

## Development Management Report

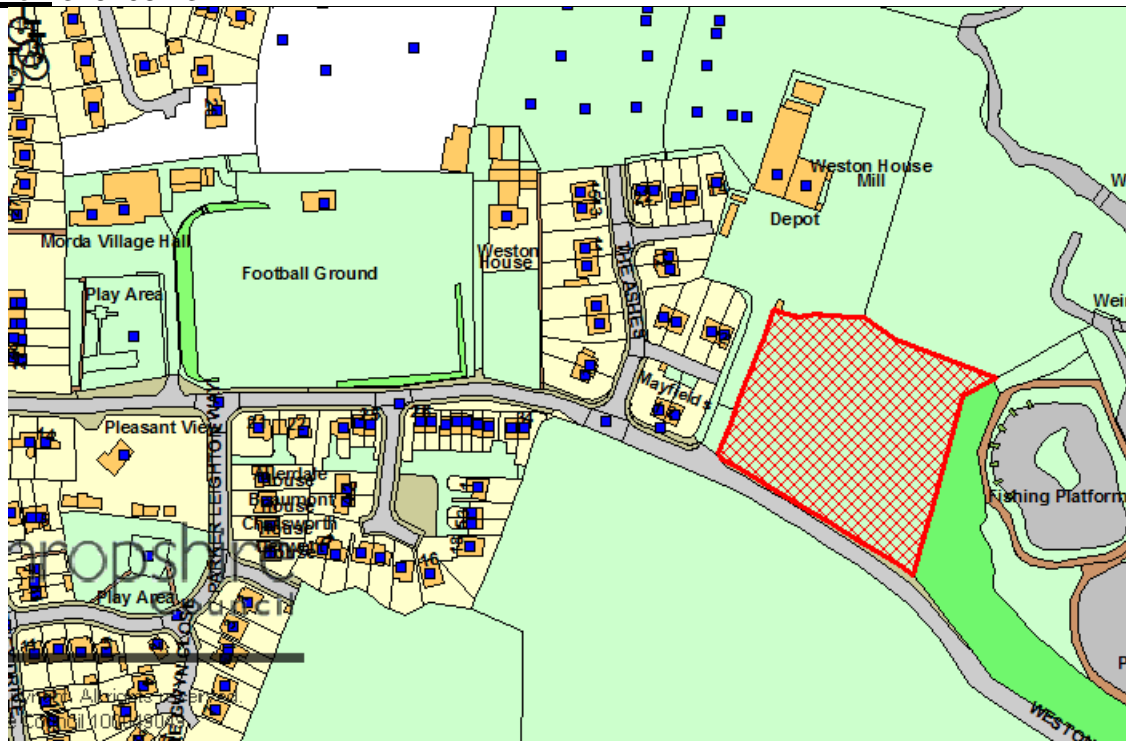
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 21/00442/FUL	<b>Parish:</b> Oswestry Rural
<b>Proposal:</b> Erection of 20 (affordable) dwellings with associated roads and formation of vehicular access	
<b>Site Address:</b> Land To The North Of Weston Road Morda Oswestry Shropshire	
<b>Applicant:</b> Wrekin Housing Trust	
<b>Case Officer:</b> Mark Perry	<b>email :</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>

**Grid Ref:** 329208 - 327771



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application relates to the erection of a residential exception site for the erection of 20 affordable dwellings and the creation of a new access road.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a field situated on the edge of Morda fronting onto Weston Road which leads from the centre of Morda towards southern edge of Oswestry where there are predominantly industrial premises. There are residential properties to the west of the application site and to the east there is the Weston fishing pools. A mature band of tree planting runs along the eastern side of the site.

2.2 An existing commercial premise is located to the north and this is accessed by a driveway which runs in between the existing dwellings and the application site.

2.3 The southern and western boundaries of the site are defined by mature hedgerows.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Oswestry Rural Parish Council objected to the application and the application was called in by the Local member within 21 days of notification requesting that the application be referred to the committee for determination. The Principal Planning Officer, the Committee Chair and Vice Chair agreed that the local member raises material planning considerations which warrants the application being considered by the committee members.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

4.1.1 **Parish Council-** objects to this application for the following reasons:

- 1) Morda is already over-developed.
- 2) Further development will add to flooding issues already present in this location.
- 3) Morda C of E Primary School is already at capacity.
- 4) There are other more suitable sites for this type of development.

