



Appeal Decision

Site visit made on 4 May 2022

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH July 2022

Appeal Ref: APP/J1860/W/20/3258806
Land West of Pickersleigh Grove, Malvern
GR 378321E 246755N OS 7832 4674

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mike Baggett (Platform Housing Limited) against the decision of Malvern Hills District Council.
 - The application Ref 20/00660/FUL, dated 18 May 2020, was refused by notice dated 16 July 2020.
 - The development proposed is the erection of 21 dwellings, including open space and associated infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 21 dwellings including open space and associated infrastructure on land west of Pickersleigh Grove, Malvern (GR 378321E 246755N OS 7832 4674) in accordance with the terms of application Ref 20/00660/FUL, dated 18 May 2020, subject to the conditions set out in the Schedule appended to this decision.

Procedural Matters

2. The application was refused for five reasons related to (1) loss of green space, (2) effect on protected trees, (3) details of layout, (4) insufficiency of highways information and (5) lack of a legal agreement to secure affordable housing.
3. Subsequently, further highways information was provided and is taken into account in this decision, together with the response of the Council to it. The Council no longer pursues the fourth reason for refusal, following agreement to revised plans and the imposition of agreed conditions, considered further below.
4. The Appellants and the Council have now completed a legal agreement under Section 106 of the Act (as amended). This establishes a planning obligation to provide the 21 proposed dwellings as affordable housing, thereby addressing the fifth reason for refusal. The Section 106 agreement also provides for a financial highways contribution towards improvements to bus stops and the completion and maintenance of public open spaces to be created within the development. The materiality of all these planning obligations is considered below.

5. The Appellants and the Council have agreed and suggested a schedule of pre-commencement and other planning conditions to be imposed on any permission granted and these suggestions inform the assessment below.
6. The Appellants draw attention to two recent appeal decisions wherein it was found that the Council was unable to demonstrate the requisite five year housing land supply (5YHLS) and the Council has responded, maintaining its view to the contrary. This late evidence is also taken into account.
7. The Council has confirmed that, based upon available maps, legislation and guidance, the appeal site does not appear to fall within an affected river catchment with respect to the recent advice of Natural England in relation to nutrient neutrality.

Description

8. The greenfield appeal site of some 1.14ha lies within the settlement boundary of Great Malvern, as defined by the adopted South Worcestershire Development Plan (SWDP).
9. The site is adjacent to the Pickersleigh Grove housing development, which is nearing completion to its north and east. Two previously permitted dwellings, at Plots 46 and 47 of that development, would be lost to the alterations required to form the road access to the proposed dwellings, reducing the net gain to 19 dwelling units overall.
10. The site is part of an area of designated Green Space according to the SWDP which includes Hayslan Fields to the south and Link Common to the north. It is also part of a similar area designated as Neighbourhood Open Space (NOS) by the Malvern Neighbourhood Plan (MNP).
11. The site itself is generally overgrown, with many mature trees, five of them of veteran status, and is currently enclosed by fences and boundary hedges with no public access. There is a railway line on embankment immediately west of the appeal site. The open Green Space of Hayslan Fields to the south has free public access for informal recreation, being criss-crossed by public rights of way.
12. The proposed layout makes provision for some 37% of the site area to remain as green infrastructure in the form of areas of public open space around protected trees, as well as a maintenance strip beside a watercourse along the southern boundary.

Planning Issues

13. As the appeal site lies within the defined settlement boundary of Great Malvern, its development for housing is acceptable in principle, subject to compliance with all other relevant provisions of the development plan.
14. The main issues that remain for consideration in this appeal relate to: the loss of Green Space; the effect of the proposed development on protected trees; and details of the proposed housing layout with respect to residential amenity.
15. It is also necessary to consider: whether Malvern Hills District has a five-year housing land supply; the degree to which the provisions of the Section 106 planning obligations are material to the appeal, in particular the level of benefit

that would be derived from the provision of 21 affordable homes; and the planning conditions required.

