential amenity
- Other considerations – ecology, highways and drainage

6.0 OFFICER APPRAISAL

6.1. Reassessing the merits of the scheme

6.1.1 Since the previous refusal on the site a new case officer has reviewed the case afresh and independently. This has taken account of all material considerations raised during the processing of the current application as well as previous officer reports, the comments of the Planning Committee at its last meeting and its resolution.

6.2 Principle of development and merit of delivering affordable housing

6.2.1 Ludlow is identified in CS Policy CS3 as the focus for new development in South Shropshire. SAMDev Settlement Policy S10.1 (Ludlow Town Development Strategy) anticipates new housing being delivered primarily on allocated housing

sites east of the A49 alongside additional infill and windfall development within the town's development boundary. The site is a windfall site with the town boundary. SAMDev Policy MD3 will support housing on such sites but requires them to meet the design requirements of relevant Local Plan policies and, on sites of five or more dwellings, include a mix and type of housing that has regard to local evidence and community consultation.

- 6.2.2 The proposal will deliver five affordable disabled homes. Clearly some significant weight should be given to this. The Council's affordable housing officer has stated there is substantial evidence for this type of housing and in this respect the proposal shows compliance with SAMDev Policy MD3. The proposal will also make a modest contribution towards delivering more housing across the county.

6.3 Siting, scale and design of development

- 6.3.1 Both national policy and the policies of the development plan (SAMDev Policies MD2 and MD12 and CS Policies CS6 and CS17 in particular) place emphasis on the importance of good design. Good design is an integral part of the government's definition of sustainable development. The proposal takes account of the prevailing form of housing to the north by introducing a stepped row of bungalows. The single storey nature of existing and proposed dwellings will help to prevent direct overlooking between habitable rooms. The applicant has sited the kitchen and shower rooms along the frontage of the proposed units with an outlook onto the front path. The main habitable rooms will therefore overlook the communal garden area at the rear of the properties with the existing properties beyond.
- 6.3.2 It must be acknowledged that the proposal will take away part of an area of open space that has amenity value, in part because of the well-established trees (including T3 which will be felled). It is an open space that many local people clearly enjoy however a substantial part of it will still remain and the land is in any case not dedicated open space but is in the ownership of the applicants. The amenity value of the remaining open space can be protected when other features associated with new housing (bin stores, estate lighting) is introduced, by the imposition of appropriate conditions.
- 6.3.3 The layout for bin stores and car parking is acknowledged as not ideal when taking into account that the housing has been designed for wheelchair users. However this is due primarily to the constraints of the easements running through the site and a desire to retain an open aspect to the front of the site fronting towards Sheet Road. Occupation of the proposed dwelling will be managed by the applicants (a registered social landlord) and prospective residents will be made aware of the bin collection and parking arrangements prior to their occupation.
- 6.3.4 To prevent overlooking into the houses from the new footpath and open area to the front, the main habitable rooms are proposed to go on the northern elevation of each house. It should be noted however that the kitchen/lounge area of the proposed dwellings area open plan and effectively provide dual aspect to the front and rear. The rear of the dwellings will face on to a communal garden area thereby encouraging interaction and neighbourliness between the residents. This will again be managed by the applicant company.

6.4 Impact on neighbours/ residential amenity

- 6.4.1 The setbacks between the rear building of the new and existing houses is around 19m. This is marginally less than the long established standard of 21m (between two storey dwellings), but on its own this is not a fundamental problem given that the housing is for bungalows and there will not be direct overlooking between habitable rooms.
- 6.4.2 If the communal garden is fenced off to the rear to provide private space and some defensible space for the residents of the proposed, it will be necessary to put a fence or other boundary wall within 8m of the front windows of the houses at Sidney Road. This will have an impact on the outlook of residents of these houses however they have no right to a view in perpetuity and those properties are in any case owned by the applicant company it is a matter for them to manage. The relationship would not be unacceptable in planning terms.

