



Appeal Decision

Site Visit made on 7 September 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Appeal Ref: APP/G1630/W/21/3273676

Land North Of Church End, Twynning, Tewkesbury GL20 6BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Land Allocation Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 20/00636/OUT, dated 13 July 2020, was refused by notice dated 17 November 2020.
 - The development proposed is described as outline application including access, with all other matters reserved for up to 36 (maximum) residential dwellings for over 55's.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 36 (maximum) dwellings, including residential dwellings for over 55's at Land North Of Church End, Twynning, Tewkesbury GL20 6BY in accordance with the terms of the application, Ref 20/00636/OUT, dated 13 July 2020, subject to the conditions in the Schedule at the end of this decision.

Preliminary Matters

2. The description of development in the header is taken from the application form. The appellant's statement indicates that 22 of the proposed dwellings would be specialist accommodation for over 55's with 14 units being affordable housing with unrestricted occupancy. The submissions indicate the Council has considered the scheme on this basis and so shall I. To ensure consistency between the description and imposed conditions, my decision inserts the word "including" before "residential dwellings for over 55's". The main parties do not object to this amendment and it would cause no prejudice.
3. The application was submitted in outline with approval sought for details of access. I have treated the other information as being submitted for illustrative purposes.
4. The appellant has submitted 3 signed unilateral undertakings (UUs) pursuant to section 106 of the Act. The first 2 dated 6 June 2021 are the same but with different signatories. They include the same planning obligations in respect of the provision of affordable housing and an affordable housing contribution, public open space and contributions towards recycling and waste, off-site areas of play, education, public transport and libraries. The third UU is dated 2 September 2021 and includes similar planning obligations, although it omits that in respect of a contribution towards education. The Council has had the opportunity to comment on the UUs and I have taken them into account.

5. An emerging Tewkesbury Borough Plan (eBP) has been the subject of an examination and the examining Inspector has advised that it can be made sound by a series of modifications. The eBP is fairly advanced although it is not yet adopted. Appropriate weight can be afforded to its policies depending upon the extent to which they are subject to modification.

Main Issues

6. The main issues are (i) whether the proposal would be in a suitable location having regard to the development plan policies and the National Planning Policy Framework (the Framework), (ii) its effect on the character and appearance of the area, (iii) the effect on biodiversity, and (iv) the planning obligations.

Reasons

Suitability of location

7. Policy SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) allows residential development in rural service villages and in other circumstances where it would accord with district or neighbourhood plan policies. Policy GD1 of the Twyning Parish Neighbourhood Development Plan 2018 (NDP) sets out situations when housing outside the development boundary will be supported.
8. Twyning is defined as a rural service village in the JCS but the proposal would be outside the development boundary as identified in the NDP. Also, none of the circumstances as set out in NDP policy GD1 apply in this case. JCS policy SD11 supports the provision of accommodation for older people. However, there is no indication that specialist housing schemes are exempt from the JCS and NDP policies on the location of residential development.
9. There would be fairly convenient access by foot from the development to the school, shop, pubs and other facilities in Twyning. As such, the proposal would accord with the Framework's policy to locate rural housing where it would enhance or maintain the vitality of rural communities. Nevertheless, this does not fully address or override the conflict with JCS and NP policies.
10. Therefore, I conclude the development would not be in a suitable location having regard to JCS policies SP2 and SD10 and NDP policy GD1. The harm caused in this respect is tempered by the scheme's accordance with the Framework's provisions on the location of rural housing.

