



Appeal Decision

Site visit made on 19 July 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/F1040/W/21/3287625

Land at Oak Close, Castle Gresley, Swadlincote, Derbyshire

- 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 Matt Rice (EMH Homes) against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2019/1176, dated 11 October 2019, was refused by notice dated 3 June 2021.
 - The development proposed is 100% affordable 70 unit residential scheme with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for 100% affordable 70 unit residential scheme with associated works at Land at Oak Close, Castle Gresley, Swadlincote, Derbyshire in accordance with the terms of the application, Ref DMPA/2019/1176, dated 11 October 2019, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. After refusal of the planning application, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, both parties have referred to the revised version in their respective appeal statements. I am therefore satisfied that there was no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. Amended plans were submitted with the appeal. These are as follows: Public Open Space and Forestry Planting (Drawing Number 2494-13 E); Site Layout (Scheme 4) (Drawing Number 2494-33 L); and Landscape Masterplan (Drawing Number 1916-PL1-02 F). It is explained that these were amended to correct discrepancies and update the plans where required to align with those changes made prior to determination of the planning application.
4. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local

planning authority, and on which interested people's views were sought (Annexe M.2.1).

5. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles'¹ and whether any prejudice would occur. I understand that the Council assessed the site layout plan prior to determination and that subsequent updates to other plans were made to align with these changes. Given the nature of the changes, and that the amendments correct discrepancies, I am satisfied that the Council, or other interested parties, would not be prejudiced if I determined this appeal on this basis.
6. A Unilateral Undertaking (UU) has been received (dated 19 June 2022). The UU includes obligations relating to affordable housing, financial contributions to Derby County Council (DCC) as the local education authority and to NHS Estates, and to secure details of the flooding and drainage proposals and their ensuing maintenance.
7. The Council has expressed concern that the proposed Local Equipped Area for Play (LEAP) and open space facilities are not mentioned in the UU despite this being referenced as so in the appellant's appeal statement. The appellant has clarified that this does not relate to the correct paragraph in their statement and that these matters are secured by condition, which is agreed in the Council's officer report to committee. The appellant has accepted the conditions proposed, and I have had regard to the UU in my assessment.

Main Issues

8. The main issues are the effects of the proposal on the character and appearance of the area and whether sufficient contributions for offsite infrastructure and service provisions are provided.

Reasons

Introduction

9. The appeal site comprises an agricultural field located on the edge of the built form of Swadlincote. There are houses located to the west, north and east while vehicular access is provided from Oak Close. To the south and southwest of the site are open fields which transition into open countryside, while a belt of tree coverage is located along the southwestern boundary.
10. The proposal seeks to erect 70 affordable dwellings comprised of a mixture of two-storey semi-detached, semi-detached bungalows and flats within two-storey buildings. All would have off-street parking and gardens. These would be contained within a layout broadly consisting of three internal roads forming cul-de-sacs. Vehicular access to the site would be provided using the existing field gate at Oak Close. Also included within the site would be flood attenuation basins to manage on and off-site drainage, as well as areas for open space, play equipment, outdoor recreation and forest planting.

Character and Appearance

11. Policy H23 of the South Derbyshire Local Plan Part 2 (LP2) (Adopted November 2017) includes non-strategic housing allocations, with site-specific briefs

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

outlining potential constraints. The appeal site is detailed within H23J and advises 'around' 55 dwellings.

