



Committee and Date  
 Northern Planning Committee  
 05 March 2024

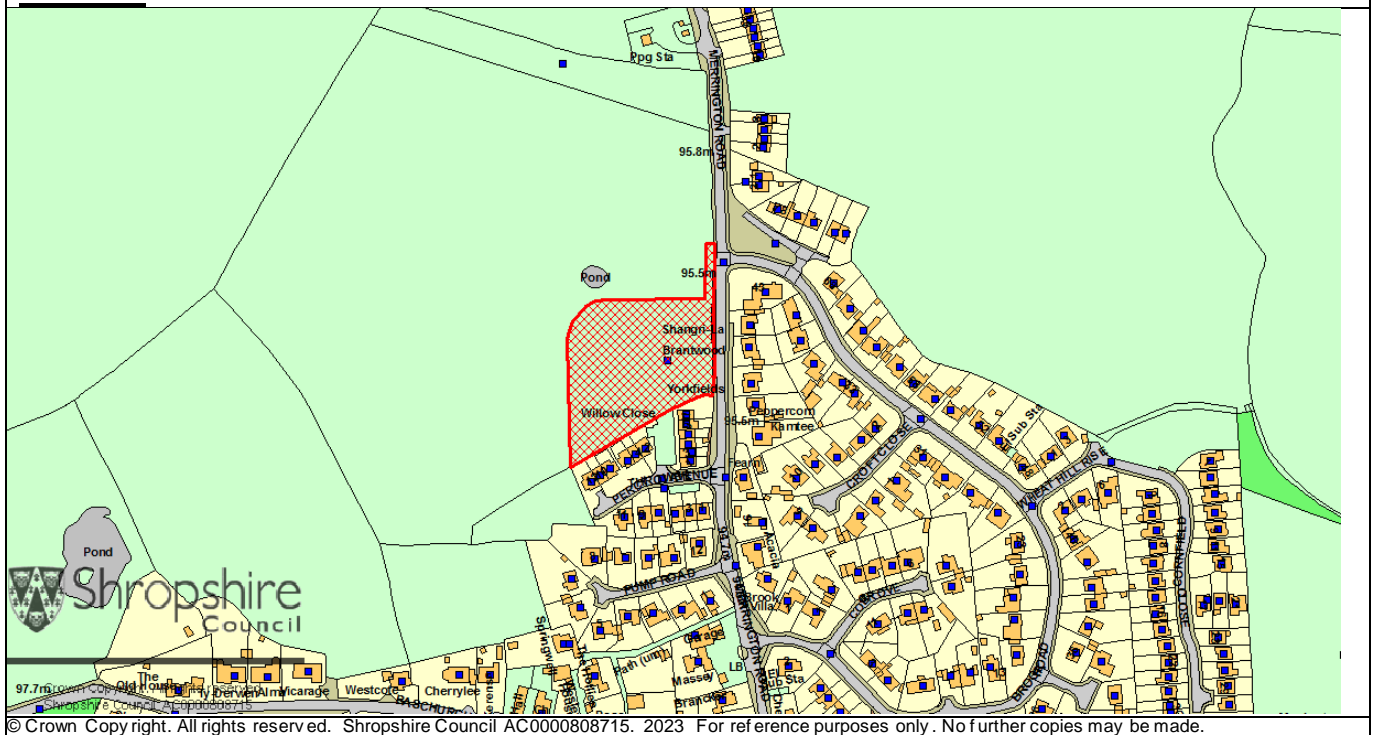
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 23/02934/FUL	<b>Parish:</b>	Bomere Heath
<b>Proposal:</b> Rural exception site comprising the erection of 19 affordable dwellings, vehicular, pedestrian and cycles access from Merrington Road, open space, sustainable urban drainage system, landscaping and associated works		
<b>Site Address:</b> Proposed Affordable Housing Exception Site West Of Merrington Road Bomere Heath Shrewsbury Shropshire		
<b>Applicant:</b> J Harper & Sons Leominster		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> jane.raymond@shropshire.gov.uk	

**Grid Ref:** 347341 - 320027



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**Recommendation:** Approval subject to the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Head of Service and the signing of a S106 agreement to secure the affordable housing in perpetuity, and confirmation of receipt of a counter signed Impact Assessment and Conservation Payment Certificate (IACPC), that confirms acceptance into Natural England's District Level Licencing Scheme

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is for the erection of 19 affordable dwellings as a rural exception site. It includes associated vehicular and pedestrian access and the provision of open space, a sustainable urban drainage system and landscaping of the site.
- 1.2 The proposal was originally for 20 dwellings and amendments have been received that include a reduction to 19, setting back the house on plot 15 further from the boundary to the south, an increase in open space provision and retention of the permissive access to the Public Rights of Way (PROW) in the adjacent field.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the south-east corner of a larger field that is situated north of properties in Percy Thrower Avenue in the village of Bomere Heath.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have raised material considerations, and due to matters raised and that the proposal represents a major application, as an exception site, the Area Planning Manager in consultation with the Committee Chairman and Vice Chairman consider that the application should be determined by Committee.