Reasons

Loss of Green Space

Policy

16. Policy SWDP38(B) of the adopted South Worcestershire Development Plan resists development of Green Space but with exceptions, including that assessment by recognised methodology demonstrates that the Green Space is surplus to requirements or that the development would not compromise the essential quality and character of the Green Space.
17. Policy SWDP39 seeks a minimum 2ha of community Green Space per 1,000 population. Policy SWDP22 requires development to conserve and enhance the natural environment.
18. Policy MG2 of the made Malvern Neighbourhood Plan supports the development of Neighbourhood Open Space subject to certain criteria, including that it is demonstrated by objective assessment that there is a surplus of open space in the area and that the recreational function of the NOS and its links to other areas of NOS are retained.

Requirement

19. The 1.14ha appeal site, although not accessible to the public, is part of a surrounding much larger area of open space, including Hayslan Fields to the south and Link Common to the north, respectively subject to designations as Green Space by the SWDP and Neighbourhood Open Space by the MNP, having been recognised within the Natural Green Space typology of the Open Space Assessment of 2019.
20. It is not disputed that, according to the Open Space Assessment, the amount of Green Space available to the community is 3.42ha per 1,000 population compared with the 2ha standard of Policy SWDP39. In that sense, the appeal site is surplus to requirements in the terms of Policies SWDP38(B) and MG2.
21. However, quantitative surplus is not the only criterion for exception to the protective provisions of those policies. The Council is right that an assessment of the appeal site limited to the available quantity and public accessibility of Green Space is not sufficient.

Quality, Character and Function

22. There is no question that the area of Green Space that includes the appeal site is highly valued locally. This is evident from its nomination, albeit unsuccessful, in 2014 as an Asset of Community Value, as well as strong local opposition to this appeal proposal.
23. The contribution of Green Space to the character and appearance of the landscape and any adjacent townscape can be appreciated in both near and distant views, as well as from within. Aside from providing for informal recreation when accessible to the public, such land can enhance visual amenity and the sense of community well-being and maintain wildlife corridors, especially when it includes valuable woodland features.

24. In the case of the appeal site, the land and the mature trees upon it do contribute to visual amenity, including in distant views from the Malvern Hills Area of Outstanding Natural Beauty (AONB) to the west and provides an ecological connection between Hayslan Fields and Link Common.
25. Crucially however, the site forms only a small proportion of the totality of the locally designated Green Space and NOS and the public is completely excluded, such that the land contributes nothing to community recreation. That is in contrast with the adjacent larger area of Hayslan Fields, where there is a network of rights of way and public use is positively encouraged.
26. Near views of the appeal site are restricted by tall fencing and hedgerows, as well as by the railway embankment between the site and residential areas beyond.
27. The veteran and other trees and hedgerows, that would be retained, protected and managed for the life of the development, would continue to contribute to the visual amenity of the landscape, as do the magnificent specimens retained within the earlier development of Pickersleigh Grove. The built development now proposed would appear as a logical extension to the urban area.
28. Around a third of the site area would become dedicated public open space, often creating a setting for the better appreciation of the veteran trees and helping to maintain wildlife corridors, in line with Policy SWDP22.

Conclusion on Loss of Green Space

29. The appeal site is a small, enclosed private area of relatively little value as Green Space or NOS when compared with the wider expanses of Hayslan Fields and Link Common. Its loss would not significantly compromise the essential quality, character or recreational function of the Green Space and NOS.
30. Once developed as proposed, the site would keep ecological links to other adjacent Green Spaces and NOS whilst public links would be created with enhanced appreciation of the retained trees in appropriately landscaped settings.
31. Overall, the appeal proposals are appropriately to be regarded as largely compliant with the essential objectives of Policy SWDP38(B) and MNP Policy MG2 to protect Green Space and NOS and the natural environment, with only a minimal degree of conflict in terms of the degree to which the total area of dedicated open space would be reduced.

Effect on Protected Trees

Policy

32. Policy SWDP22, consistent with national policy, resists development that would result in the loss or deterioration of a veteran tree.