12. The crux of the disagreement between the parties regarding this issue surrounds the density of development. Although the proposal for 70 dwellings represents an increase over the figure advised in H23J, this is not necessarily harmful in and of itself. The wording of H23J allows flexibility when detailed design is undertaken to maximize the potential of the site for development. It follows that density, taken as a dwellings per hectare (dph) figure, would also be flexible.
13. The development site boundary has been amended to the southern edge to accommodate the required drainage basins. Although this has increased the site area over and above that drawn in H23J, the basins would not be readily apparent in the wider landscape and allow the development to provide a larger area of green space to offset the built form. In this context, regardless of whether density is taken as 22 or 34 dph depending on the size of the site, the built form of the proposal is contained within the original site allocation boundary. I note the Council agrees with this.
14. In any event, density and layout must be considered within the context of the overarching H23 policy, which requires proposals to consider the impact of development on landscape, flood risk/drainage and design and layout relative to the site characteristics, among other things.
15. The submitted Site Layout plan demonstrates that although the density of the site overall is greater than surrounding developments, it includes generous rear gardens, open space, woodland, meadow and play areas. These help to offset the increased density and provide visual relief to the built form of the site. Indeed, the areas of forest planting and open space exceed the aspirational contributions sought in the National Forest Planting Guidelines and the Section 106 - A Guide for Developers Supplementary Planning Document respectively.
16. Overall, whilst the appeal site is a pleasant area of agricultural land, it is not covered by any designation and is not of particular significance locally. In addition, the land is not unduly prominent in the area, visible primarily from the access at Oak Close, houses on that street and those on Mount Pleasant Road facing the field. As such, the proposal would be seen within the context of existing housing development. This would lessen its impact locally.
17. To conclude, the development would not be harmful to the character and appearance of the area due to overdevelopment of the site. This would accord with Policies S2, H20, BNE1 and SD1 of the South Derbyshire Local Plan Part 1 (LP1) (Adopted June 2016). These seek, among other things, to ensure new development is well designed, embraces the principles of sustainable development, encourages healthy lifestyles and enhances people's quality of life by adhering to the Design Principles outlined.

Developer Contributions

18. The Council advised during the application process that a total of £884,361 was required in developer contributions, split between education, open space provision, outdoor sports and built facilities, health services, travel plan monitoring and library provision.

19. Policy INF1 of LP1 states that new development which generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is provided. This could be included within the development or via a suitable mechanism to ensure this is delivered.
20. Policy INF6 of LP1 requires that development that increases the demand for community facilities and services either provides the required community facilities as part of the development or makes appropriate contributions towards providing new facilities or improving existing facilities.
21. The proposed development would lead to an increase in the local population which would create additional demand for local services. Sufficient evidence has been submitted to demonstrate that additional provision would be required to cope with the increased demand on existing facilities and therefore, based on the evidence before me, these obligations are necessary to make the proposal acceptable, and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.
22. The proposal would deliver the necessary on-site public open space, including a LEAP, plus an area of National Forest planting secured by an appropriately worded condition. However, of the remaining elements requested by the Council, the UU only includes obligations to secure financial contributions to Derby County Council (DCC) as the local education authority and to NHS Estates totalling £25,500. The appellant does not dispute the need for the obligations requested, although they have queried the amounts suggested by the Council. Even if I was to take the appellant's revised figure, which is some £232,249.31 less than the Council's figure, the contributions proposed are a substantial shortfall set against those requested resulting in the under-delivery of infrastructure to support the development.
23. Based on the above, the proposal would not provide suitable developer contributions contrary to Policies INF1, INF2, INF6, INF9, S1, S2 and S6 of the LP1 and H23 of the LP2. These seek to ensure sufficient infrastructure and community facilities are provided either as part of the development or as a contribution elsewhere.

Other Matters

24. I have had regard to comments received from interested parties, including the local Parish Council. Matters such as service and infrastructure provision and/or capacity, and character and appearance have been addressed within the main issues of this report.
25. Although I understand local residents may have concerns regarding highway safety and transport links, these were assessed by the Council's highways team and found to be acceptable. The Council's officer report concluded this aspect of the proposal was in accordance with the development plan and I see no reason to disagree. Similarly, concerns regarding trees and ecological interests were assessed in the submitted reports and surveys and found that the proposal would provide a net gain in biodiversity through habitat creation and planting.