### 4.0 Community Representations

- 4.1 **Consultee Comment** (Latest comments only. All previous comments can be viewed in full on the file)

- 4.1.1 SC Affordable Housing (23.08.2023): *We currently have 19 households on the housing register waiting for properties in Bomere Heath. The size and tenure of the proposed affordable homes are acceptable and will meet some of the identified need.*

The affordable housing team have also answered queries raised directly by the Parish Council (PC) by email and has provided the following response in November 2023:

15.11.2023: *The Homepoint data is a live data set that changes sometimes month by month, so it's not unusual for numbers to go up or down between comments on the planning system. The current figures taken from 1st November 23, are similar to those I gave the case officer in August.*

*When we are looking at Housing need we generally look at the parish, so in this case Pimhill and there are currently 31 households wanting/needing an affordable home in the parish. (there were 34 in August) If this was an open market site with no local connections attached then this is the figure we would be using.*

*However, the Merrington Road site is an exception site so we limit the housing need to those that have at least 2 local connections to the Settlement of Bomere Heath AND have put Bomere Heath as their first choice of location for their home.*

*As of the 1st Nov 23 there are still 19 households on the housing register that meet that criteria. This is the same number as in August but the make up of the need has altered slightly. There are now 9 requiring 1 beds, 4 x 2 beds, 3 x 3 beds and 3 x 4 beds. So the number of 3 beds required has gone down and more 1 and 4 beds are now needed. As this alters (due to people being reassessed or people leaving the register or joining it) we can't exactly meet the housing mix as it will no doubt alter again if/when the properties obtain planning and are then built. The mix of 1,2 and 3 beds for rent are a suitable mix to meet the identified need and our Housing Associations state that 2 bed shared ownership properties are in demand.*

17.11.2023: *If a person is only entitled to a 1 bed property they can only bid on a 1 bed property. We never meet the exact make up of housing need in regards to size of properties as it is forever changing and although our main aim is to meet the identified housing need, we also need to look at ensuring the development provides a sustainable community. Allowing too many 1 beds means there is more of a transient population as on the whole 1 beds have a higher turnover rate than any other house size (due to people getting a partner, having children or unfortunately with the older residents passing away) We also know from experience that there is hidden need (those that have not registered on home point) and looking at the bid data for Bomere Heath, 2 bed properties are the size of dwellings that obtain the most bids when they come up for rent. Unfortunately the waiting time for 1,2 and 3 bed properties in Bomere Heath is over 12 months for all property sizes, showing that there is demand for all sizes of properties.*

- 4.1.2 SC Highways (19.02.2024): *Highways consider that the proposed development is acceptable and would not cause an adverse impact upon the local highway network. It is considered also that the estate road layout, alignment and footway provision is acceptable and meets the Council's adoption standards should the estate road be offered for adoption. Parking provision to serve the residential units is considered adequate to meet the needs of on-site parking demand.*

*Highways therefore raise no objection to the granting of consent subject to the following Conditions being imposed:*

- 4.1.3 SC Waste Management (04.08.2023): *It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). An option for residents to have wheelie bins for recycling has been added to the service in 2022, therefore space for three wheelie bins per property could be required.*

*Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.*

*I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <https://www.shropshire.gov.uk/media/25994/shropshire-refuse-and-recycling-planning-guidance2022.pdf>*

*I would prefer to see a vehicle tracking of the vehicle manoeuvring the road to ensure that that the vehicle can access and turn on the estate. Details of the vehicle size and turning circles are in the document linked above.*

*Particular concern is given to any plots which are on private drives that the vehicles would not access (plots 12-17). Bin collection points would need to be identified and residents advised when they move in/purchase.*

*Residents would also need to be made aware that they would be collection points only and not storage points where bins are left permanently.*

- 4.1.4 SC Drainage (15.02.2024): *The drainage proposals are acceptable.*

- 4.1.5 SC Regulatory Services (20.02.2024): *Further to comments by Environmental Protection dated 22nd August 2023, the following report has now been submitted; Georisk Management; Ground Investigation; Land to the West of Merrington Road, Bomere Heath, Shrewsbury, Shropshire; Report No. 23061/1, Dated June 2023; Prepared for J. Harper & Sons (Leominster) Ltd, FINAL.*

*The previous report 'Draft' dated June 2023, reported that monitoring has been undertaken on 3 occasions. "No detectable levels of methane have been recorded, but carbon dioxide has been recorded, in excess of 5%vv on 2 occasions". This could potentially classify the site as a Characteristic Situation 2, meaning gas protection to protect new buildings is required.*

*Georisk Management were suggesting that the site could be classified as Characteristic Situation 1 (i.e., no gas protection is required), but they do state that*