Character and appearance

11. The southern edge of the built up area of Twyning is marked by recently constructed houses, referred to in the submissions as Cornerways. There are views of the site from the southern boundary of this development, from the adjacent highway (Shuthonger Lane) and from the public footpaths that run in a north to south direction across the centre of the plot and on its eastern edge. The trees and hedgerow lined fields on the site form part of the rural setting to the village and the wider countryside between Twyning and Church End.
12. Inevitably, the introduction of up to 36 dwellings and associated infrastructure would change the appearance of the site and erode its rural nature. However, the indicative plans show the retention of much of the existing vegetation as

- well as the provision of new planting. Significant landscaping as indicated would to a degree mitigate the visual impact of the scheme.
13. The indicative plans show the proposed housing towards the west and central sections of the site with only a drainage pond on its eastern side. This layout would help ensure no harmful visual effect from the eastern public footpath.
 14. When approaching from the south along the central right of way, the development would be seen against the backdrop of houses set on higher ground at Cornerways. Therefore, the proposal would to a degree visually integrate with the village when seen from this direction although it would not adjoin the existing extent of built development.
 15. The proposal would be seen from the central footpath as it runs through the site. However, there would be scope to provide new landscape features and planting to screen views of buildings and houses could be designed to reflect local styles. Also, the scheme could include open space areas as indicated on the submitted drawings. Such features would help ensure the development provides a pleasant environment, albeit one which would be markedly less rural in nature than the existing fields.
 16. The scheme would be separated from Cornerways by an intervening field and this would be readily apparent in views from the north. From this direction, the loss of openness as a result of the proposal would be evident. Moreover, it is fair to expect the development would lead to more light emission from the site than the current situation. In these regards, the scheme would be contrary to NDP and eBP policies which seek to protect the rural qualities and openness of land between Twynning and Church End. However, the scheme would affect only a small part of the tract of land between the settlements and so it would avoid coalescence.
 17. The proposed access would be visible from the road and would potentially allow sight of the houses. As a consequence, the scheme would erode the rural nature of a short length of Shuthonger Lane. However, through sensitive layout, design and landscaping the development would not be prominent from the highway.
 18. In summary, I find the proposal would not fully integrate with the existing built development and would diminish the openness and the rural qualities of the countryside setting to Twynning. It would be possible to mitigate this impact to a degree but, even so, I conclude the development would be detrimental to the character and appearance of the area. In these regards it would be contrary to JCS policy SD6 and NDP policies GD4 and ENV2. Amongst other things, these aim to ensure proposals respect landscape quality and maintain a separation between Twynning and Church End.

Biodiversity

19. Ponds close to the site are highly suitable for great crested newts (GCNs), a European Protected Species (EPS). Moreover, the appellant's investigations have identified a large local population. The proposal would not directly affect the ponds but it is likely GCNs use the supporting habitat on the site.
20. In light of the risk of harm to GCNs, a mitigation strategy has been produced which includes provision of green space, a new pond, hedgerow and log pile

hibernacula. The indicative drawings suggest such features could be incorporated into the scheme.

21. The Council is concerned that the appellant's GCN survey is out of date. However, the mitigation measures have been drawn up on the basis of a large local GCN population. As such, it is doubtful that further surveys would indicate a need for additional measures over and above those already proposed.
22. The Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether EPS would be affected by a proposal and whether mitigation would be effective. In carrying out this duty, I have had regard to the 'derogation tests' set out in regulation 55 of the 2017 Regulations. These would need to be met for a EPS licence to be issued.
23. The evidence demonstrates the mitigation measures would maintain the GCN population. The proposal would contribute to the housing stock and bring associated economic benefits that are of a public interest and which would override the risk of harm to GCNs. The loss of suitable habitat is necessary to allow the scheme to proceed. Therefore, it is likely that a EPS licence in respect of GCNs would be issued to carry out the development.
24. Ecological surveys have identified the potential for nesting birds and roosting bats on the site. The plans indicate the general retention of trees and hedges and other safeguarding measures would prevent harm to such species. The Council advise the scheme would have no effects on the Bredon Hill and Dixon Wood Special Areas of Conservation due to significant separation distances. There is no reason for me to arrive at a different view on these issues.
25. For the above reasons, I conclude the development would not have an unacceptable effect on biodiversity. In these regards, it would accord with JCS policy SD9, which amongst other things, seeks to ensure EPS are protected.