4.1.2 **Highways-** From a purely highway perspective, the development appears to meet the appropriate design standards in terms of layout and visibility splays. Confirm that the Tracking Plan is now satisfactory. As highway authority the adoptable length currently shown is somewhat excessive.

- 4.1.3 **Ecology-** no objection subject to conditions and informatives.
- 4.1.4 **Affordable Housing-** The Affordable Housing Team support this application. The type and tenure of homes proposed address the need identified in the Housing Needs Survey carried out by Oswestry Rural Parish Council in 2018 and the existing Home Point data. The proposed homes all meet the National Described Space Standards too.
- 4.1.5 **SC Trees-** No response at time of writing report
- 4.1.6 **SC Recreation-** The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

Based on the current design guidance the development will deliver 40 bedrooms and therefore should provide a minimum 1200m<sup>2</sup> of usable public open space as part of the site design. The site design allows for public amenity space in the centre however, it is not clear how much POS is being provided on site and Officers would like this information prior to making any further comments on this application.

The types of open space provided need to be relevant to the development and its locality and should take guidance from the Place Plans. The ongoing needs for access to manage open space must be provided for and arrangements must be in place to ensure that the open space will be maintained in perpetuity whether by the occupiers, a private company, a community organisation, the local town or parish council, or by Shropshire Council

- 4.1.7 **Drainage-** No objection subject to conditions
- 4.2 - **Public Comments**
- 4.2.1 4 letters of representation from local councillor and residents, commenting on the following items.
- Village is over developed
  - Morda is not designated area for development
  - Loss of countryside between Morda and Weston
  - Dangerous road for walkers, runners and cyclists
  - Increased traffic
  - Weston Road is a rat-run already
  - Other sites already have planning permission
  - Exacerbate flooding
  - Development beyond village boundary
  - School is full
  - Pub and shop infrequently open

## 5.0 THE MAIN ISSUES

- Principle of Development
- Layout, scale, design, character and appearance
- Impact on neighbouring properties
- Access and parking
- Ecology and trees
- Drainage
- Residential Amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 This application relates to the provision of 20 affordable homes for local people on the edge of the village of Morda. For the purposes of planning policy Morda is classed as open countryside as is not a settlement categorised as being a community hub or cluster under SAMDev policy MD1.
- 6.1.2 The Housing Supplementary Planning Document (SPD) and LDF Policy CS11 provide a positive supportive framework for the consideration of affordable homes for local people on 'exception sites'. 'Exception sites' are in locations that would not normally obtain permission for open market housing development, but an exception is made (subject to satisfying certain criteria) for proposals that relate to development of affordable housing for local people.
- 6.1.3 Shropshire LDF Policy CS11 permits "*exception sites for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key Centres, Community Hubs, Community Clusters and recognisable named settlements subject to scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity*". CS5 allows such homes in the countryside '*on appropriate sites which maintain and enhance countryside vitality and character*'. MD7a states that '*Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements*'.
- 6.1.4 Despite not being a village that is classed as a community hub or cluster, it is clearly a recognisable named settlement for the purposes of policy CS11. Morda is a well-defined settlement close to the outskirts of Oswestry. The village has a primary school, pub, village shop and sports and social facilities. The village has footpath links to Oswestry and the town's senior school is 0.7km away.
- 6.1.5 The SPD requires that the provision of affordable housing should relate to the local needs of the settlement and hinterland and be reflective of the size of the community. The housing enabling team have supported this application and comment that the proposed development addresses the need identified in the Housing Needs Survey carried out by Oswestry Rural Parish Council in 2018 and the existing Home Point data.

