

Development Management Report

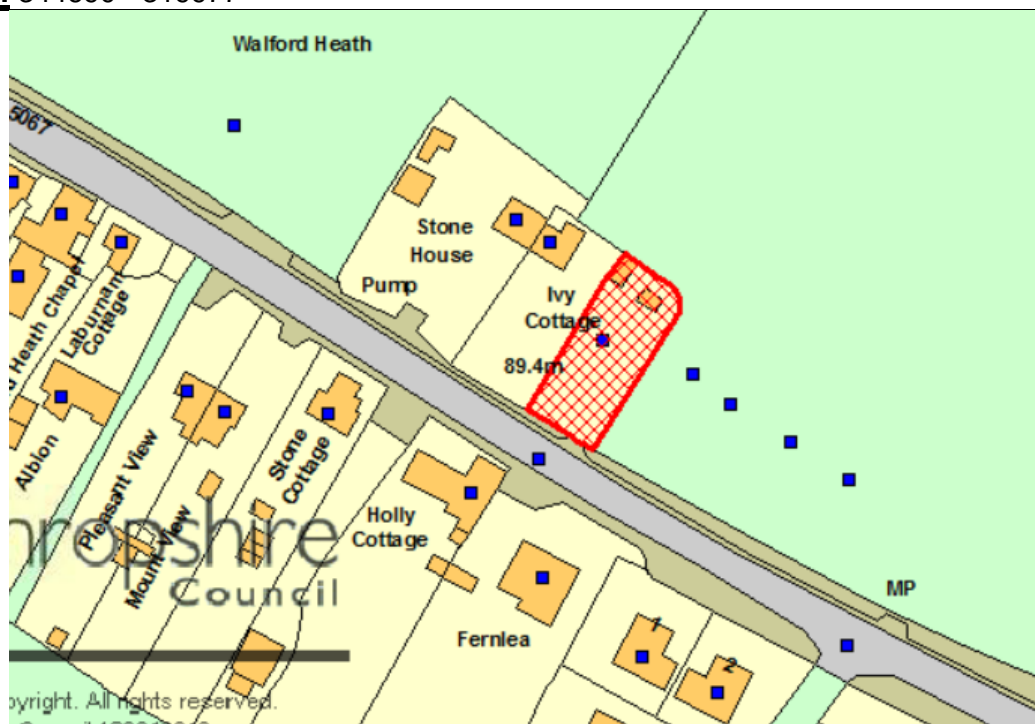
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 20/01374/FUL	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Erection of one detached dwelling and alterations to existing vehicular access		
<u>Site Address:</u> Proposed Dwelling To The East Of Ivy Cottage Walford Heath Shrewsbury Shropshire		
<u>Applicant:</u> Mr Nicholas		
<u>Case Officer:</u> Mark Perry	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 344690 - 319977



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes erection of one detached dwelling and alterations to existing vehicular access on land to the east of Ivy Cottage Walford Heath, Shrewsbury.
- 1.2 Application is accompanied by a site location plan, block plan, proposed elevation and floor plans and a planning statement justifying the proposed development. During the application processing amended plans were received indicating a dwelling of reduced scale and mass.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site forms part of the residential curtilage to Ivy Cottage which is a semi-detached two-storey dwelling. The application site is to the east of this dwelling and to the east of the application site are other recently constructed detached dwellings. To the rear of the site is open farmland. A public highway (B5067), runs past the site's frontage and on opposite side of this highway are other detached dwellings.
- 2.2 Application proposes a detached two storey dwelling making use of the roof space for the second floor which will contain four bedrooms.
- 2.3 This application is a resubmission of planning application 19/04589/FUL which was refused by the Council on the 31st January 2020 for the following reason:

'The proposed detached dwelling is of a size and scale disproportionate to the application site and its surroundings, whereby the width of the dwelling, forward of the host dwelling, would dominate and be overly prominent within the streetscene, being harmful to the character and setting of the host dwelling, a historic dwelling that currently enjoys a large degree of openness. Furthermore, the proposed design and appearance of the dwelling is largely unsympathetic in regard to the traditional sandstone cottage, Ivy Cottage, and the open countryside beyond. Whilst a varying style and form is generally acceptable within this streetscene, the proposal fails to incorporate or acknowledge the proportions or detailing of surrounding properties. The proposal therefore is unable to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and MD13 of the SAMDev Plan, in addition to Sections, 12, 15 and 16 of the NPPF.'