Planning obligations

26. There is no dispute between the main parties that the planning obligations in respect of affordable housing, provision of public open space and contributions towards recycling and waste, off-site areas of play, public transport and libraries are fair and reasonable. Also, it is agreed that such planning obligations would be necessary to address the Council's objections as set out in its 4th, 6th and 7th refusal reasons. I find no grounds to disagree with the parties on these matters.
27. The appellant disputes the need for the planning obligations as set out in the first 2 UUs which require contributions towards the provision of extra early year places and at the nearest schools. Reference is made to an appeal decision¹ in which the Inspector raises concern over the way Gloucestershire County Council (GCC) calculates the need for school places generated by development as well as the method of assessing school capacity. The latest appeal submissions from the Council and the GCC no longer contend the need for this contribution. As such, I find the planning obligations in respect of education contributions in the first UUs are unnecessary. I give no positive weight to these in my assessment.

¹ Appeal reference number APP/G1630/W/20/3257625

28. While not referred to in the formal refusal reasons, GCC contend the need for a contribution towards the costs of transporting children from the development to primary school. The GCC's Local Developer Guide 2021 states such contributions will be sought where it is not possible to access a school place within statutory distances from a development.
29. However, the Local Developer Guide does not form part of the development plan. Moreover, the proposal would be within the cited 2 mile walking distance of the primary school in Twynning. As such, residents would be able to access the nearest school without reliance upon transport arranged by the local authority. There is limited information to substantiate GCC's claim that Twynning School would be unable to accommodate any primary school age children who reside in the proposed development due to capacity issues. Also, there is no evidence to show that residents would rely upon local authority transport to the extent suggested, even if children do not attend Twynning School. For these reasons, I conclude the suggested transport to school planning obligation would be unfair and unnecessary to make the proposal acceptable in planning terms.
30. The Council and GCC have raise concerns over the legal soundness of the UUs. In light of the information before me, I am satisfied they are signed by all relevant proprietors and parties with a charge on the appeal site. The UUs include clauses that bind successors in title to the planning obligations and plans that identify the site. Each obligation is subject to clear trigger points. The Councils suggest some of these are different to their normal practice but I am referred to no planning policies that stipulate the timing of contributions.
31. The affordable housing planning obligations are criticised as they do not require a minimum amount of affordable housing. However, this matter could be addressed through a planning condition which requires the approval of a housing mix statement. Also, an appropriate design of affordable housing can be secured through the assessment of reserved matters applications. As such, it is unnecessary for an affordable housing scheme to be submitted prior to a reserved matters application as suggested.
32. The Council and GCC have recommended various other changes to the wording of the UUs to provide explanation and aid with interpretation. However, I am satisfied they are sufficiently clear and detailed to ensure the planning obligations are effective. Also, no planning policies or guidance are referred to in support of suggested amendments to the obligations in respect of a different index system and additional clauses on monitoring costs and late payments.
33. For the above reasons, I conclude the planning obligations where indicated above are fair, reasonable and necessary and the UUs would be effective in securing the obligations. As such, the development would accord with JCS policies SD12, INF1, INF4, INF6 and INF7, NDP policies H3, LF1 and ENV3 and policy RCN1 of the Tewkesbury Borough Local Plan 2006. The refusal reasons refer to NDP policy TP1 but this contains no provisions on planning obligations.

Other considerations

34. Several other concerns have been raised. There is no substantive reason to find the proposal would lead to unacceptable pressure on the local drainage system, particularly in light of comments from Severn Trent Water that there are planned improvements to the mains system. A planning condition could be imposed to ensure the development is not first occupied until it is shown foul

sewerage is suitable. Also, a planning condition would ensure surface water from the proposal is disposed of appropriately.

35. The development would generate traffic on local lanes but there is no firm evidence that shows this would lead to road capacity problems or prejudice highway safety. The proposed pavement along Shuthonger Lane would provide safe pedestrian access as an alternative to the existing footpaths.
36. There is no sound indication the proposal would put an excessive strain on services within the village. Moreover, my assessment is based upon the particular circumstances and merits of the scheme and so a decision to allow this appeal would not set a precedent for future proposals.
37. The concerns raised fail to justify dismissing the appeal. As such, they do not affect my overall assessment.