Potential Impacts

33. It is accepted that the five veteran trees on the appeal site should be protected by a buffer zone equivalent to fifteen times their stem diameter and that no built development should take place within those buffer zones. There is no dispute that the proposed development layout complies with that essential requirement.

34. There is nevertheless unresolved dispute between the respective expert evidence of the Council and the Appellants as to the effects of construction and the long-term alteration in the use and ground level of the land within and near to the defined buffers.
35. In particular, there is concern that there is potential for root damage, due to excavation and other construction activity, outside but close to the buffer zones and root protection areas (RPAs) of the veteran and other retained trees. There would also be some incursion within the buffers by permanent garden areas.
36. Some such incursion has already occurred close to the trees to be retained near the eastern boundary of the present appeal site due to the development of the adjacent earlier development of Pickersleigh Grove. Be that as it may, the effects of the present proposals are judged afresh in light of the current circumstances.
37. Incursion by gardens could affect parts of Tree Group G1 and individual Trees, for example Trees 3,6 and 7 towards the eastern side of the site. Where an access road is required to be constructed passing Tree 8 in the south west corner of the site, it is presently uncertain to what extent the ground level might be affected. In addition, there is concern that overshadowing by tree canopy at Plot 21 might give rise to future occupier pressure for removal of protected trees.
38. The intensification of the use of land, such as by the creation of domestic gardens, within protective tree buffers is generally to be avoided. In this case, however, the degree of incursion would be relatively limited. Whilst the gardens of dwellings Nos 7-11 would overlap a significant part of the buffer to Tree 7, otherwise major retained veteran trees would be within dedicated areas of public open space. The garden of No 21 would be adjacent to an open area and residents would take up occupation in the knowledge of the protected status of the nearby trees.
39. There are well-known methodologies for tree root protection which can be employed in these circumstances, including no-dig drainage installation and ground protection systems, whilst all retained trees would be fenced off during building works. These arrangements can be secured and subject to expert supervision by way of agreed method statements.
40. Agreed Conditions 21-24 of the Schedule appended to this decision provide for the advance approval of tree protection measures, including on-site liaison and specialist supervision. Condition 5 would ensure the advance approval of detailed site levels to avoid excessive excavation harmful to RPAs. Conditions 11-14 would secure a formal Construction Environmental Management Plan and full drainage construction details.

Conclusion on Protected Trees

41. Following careful consideration of the proposed layout in detail in light of the foregoing concerns, it is evident that a range of measures is available, to be secured by the agreed planning conditions, to prevent significant harm to any retained tree within the development. In this respect the proposals are compliant with Policy SWDP22.

Layout and Residential Amenity

Policy

42. Policy SWDP5 provides that greenfield residential development sites greater than 1ha should retain 40% green infrastructure.
43. Policy SWDP13 requires a net density of 30 dwellings per hectare (dpa) for developments in Malvern of fewer than 100 dwellings.
44. Policy SWDP21, consistent with other policies and national guidance, expects all development to be of high design quality, including with regard to its layout.