*this initial conclusion is subject to review on completion of the full soil-gas monitoring programme.*

*This 'Final' Report has now been issued, based on gas monitoring on 4 occasions (12/05/2023; 26/05/2023; 13/06/2023 and 22nd June 2023) only.*

*In their preliminary risk assessment, Georisk Management have identified a 'low risk' in respect of soil-gases entering buildings via services/foundations (Table 3, Section 7). Section 9.6.1 confirms that based on ground conditions encountered, the preliminary conceptual model is largely representative of the actual site conditions in relation to the development.*

*The suggested minimum monitoring period and frequency (CIRIA C665) for a high sensitivity development (residential with gardens), with a low gas generation source is 9 readings over a 6-month period. Even if the gas generation source was very low, the minimum monitoring requirement is 6 readings over a 3-month period. In addition, at least two sets of readings must be at low and falling atmospheric pressure. These minimum requirements have not been met.*

*Methane has not been recorded, but carbon dioxide exceeds the maximum recommended concentration of 5%vv on 3 different dates and from 3 different boreholes.*

*Georisk Management have used the semi-quantitative procedure as recommended in CIRIA C665 to assess the risks and concluded that the results of the soil gas monitoring are indicative of a CS1 classification and gas protection is not considered necessary. However, again the report states (10.3.5) that this initial conclusion is subject to review on completion of the full soil gas monitoring programme.*

*Environmental Protection cannot agree with this conclusion having regard to the required minimum monitoring period, as only four sets of readings have been carried out over a 6-week period.*

*Environmental Protection does not disagree with the conclusion by Georisk Management that based on, 'all test results for the potential contaminants of concern are below the relevant assessment criteria (S4UL/C4SL/SSV), that no remedial action in respect of risk to human health is considered necessary for the proposed development at the site'.*

*In the absence of any specifically worded conditions in respect of a gas risk assessment, Environmental Protection recommends the Council's pre-commencement conditions in respect of contaminated land are included within the Decision, if planning permission is granted. This requirement is only in respect of concluding the ground gas monitoring/risk assessment.*

4.1.6 SC Conservation (25.08.2023): *We have no comments on this application relevant to historic environment matters.*

- 4.1.7 SC Trees (25.08.2023): *There are a number of trees on this site and an 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.*

*The AIA has identified 10 individual trees, 1 groups of trees and 2 hedgerow which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.*

*The proposed development would result in the loss of a section of the roadside hedge to provide access with all other trees retained. The loss of the hedgerow is mitigated through a planting scheme provided and to be undertaken as part of the development.*

*The Arboricultural Impact of the proposal is low and the new planting would result in betterment in the longer term. No objection is raised to the application providing the tree protection measures detailed in the AIA are implemented in full. The following condition is recommended:*

- 4.1.8 SC Ecology (20.02.2024): *Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.*

*I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.*

*I have reviewed the Hard and Soft Landscape Schedule (BG23.164-BRGR-ZZ-ZZ-DR-L-00003) and I am satisfied with the proposed plans. It is recommended that hedgehog friendly fencing is included in the landscape scheme.*

*The Preliminary Ecological Appraisal carried out by Brindle & Green (June 2023) determined a pond within 20m of the red line boundary to have the potential to support great crested newts. Further surveys were recommended or that the applicant applies into the District Level Licensing scheme by Natural England. Great crested newts are a European protected species. District level licensing is an alternative approach to mitigation licensing for planning applications to develop sites which could affect great crested newts.*

*District level licensing aims to increase the number of great crested newts by providing new or better habitats in targeted areas to benefit their wider population.*

*Planning applications using this scheme will need to issue the countersigned*

*impact assessment and conservation payment certificate (IACPC). This confirms that the application is suitable for district level licensing and that the favourable conservation status (FCS) test in the Habitats Regulations 2019 will compensate for any impacts on great crested newts by a conservation payment.*

*The District Level Licensing scheme will be used as part of the proposed planning permission, under District Level Licensing Enquiry number DLL-ENQ-SHRP-00057.*

*Suitable habitats have been identified for breeding birds. Works should be timed in order to avoid the nesting bird species, to negate any potential negative impact to breeding birds.*

*Mitigation measures have been recommended with respect to reptiles and small terrestrial mammals, although no evidence of these species was recorded. The recommended mitigation measures should be strictly adhered to.*

*Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area.*

*SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of bat boxes/integrated bat tubes and bird boxes will enhance the site for wildlife by providing additional roosting habitat.*

- 4.1.9 MOD Safeguarding (07.09.2023): *The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the Ministry of Defence (MOD) as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.*

*The application is for the erection of 20 affordable dwellings comprising of a mixture of single and two storey buildings with a maximum height of approx. 9.5m. The plans indicate the housing will have solar panels on the roof and the proposed site will also include open space, landscaping, and associated works. The application site occupies the statutory safeguarding zones surrounding RAF Shawbury. In particular, the aerodrome height, technical and birdstrike safeguarding zones surrounding the aerodrome and is approx. 7.8km from the centre of the airfield.*