Housing land supply and planning balance

38. For the reasons set out in respect of the first and second main issues, the proposal would not accord with development plan policies when read as a whole. It follows to consider whether other considerations justify allowing the appeal contrary to the development plan.
39. The Framework requires local authorities to identify a supply of deliverable sites sufficient to provide a minimum of 5 years' worth of housing. The Council states it can demonstrate 4.37 years of supply. I have been provided with a planning appeal decision² where an Inspector found that only 1.82 years of supply could be identified. Also, a more recent appeal decision³ has been submitted in which the Inspector indicates a 3.82 years' supply can be shown. The evidence leading to these Inspectors' findings is not before me and so I am unable to comment on their validity. In any event, there is no dispute that a 5 year housing land supply cannot be demonstrated.
40. In such circumstances, paragraph 11 of the Framework states that relevant development plan policies which are most important for determining the application are deemed out-of-date. Therefore, the benefits of the scheme and its adverse impacts need to be considered against the Framework policies as a whole. As the NDP was made more than 2 years ago, the provisions of paragraph 14 of the Framework do not apply.
41. Even if a 4.37 year housing land supply is accepted, the proposal would make a meaningful contribution towards addressing an identified shortfall. Moreover, the development would include affordable housing as well as accommodation for people aged over 55. The evidence indicates that only a small proportion of existing properties within Twynning are affordable and the Council acknowledges a general need for homes suitable for the elderly. Given these factors and the scale of the development, I attach considerable weight to the scheme's benefits in terms of housing provision.
42. In addition, the proposal would create construction employment and it would be close enough to allow future occupants to support village services. These economic benefits attract significant weight.

² Appeal reference number APP/G1630/W/20/3256319

³ Appeal reference number APP/G1630/W/20/3259637

43. The planning obligations would address needs raised by occupants of the development but contributions towards public transport and outdoor play space may also benefit the existing local population. These factors are attributed modest weight.
44. The proposal would go against the aim of the Framework to ensure development recognises the intrinsic character and beauty of the countryside. This harm attracts significant weight in my assessment. However, whilst contrary to development plan policies on the distribution of residential development, the scheme would accord with the Framework's policy to locate rural housing where it would maintain the vitality of rural communities.
45. When considering all of the relevant factors together, I find the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the Framework. Therefore, the presumption in favour of sustainable development as set out at paragraph 11 of the Framework applies. In such circumstances, the Framework states planning permission should be granted.
46. The scheme would conflict with development plan policies when read as a whole. However, its benefits and other considerations are of sufficient weight to justify granting planning permission contrary to the development plan.

Conditions

47. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons and to avoid unnecessary pre-commencement conditions.
48. The first 3 conditions are required by law. Although not suggested, I have also included a condition that requires the proposed access to be constructed as shown on the approved plans as such details are not reserved matters.
49. In the interests of highway safety, a condition is imposed that requires the submission and approval of a construction management plan. To ensure the well-being of protected species, a separate condition is included that requires a construction ecology management plan as well as landscape and ecology management and lighting plans. To safeguard GCN's, a condition is needed that restricts the commencement of development until a EPS mitigation licence has been provided. Also, to protect bats, a condition is required that prevents the removal of trees identified as having roost potential until any necessary bat mitigation measures have been agreed.
50. To ensure the proposal protects the natural and visual qualities of the site, a condition is imposed that requires tree protection measures and an arboricultural method statement. This removes the need for separate conditions regarding excavation works within root protection areas and that require details of retained trees and hedges to be provided as part of any application for landscaping reserved matters approval.
51. To minimise waste, a condition is needed in respect of a site waste management plan. Also, a condition is imposed that requires the approval of a housing mix statement to ensure the proposal contributes to the creation of mixed and balanced communities and incorporates appropriate affordable housing. I have amended the suggested condition so as to require this

information prior to the commencement of development rather than as part of the first reserved matter. This would then allow for the possibility of different detailed schemes being submitted and approved.