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application does not comply with the scheme of delegation as the Local Parish Council raises objections, which the Chair and Vice consider are material considerations that warrant consideration of the application at Committee.

4.0 **Community Representations**

Baschurch Parish Council has responded to the application indicating:

Baschurch Parish Council object to the application with the same grounds as previously given in applications 18/02159/FUL submitted on 5th June 2018 and application 19/04589/FUL.

Previous comments as follows:

"Walford Heath is part of a community cluster within SAMDEV expected to deliver sixteen residential properties within the current plan until 2012 shared across the hamlets of Walford Heath, Merrington and Old Woods. Existing permission granted or built at Walford have alone met this obligation. The addition of further building is not justified or needed.

The proposed development is neither affordable nor on a brownfield site and is a size and type already in surplus in the area.

Shropshire Council already has 5.97 years of land supply to meet its obligations under SAM DEV national planning policy for sustainable development, exceeding its five year target.

We would draw attention to the planning officer's reasons for refusing planning permission on the recent nearby application 17/03587/OUT, in particular.

"Any additional development atop of the figure has real potential to significantly and adversely impact upon the local infrastructure and community goodwill. Despite the presumption in favour of sustainable development, there are no considerable benefits that materially outweigh the negatives arisen from its non-compliance with MD1, MD3 and S16(xv) of the SAM Dev Plan".

The above is also borne out by the officer's report on refusal of 17/01055 which is also still relevant and material to this application.

As part of the refusal for 15/02411/FUL for a single dwelling at Walford Heath, it was recognised by the officer's report that although there is a 40MPH speed limit, the speed limit is rarely adhered to. There has been little work to improve the highway safety and reduce speeds through Walford Heath and the speed limit is very rarely enforced. Baschurch Parish Council believe that the addition of any further dwellings with egress onto the highway is inappropriate and could cause further compromise to dwellings already experiencing issues with safe highway access and visibility.

As part of the Local Plan Partial Review to 2036, Bomere Heath Parish Council requested that Walford Heath be removed from Community Cluster status and put back into open countryside.

This was because the pattern of development had not been manageable and had resulted in development too quickly and in undesirable locations, which did not meet local needs. Shropshire Council has acknowledged this and Baschurch

Parish Council supports and understands the decision made by our adjoining Parish Council.

As significant reliance has previously been made on emerging plans, this emerging plan should also be afforded considerable weight, especially when considering that the previous plan numbers have already been exceeded.

Consultee Comments

SC Affordable Housing have responded indicating:

If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

SC Drainage have responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Condition:

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/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Informative Notes:

- 1. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan 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 should 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 + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.*
- 2. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.*
- 3. On the Surface Water Flood Map, part of the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.*

4. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details, plan and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the loading for the septic tank/ package sewage treatment plant and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

SC Highways have responded indicating:

No Objection – subject to the development being constructed in accordance with the approved details, and the following conditions & informatives.

Observations/Comments:

The proposed development seeks to erect a single dwelling within the boundary of Ivy Cottage, Walford Heath. Access is existing from the B5067 which is governed by a local 40 mph speed limit. As part of the development the access is to be widened and adequate parking and turning provided for both dwellings.

Conditions:

Access: The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To provide a safe access to the development in the interests of highway safety.

Parking and Turning The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area. Hedge/Boundary: Any hedge or other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times. Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

Access Apron

The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Informatives: Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or*
- carry out any works within the publicly maintained highway, or*

☐ *authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or*
undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway
The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.
<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

Public Comments

At the time of writing this report nine letters of objections have been received from members of the public. Key planning issues raised can be summarised as follows:

- ☐ Development does not represent sustainable development.
- ☐ Highway and transportation concerns
- ☐ The settlement concerned has exceeded its housing guidelines for the planning period of the local plan.
- ☐ Scale, mass and design of the proposed dwelling is not reflective of local character.
- ☐ Drainage issues.