*After reviewing the application documents, I can confirm the MOD has no safeguarding objections to this proposal.*

*The MOD advises that the proposed development may be exposed to noise from aircraft activities from RAF Shawbury, which some residents, when living on the development, may find disturbing.*

*My colleagues in the DIO Town Planning/Land Management Services section may*

*be submitting separate representation on noise issues in respect of this application.*

*The MOD must emphasise that the advice provided within this letter is in response to the data and information detailed in the developer's document titled "Proposed Elevations Plots 1-17", "Planning Statement", "Proposed Site Layout", "Landscape Management Plan", "Drainage Strategy" and "Site Location Plan" dated June 2023.*

*Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.*

- 4.1.10 MOD (Town Planning Estates) (08.09.2023): *The application site is located within an area affected by noise generated by military aircraft and military activity from MOD establishments at both RAF Shawbury and Nesscliff Training Area.*

*Paragraph 187 of the National Planning Policy Framework (2021) states that "Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development after they were permitted" before going on to require the applicant or agent of change to "provide suitable mitigation before the development has been completed."*

*No Noise Impact Assessment has been submitted with this application. It is therefore considered that insufficient information has been submitted to adequately assess the levels of noise currently experienced at this site due to military aviation. Given the application site's location, it is strongly recommended that a Noise Impact Assessment is produced to support this application. Such an assessment should be carried out by an appropriately qualified individual (Member of the Institute of Acoustics) and be based on a noise survey carried out over a minimum period of 0700 Monday to 2300 on the following Friday.*

*If Shropshire Council is minded to approve the application, a condition should be applied to secure mitigation measures to achieve daytime noise levels of 35dB LAeq (16hrs) within living rooms between 0700 and 2300 hours, and night-time levels of 30dB LAeq (8 hrs) within bedrooms between 2300 and 0700 hours. In the event of permission being granted it is also recommended that an informative is added that states:*

*"The application site is located close to a military airfield and a military training area. Future occupants should be made aware that military aircraft may be seen and heard operating in the area and that aircraft may overfly the site. The mitigation of noise in external areas may not be possible. Future occupants should also be made aware that aircraft types, flight paths and ground based activity can vary over time and this may cause disturbance."*



*The comments provided within this letter are based only on the location of the site in an area subject to the impacts of military aviation and military activity. No other sources of noise, disturbance or vibration have been considered in this response.*

## **4.2 Public Comments**

### **4.2.1 Bomere Heath PC (Object):** Have provided an 8 page response to the proposal as first submitted with the following conclusion:

*The Parish Council is concerned that approval of this application could open floodgates to the North of the village for exception & affordability sites. Pre-app noted a need for 16 houses, this doesn't take into consideration the 6 proposed at the south, the other 3 that should be provided, and the developer has rounded up to 20 to meet future demand. The scheme should really be based on current needs (16nr) and factor in the other affordable houses already anticipated.*

*The preference would be to reject the application, or at least revise with a different layout that has less impact on community.*

*The Parish Council would have discussed the potential for a patch of land for a Ball Park to be considered which would have added benefit to the younger generation.*

*And finally, we would put emphasise that the applicant be implored that they interact with the Parish Council and the community to discuss revisions before a re-submission.*

*Adequate and open collaboration has not taken place as part of this application and the community has had no outlet to question the applicants or make any positive recommendations that may have facilitated a less fractious application, we feel this is why the level of negative responses have been received.*

*It would have been beneficial that as part of the Pre-App response that applicants be encouraged to undertake meaningful engagement with the community and Parish Council.*

A summary of the PC comments using the heading in their response is summarised below:

### Parish Council Planning Decisions

- No Consultation with community prior to submission
- Exception sites should be as an exception but are presented in areas that go against the development plan for the Parish.
- Alternative and more suitable should be considered and explored.

### Quantity

- The proposal is for more affordable homes than the community require and should only be permitted to meet an identified need.
- There is a need for more 1 and 2 bed and less 3 bed.
- Clarity needed in the proportion of affordable/social rent and shared ownership.

### Layout & Density

- Too many dwellings, too compact, too close and cramped
- Too close to existing residents in Percy Thrower Drive
- Potential for expansion into the adjacent field due to the layout
- The internal layout of the houses is compact
- Loss off pedestrian access to field and PROW
- Questions the location of the parking for the bungalows
- Proximity of LAP, paths and trees to attenuation basin
- Too much close boarded fencing
- Questions what cycle parking will be provided
- Questions whether electric charging facilities will be provided for the visitors spaces for the public

### Parking

- Considers that a 2-bed house is designed for 4 persons, and it is feasible that each
- dwelling could have up to 4 cars.
- Requests that the number of three bedroom houses is reduced to help reduce vehicle movement and parking demand

### Site location

- Considers that the location could be reviewed to select an area that is more acceptable to the community.
- Whilst the applicant has offered a review of other potential locations noted in the pre-app the Parish Council feels that this should further be explored.