26. Flood risk and water management will be aided on site and locally by the creation of the detention basins and I have no reason to doubt that mains water connections are not adequate in the area to accommodate the development. Although Japanese Knotweed may have been identified within the appeal site, a condition has been agreed to assess and treat this matter prior to commencement of works.
27. The site is bordered by housing on two sides. Although some of these properties would have views of the development, there is nothing before me to suggest this would be harmful to the living conditions of occupiers of these properties. This was not raised by the Council, and I have nothing before me to substantiate this concern. While there are other concerns that affordable housing would give rise to anti-social behaviour, there is no evidence before me that this would be the case.

Planning Obligation

28. I have already considered the financial contributions requested by the Council and found them to meet the relevant tests. In addition, the submitted UU includes obligations to provide affordable housing and delivery and maintenance of drainage infrastructure.
29. Policy H23J of the LP2 advises that the allocation for the appeal site is required to provide a detailed drainage strategy. Policy H21 of the LP1 states the Council will seek to secure up to 30% of new housing development as affordable housing as defined in the NPPF on sites of over 15 dwellings. I am satisfied therefore that these obligations also meet the relevant tests.

Planning Balance and Conclusion

30. The Council argues that it can demonstrate a five-year supply of deliverable housing land. While the appellant does not dispute this, they advise the figure is just above five years and somewhat precarious based on a recent appeal decision² and an approved planning application³, the latter of which places the supply at 5.09 years. Regardless, the proposal would add 70 dwellings to the Council's existing stock and, being on an allocated site, would form part of the Council's supply and therefore their provision would be of significant benefit.
31. Moreover, the appellant has presented evidence that the Council has significantly underdelivered on their affordable housing targets. Figures from the Strategic Housing Market Assessment Full Report (January 2020) show that from 2011/12 to 2018/19 883 affordable homes were delivered giving an average 110 affordable homes per year, considerably lower than the 325 units/annum required. Furthermore, in 2018 there were 644 households on the Council's housing waiting list I have not been advised that this situation has improved since that time and the evidence suggests that since 2002 affordability with the District has deteriorated by circa 64.9%. Consequently, the proposal for all 70 of the proposed homes to be affordable is fully supported by the Council's Strategic Housing Officer.
32. Therefore, the 49 additional affordable houses provided over and above the 21 which would ordinarily be sought in a development of this size would make a very substantial positive contribution to affordable housing provision in the

² APP/F1040/W/20/3261872

³ DMPA/2020/1004

Council area providing housing for people in need now. Moreover, Swadlincote is identified as a preferred area for potential residents by the Strategic Housing Officer, while the scheme includes adaptable and wheelchair accessible units that are, at the time of the report, unavailable for those in need. Additionally, the mix and tenure of houses is considered acceptable.

33. The proposal also contributes areas of public open space and forest planting which would be over and above the amount advised in the SPD as well as play equipment within the development itself. The drainage strategy details the need for a detention basin to manage the excess runoff which would be caused by the proposal. However, the scheme also includes provision for a second basin to manage water and drainage for the wider area, a demonstrable issue that has been detrimental to the area for some time. This would be of further substantial benefit and weigh in favour of the proposal.
34. Moreover, section (d) of Policy INF1 advises that the viability of developments will also be considered when determining the extent and priority of developer contributions in line with the Infrastructure Delivery Plan.
35. In response, the appellant commissioned a viability assessment ('Financial Contributions in the Context of Scheme Viability' - Bridgehouse Property Consultants, March 2020) which concluded that the proposal would not be viable with those requested contributions. The Council's officer report concludes that the District Valuer Service broadly agrees with the assessment of viability in that to provide the full financial contributions requested would render the development unviable on a policy compliant basis. In this case the provision of a scheme providing wholly affordable housing has impacted on the ability of the proposal to provide a commuted sums in respect of infrastructure, which runs contrary to the development plan. This weighs significantly against the proposal.
36. Nevertheless, on a straightforward development plan balance, I am firmly of the view that the provision of the very substantial benefits I have described above are significant material considerations which, in this instance, outweigh the development plan conflict.
37. For the reasons given above I conclude that, on balance, the appeal should be allowed.