52. Conditions are imposed to ensure surface and foul water generated from the proposal is disposed of appropriately. To ensure an acceptable impact on the wider main drainage system, a condition is included that prevents occupancy until foul sewerage improvements as may be required have been implemented.
53. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines the meaning of appearance and landscaping reserved matters. As such, the suggested conditions that set out the information required with reserved matters applications are generally not needed. However, to ensure the satisfactory appearance of the proposal and the provision of an appropriate living environment, conditions are imposed that relate to ground levels and boundary treatments.
54. To minimise air pollution, I attach conditions that relate to boilers and electric vehicle charging points. To protect features of ecological value, a condition is included in respect of homeowner information packs.
55. In the interests of highway safety, conditions are imposed regarding the provision of the vehicular access and visibility splays. A condition on the proposed footway link along Shuthonger Lane is needed to ensure suitable pedestrian links are provided. A condition that requires vehicular access to be from Shuthonger Lane is unnecessary as this is shown on the plans.
56. To ensure a satisfactory appearance, a condition is included that requires the provision of all planting as approved under landscaping reserved matters. My assessment is based on the premise that the open market units would address a specific need for elderly persons' housing. As such, I attach a condition that limits the occupancy of these units.

Conclusion

57. For the above reasons, I conclude that the appeal should succeed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun either before: (i) the expiration of five years from the date of this permission, or (ii) before the

- expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The access to the development hereby permitted shall be carried out in accordance with the approved plan 60597123-M001.70-1 included as appendix A to the Newell Edwards Transport Statement dated 20 March 2020.
 - 5) No development shall commence until a construction management plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for:
 - 24 hour emergency contact number;
 - hours of operation;
 - parking of site operatives' and visitors' vehicles (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - routes for construction traffic;
 - locations for loading/unloading and storage of plant, waste and construction materials;
 - method of preventing mud being carried onto the highway;
 - measures to protect vulnerable road users (cyclists and pedestrians)
 - any necessary temporary traffic management measures;
 - arrangements for turning vehicles;
 - arrangements to receive abnormal loads or unusually large vehicles;
 - methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses.
 - 6) No development shall commence until a landscape and ecology management plan (LEMP), a construction ecology management plan (CEMP) and lighting plan (LP) have been submitted to and approved in writing by the local planning authority. The LEMP and CEMP should demonstrate suitable mitigation and enhancement for the local great crested newt population as well as an implementation timetable. The development shall be carried out in accordance with the approved LEMP, CEMP and LP.
 - 7) No development shall commence until evidence of a Natural England European Protected Species mitigation licence for great crested newts has been submitted to the local planning authority. The development shall be carried out in accordance with the terms of the licence.
 - 8) If as part of the development it is proposed to remove or carry out works to any of the trees identified as having low or moderate bat roost potential in the Deltasimons Preliminary Ecological Appraisal dated May 2020, such works shall not be carried out until a bat report which confirms whether the trees are used by roosting bats has been submitted to and approved in writing by the local planning authority. In the event that affected trees are used for bat roosting, no works to the trees shall be carried out until a bat mitigation strategy and evidence of obtaining a

European Protected Species mitigation licence has been submitted to and approved in writing by the local planning authority.

- 9) No development shall commence until a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan (TPP) and an arboricultural method statement (AMS) has been submitted to and approved in writing by the local planning authority. The issues to be covered in the TPP and AMS include
- a) the location and installation of services/utilities/drainage.
 - b) details of construction within the root protection area or that may impact on the retained trees.
 - c) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification.
 - d) a specification for protective fencing to safeguard trees during construction phases and a plan indicating the alignment of the protective fencing.
 - e) Veteran tree protection and management.

The development shall be carried out in accordance with the approved tree protection scheme.