Layout and Residential Amenity

45. It is not disputed that the design of the proposed development replicates the style and pattern established by the current phase of Pickersleigh Grove, is well-connected to it and is acceptable, subject only to conditions to control building finishes secure certain detailed measures to limit the potential for crime. However, the Council criticises the layout in certain specific respects.
46. The Council considers that the unbroken row of car parking spaces at Plots 15-21 appears squeezed into the space available and fails to integrate with the surrounding development. However, planting areas are included between some of the spaces, which are located across the cul-de-sac from three major protected trees within a substantial area of public open space. This criticism therefore carries little weight.
47. The Council considers that the gables and intervening 2m boundary wall to houses Nos 12 and 13 would present unacceptable dead frontage to the cul-de-sac alongside. However, both these dwellings would have windows facing the street, providing natural surveillance, as would No 11 opposite. There would be some landscape planting on the southern side of the cul-de sac and public open space with a mature retained trees at the eastern end, offsetting any degree of harshness due to the boundary wall on the northern side. This criticism too therefore carries little weight.
48. The Council identifies the rear garden of house No 21 as potentially suffering excessive overshadowing by retained trees on its eastern side and an undue sense of enclosure resulting from the presence of the gable end of house No 12 to the south. However, No 21 would be an end-of-terrace property adjacent to an open space to offset these concerns, which also carry little weight.
49. Reviewed in detail in response to every concern raised, the layout is clearly constrained, in particular by the need to retain and protect veteran and other trees in the long term. However, the amounts of private amenity space to be provided for each dwelling appear reasonably generous and the development density would be around 21dpa, compared with the 30dpa cited by Policy SWDP13. This appears appropriate when due allowance is made for the local environmental constraints to be met.
50. Finally, the additional parking space at Plot 54 would extend outside the appeal site boundary but onto land in the control of the Appellants. In the circumstances, there is every prospect that the development could be completed in this respect, subject to the negative Grampian Condition No 6 of the Schedule.

Conclusions on Layout and Residential Amenity

51. The layout is clearly constrained, in particular by the need to retain and protect veteran and other trees in the long term. However, the amounts of private amenity space to be provided for each dwelling appear reasonably generous and the development density would be around 21dpa, substantially below the threshold of SWDP13. This appears appropriate when due allowance is made for the local environmental constraints to be met. The development would include some 37% green infrastructure compared with the 40% sought by SWDP5. However, at 1.14ha it is close to the lower threshold of 20% specified for larger sites and it is contiguous with other wider areas of green infrastructure, such that any policy conflict in this regard is minimal.
52. Reviewed in detail in response to every concern raised, the proposed development would be acceptable in terms of its layout and the standard of residential amenity it would provide. Overall, subject to the conditions mentioned above, the appeal proposals demonstrate a quality of design compliant with SWDP21.

Five Year Housing Land Supply

53. The Council is confident that it can demonstrate substantially more than a 5YHLS, as has been generally accepted, save in connection with two appeal decisions in 2021¹, cited by the Appellants in this case. The Council provides a brief as to why it disagrees with those decisions, short of legal challenge.
54. Those decisions relate to individual appeals decided on their own merits and this appeal, in turn, is to be judged on its own individual merits.
55. If the evidence of the Council is accepted, the so-called tilted balance of paragraph 11 of the NPPF is not engaged. If the assertion of the Appellants is to be preferred that the tilted balance is engaged on the strength of the findings in the appeals they cite, the planning effects of the development fall to be considered directly under the policies of the NPPF in the overall conclusions below.

Planning Obligations

Affordable Housing

56. There is no dispute that the net contribution of 21 affordable homes to the District housing stock, secured by the completed Section 106 agreement, would be of significant social benefit, compliant with the Policy SWDP15 which requires a 40% contribution for greenfield housing developments of 15 or more dwellings. To that extent the affordable housing contribution is necessary for the development to be acceptable.
57. Beyond that, the level of significance of the affordable homes contribution in this particular appeal is debated with reference to conflicting evidence of the current amount of shortfall in the District supply of affordable homes.
58. According to the Annual Monitoring Reports of the Council, increasingly good progress has been made in the provision of affordable housing in the years since 2011, compared with an annual requirement of 131 units set in the

¹ APP/J1860/W/19/3242098 and APP/J1860/W/3267054

2011/12 Strategic Housing Market Assessment, and culminating in a shortfall in 2019 of 72 dwellings.

59. That shortfall of 72 was derived from gross need figures of 473 affordable homes per year, less existing supply but without allowance for loss due to demolition and right-to-buy sales, so could have been an underestimate. Even so, the Council now records a surplus of 13 affordable dwellings in 2020 indicating a continuing upward trend in availability.
60. These data are drawn from accepted sources but the entire approach to the derivation of the current claimed surplus is strongly questioned by the Appellants. In any event, notwithstanding numerical trends, there is generally increasing homelessness and economic deprivation. Moreover, the proposal for affordable homes was expressly supported by the Council Housing Officer, when consulted on the application, as being of acceptable type and tenure.
61. On balance, the contribution of 21 affordable homes by the present proposed development can only be seen as a planning benefit. Although the level of that benefit is less than would be the case if there were a significant numerical shortfall, it nevertheless carries substantial weight in the planning balance for this appeal.