#### Local Amenities

- Recent development and proposed developments in the area have provided for the need for dwellings but not addressed the local infrastructure and the local amenities.
- The open space referred to in the applicant's statement is not all available to the public.
- The Ball Park is privately owned by the Primary School and is not available to public
- Potential for the provision of land for a Ball Park

#### Ecology

- GCN survey is required
- Queries how the Landscape management plan will be monitored during construction and monitored post construction.

#### Drainage

The Foul connection becomes the head of the run through the Village and impacting the entire village network. This is why the PC has always been more supportive of dwellings to the South and is concerned that package sites make no requirement to update the infrastructure.

4.2.2 67 letters of objection have been received to the proposal as first submitted summarised as follows:

Already had too much development including too many affordable homes

Doesn't want Bomere Heath to expand.

The site lies outside the village development boundary.

Infrastructure and amenities are insufficient to support additional housing (GPs and primary school at capacity, poor condition of roads, poor public transport, shop too small, no restaurant or post office, insufficient play areas and recreation facilities for young and older children).

Water and drainage system in Bomere, is struggling with low water pressure and the drainage system overflowing and problems with flooding and fields waterlogged.

There is no footway indicated along the hedgeline of Merrington Road and if residents are expected to utilise the footway on the east side of Merrington Road, this would mean crossing an extremely busy road where traffic is known to speed.

Poor public transport. The 576 bus route operates between Bomere Heath and the main settlements of Shrewsbury and Oswestry but does not take you to the nearest supermarkets and retail park in Harlescott and Battlefield.

Travelling to access services and facilities anywhere other than the town centre by bus is not a realistic proposition.

There is no pavement, and the site is too far from the facilities within the village so future occupiers will use their car and not walk to the shop and school for example, exacerbating existing congestion.

Traffic along Shrewsbury Road to the south will increase.

Increased traffic on a fast and dangerous road and lack of parking within the main part of the village by the shop and lack of parking for future residents.

Impact of heavy construction vehicles going through the village and damage to the roads that are already in a poor state of repair.

Questions who the homes will be for as not affordable to first time buyers and residents who want to remain in the village.

They should be provided as affordable to buy and not to rent.

It lacks the range of housing that the village needs.

Questions whether the applicant has demonstrated that there is an unmet need for affordable housing to rent and that there are vacant affordable homes in the village.

No further developments should be allowed to proceed until the existing unfinished development at The Wickets is finalised and questions whether the 60 additional houses including 12 affordable homes proposed for the south of the village have been taken into account.

More affordable homes if needed should be built on this site south of the village as having them all on one site in the north is unbalanced.

The only reason this application has been made is because it's easier to get

planning consent if you're building social housing.

Alternative sites have not been satisfactorily explored including the land at the end of Percy Trower Avenue.

If this development is approved no site bordering the village will be safe from development. The developers with the resources available to them would be able to make a very strong case for any development, using the Rural Exemption Provision.

The proposed houses will obstruct a 45-degree angle from the Kitchen and Bedroom windows of the properties in Percy Thrower Avenue .

Too close to existing housing and on higher ground resulting in loss of light, overlooking and loss of privacy, noise and disturbance and intrusion.

Loss of a view of the countryside and reduced property value.

Residents of Percy Thrower Avenue should all be compensated as the values of their homes and the living standards will be degraded if this goes ahead.

Contrary to Article 8 of the Human Rights Act 1998 due to impact on private family life and enjoyment of property.

Questions who and how the boundary hedge will be maintained.

The proposed plan intends to enhance an existing 30cm wild area along the south boundary with a new hedgerow and trees which will result in intrusion and block natural light to the existing properties and if not controlled will allow weeds to invade gardens as it currently does.

Impact on (or loss of) the existing permissive right of way to the field.

Concerns related to the safety of children who would potentially use the proposed attenuation basin adjacent to the play area for play.

Increased housing risks bringing more people to the village and an increase in antisocial behaviour.

Loss of a green field, flora, fauna and impact on natural habitats and wildlife such as owls, bats, red kites, herons, Canadian Geese, hedgehogs and great crested newts (GCN).

eDNA testing of the pond in the adjacent field for GCN should be carried out.

Several mature Oak trees were felled in this field last year (2022) and they were advised that they were unsafe but more likely in anticipation of this application.

Increase in light pollution and impact on rural dark skies.

The first site notice was not displayed in the correct place.

There has been no consultation with residents of Percy Throwers Avenue.

