

## Development Management Report

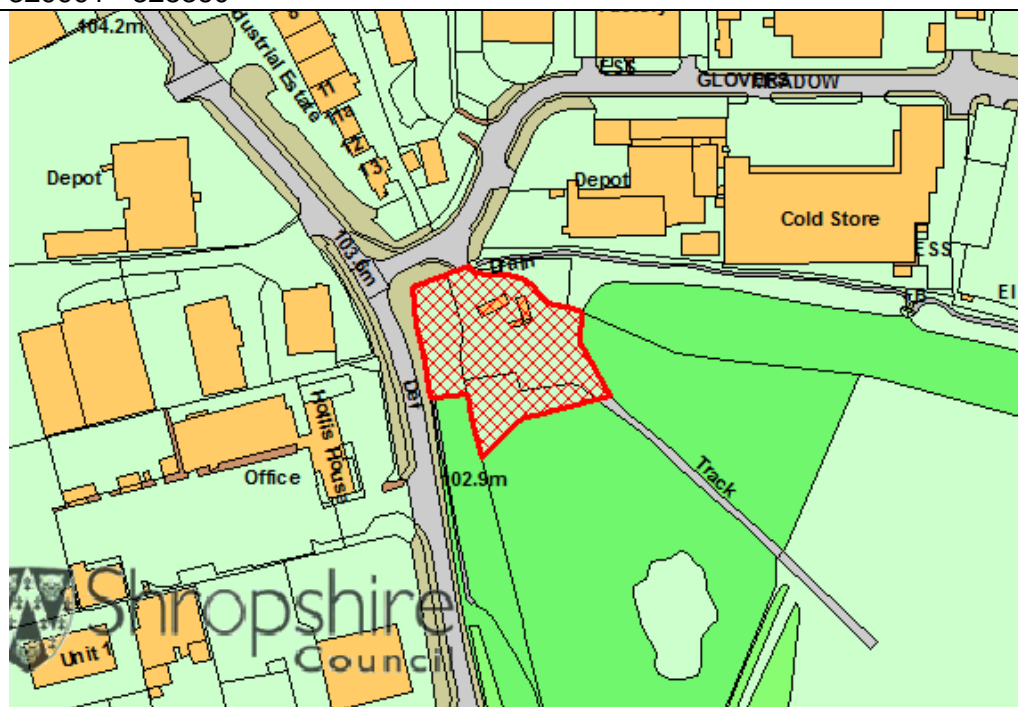
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 19/04688/FUL	<b><u>Parish:</u></b>	Oswestry Town
<b><u>Proposal:</u></b> Change of use of land to provide business base/residential accommodation for a local family of travelling show people		
<b><u>Site Address:</u></b> Glovers Meadow Oswestry Shropshire SY10 8NH		
<b><u>Applicant:</u></b> Shropshire Council (Asset Management)		
<b><u>Case Officer:</u></b> Mark Perry	<b><u>email:</u></b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	

**Grid Ref:** 329991 - 328360



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

Recommended Reason for Approval

**REPORT****1.0 THE PROPOSAL**

1.1 The submitted application seeks planning permission for the change of use of a vacant parcel of land, formally used as a Household Recycling Centre, it then received consent to be used for the display and sale of caravans in 2014 and more recently, the site has been vacant. The proposed use is to provide accommodation for a local family of Travelling Show people. The family require a mixed use residential and business base to both live on and to store and maintain their fairground equipment.

1.2 Since 2015 the family have been occupying the grounds of the former Ifton Heath Primary School is St Martins after they had to leave the former livestock market site in Oswestry pending its redevelopment. A temporary planning permission was granted for the Ifton Heath School site to allow time for a more permanent base to be found. Since 2015 there has been successive extensions to the temporary planning permission up until the present time.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The site extends to 0.397 hectares is located on the southern side of Oswestry in an area that is dominated by industrial units. The site consists of a large hard surfaced area. The application site lies at the northern most part of a triangular section of land along the western side of which runs the Schedule Ancient Monument of Wat's Dyke. The existing access to the site is just off the junction with Maesbury Road and Glovers Meadow.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The applicant is Shropshire Council, therefore in accordance with the Council's Constitution the application must be determined by the Planning Committee.