- 6.1.6 Current HomePoint data indicates that there are 29 people on the list who have Oswestry Rural as their first choice parish for housing. Of these 18 have a strong local locations where 10 require a 1-bedroom property, 7 require a 2-bed and one requires a 3-bed.
- 6.1.7 It is considered that the proposed site is in an appropriate location for an 'exception site'. It is situated adjacent to the existing built development called The Ashes; although they are separated by the width of the access drive which leads to an industrial unit to the north. The Ashes was also approved as a 100% affordable housing scheme which was granted planning permission in 2012 and comprised of 21 dwellings. The proposed development would be close to existing housing and close enough to the facilities and services within the village to be accessed on foot or by bicycle. The services available in Oswestry would also be accessible given the continuous footpath into the town and also the availability of a bus service.
- 6.1.8 It is therefore considered, by officers, that the location of the development as an exception site and the need for the affordable housing meets the policy criteria.
- 6.2 Layout, scale, design, character and appearance**
- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity.
- 6.2.2 The proposal is for 20 properties which comprises of 4 x 1-bed bungalows, 4 x 2-bed bungalows, 8 x 2-bed dwelling and 4 x 3-bed dwelling. All of the properties proposed are semi-detached and they all meet the Nationally Described Space Standards. The properties will all have good sized plots with garden depth a minimum of 9.5m. The development consists of a mixture of two-storey and bungalow properties with a mix of brick built and render; this follows the palette of material used on the adjacent housing development.
- 6.2.3 The layout of the site comprises of a single adoptable spine road and a private drive which will serve plots 7 to 13. The existing field is generally level in nature and has a mature roadside hedgerow. The hedgerow will be retained, and this will form the rear boundary of the gardens to plots 1 to 4. A section of the hedgerow will need to be removed to create the access and parts will need to be cut back to accommodate the visibility splay. However, overall, the existing hedgerows will be retained as part of the development; helping to minimise the visual impact of the scheme
- 6.2.4 The enclosure with existing landscaped boundaries will minimise the visual impact when approaching the edge of the settlement from the east of the west.
- 6.2.5 The proposed, layout, pattern, scale and appearance of the proposed semi-detached houses reflects that of other nearby housing. The siting of one of the

pairs of bungalows in the centre of the site when viewed from the road will further reduce the impact of the edge of the development because of its lower height.

- 6.2.6 Policy MD2 requires residential development (both open market and affordable) to provide on-site open space and the Parks and Recreation team have commented that a development containing 40 bedrooms equates to a requirement of 1200 sqm of public open space. This amount of open space would be provided and would comprise of a large open area towards the rear/ centre of the site which would have a number of dwellings facing on to it to provide natural surveillance. A smaller area would be provided upon the entrance to the development. Both areas would be sensitively landscaped and maintained to ensure their long-term usability.
- 6.2.7 The proposed layout, scale, design and appearance of the development is considered by Officers to be acceptable. Whilst the proposal would change the appearance of the site from green agricultural space to a housing development it is considered that it has been sensitively designed and where possible the features that currently contribute to its character have been retained. Officers consider that it would have no significant adverse impact on the character and appearance of the locality and any perceived negative effects is substantially outweighed by the social and economic benefits of providing much need affordable housing in the village. The proposal is therefore considered to accord with CS6 and MD2.

### 6.3 **Impact on neighbouring properties**

- 6.3.1 The proposed dwellings on plots 5 to 12 would be located along the western boundary of the site and would have their rear elevations facing towards to side elevations of the dwellings on The Ashes development. The sets of gardens would be separated by the driveway leading to the commercial premises to the north and also by the boundary hedgerow which would be retained and improved where necessary. There would be around a 25 metre gap between the rear elevations of the proposed dwellings and the side elevations of the dwellings on the adjacent housing estate. On the opposite side of the highway there are open fields and to the east there is a wide band of tree planting beyond which there is the Weston Pools fishing lakes.
- 6.3.2 Officers consider that taking into account the distances of separation and the other neighbouring land uses there will be no overlooking, loss of privacy or loss of light.
- 6.3.3 As noted above there is a commercial/ industrial building to the north. The building is approximately 45 metres from the edge of the application site, but it also includes a yard area which is closer. Following comments made by the Council's Public Protection Officer a noise assessment has been carried out. The report concluded that standard double glazing and brick and block cavity wall construction with standard specification windows and trickle vents would be enough to ensure satisfactory internal noise levels. The addition of an acoustic fence along the edge of the large area of public open space and the side boundary of plot 12 would adequately protect future residents. The installation of

the fence would reduce predicted noise levels to below background levels.