Conditions

38. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the national Planning Practice Guidance (PPG), making amendments as necessary to comply with those documents. The appellant has offered comment on these and agreed with most of the conditions, although has advised that two should be deleted as their content is already secured in the UU regarding affordable housing. The Council has not offered comment on this matter, and I concur they would be an unnecessary duplication. As such I have not attached these conditions.
39. Alongside the standard time limit, a condition to clarify the approved plans is required. Conditions regarding materials, doors, windows and refined details regarding features such as gutters, cills etc, land levels, retaining walls, restricting permitted development rights, agreeing landscaping details and a

tree protection plan are required to protect the character and appearance of the area.

40. Additional details regarding cycle parking, refuse storage and collection, electric vehicle charging points, permitted development rights, construction method statements and estate road layouts are necessary to ensure highway and pedestrian safety is not harmed.
41. Further information and compliance with details regarding protected species, construction management and ecological management are necessary to ensure biodiversity enhancements are achieved and the ecological value of the site is protected.
42. To ensure living conditions of prospective future residents are protected, conditions are necessary to provide details and comply with matters including external lighting, working and delivery hours and restricting permitted development rights. Further conditions are required to ensure water management, flood risk, contamination and public safety are managed appropriately, while conditions to secure further details regarding the LEAP and public open spaces within the appeal site are also necessary.

C McDonagh

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless otherwise required pursuant to any conditions hereby attached, or unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:
 - 2494-02 B Location Plan
 - 2494-13 C 2494-13 E POS and Forestry Planting
 - 2494-18 C Boundary Details
 - 2494-20 H House Type A – 2 Bed 4 Person Plans and Elevations
 - 2494-21 F House Type B – 3 Bed 5 Person Plans and Elevations
 - 2494-22 D House Type C – 2 Bed 4 Person Plans and Elevations
 - 2494-30 D House Type D – 3 Bed 5 Person Plans and Elevations
 - 2494-24 F House Type E – 4 Bed 6 Person Plans and Elevations
 - 2494-25 F House Type F – 3 Bed 5 Person (split level) Plans and Elevations
 - 2494-26 H House Type G – 1 Bed 2 Person (flats) Plans and Elevations
 - 2494-28 E House Type J – 4 Bed 7 Person (Cat 3 Bungalow) Plans and Elevations
 - 2494-34 B House Type K – 4 Bed 6 Person (Plots 65 & 66) Plans and Elevations
 - 2494-15 D Site Sections A to E
 - 2494-17 B Site Sections F and G
 - 2494-37 Site Section H
 - 2494-33 K 2494-33 L Site Layout
 - 2494-36 B Car Parking Space Sizes
3. Prior to their incorporation into the dwellings hereby approved, details and samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. These details shall include specification, colour and material type for each external facing material treatment. Where the details will differ on particular house types, associated site plans shall also be provided to indicate where the different materials for particular house types will be implemented. The development shall include some external facing timber materials within the development as per design guidance in respect of new developments within the National Forest area. The development shall thereafter be constructed using the approved facing materials.
4. Prior to their incorporation into the dwellings hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan. The door, window frame and fascia colours shall be installed in accordance with the approved details.
5. Prior to their incorporation into the dwellings hereby approved, details of the eaves, verges, cills, lintels, chimneys, canopies and porches shall be submitted to and approved in writing by the Local Planning Authority. The

details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills, lintels, chimneys, canopies and porches shall be constructed in accordance with the approved drawings. Timber treatments for some canopies and porches in line with National Forest guidance shall be provided.