5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Siting, scale and design of structure
- ☐ Visual impact and landscaping
- ☐ Highway Safety
- ☐ Drainage and flooding
- ☐ Neighbour amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application site forms part of the side garden space to Ivy Cottage, a semi-detached dwelling located adjacent to the rural settlement of Walford Heath. Whilst the semi-detached pair of dwellings are on the opposing side of the highway to the main built pattern of the settlement, due to their age they have a strong social and physical connection to the settlement core, whereby the sub-division of existing dwellings, regardless of their location, can be acceptable.

6.1.2 Walford Heath is a rural village that has been identified for sustainable growth throughout the local plan period, until 2026. With S16.2(xv) of the SAMDev Plan providing:

“Walford Heath is a Community Cluster settlement in Pimhill Parish where development by limited infilling/conversions of buildings may be acceptable, with a housing guideline of approximately 6 dwellings over the period to 2026, in addition to the 10 already approved.”

6.1.3 Despite being visually within Walford Heath the site does in fact fall with a different Parish to most of the village. The boundary between Pimhill and Baschurch Parishes runs through the site. However, the application site does fall within the Baschurch Parish.

6.1.4 This application is a re-submission of, ref: 19/04589/FUL, which was refused for the reasons set out above. In recent years the characteristics of the site and surroundings have altered with the introduction of four recently completed detached dwellings adjoining the south-west boundary. Resultantly, the application site is now regarded as constituting an infill plot, in that the development of this plot would result in the closing up of a small gap within the existing built pattern and adjoined by neighbouring residential development on its side boundaries, showing a continuation of the built environment. The application site now complies with the settlement policy.

6.1.6 Like the previous applications there has been strong public objection to this application, citing concerns of overdevelopment and lack of services and facilities. The settlement has nonetheless been identified as a Community Cluster, in which and in association with surrounding settlements is able to accommodate sustainable additional growth. So, a lack of services and facilities in the immediate Walford Heath is not a substantive reason for refusal. The sub-division of an existing large residential curtilage would not represent an unacceptable encroachment of countryside and a modest dwelling in this plot would not represent overdevelopment and could supplement the street scene in providing a continuation of development.

6.1.7 On the above basis, the principle of development can be both established and supported.

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

- 6.2.1 With consideration to the amended plans received, the proposed dwelling sited on the existing garden land and forming an infill plot, between historic cottages to one side and modern dwellings to the other, the visual impact of the proposal is considered low. The site is occupied by a range of outbuildings, the site makes little contribution to the wider landscape setting, with the presence of a new dwelling and maintained gardens and rationalised outbuildings providing a betterment to the immediate visual amenities.
- 6.2.2 Since the previous refusal the scale of the dwelling has been significantly reduced and its character is now one that is more rural in its character and more closely connected in scale and mass to the dwelling within whose curtilage the site is located within. The proposed dwelling is one and a half storeys with dormer windows to the front and rear roof slopes and an open fronted porch over the front door. Height of the dwelling in relation to the surrounding street scene considered acceptable. One of the concerns with the plans as submitted was the depth of the proposed dwelling, this has now in accordance with the amended plans been reduced from 7.5 metres to 5.6 metres which is considered acceptable in relation to the surrounding built environment which includes reference to the dwelling within whose curtilage the application site is located.
- 6.2.3 Overall it is considered that the character of the proposed dwelling and its scale is now much more appropriate when compared to the previously refused scheme. It is considered that the proposal would now integrate more acceptably with the surrounding development which comprises traditional cottages and modern development.
- 6.2.4 The adjacent Ivy Cottage to the west sits towards the rear of its plot creating a long front garden. The new dwellings to the east are much closer to the road; set back just far enough to accommodate the access road and driveways. The dwelling proposed would be midway between the differing positions of the neighbouring dwelling to create a more gradual change to the alignment of the dwellings in relation to the road.
- 6.2.5 On the opposing side of the highway lies a dormer bungalow, traditional brick builds and painted brick builds. The surrounding style and form is varied, differing from plot to plot. As a result of this, there is no prevalent dwelling type.
- 6.2.6 It is considered that the proposed dwelling, as revised, is of an appropriate scale and appearance with adequate separation from the side boundaries. The proposed dwelling is now sympathetic to the host dwelling and the street scene. In order to preserve the built form of the site and potential impacts on the surrounding area, it is recommended permitted development rights are removed in relation to curtilage development. This will not necessarily prevent development within the curtilage of the dwelling, but will enable Local Planning Authority control over future development. (Development would need to reflect the scale and character of the dwelling it will be associated to).