## 5.0 THE MAIN ISSUES

Principle of Development

Layout, scale, design, character and appearance

Residential amenity

Access and parking

Ecology and trees

Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 This application relates to the provision of 19 affordable homes for local people on the edge of the village of Bomere Heath which is identified as a community cluster settlement under SAMDev policy MD1. It is outside but adjacent to the recognised development boundary within SAMDev and is therefore classed as open countryside where open market housing would not be supported. However, 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.
- 6.1.2 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*'.
- 6.1.3 The Housing 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. In August 2023 the housing enabling team confirmed that there were 19 households on the housing register waiting for properties in Bomere Heath and that the size and tenure of the proposed affordable homes would meet some of the

identified need.

- 6.1.4 The Parish Council and some residents consider that taking into account previous development in Bomere Heath combined with the 12 affordable homes that will be provided on the allocated site to the south of Bomere Heath, that 19 affordable homes are not required and also questions the number of two and three bedroom properties and the tenure.
- 6.1.5 The affordable housing team has confirmed that in November there was a need for 31 households in the parish of Bomere Heath and of those 19 households met the criteria for a dwelling in Bomere Heath itself and that the mix of one, two and three bedroom properties is a suitable mix to meet the demand. The split in tenure proposed is 13 affordable rent (4 one bed, 6 two bed and 3 three bed) and 6 shared ownership (all two bed). The housing officer has confirmed that this meets the demand with the highest demand being for two bed affordable rent.
- 6.1.6 The proposal is therefore supported from a housing need perspective, and it is considered that the number of homes in addition to that which will be provided as part of development on open market sites is suitable and acceptable and complies with the policy criteria for exception sites.
- 6.1.7 The PC and some residents have requested that other sites should be considered and explored and that the location should be in accordance with the development plan and located to the south of the village. Other sites have been reviewed by the applicant and none are available to them that would be suitable. Sites that are already identified for open market housing within the adopted and draft local plan would not come forward for 100% affordable housing.
- 6.1.8 It is considered that the proposed site is an appropriate location for an 'exception site' situated adjacent to the existing development boundary of a village identified as a community Hub. It will be adjacent to existing housing within a village with a variety of facilities and services that can be accessed without over reliance on a private vehicle. The proposal meets an identified need in terms of the number of homes and the split in size and tenure.

## 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. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. Policy MD2 requires residential development (both open market and affordable) to provide on-site open space calculated at 30sqm per bedroom.
- 6.2.2 The layout has been amended to that first submitted and the number of dwellings

has been reduced to 19. More open space is being provided and a play area (LAP) located in the north-west corner away from the proposed attenuation pond and the existing dwellings. The proposal is for 4 one-bedroom dwellings (2 bungalows and 2 flats), 12 two-bedroom houses and 3 three-bedroom houses. The open space provision of over 1,300 square metres (that excludes the attenuation basin) exceeds the required, 1,110 square metres.

- 6.2.3 The reduction in the number of houses by one and the re-arrangement of the open space has addressed the issues raised by the PC regarding the layout, including retaining the pedestrian access into the site and the neighbouring field to connect with the PROW, and closure of the road so that there would be no vehicular access into the neighbouring field. In addition to the open space each home is provided with a satisfactory sized private garden, including a garden/cycle storage shed and bin storage area. It is considered that the development would not appear cramped and that the density is comparable to the development to the south in Percy Thrower Avenue.
- 6.2.4 Percy Thrower Avenue is a cul-de-sac development that was constructed following approval in 2004 (SA/03/1516/F) for the erection of 9 affordable and 9 open market dwellings comprising 6 bungalows and 12 two storey dwellings. It is considered that the scale and design of the proposed dwellings in the new cul-de-sac development proposed, and the mix in the size of units will provide a satisfactory balance of housing in keeping with the mix of scale and design of housing in the locality.
- 6.2.5 The dwellings facing the highway are proposed to be bungalows and will be in keeping with the single storey development on the opposite side of the road, and together with the proposed boundary hedge will help to soften the transition from countryside to built development when approaching the village from the north. The development will become the new edge of the north of the village (as did the development in Percy Thrower Avenue before) and now that the north-west corner has been rounded off and subject to satisfactory landscaping along the north boundary it is considered that the proposal would have no adverse impact on the character and appearance of the locality.
- 6.2.6 Any built development of a greenfield site changes its character and appearance and will result in the loss of agricultural land (which in this case is lower grade 3). It is considered that the development as proposed minimises the visual impact and that this minor encroachment into the countryside and loss of this small corner of agricultural land is far outweighed by the social and economic benefits of providing much needed affordable housing.
- 6.3 Residential amenity
- 6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and well-being of communities, including safeguarding residential and local amenity. Paragraph 135 of the NPPF states that planning policies and decisions should



ensure that development ‘creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.’