6. All verges shall be finished in a mortar finish i.e., wet verges. There shall be no use of dry verge (cloaking tile) systems.
7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
8. Prior to the construction of a car port details of the finish of the inside surface of the walls shall be submitted to and approved in writing by the Local Planning Authority. The approved finish shall then be applied prior to first use of the car port and thereafter maintained as such.
9. Prior to the commencement of the development hereby approved details of the proposed external land levels and retaining walls/features shall be submitted to and approved in writing by the Local Planning Authority. The details shall include relevant specifications, sections and materials details. The approved scheme shall be implemented on site on a prior to first occupation basis and retained thereafter for the lifetime of the development.
10. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. secure cycle parking facility per dwelling (including flats) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing where the secure cycle parking facility will be located and the specification including dimension, material and colour of the secure cycle store. The approved details shall be implemented on site on a prior to first occupation of the dwelling the secure cycle parking would serve and retained thereafter for the lifetime of the development and maintained in good working order.
11. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. electric vehicle charging point (EVCP) per dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each charging point and its specification/model/colour/mounting. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32-amp cable to an appropriate Residual Current Device (RCD). This socket should be located where it can later be changed to a 32amp EVCP. The approved scheme shall be implemented on site on a prior to first occupation of the dwelling that each charging point will serve basis and be retained thereafter for the lifetime of the development and maintained in good working order
12. Prior to the first occupation of the development hereby approved a scheme for bin storage within each plot (3no. bins per dwelling) shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of secure storage within the plot of each dwelling, or in the case of flats the shared amenity space. The approved scheme shall be implemented on site and the space made available on a prior to first occupation of the respective dwelling basis and retained thereafter.

13. Prior to the first occupation of the development hereby approved a scheme for dedicated bin collection points for areas for dwellings not served by adoptable highway shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each collection points and the bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.
14. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.
15. Prior to the commencement (including preparatory works) of the development hereby approved an updated walkover shall be undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.
16. Prior to the commencement of the development hereby approved (including preparatory works) an Invasive Non-Native Species Protocol (INNSP) shall be submitted to and approved in writing by the Local Planning Authority. The INNSP shall detail the timing and method of containment, control and removal of Japanese Knotweed on the site. The measures identified in the INNSP shall be carried out strictly in accordance with the approved scheme.
17. Prior to the commencement of the development hereby approved (including preparatory works) a Construction Environmental Management Plan (CEMP; Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - a risk assessment of potentially damaging construction activities; identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
 - practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);

- the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- responsible persons and lines of communication; and
- the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

18. Prior to the first occupation of the development hereby approved a five year Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- Description and evaluation of features to be managed;
- Ecological trends and constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a fifteen-year period);
- Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be implemented in accordance with the approved details.

19. The development shall be carried out in strict accordance with the precautionary measures for roosting and hibernating bats set out in section 5.4.1 of the Ecological Impact Assessment prepared by Ramm Sanderson dated July 2020 Rev 2 8th January 2021 as received by the Local Planning Authority on 8th January 2021.

20. Prior to any construction above foundations level, a scheme of biodiversity enhancement based upon the recommendations in section 7 of the Ecological Impact Assessment (EcIA) prepared by Ramm Sanderson dated July 2020 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of integrated (inbuilt) features within the new buildings for roosting bats and nesting swifts along with the creation of wildflower meadows. The enhancement scheme shall be implemented in accordance with the agreed

details as construction proceeds and completed prior to the first occupation of the development.

21. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.
22. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Public Holidays.
23. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.
24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, and no incidental buildings (except for a single garden shed and/or single greenhouse of maximum size 2.2m x 1.6m each), gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no hard surfacing (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no other means of access to a highway (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument

amending, revoking and/or replacing that Order, the dwellings C3 use hereby approved shall not be used as houses of multiple occupation C4 use without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

28. Prior to the commencement of the development hereby approved a scheme of dust mitigation measures and for the control of noise emanating from the development during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.
29. Prior to the commencement of the development hereby approved additional investigation to confirm density of sands beneath the site to establish the extent of cohesive deposits plus recommendations for mitigation/remediation as per the recommendations within the Site Investigation Report Revision 0: May 2019 R-SI-11282G-1-0 shall be submitted to and approved in writing by the Local Planning Authority. Any methods of mitigation/ remediation following this investigation shall be adhered to in line with approved details during the construction of the development.
30. Prior to the commencement of the development hereby approved as per the recommendations within the Site Investigation Report R-SI-11282G-1-0 Rev O an investigation executed to the area to the south west to confirm if alluvium is present beneath the proposed plots with recommendations of additional monitoring/investigation works shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation recommended as a result of these investigations shall be implemented on site as per the approved details.
31. Prior to the commencement of the development hereby approved following the alluvium investigation should alluvium be found ground gas monitoring should be carried out to confirm the ground gas regime for the site and a scheme submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation as part of this scheme shall be executed on site in accordance with the approved details.
32. In the event that following the investigations pertaining to the other conditions within this decision notice require mitigation or remediation, a verification report confirming the details and date of the measures installed executed by a relevant professional shall be submitted to and approved in writing by the Local Planning Authority on a prior to occupation basis. The measures thereafter shall be maintained throughout the lifetime of the development.
33. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation

proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

34. In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
35. Prior to the commencement of the development hereby approved a Construction Method Statement/Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of space to be provided within the development site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicle with accompanying statement/plans. Details of wheel washing shall also be included in the scheme and all construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway. The Construction Method Statement/ Management Plan and compound shall be implemented on site in accordance with the approved details and retained free from any impediment to their designated use throughout the construction period of the development.
36. Prior to the commencement of the development hereby approved full construction details of the residential estate roads and footways including layout (generally in accordance with revised application drawings including 11285R-TA04 rev E) including levels, gradients, surfacing and means of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter be constructed in accordance with the approved details unless otherwise agree in writing by the Local Planning Authority.
37. The gradients on the new estate streets, ideally, should not exceed 1:20 and shall never exceed 1:12 at any point along the proposed highway.
38. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 36 above up to and including at least road base level prior to the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling,
39. Prior to the commencement of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the drives/accesses/shared drives onto the proposed adopted highway. The

approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

40. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
41. The proposed access driveways to the new estate streets shall be no steeper than 1:20 for first 5 from the nearside highway boundary and never exceed 1:10.
42. Prior to the commencement of the development hereby approved details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
43. The car port/parking spaces as shown on the approved plans such as '2494-36 B Car Parking Space Sizes' and '2494-33 K 2494-33 L Site Layout' shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority. The parking spaces throughout the development shall be implemented and available for use prior to the first use of the dwelling they are associated with.
44. Prior to the first occupation of the development hereby approved an amended Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.
45. There shall be no gates or barriers within 5m of the highway boundary and any such gates shall open inwards only.
46. Prior to the first occupation of the development hereby approved a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall generally follow the principles as set out on drawings 'Site Layout (Scheme 4) 2494-33 Revision K' 2494-33 Revision L and the 'Landscape Masterplan 1916-PL1-02 Rev D 1916-PL1-02 Rev F'. The landscaping scheme shall include a communal garden area for the flats to the east of the development, at least 1no. fruit trees to each dwelling's external amenity area, bat and bird friendly plants, native species hedgerows and street tree planting in line with the

consultation response received from the National Forest Company. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) 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 and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

47. Prior to the first occupation of the development hereby approved detailed hard and soft landscaping plans including boundary treatments, means of enclosure and gates for the Public Open Space, LEAP and National Forest planting shall be submitted to and approved in writing by the Local Planning Authority. The size of area for the POS, LEAP and National Forest Planting shall follow drawing 'POS and Forestry Planting 2494-13 Rev C' 2494-13 Rev E. The footpaths within the POS, LEAP and National Forest area shall include rolled gravel as per National Forest Company guidance unless otherwise agreed in writing with the Local Planning Authority. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. The boundary treatments shall include a scheme for safety barriers/fencing as appropriate around the LEAP and detention/attenuation basins. The planting within the National Forest area shall include native broadleaved plantation woodland with transplants planted at 2m centres with planting elsewhere providing trees to mitigate those lost as a result of the built development on site and specific details of species, sizes, age etc. provided. The soft landscaping shall also include bat and bird friendly plants and native species hedgerows. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of development or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) 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 and thereafter retained for at least the same period..