Highways Contribution

62. Notwithstanding the withdrawal of the fourth reason for refusal regarding highway safety subject to conditions, referenced below, the Highway Authority requested a contribution of £2,000 to upgrade the bus shelter on Pickersleigh Avenue serving the Worcester to Great Malvern 44 bus service and Malvern Link railway station within walking distance of the proposed affordable dwellings. This is reasonable in view of the proximity of the site to the public transport services concerned, in support of sustainable non-car travel.

Public Open Space

63. The areas of on-site public open space to be included within the proposed development are necessary to the immediate and long-term acceptability of the scheme as a whole. Accordingly, it is right that its ongoing maintenance be secured by the planning obligation established by the Section 106 agreement in this case.

Conclusions on the Planning Obligations

64. All the affordable housing, highways and public open space contributions secured by the Section 106 agreement are necessary to make the development acceptable in planning terms and directly, fairly and reasonably related in scale and kind to the development, in terms of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Planning Conditions and Other Matters

65. In addition to the Grampian condition to facilitate off-site works and those to secure tree protection referenced above, a wide range of other conditions is necessary to specify the approved drawings, secure safe access and to protect amenity, heritage and wildlife interests. These conditions are based upon those suggested by the Council and the Highway Authority and agreed by the Appellants, including certain pre-commencement requirements, and are set out

in the Schedule appended to this decision. Subject only to minor adjustments for consistency, all the conditions are relevant to the development and to planning, reasonable in their terms and enforceable, as required by national policy and practice guidance.

66. This decision takes into account every other matter raised in connection with the appeal proposals, including concerns regarding traffic at the school in Pickersleigh Grove, noise, air quality and flood risk. The concern of parents regarding additional traffic passing the school is understandable but a net additional 19 affordable dwellings would generate relatively modest traffic flows and there is no technical highway objection. A specialist noise impact assessment has concluded that recommended external noise levels would be achievable, as would internal levels, save in rooms with open windows facing the railway but that could be resolved by the installation of ventilation, secured by Condition 28. Air quality has been addressed by Worcestershire Regulatory Services, concluding that this is satisfactorily addressed by Conditions 8, 9 and 27, requiring electric vehicle charging points and cycle parking for each dwelling as well as energy conservation measures, all aimed at reducing carbon footprint and pollutant emissions. With respect to flood risk, there is no objection from the Lead Local Flood Authority and Condition 12 secures sustainable surface water drainage measures.
67. This decision is made with proper regard to the specific merits of this appeal but noting a previous appeal which was dismissed with respect to another small privately enclosed area of Green Space at Beauchamp Road for reasons of conflict with Policies SWDP38 and MG2. However, that site was found to provide nearby residents with visual relief from highly urbanised surroundings. That appeal is not therefore directly comparable with the present case.

Overall Conclusions

68. It is concluded above on the main issues that, whilst the proposed development would result in the loss of the 1.14ha appeal site as part of an area of designated Green Space, the site is not currently accessible for public recreation and its loss would be offset in part by 37% of the land being retained as public open space maintained within and for the life of the development. It is also concluded that there would be no harm to veteran trees or to residential amenity. In every other respect, the development would be compliant with the development plan as a whole.
69. Where there is a small degree of conflict with adopted policies to protect Green Space, as a matter of judgement this is substantially overridden by the degree of benefit derived from the affordable housing contribution. That is on the basis that the Council has a 5YHLS and the tilted balance is not engaged.
70. If, on the other hand, it were accepted that the Council could not demonstrate a 5YHLS, the policies of the development plan most important for determining the appeal would be seen as out-of-date and permission would be granted unless NPPF policies protecting areas or assets of particular importance provided a clear reason for dismissal, or any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
71. Designated Local Green Space is such an asset of particular importance to be considered but it is already concluded that any harm in this respect would be

minimal, such that it would not provide a clear reason for dismissal of this appeal. Nor, as a final judgement, would any adverse impact of the development significantly and demonstrably outweigh the benefit of the affordable housing to be provided.