**4.0 COMMUNITY REPRESENTATIONS**

4.1 Town Council- application was considered by the Development and Planning Committee on Wednesday 13th November 2019, RESOLVED no observations.

4.2 Drainage- no objection subject to conditions requiring details of foul and surface water drainage.

4.3 Highways- No objection

- 4.4 Historic England- Historic England has no objection to the application on heritage grounds.
- 4.5 Archaeology- Subject to Historic England not raising any concerns on this occasion, it is advised that we have no further comments to make in respect of this application.
- 4.6 Ecology- no objection subject to conditions and informatives.
- 4.7 Public Protection- No objection subject to a conditions to provide noise attenuation works.

#### 4.2 **Public Comments**

- 4.2.1 15 letters of objection received commenting on the following issues:

Large number of vehicle movements passing the site.

Safety risk because of HGV movements on industrial estate

Health risk of former refuse tip

Site not suitable for residential use.

Impact of noise pollution from existing industrial units

Inappropriate site

24 hours movement of vehicles

Health and Safety implications

Plant and machinery operating 24 hours a day

The land should be for business use.

#### 5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Suitability of proposed site
- Layout of site
- Impact on local area and neighbours amenities
- Access and highway issues
- Drainage
- Other matters

#### 6.0 **OFFICER APPRAISAL**

##### 6.1 **Policy & Principle of Development**

- 6.1.1 This application is to use the site for a single family of travelling show. Travelling show people are defined in the Planning Policy for Traveller Sites (PPTS) (2015) as being:

*“Members of a group organised for the purposes of holding fairs, circuses or*

*shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers" [these are defined separately]*

- 6.1.2 The status of the Stokes family as travelling show people was accepted during the planning permissions granted for their existing site at the former Ifton Heath Primary School in St Martins. The permission granted was specific to Mr Stokes and his family which consist of his wife, brother and two sons and their families. Prior to moving to St Martins the family occupied a site at the Smithfield Livestock Market in Oswestry for a number of years but had to relocate due to approval being granted for the site's re-development.
- 6.1.3 The family's current site in St Martins has only ever had temporary planning permissions as it was known that the site would be likely to be redeveloped, as it is one of the preferred allocations identified as part of the Local Plan Review process with an approximate capacity of 35 dwellings.
- 6.1.4 As detailed on the submitted block plan the accommodation requirements are for 5 caravans and therefore meeting the 4 plots proposed for travelling show people within the North West of Shropshire that is identified by policy CS12 of the Core Strategy. There is an identified need for the site, as set out in the Gypsy and Traveller Accommodation Assessment (GTAA) which has been produced to underpin the ongoing Local Plan Review process. The GTAA specifically identifies a need for a permanent Travelling Showpersons' site to accommodate existing residents.

- 6.1.5 The Governments Planning Policy for Traveller Sites document states that,

*"Local planning authorities should have regard to the need that travelling showpeople have for mixed-use yards to allow residential accommodation and space for storage of equipment",*

it goes on to state that,

*"Local planning Authorities should not permit mixed use on rural exception sites".*

This therefore restricts the location of such sites to those settlements that are identified in the adopted SAMDev Plan.

## 6.2 **Suitability of proposed site**

- 6.2.1 The application site is located at the heart of Oswestry main industrial/ employment area. The application site and the wider area is allocated as a Protected Employment Area in the adopted SAMDev plan. Policy MD9 aims to protect

existing employment areas for Class B and appropriate sui generis employment uses.

- 6.2.2 Class B uses include uses such as offices, research and development, industrial uses and storage and distribution. The proposed use is not solely one of the uses falling within the B class. However, saying that there are some similarities as the proposed use does involve the movement of HGVs, the operation and storage of heavy machinery and its repair and maintenance.