- 10) No development shall commence until a site waste management plan has been submitted to and approved in writing by the local planning authority. The plan shall identify the main waste materials expected to be generated by the development during the construction phase and shall set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The construction of the development shall be carried out in accordance with the approved plan.
- 11) No development shall commence until a housing mix statement that sets out the size, type and tenures of housing to be provided for the whole scheme has been submitted to and approved in writing by the local planning authority. The development shall be designed and implemented in accordance with the approved housing mix statement.
- 12) No development shall commence until drainage plans for the disposal of surface water have been submitted to and approved in writing by the local planning authority. The details to be provided shall include a sustainable drainage system strategy document that demonstrates the feasibility of the proposed drainage system to manage flood risk and water quality for the life time of the development. None of the dwellings hereby approved shall be first occupied until the drainage scheme has been implemented in accordance with the approved details.
- 13) No development shall commence until a management and maintenance plan for the proposed surface water drainage system has been submitted to and approved in writing by the local planning authority. The details to be provided shall include the arrangement for adoption of the drainage system by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its

- lifetime. The surface water drainage system shall be managed and maintained in accordance with the approved details.
- 14) No development shall commence until drainage plans for the disposal of foul water have been submitted to and approved in writing by the local planning authority. None of the dwellings hereby approved shall be first occupied until the foul water drainage scheme has been implemented in accordance with the approved details.
 - 15) None of the dwellings hereby approved shall be first occupied until the need for foul sewerage improvements have been investigated and the resulting foul sewerage improvements have been fully implemented and completed and confirmed in writing as such by Severn Trent Water Limited to the local planning authority.
 - 16) Any application seeking approval of layout or appearance reserved matters shall include details of existing and proposed ground levels and finished floor levels relative to Ordnance Datum Newlyn. The development shall be constructed in accordance with the approved details.
 - 17) None of the individual dwellings hereby permitted shall be first occupied until boundary treatments for the associated dwelling plot have been erected in accordance with approved landscaping reserved matter details.
 - 18) None of the individual dwellings hereby permitted shall be first occupied until details of ultra low NO_x boilers to be installed and with maximum emissions less than 40 mg/kWh have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 19) None of the individual dwellings hereby permitted shall be first occupied until appropriate cabling and an outside electrical socket to enable installation of an electric vehicle charging point has been provided. The charging point shall comply with BS7671 and the socket shall comply with BS1363 and shall be provided with a locking weatherproof cover if located externally to the building.
 - 20) No part of the development hereby permitted shall be first occupied until a sample Homeowner Information Pack has been submitted to and approved in writing by the local planning authority. The pack shall contain information to make new residents aware of the sensitivities of nearby sites of nature conservation concern and how to act responsibly to avoid disturbing wildlife. In addition, a map of alternative public open spaces including those in the development and their foot/cycleway links plus public transport links shall be included along with guidelines on wildlife gardening including leaving the pre-cut hedgehog tunnels in fences to allow their movement across the estate. The approved Homeowner Information Packs shall be given to all residents when occupying the development.
 - 21) No part of the development hereby permitted shall be first occupied until the vehicular access has been laid out and constructed in accordance with the approved drawing no. 60597123-M001.70-1. The access shall be surfaced in bound material and drained so that surface water does not run onto the publicly maintainable highway. The access shall be retained and maintained thereafter.

- 22) No part of the development hereby permitted shall be first occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the development and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance 215m left and 96m right (Y-points) measured along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the triangular areas of the land so formed which would obstruct visibility.
- 23) No part of the development hereby permitted shall be first occupied until a pedestrian footway along Shuthonger Lane has been constructed in accordance with the approved drawing number 60597123-M001.70-1.
- 24) All planting, seeding or turfing in the approved landscaping details as required under condition 1 shall be carried out in the first planting and seeding season following the first occupation of any part of the development or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 25) The open market dwellings hereby permitted shall only be occupied by persons of 55 years and over and their dependants.