72. Either way therefore, this appeal should be allowed, subject to the conditions discussed above and set out in the Schedule appended below.

B J Sims

Inspector

SCHEDULE OF PLANNING CONDITIONS

1. The development to which this permission relates must be commenced not later than the expiration of three years from the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following plans/drawings/documents, unless otherwise required by conditions attached to this permission:

zeb1288_PL001_REV - - Site Location Plan
zeb1288_PL010_REV R - Phase B Proposed Site Plan
zeb1288_PL015_REV B - Phase B Proposed Boundary Treatments
zeb1288_PL020_REV C - Phase B Proposed Street Scenes
zeb1288_PL101_REV B - House Type A
zeb1288_PL103_REV B - House Type G
zeb1288_PL105_REV B - House Type B
zeb1288_PL106_REV B - House Types D
zeb1288_PL107_REV B - House Types F
zeb1288_PL108_REV B - House Types H (Phase A)
zeb1288_PL109_REV B - House Types I (Phase A)
zeb1288_PL110_REV A - House Type F_plot 12
zeb1288_PL900_Bin Store Type A
zeb1288_PL901_Bin Store Type B

Reason: To define the permission and to ensure that the development meets the design quality and environmental requirements of the Development Plan.

3. Prior to the construction of the dwellings proceeding beyond slab level, samples and trade descriptions of the external facing and roofing materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.

Reason: To ensure that the new materials are in keeping with the surroundings in accordance with Policy SWDP21 of the South Worcestershire Development Plan.

4. Prior to the construction of the dwellings proceeding beyond slab level, detailed drawings (including sections) of the eaves and verges shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.

Reason: To ensure that the new materials are in keeping with the surroundings in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

5. Prior to the commencement of the development a detailed plan showing the levels of the existing site, the precise floor slab levels of the new dwellings and proposed external levels (including site sections for areas lying in close proximity to retained trees), shall be submitted to and approved in writing by the Local Planning Authority. All levels shall be stated relative to a fixed datum point of

existing development outside of the site. The development shall be carried out only in accordance with the approved details.

Reason: To ensure satisfactory development in accordance with Policies SWDP 21, 22 and 25 of the South Worcestershire Development Plan.

6. The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided, as shown on Drawing No. J32-4235-PS-009 Rev. G.

Reason: To ensure conformity with submitted details in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

7. The development shall not begin until visibility splays for the two internal spur roads (private) are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 17 metres in each direction along the nearside edge of the adjoining carriageway and offset a vertical distance of 0.6m from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety.

Reason: In the interests of highway safety in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

8. The development hereby permitted shall not be first occupied until the proposed dwellings have each been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the WCC Streetscape Design Guide unless otherwise approved in writing by the Local Planning Authority. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To encourage sustainable travel and healthy communities in accordance with Policies SWDP 21 and 31 of the South Worcestershire Development Plan.

9. The development hereby permitted shall not be first occupied until sheltered and secure cycle parking to comply with the WCC Streetscape Design Guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved cycle parking shall be kept available for the parking of bicycles only.

Reason: To comply with the County Council's parking standards in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

10. The development hereby approved shall not be occupied until a residential welcome pack promoting sustainable forms of access to the development has been

submitted to approved in writing by the Local Planning Authority. The approved pack shall be provided to each resident at the point of occupation.