- 6.3.2 With regards to existing residents the closest to the proposed built development are those to the south in Percy Thrower Avenue. Due to the site being situated to the north and due to the distance of over 14 metres between the side of the houses proposed on plots 15 and 16 and the nearest existing houses (2, 4, 6, 8, 10 and 12 Percy Thrower Avenue) and the distance between the rear of the proposed house on plot 16 and the front of 11 Willow Close (over 20 metres) it is considered that the development would not appear overbearing or obtrusive and would not result in overshadowing or a loss of light.
- 6.3.3 There will be over 20 metres between the rear east elevation of the proposed house on plot 16 and the front west elevation of 11 Willow Close. The side elevation of the houses on plots 15 and 16 that will face the rear of the existing houses are indicated to be blank. The proposal therefore has no windows that might overlook existing houses or gardens, and a condition is recommended to ensure that none can be added to these side elevations in the future. There is no right to a view and potential impact on property value is not a material consideration.
- 6.3.4 With regards to the living conditions of future residents the size of the houses meet minimum space standards and as previously noted satisfactory private gardens will be provided in addition to shared open space. Further survey work is required to determine whether gas protection is required and a pre-commencement condition requiring further ground gas risk assessment is recommended.
- 6.3.5 The MOD has referred to aircraft noise and that a noise assessment, and potentially mitigation, will be required. The recommended condition is included in Appendix 1 and will ensure that a noise assessment is carried out and submitted with details of any mitigation measures required (if necessary) to ensure satisfactory internal noise levels.
- 6.3.6 Subject to compliance with the recommended conditions it is considered that the proposal would have no significant adverse impact on existing residential amenity and the proposed development will provide satisfactory living conditions for future residents.
- 6.4 Access and parking
- 6.4.1 CS6 seeks to ensure that development is designed to a high quality, consistent with national good practice standards including appropriate landscaping and car parking provision. SAMDev MD2 requires that development should provide adequate on-site car parking to ensure that cars do not overspill onto surrounding roads and therefore negatively impact on the local road network. Paragraph 115 of 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.

6.4.2 The proposed access is via a new opening in the hedge on to Merrington Road and the proposal includes the provision of 34 designated parking spaces and 3 visitor spaces. Highways have no objection to the proposal, and it is considered that a safe means of access will be provided to the highway and adequate parking provision for residents and visitors is indicated. The layout of the internal road layout is acceptable with location points for bins on refuse collection day indicated and adequate turning space for refuse vehicles.

6.4.3 Subject to compliance with the recommended conditions the proposal would have no adverse highway safety implications.

#### 6.5 Ecology, trees and landscaping

6.5.1 A Preliminary Ecological Appraisal prepared by Brindle & Green (June 2023) recommends further surveys with regards to Great Crested Newts due to a pond in the adjacent field. The Council's Ecologist advised that further survey work was required to determine whether a mitigation and compensation strategy is required or alternatively the applicant could apply into the Natural England's District Level Licencing (DDL) Scheme, in place of traditional surveying techniques.

6.5.2 A provisional certificate has been provided in respect of the DDL, and Ecology have confirmed that the IACPC will need to be countersigned by Natural England before a decision can be issued. Ecology have recommended conditions to be included on the decision notice and these are included in appendix 1.

6.5.3 Natural England advises that District Level Licensing (DLL) is an alternative approach to mitigation licensing for planning applications to develop sites which might affect great crested newts. District level licensing aims to increase the number of great crested newts by providing new or better habitats in targeted areas to benefit their wider population. It is a simpler and quicker process than mitigation licensing because planning applications do not need to include surveys of great crested newts or carry out mitigation work. Confirmation of acceptance by Natural England into the DLL scheme (receipt of a counter signed Impact Assessment and Conservation Payment Certificate IACPC) is required prior to determination.

6.5.4 Receipt of the IACPC that confirms that the application is suitable for district level licensing, will ensure new or better habitats can be provided for GCN in targeted areas to benefit their wider population and therefore maintain favourable conservation status. The Council's Ecologist has also confirmed that the submitted landscape proposal is acceptable and that subject to compliance with the recommended conditions the proposal will ensure the protection of wildlife and provide ecological enhancements as required by MD12 and CS17.

6.5.5 An Arboricultural Impact Assessment has been submitted that identifies 10

individual trees, 1 group of trees and 2 hedgerows. All trees and hedgerow are proposed to be retained apart from a short section of hedgerow to allow for the access to be provided. The loss of this small section of hedgerow is more than compensated for by the proposed hedgerow planting along the new boundary to the north and additional tree and hedge planting. A tree protection condition is recommended to ensure the protection of trees to be retained.

## 6.6 Drainage

6.6.1 Full drainage details have been submitted and have been confirmed to be acceptable by the Councils drainage team.

## 7.0 **CONCLUSION**

7.1 The proposal meets an identified need for affordable housing in the village of Bomere Heath, and the location of the proposed development 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. Minor encroachment into the countryside and loss of this small corner of lower grade agricultural land is far outweighed by the social and economic benefits of providing much needed affordable housing.

7.2 The scale, design and appearance of the proposed dwellings and the layout of the site are appropriate and includes policy compliant open space. It is considered that the proposal would have no adverse impact on the character and appearance of the locality or have a significant adverse impact on existing residential amenity, and the proposed development will provide satisfactory living conditions for future residents and complies with policies CS6, CS17 and MD2.