6.5 Other matters

- 6.5.1 Some residents and local groups have identified ecology drainage objections. Neither of the Council's drainage or ecology experts have found any grounds to withhold permission on such grounds.
- 6.5.2 The Council's highway adviser does not oppose the scheme either. However, it is suggested that a long dropped kerb required to accommodate an extended area of parking perpendicular to the highway may encourage additional on footpath parking contrary to good design advice set out in the Department for Transport's *Manual for Streets*.
- 6.5.3 Other residents have referred to case-law about the protection of open spaces. This is not a land use planning consideration as the site is not designated open space. Furthermore the applicants have identified that there is a considerable amount of dedicated public open space within easy walking distance of the application site. The deviation of a right of way is considered separately from planning applications.

7.0 CONCLUSION

- 7.1 The proposal will provide much needed additional affordable housing in a named settlement which is clearly identified as suitable for some development in principle, subject to all other material considerations being acceptable. The site is close to existing housing that is managed by the applicants.
- 7.2 There are a number of constraints within the site that have impacted on the design and layout of the proposed development, resulting in some elements that are not ideal. These elements are however not considered to be sufficient either in themselves or combination to make the proposed scheme unacceptable. Furthermore there would be no significant impacts on either the occupiers of surrounding properties or the public benefit achieved from informal appreciation of the open area to the front of the site which will largely be maintained.
- 7.3 There are substantial social, and some economic benefits that would be derived from the proposed development. Having balanced all of the material planning

considerations, officers recommend that planning permission be approved subject to the conditions as set out below.

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:

CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD12 - Natural Environment
Settlement: S10 - Ludlow
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing

RELEVANT PLANNING HISTORY:

17/05170/FUL Construction of 5 No. Independent Living Affordable residential dwellings PDE
PREAPP/16/00432 Erection of 10 bungalows PREUDV 19th August 2016
17/01371/FUL 7 new bungalows. NPW 31st March 2017
17/01387/FUL Erection of 5 bungalows for social housing (Amended Description) REFUSE 3rd
August 2017
17/05170/FUL Construction of 5 No. Independent Living Affordable residential dwellings PDE

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OYCA2DTDHE000>

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

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Tracey Huffer

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 hereby permitted use shall be carried out strictly in accordance with the approved drawings:

REASON: To define the permission in the interests of local amenity.

3. The proposed ground floor slab levels of the hereby approved dwellings shall be set at least 150mm above the existing ground levels on the site measured at the point immediately adjacent to each of the proposed dwellings.

REASON: In the interests of safeguarding the development from potential flood risk.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No above ground works shall commence on site until details and samples of the materials to be used for the external walls, roofs and hard-surfaced areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

5. No above ground works shall commence on site until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

REASON: In the interests of visual amenity and the character and appearance of the area

6. Notwithstanding what is shown on the approved plans, no above ground works shall take place until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;

- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

REASON: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

7. The approved measures for the protection of the trees as identified in the agreed tree protection plan shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation will be made from the approved tree protection plan without the written agreement of the Planning Authority.

REASON: To safeguard retained trees and/or hedgerows on site and prevent damage during building works, and to protect the natural features and amenities of the local area that are important to the appearance of the development.

8. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway/parking areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

9. No development shall commence on site until details of the works for the disposal of sewerage have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage.

10. 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.

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

11. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

12. No part of the development hereby approved shall be first occupied until the parking areas shown on the approved plans have been consolidated, surfaced and laid out in accordance with the approved details. These areas shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

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

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area.

14. Prior to first occupation / use of the buildings, details for the provision of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected:

- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

REASON: To ensure the provision of roosting and nesting opportunities in the interests of biodiversity.

15. 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's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

REASON: To minimise disturbance to bats, which are European Protected Species.

18. Demolition, construction works or deliveries shall not take place outside 7.30am - 6pm Monday to Friday, and 8am - 1pm on a Saturday, with no work taking place on Sundays or bank or public holidays.

Reason: In order to maintain the amenities of the area in accordance with policy CS6 of Shropshire Council Core Strategy.