The Planning Policy for Traveller Sites specifically recognises that “plots” for “travelling showpeople” are different to “pitches” for “gypsies and travellers”. Travelling show people require mixed-use sites plots as they, “may / will need to incorporate space or to be split to allow for the storage of equipment”.

- 6.2.3 As such any potential site for the travelling show people needs to have good access to the highway network and a large open space within which to accommodate the vehicles and equipment. It also needs to be located where there is minimal impact upon the amenities of neighbouring occupiers. The nature of the equipment and size and type of vehicles used by the travelling show people would constitute an inappropriate use in an area that is predominantly residential.
- 6.2.4 As the proposed use of any plot also includes the family’s static caravans as their living space there is also a residential element to the scheme. As such there is also a sustainability objective to make sure that there is good access to local services and facilities. Policy CS12 (Gypsy and Traveller Provision) supports development of such sites in locations that are close to the Market Towns and Key centres.
- 6.2.5 Due to the site’s former use as the town’s household recycling centre the site is already hard surfaced. This means that the use of this part of the site would require no further hardstanding. Only very limited built development would be required to enable the occupation of the site. The only development that would be required is the erection of amenity blocks which would be subject to a separate planning application. The applicant has indicatively indicated that these will be modular buildings. The DCLG, in 2008 produced design guidance for Gypsy and Traveller Sites which suggests that, among other things, there must be an amenity building on each site and that this must include, as a minimum:
- Hot and cold water supply;
  - Electricity supply;
  - A separate toilet;
  - A bath/shower room; and
  - A kitchen and dining area
- 6.2.6 It is considered that in terms of policy the proposed site meets a number of policy objectives. It is a site that can accommodate the movement and storage of the large vehicles and associated fairground equipment and it is also in a sustainable location where those occupying the site can easily access the shops and services that Oswestry has to offer. The proposed use is also a mixed commercial/

residential use and therefore it does comply with elements of policy MD9 which seeks to protect areas of employment. The nature of the proposed use is a significant material consideration which does weight in favour of utilising this area of allocated employment land. The creation of a plot for travelling showpeople is, in principle, considered to be an appropriate sui generis use for the site.

### **6.3 Visual Impact**

- 6.3.1 The site benefits from hedge planting along the side of Maesbury Road and there is a more substantial group of tree planting around the southern side of the site providing screening. Views are possible into the site from Glovers Meadow but this is through the existing access. The bulk and massing of static caravans along with HGV's and fair ground equipment would be substantially less than the imposing and dominant appearance of some of the surrounding commercial units.
- 6.3.2 Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.3.3 Policy CS12 requires all gypsy and traveller developments (which includes those for Travelling Showpeople) to incorporate suitable design and screening and the Planning Policy for Traveller Sites document requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge boundary which will help to limit the view of the development. In order to screen the site and its contents as much as possible additional mixed species hedgerow planting will be provided along the boundaries adjacent to the road junction.
- 6.3.4 It is considered that the existing and proposed planting will provide sufficient screening to limit any significant adverse impacts. The application site must also be looked within the context of the surrounding industrial development; much of which is not softened by tree planting or sympathetic landscaping.
- 6.3.5 The fairground equipment spends most of the year being moved from fair to fair and it is not within the occupier's interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the time that there will not be any fair equipment on site. Although some equipment will occasionally be on site this is not a regular occurrence and the equipment will normally be out travelling between fairs and shows.
- 6.3.6 The number of caravans on the site will be limited to only the five static caravans which will meet the specified family's requirements. It is not the intention of the application for the site to accommodate any other gypsies or travellers not associated with the family of travelling show people. Any permission granted would be conditions so that it restricts the number of caravan and also to make the permission specific to the particular family concerned.
- 6.3.7 It is considered that the use of this site would meet the sustainable criteria in

paragraph 13 of the PPTS. The site provides the opportunity for the occupants to have a settled base and enable the family to continue to access local health services and other facilities. Paragraph 26 of the PPTS also advised that the local planning authority should attach weight to the effective use of previously developed, untidy or derelict land.