7.3 There would be no highway safety implications as a safe means of access and adequate parking and turning space will be provided, and pedestrian access to the adjacent field and PROW will be maintained. District level licensing will ensure new or improved habitats can be provided for GCN in targeted areas to benefit their wider population. Subject to compliance with the recommended conditions the existing trees to be retained will be protected, landscaping of the site will be secured that will enhance biodiversity, and the proposal will ensure the protection of wildlife and provide ecological enhancements as required by MD12 and CS17.

## 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:

National Planning Policy Framework

### Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:

CS5, CS6, CS11, CS17, MD2, MD7a, MD12 and the housing SPD

#### 11. Additional Information

##### List of Background Papers

23/02934/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RXC4VGTDIC200>

Cabinet Member (Portfolio Holder): Councillor Chris Schofield

Local Member: Councillor Lezley Picton

##### 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, drawings and documents as listed in Schedule 1 below.

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. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without

the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4. No development shall take place (including demolition, ground works and vegetation clearance) until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of great crested newts, which are European Protected Species.

5. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance – Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which

is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

6. Prior to the commencement of development a Construction Traffic Management Plan/Method Statement (CTMP/MS) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP/MS shall remain in force for the duration of the construction period of the development.

Reason: In the interests of highway/pedestrian safety and local amenity.

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

7. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, great crested newts, reptiles and other terrestrial mammals as provided in Section 7 of the Preliminary Ecological Appraisal (Brindle & Green, June 2023).

Reason: To ensure the protection of and enhancements for bats and Great Crested Newts, which are European Protected Species, birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended) and reptiles which are protected under the 1981 Wildlife and Countryside Act (as amended).

8. Prior to first occupation / use of the buildings, the makes, models and locations of the following wildlife boxes shall be submitted to and approved in writing by the Local Planning Authority.

- A minimum of 8 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 8 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
  - A minimum of 8 artificial nests, of integrated brick design, suitable for swifts (swift bricks).
  - A minimum of 5 invertebrate bricks/hotels (external or integrated design) suitable for pollinators.
  - A minimum of 3 hedgehog domes (standard design) to provide suitable refuge for hedgehogs.
- The wildlife boxes shall be erected on the site prior to the first occupation of the development and shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

9. All hard and soft landscape works shall be carried out in accordance with the approved plans prior to the first occupation of any part of the development hereby approved. 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 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.

10. Prior to above ground works, a Noise Impact Assessment to include full details of mitigation measures (if required) to achieve daytime noise levels of 35dB LAeq (16hrs) within living rooms between 0700 and 2300 hours, and night-time levels of 30dB LAeq (8 hrs) within bedrooms between 2300 and 0700 hours, shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall be constructed in accordance with any approved mitigation measures and shall be retained for the lifetime of the development.

Reason: To ensure that the approved development provides a satisfactory internal living environment for future occupiers.

11. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

12. 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.

13. The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

14. The construction of any new estate street shall not be commenced until an estate street completion plan has been submitted to and approved in writing by the local planning authority. The estate street completion plan shall set out the standards that estate streets serving each residential unit of the development will be completed.



Reason: To ensure that the estate streets serving the residential units are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

15. Prior to the development hereby permitted being first occupied a Travel Plan shall be fully implemented in accordance with details to be first submitted to and approved in writing by the Local Planning Authority; the Travel Plan shall remain in place for the lifetime of the development.

Reason: To promote sustainable travel to the site in the interests of reducing carbon emission and promoting health benefits.

16. Prior to the first occupation of any part of the development a 'landscape management plan' (to include a maintenance schedule and management responsibilities including details of the financial and legal means through which the management plan shall be implemented) for the future management and maintenance of the 'open space' (which shall include the play area and all landscaped areas of open space other than within private domestic gardens), shall be submitted to and approved in writing by the local planning authority. The open space shall permanently remain for public use and enjoyment for the lifetime of the development, and the landscape management plan shall be carried out as approved in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of the open space.

17. Prior to the first occupation of the development hereby approved, details of the play equipment to be installed in the 'LAP' (Local Area for Play within the POS (public open space) indicated on the approved plans shall be submitted to and approved in writing by the LPA. The proposed play equipment shall be fully installed in accordance with the approved details prior to the first occupation of any part of the development. Prior to installation of the approved play equipment a 'management plan' (to include a maintenance schedule and management responsibilities including details of the financial and legal means through which the management plan shall be implemented) for the future management and maintenance of the approved play equipment shall be submitted to and approved in writing by the local planning authority. The management plan shall be carried out as approved in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the provision of, and future management and maintenance of, the approved play equipment situated within the open space.

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

18. No windows or other openings shall be formed in the side elevation or side roof slope of the houses on plots 15 and 17 unless they are obscure glazed and non-opening.

Reason: To preserve the amenity and privacy of adjoining properties.