6.3 **Highways and access**

- 6.3.1 The proposed dwelling will be served by the existing access that serves Ivy Cottage, leading off the B5057 and providing a shared access point and driveway. The immediate highway section, through the village, is governed by a local 40 mph speed limit and as part of the development the existing access is to be widened and the parking and turning area increased to provide adequate space for both dwelling.
- 6.3.2 The existing access will be shared with the exiting dwelling and parking and turning spaces provided for both properties. The submitted plan does show a large expanse of driveway but it is considered that this could be mitigated by appropriate landscaping.
- 6.3.3 The public comments in regard to highway safety, speeds and vehicle movements are acknowledged. However, the introduction of a single dwelling and its associated vehicle movements and utilising an existing access point are not considered to exacerbate the highway conditions. Instead, the issue of highway safety would be more appropriately addressed through calming measures, as the issue is with passing vehicles and not residents.
- 6.3.4 No objections have been raised by the Council's Highways Team with regards to highway safety.
- 6.4 **Flooding and Drainage**
- 6.4.1 Details of the surface and foul water drainage have been submitted to show surface water directed into a newly proposed soakaway and silt trap under the permeable gravel driveway, with foul water disposed of via a new connection into the mains sewer. Both arrangements are acceptable.
- 6.4.2 The site lies in Flood Zone 1 only and is at a very low risk of surface water flooding.
- 6.5 **Impact on Neighbour Amenity**
- 6.5.1 The proposed development is not considered to adversely impact upon those amenities enjoyed by neighbouring residents. The host dwelling private garden space is reduced by half, with very little rear garden; however, Ivy Cottage has never had substantial rear garden space, owing to its positioning right at the rear of its plot.
- 7.0 **CONCLUSION**
- 7.1 The proposed detached, one and a half storey dwelling would be within an identified settlement for new development and the plot is able to constitute an infill plot in accordance with the settlement specific policy. The proposed dwelling is of a scale that is proportionate to the site and its surroundings and is of a design, scale and style that is sympathetic for its location.
- 7.2 The proposed development is considered to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and DM13 of the SAMDev Plan and it is recommended that permission be approved, subject to the conditions as attached in appendix one to this report.
- 8.0 **Risk Assessment and Opportunities Appraisal**
- 8.1 **Risk Management**

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

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/04420/FUL Erection of four detached dwellings with detached garages; formation of estate roads and formation of new vehicular access (modification to previously approved) REFUSE 4th February 2019

18/04651/FUL Erection of two storey extension to side elevation GRANT 4th January 2019

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

20/01374/FUL Erection of one detached dwelling and alterations to existing vehicular access PDE

18/02159/FUL Erection of one detached dwelling WDN 20th June 2018

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

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

Local Member

Cllr Nick Bardsley

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 shall take place until a scheme of foul drainage, and surface 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/brought into use (which ever is the sooner).

Reason: The condition is a pre-commencement condition 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

4. Notwithstanding the details shown on the submitted block plan, no above ground works shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape

5. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

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

6. The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety

7. Any hedge or other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times.

Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

8. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

9. The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To provide a safe access to the development in the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 Part 1 class; E shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development site and to safeguard residential and visual amenities.

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