Reason: To reduce vehicle movements and promote sustainable access in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

11. The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include but not be limited to the following:

- Measures to ensure the adjacent railway network and land is appropriately protected during the construction process and the operational phase of the development;
- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
- Details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc);
- The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
- Details of any temporary construction accesses and their reinstatement; and
- A highway condition survey, timescale for re-inspections, and details of any reinstatement.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

Reason: To ensure the provision of adequate on-site facilities and in the interests of highway safety in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

12. No works in connection with site drainage shall commence until a sustainable drainage system (SuDS) management plan, which shall include details of future management responsibilities and maintenance schedules for all SuDS features and associated pipework, has been submitted to and approved in writing by the Local Planning Authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the agreed terms and conditions and shall be managed and maintained in accordance with the approved maintenance plan and thereafter.

Reason: To ensure a satisfactory means of disposal for surface water without increasing the risk of flooding to the site or elsewhere in in accordance with Policy SWDP 29 of the South Worcestershire Development Plan.

13. Notwithstanding the submitted Drainage Strategy, no development shall commence until detailed design drawings, pollution prevention measures and calculations for surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out only in accordance with the approved details.

Reason: To ensure a satisfactory means of disposal for surface water without causing pollution of the watercourse or increasing the risk of flooding to the site or elsewhere, in accordance with Policy SWDP 29 of the South Worcestershire Development Plan.

14. The development hereby permitted shall not commence until drainage plans for the disposal of foul water have been submitted to and approved in writing by the Local Planning Authority. The foul water drainage scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure satisfactory foul drainage of the site and to minimise the risk of pollution in accordance with Policy SWDP 30 of the South Worcestershire Development Plan.

15. Prior to first occupation of the development hereby permitted, a Water Management Statement, setting out water efficiency measures with the aim to limit daily water use to a maximum of 110 litres per person, shall be submitted to and approved in writing by the Local Planning Authority. The water efficiency measures shall be implemented in accordance with the approved details and retained thereafter.

Reason: To ensure that water management is taken into account in the development in accordance with SWDP 30 of the South Worcestershire Development Plan.

16. Before the commencement of the development hereby permitted, a detailed ecological mitigation, compensation and enhancement scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include, but not be limited to, mitigation measures to control external lighting, protect the brook from contamination, ensure nesting birds are not disturbed and protect reptiles, as well as ensure provision of hedgehog passes and specify an implementation timetable. The works shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area in accordance with Policy SWDP 22 of the South Worcestershire Development Plan and to ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

17. On completion the development shall be inspected by a qualified ecologist and a statement of conformity and a copy of monitoring returns as appropriate shall be submitted to the Local Planning Authority to confirm that the mitigation, compensation and enhancement measures for biodiversity have been implemented in accordance with the details approved under condition 16 of this permission.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site and the wider area in accordance with Policy SWDP 22 of the South Worcestershire Development Plan and to ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

18. Before the first occupation of the respective dwellings, details for the installation of a shared access gate at, or near to, the front building line between Plots 18 and 19, shall be submitted to and approved in writing by the Local Planning Authority. The approved access gate shall be installed in accordance with the approved details and permanently retained thereafter.

Reason: To ensure that the risk of crime is reduced in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

19. Prior to the erection or installation boundary treatments hereby approved, a timetable for their erection or installation shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved timetable and thereafter retained in the same form, notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification).

Reason: In the interests of residential and visual amenity in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

20. Prior to the occupation of the development, details of measures to provide for the storage of household waste and recycling, together with associated composting facilities, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall specify how occupiers will be encouraged to separate waste for landfill from recyclable materials. The respective dwellings shall not be occupied until such provision has been made in accordance with the approved details.

Reason: To ensure that waste to landfill is minimised in line with the waste hierarchy in accordance with Policies SWDP 21 and Policy 33 of the South Worcestershire Development Plan.

21. Prior to the commencement of development, a detailed scheme of soft and hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme to be submitted shall include:

- A plan detailing the disposition of planting, cross referenced to a schedule listing the species, size and number of plants proposed, together with an associated planting specification;
- A precise specification of the proposed materials for the hard landscaping of the site including roads, driveways and paths; and
- A timetable for implementation.

The landscaping scheme shall be carried out in accordance with the approved details and timetable.

A letter of compliance from a suitably qualified landscape consultant shall be submitted to the local planning authority once all landscaping works have been completed.