#### **6.4 Impact on local area and neighbours amenities**

- 6.4.1 There are no other residential properties in close proximity to the site, in any case the Planning Department has not been made aware of any complaints arising during the travelling show person's already lengthy occupation of the site in St Martins which is a site that is in close proximity to other dwellings.
- 6.4.2 In contrast to the St Martins site, the application site is entirely surrounded by other commercial premises. Many of which of which operate 24 hours a day and have HGVs operating within their sites and also entering and leaving their sites. Accordingly the HGVs also pass the entrance to the application site as they head to/ from the main highway network.
- 6.4.3 A number of the surrounding buildings also operate plant and machinery such as refrigeration and air conditioning units. The impact of this equipment on the future residents of the application site has been raised by a number of the surrounding businesses and also the Council's Public Protection Officer. In order to allow the Planning Authority to fully consider any impact an independent noise assessment has been produced. The report identified that there are several potential noise sources which include road traffic noise, car parks, fixed plant and service yard activity/ HGV movements.
- 6.4.4 Paragraph 180 of the NPPF states that, "decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life"
- 6.4.5 The noise assessment report concludes that, taking into account the recommended noise mitigation measures, the residents of the proposed traveller site would not be exposed to unacceptable levels of noise". The mitigation measures proposed include a 2.5m tall acoustic barrier and the siting the caravans further back into the site away from the industrial/ commercial activity.
- 6.4.6 The submitted report has been assessed by the Council's Public Protection officer who raised no objection subject to the proposed noise attenuation measures being implemented.

#### **6.5 Impact on Heritage Assets**

6.5.1 The site is adjacent to part of Wats Dyke. The Dyke is a scheduled ancient monument therefore no works should be undertaken that impact upon this monument. The western part of the application site includes part of the scheduled section of the Dyke. It is therefore important that the area of the dyke within the application site is not built over or disturbed so as to retain the physical continuity of the dyke as a linear monument in the landscape, and also preserve any buried archaeology related to it.

6.5.2 The application has been considered by Historic England and the Council's archaeologist, neither of which raise any objection to the proposed development.

## 6.6 **Access, highway and drainage issues**

6.6.1 The site will use the existing access which formally served the household recycling centre and caravan sales. It is likely that the former uses would have created a much greater frequency of vehicle movements to and from the site than the proposed use will generate. The site has good levels of visibility at the access and an appropriate width of access to accommodate the movements of the types of vehicles referred to earlier in this report.

6.6.2 A number of representations from the surrounding businesses have commented on the safety of the travelling showpeople because of potential conflict between any pedestrians and the large number of heavy good vehicles which operate in the immediate area.

6.6.3 Paragraph 108 of the NPPF set out that when considering development proposals it should be ensured that safe and suitable access to the site can be achieved for all users and that developments have appropriate opportunities to promote sustainable transport modes given the type of development and its location. Paragraph 110 goes on to set out the criteria for development which includes creating places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

6.6.4 The application site is located on the entrances to Glovers Meadow. Glovers Meadow is a no-through road which only serves as the access to a number of industrial units; the occupiers of the application site would therefore have no reason to venture further along Glovers Meadow and therefore occupants are not likely to encounter vehicles manoeuvring into service yards or any other industrial activities that pose a potential risk.

6.6.5 On the opposite side of the road to the entrance of the site, there is a designated shared cycle/ pedestrian path leading towards the town centre. This will ensure that any pedestrians have a safe route to the nearby supermarkets and other services and facilities in the town.

6.6.6 It is considered therefore that the access and adjoining junction is of a satisfactory layout to accommodate the vehicle movements and will not compromise the safety of highway users. It is also considered unlikely that the proposal would create



conflict or safety concerns between the proposed use and the surrounding industrial uses. The NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is not considered by Officers that there would not be sufficient concerns about the safety of highway users, which includes any pedestrians and cyclists to sustain a reason for refusal.