48. Prior to the first occupation of the development hereby approved a detailed scheme for the LEAP shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10 no. pieces of play equipment, bins, amenity areas e.g., seats, boundary treatments and details of the proposed maintenance and management of the LEAP for the lifetime of the development. The LEAP shall be implemented on site prior to the first occupation of the development in accordance with the approved

details and shall be retained thereafter for the lifetime of the development in good working order.

49. Prior to the first occupation of the development hereby approved a detailed Management and Maintenance Strategy for Public Open Space and National Forest planting areas shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall also cover the management of footpaths and boundary treatments within these areas. The development shall be managed and maintained in accordance with the approved scheme.
50. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.
51. Prior to the commencement of the development hereby approved an updated Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall be based on the information within the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan RSE_3151_TPP Rev V2. The development shall be executed in accordance with the approved details.
52. All the dwellings part of the development hereby approved shall be M4(2) accessible and adaptable with the 4no. one bedroom ground floor flats House Type G, 2no. two bedroom bungalows House Type H and 2no. four bedroom dormer bungalows House Type J will be delivered to M4(3) Building Regulations as wheelchair accessible to allow homes to flex and adapt easily to meet ageing and disability needs, unless otherwise first agreed and approved in writing with the Local Planning Authority.
53. Prior to the commencement of the development hereby approved a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with the principles/designs and information outlined within the following shall be submitted to and approved in writing by the Local Planning Authority:
- Flood Risk Assessment Revision C Ref No: R-FRA-11285R-01-C. Dated March 2021 by JPP Consulting Ltd (in particular the Proposed Surface Water Drainage Strategy FRA03 Rev C, Off Site Flooding Report 11185/R/WA/002A dated 12th December 2020 by JPP Consulting Ltd and Flood Risk and Water Management Query Responses 11185-R-WA-003 by JPP Consulting and 'including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team'.
 - and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The Scheme shall include the additional proposed works as stated in Appendix F of Flood Risk Assessment (Revision C Ref R-FRA-112852R-01-C. Dated November 2020) the works comprises the diversion of the land drain

from the existing pond along the cul-de-sac adjacent to 43 Oak Close and to be connected back to the existing 300mm land drain within the footpath of Oak Close (Fig 2 Appendix F of FRA, Ref. FRA-11285R-01-C) and the offsite drainage scheme works.

54. Prior to commencement of the development hereby approved, a scheme detailing how additional surface water run-off from the site will be avoided during the construction phase, shall be submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
55. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 with associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority on a prior to first use basis.
56. Prior to the commencement of the development hereby approved a scheme for the drainage of foul water from the site including a management and maintenance plan/strategy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the development hereby approved.
57. Prior to the first occupation of the development hereby approved, a Verification Report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed schemes (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
58. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the window hereby approved serving the following House Types shall be glazed in obscure glass and either non-opening (except in an emergency) or top light opening only and permanently maintained thereafter as such:
- House Type A - ground and first floor side elevation windows
 - House Type B - ground and first floor side elevation windows
 - House Type C - ground and first floor side elevation windows
 - House Type D - first floor side window serving secondary window to Bedroom 1
 - House Type E - first floor side elevation window serving the bathroom
 - House Type F - ground and first floor side elevation windows
 - House Type J - ground floor side window serving the wet room

END OF SCHEDULE