If within a period of five years from the date of the planting of any tree planted pursuant to this condition that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

Reason: To ensure the environment of the development is improved and enhanced in accordance with Policies SWDP 21 and 25 of the South Worcestershire Development Plan.

22. Before the first occupation of the development hereby permitted a schedule of landscape maintenance for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. Such schedule shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas, excluding domestic gardens. The approved landscape maintenance schedule shall be fully implemented for the lifetime of the development.

Reason: To ensure the proposed development does not have an adverse effect on the character and appearance of the area in accordance with Policies SWDP 21 and 25 of the South Worcestershire Development Plan.

23. Prior to the commencement of development, a Tree Protection Plan and associated Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved protection measures, including any temporary fencing, shall be implemented before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts. The protective fencing shall remain in place until the completion of development unless otherwise agreed in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved method statement. Nothing shall be stored or placed (including soil), nor shall any ground levels be altered, within the fenced areas without the prior written consent of the Local Planning Authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree or hedge.

Reason: To prevent existing trees/hedges from being damaged during the construction works and to preserve the visual amenities of the locality, in accordance with Policies SWDP 21, 22 and 25 of the South Worcestershire Development Plan.

24. No construction works or groundworks shall take place until an on-site meeting has taken place between the Council's Landscape Officer, the developer's appointed arboriculturalist and the contractor undertaking the works, in order to establish working practices to ensure that the tree protection measures and working methods approved under condition 23 of this permission are fully understood and implemented.

Reason: To prevent existing trees/hedges from being damaged during construction work and to preserve the visual amenities of the locality in accordance with Policies SWDP 21, 22 and 25 of the South Worcestershire Development Plan.

25. No demolition, ground works or construction works in connection with the development shall take place outside the following hours:

Monday to Friday 0730 to 1800

Saturdays 0800 to 1300

There shall be no such work on Sundays or Public Holidays.

Reason: To protect the residential amenities of the area in accordance with Policy SWDP 21 of the South Worcestershire Development Plan.

26. No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include an assessment of significance and research questions; and:

- 1) The programme and methodology of site investigation and recording.
- 2) The programme for post investigation assessment.
- 3) Provisions to be made for analysis of the site investigation and recording.
- 4) Provisions to be made for publication and dissemination of the analysis and records of the site investigation.
- 5) Provisions to be made for archive deposition of the analysis and records of the site investigation.
- 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with the requirements of paragraphs 189 and 199 of the National Planning Policy Framework and Policies SWDP 6 and 24 of the South Worcestershire Development Plan.

27. No dwelling shall be occupied until details of sustainability measures from renewable or low carbon sources equivalent to at least 10% of predicated energy requirements to be incorporated into the design of the dwellings hereby approved, to reduce energy usage and running costs for future occupiers, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with a timetable to be approved in writing by the Local Planning Authority and retained thereafter.

Reason: To ensure sustainability measures are taken into account in the development in accordance with Policies SWDP 21 and 27 of the South Worcestershire Development Plan.

28. The development shall proceed only in accordance with the recommendations of the approved noise assessment report by Bureau Veritas dated 1 April 2019. The recommended measures shall be implemented prior to occupation of any respective dwelling where mitigation is required. On completion of the development a certificate of compliance with the noise recommendations signed by a qualified noise consultant shall be submitted to the Local Planning Authority.

Reason: In the interests of ensuring a good standard of amenity for occupiers of the development in accordance with Policies SWDP 21 and 31 of the South Worcestershire Development Plan.

29. The two boundary posts mapped within the site (WSM 39751 and WSM 39752), as shown in the submitted desk-based heritage assessment prepared by Orion (May 2019), shall be retained in situ within accessible open space and shall be protected during the construction works in accordance with measures approved in writing by the Local Planning Authority.

Reason: In the interests of conserving these non-designated assets in accordance with Policy SWDP 24 of the South Worcestershire Development Plan and Policy MHE1 of the Malvern Town Neighbourhood Plan.