## **6.7 Land Contamination**

- 6.7.1 The application site was the former Household Recycling Centre (HHRC) and is immediately adjacent to the former Maesbury Road landfill site, which closed in October 1991. Therefore, the site has been identified as potentially contaminated land. Detailed investigations as part of a previous project by the Environment Agency demonstrated a low rate of gas generation within the landfill, internal gas pressures within the waste are extremely low and coupled with the land-raise form and leachate/groundwater within the lower levels within the waste mass, would make lateral gas migration into the surrounding strata a very low risk.
- 6.7.2 The former HHRC is fenced off and separate to the former landfill site with no access onto the landfill except through locked gates which are used by the Environment Agency and a tenant farmer who grazes sheep on the former landfill. The proposed development site is covered in hardstanding and this will remain acting as a barrier to any underlying potential contamination.

## **7.0 CONCLUSION**

- 7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed services and facilities in Oswestry. The scale of the development is considered to be acceptable and would not result in any harm to the character of the area. It has been adequately demonstrated that the existing operations of the surrounding premises would not detrimentally impact upon the living conditions of those occupying the application site.
- 7.2 The unmet need for a site for travelling show people within Shropshire also needs to be given weight in the determination of this application.
- 7.3 It is officers' opinion that there is no harm resulting from the use of the application site for the single family, the application is therefore recommended for approval.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

There are two principal risks associated with this recommendation as follows:  
As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 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 give 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**

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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:

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

MD2 - Sustainable Design

MD9 - Protecting Employment Areas

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

OS/04/13336/OUT Use of land for a pallet storage yard and for repair of pallets. GRANT 27th August 2004

OS/08/15805/FUL Proposed extension to loading bay GRANT 17th December 2008

OS/07/14833/CMA Alterations to household recycling centre to meet health and safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 23rd November 2007

12/03938/FUL Proposed change of use to residence and base for travelling showpeople WDN 7th November 2012

14/00369/COU Change of use from refuse tip to sale of static and touring caravans GRANT 9th April 2014

14/03964/MAW Installation of plant comprising a bio-oxidation unit for a temporary period as part of a landfill gas treatment operation GRANT 16th December 2014

SC/MO2007/14833/OS Changes to the Household Recycling Centre to meet Health and Safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 22nd November 2007

## 11. Additional Information

View details online:

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) Councillor Gwilym Butler
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Local Member Cllr John Price Cllr Clare Aspinall
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Appendices
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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 shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.**

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

**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

4. No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation of any of the travelling show equipment on the application site.

Reason: To protect residential and visual amenities.

6. The scheme for the noise attenuation of the development recommended in the noise assessment report by Hepworth Acoustics dated January 2020 Ref P16-689-R01v1 (received 17th March 2020), shall be completed prior to the occupation of the site and thereafter retained.

Reason- to protect the residential amenity of those occupying the site.

7. Any exterior security or decorative lights shall be less than 3 m from the ground and fitted with hoods to direct the light below the horizontal plane, at an angle of less than seventy degrees from vertical, and shall not be fixed to, or directed at, bat boxes or gables or eaves. Lighting must be less than 3 lux at ground level and there shall be no light splay exceeding 1 lux along buildings, eaves or roof or adjacent hedgerows or trees. Any lighting shall be Passive Infrared (PIR) triggered.

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

8. Landscaping shall be completed in accordance with the landscaping plan (received 6th November 2019). All landscaping shall be completed within 12 calendar months of commencement of the development. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

9. The residential use of the site hereby permitted shall be limited to Mr Stokes and his resident dependents only.

Reason: To control the occupation of the site in accordance with adopted policy and on the basis of the personal circumstances of the applicant and the status of the site.

### **Informatives**

1. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings or other suitable nesting habitat should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests

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