6.3.4 The Council's Public Protection Officer has considered the report and its findings and has suggested that the applicant give consideration to an acoustic fence to the front of the site to protect residents from road noise. Officers note that this is a recommendation and not a requirement. It is considered by Officers that adding a solid boundary acoustic fence to the front of the site would have a visually detrimental impact on the appearance of the site within the street scene. As such the additional benefit to future residents is outweighed by the wider visual harm to the road which does now have a 30 mph speed limit which in turn would limit the level of noise that passing vehicle would generate.

#### 6.4 **Access and parking**

6.4.1 The site is located on Weston Lane which recently has had a 30 mph speed limit imposed on it. It is acknowledged that this road can sometimes be busy and is used as a 'rat run' for getting to and from the southern side of Oswestry and the Industrial Estate, sometimes resulting in a queue of traffic at the cross roads in the centre of the village during peak time. However, the provision of 20 new dwellings will not add a significant amount of additional vehicles onto the road to such an extent where it would compromise highway safety or the free flow of traffic.

6.4.2 SC Highways have confirmed that adequate visibility splays can be provided at the access onto the road and have no objection to the proposal. Adequate parking and turning space for cars is provided within the site and it has been demonstrated by the submission of vehicle tracking diagrams that the road is adequate for waste and larger vehicles to manoeuvre.

6.4.3 With regards to pedestrian safety there is pavement which currently terminates at the end of the driveway to the commercial premises. This pavement does lead all the way into the centre of the village. A new section of pavement will be created across the frontage of the site to the west of the proposed entrance which will enable pedestrian to safely walk into the village and beyond.

6.4.4 Highways Officers have no objection to the proposal and consider that it meets the appropriate design standards in terms of layout and visibility splays.

#### 6.5 **Ecology**

6.5.1 An extended phase 1 ecological habitat report has been submitted with the application. The report concludes that the main habitat affected by the proposed development is semi-improved grassland and that it was not found to support any protected species. The report noted that the nearby ponds were not suitable breeding habitats for great crested newts as they contain a major population of fish.

6.5.2 The construction of the housing development within the semi-improved grassland will remove a small amount of foraging habitat, however the riparian habitat to the north and the hedgerows and adjacent woodland will not be impacted by the

proposed development.

- 6.5.3 The report has been assessed by the Council's Ecologist who raised no objection subject to conditions and informatives.

## **6.6 Trees**

- 6.6.1 Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

- 6.6.2 All existing hedgerows which comprise of Ash, Holly, Hawthorn and Elder are to be retained apart from a section along the front to be removed and set back to allow for the access and visibility splay. The proposed landscaping including the planting of the gaps in some of the existing poor hedgerows will provide ecological enhancement. The rest of the site is absent of any trees and position of any proposed dwellings falls outside of the root protection areas applied to the trees that are located on neighbouring land.

- 6.6.3 The requirements to provide tree protection will be imposed by condition on any permission granted.

## **6.7 Drainage**

- 6.7.1 The application site falls entirely within flood zone 1 as identified by the Environment Agency flood maps. In such areas it is considered that the land has a less than 1 in 1,000 annual probability of river flooding.

- 6.7.2 Drainage details have been submitted and accepted by the Council's drainage officer. Both the surface water drainage and foul drainage will be subject to Building Regulation approval. Approval will be required from the service provider to connect any surface or foul water to the foul system. The River Morda is around 60 metres to the north east of the site which does have potential to flood land to the north east, but any flooding would not encroach onto the application site on the basis of the current available mapping.

- 6.7.3 As required by paragraph 163 of the NPPF when considering planning applications, the authority must be sure that flood risk is not increased elsewhere. This can be done by ensuring that the scheme has an acceptable drainage scheme. The applicant has detailed that surface water will be discharged to soakaways and that foul flows will be to the public sewer. The Council's Drainage Engineer has not raised any objection and has recommended a condition that requires further details of the drainage scheme to be submitted to the Council for approval as part of a planning condition.

## **6.8 Other Matters**

- 6.8.1 The Parish Council have commented that the school in the village is at capacity. The Council's Education team have confirmed that at present the school has 13 unfilled places and that the forecast is that by 2025 there would be 29 unfilled places, although this is a forecast so it could change. It is recognised that there are more children living in the catchment than the school has places for, but the trend at present is for pupils to go elsewhere and therefore it is not expected that



there will be a requirement in the short term for extra places at the school.

## 7.0 **CONCLUSION**

7.1 There is an identified need for affordable housing in the village of Morda and the location of the proposed dwellings is considered to be acceptable and in compliance with the terms of the exception sites policy outlined in the housing SPD and accords with CS5, CS11 and MD7a. The scale, design and appearance of the proposed dwellings and the layout of the development are appropriate and would have no adverse impact on the character and appearance of the locality or the residential amenity of neighbours or future occupiers of the development. The proposal is acceptable from a highway perspective as there would be no severe highway safety implications and a satisfactory access and adequate parking and turning space will be provided. The existing hedgerows are to be retained where possible and these will be protected during construction.

7.2 Officers consider that the proposal meets the requirements policies CS6, CS17 of the Core Strategy and MD2 and MD12 of SAMDev. The application is therefore recommended for approval subject to planning conditions and the applicant entering into a S106 to secure the dwellings as affordable units in perpetuity.

## 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:

CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS17 - Environmental Networks  
 MD2 - Sustainable Design  
 MD12 - Natural Environment  
 CS11 - Type and Affordability of housing

#### RELEVANT PLANNING HISTORY:

12/04725/FUL Erection of 21 no. affordable dwellings with associated access and parking  
 GRANT 20th March 2013  
 13/02602/VAR Variation of condition no. 5 (highways) attached to planning permission  
 12/04725/FUL from a 'Pre-commencement' condition to 'Prior to occupation' condition NPW 8th  
 September 2016  
 13/02654/DIS Discharge of Conditions 6 (highways), 9 (materials) of planning permission  
 12/04725/FUL DISAPP 21st August 2013  
 13/03385/DIS Discharge of Conditions 6 (roads/footways), 8 (Archaeology) and 10 (foul and  
 surface water) of planning permission 12/04725/FUL DISAPP 21st August 2013  
 14/03148/DIS Discharge of Condition 5 (footway details) of planning permission 12/04725/FUL.  
 DISAPP 23rd July 2014  
 14/05461/VAR Variation of Condition No. 12 attached to Planning Application No.  
 13/01393/OUT dated 31st October 2014 to achieve access from Weston Road only REFUSE  
 23rd March 2015  
 21/00442/FUL Erection of 20 (affordable) dwellings with associated roads and formation of  
 vehicular access PDE

#### 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)
Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member  Cllr Joyce Barrow
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.

4. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement 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**

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.

6. Prior to first occupation of any dwelling hereby approved an acoustic fence shall be erected the position identified on the approved plan of a specification to be submitted to and approved in writing by the Local Planning Authority. The fence shall thereafter be maintained for the lifetime of the development.

Reason: To ensure that any noise generated does not impact upon the residential amenities of future occupiers of the development.

7. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') 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 in accordance with the approved designs

8. Prior to first occupation of any dwelling, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

A minimum of 4 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species.

A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for Sparrows (32mm hole, terrace design), Starlings (42mm hole, starling specific) and small birds (28 or 32mm hole, standard design) shall be erected on the site prior to first use of the development.

The boxes shall be sited at in suitable locations and at suitable heights from the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall therefore be maintained for the lifetime of the development.

Reason: To provide additional nesting and roosting provision to enhance biodiversity in accordance with the NPPF, MD12 and CS17.

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

9. No construction (and/or demolition) works shall take place before 0730 hours on weekdays and 0800 hours on Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

10. No ground clearance or construction work shall commence until the scheme of tree and hedge protection as detailed in the submitted arboricultural report has been provided to safeguard trees and hedgerows to be retained as part of the development. The scheme shall be retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area.

11. Before the first unit is occupied the vehicular and pedestrian access to the site shall be constructed and laid out in complete accordance with approved plan. The area to the front of the visibility splays shall thereafter be permanently kept free of all obstacles or obstructions at a height not exceeding 0.9 metres above the level of the adjoining carriageway.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

12. The proposed dwellings/ bungalows shall be construction in accordance with the conclusions and recommendations contained within the submitted noise survey.

Reason: To ensure a satisfactory level of amenity for the future occupiers of the properties.

### **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 and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

[Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate

planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.]

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

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