



Appeal Decision

Site visit made on 25 May 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/H2265/W/21/3279132

Development Site to the South of 1 & 2 Orwell Spike, West Malling, Kent, ME19 4PB

- 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 Fernham Homes against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/20/02239/FL, dated 2 October 2020, was refused by notice dated 30 April 2021.
 - The development proposed is construction of 9 detached dwellings, together with associated access, landscaping and drainage works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 9 detached dwellings, together with associated access, landscaping and drainage works at the development site to the south of 1 & 2 Orwell Spike, West Malling, Kent ME19 4PB in accordance with the terms of application, TM/20/02239/FL, dated 2 October 2020, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal relates to an open land parcel with landscaped buffers to adjacent roads. The site is close to a new residential development at Sportsman Farm and additional infill housing has been approved and built within Orwell Spike, a cul-de-sac to the north of the appeal site. The Council considers that the proposed development would be in keeping with the character and appearance of the area and that most relevant planning considerations can be satisfied with the inclusion of appropriate planning conditions. I have no reason to disagree with this assessment.
3. The Council's concerns relate to provision of affordable housing and financial contributions towards open space enhancements and infrastructure requirements. The appellant has submitted a Unilateral Undertaking offering an off-site contribution just towards affordable housing. The Council considers this to be wholly inadequate in relation to policy expectations.

Main Issues

4. The main issues therefore are whether or not the proposed development would make adequate provision for affordable housing, enhancement of public open space and contributions towards infrastructure requirements having regard to relevant planning policies and the proposal's viability.

Reasons

Policy background

5. The Development Plan currently in force comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted September 2007; Saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP); the Development Land Allocations DPD (DLA DPD) adopted April 2008; and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010. There is not a new local plan at an advanced stage. The National Planning Policy Framework (the Framework) and guidance contained within National Planning Practice Guidance are material considerations.
6. Policy CP17 of the TMBCS states, *"In the rural area, affordable housing provision will be sought on all sites of 5 dwellings or above, or 0.16ha or above, at a level of 40% of the number of dwellings in any scheme"*. The policy allows for affordable housing to be provided on another site or by means of a commuted sum in exceptional circumstances. The site is outside of the settlements of West Malling and Kings Hill and the proposal exceeds the dwelling number and site size thresholds. The Council state a policy compliant development would provide 4 units of affordable housing (3.6 units rounded up). The appellant does not dispute this but has offered a commuted sum claiming there is unlikely to be interest in the site from registered providers.
7. Policy CP17 is 15 years old but is broadly compatible with the Framework which at Paragraph 64 enables a threshold of 5 units to be set for provision of affordable housing in rural areas. Paragraph 63 allows for provision not to be met on site where *"an appropriate financial contribution in lieu can be robustly justified"*.
8. In relation to housing provision as a whole, the Council cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need. The Council confirm that their latest five-year housing land supply position is just 2.2 years. The Housing Delivery Test (HDT) result for 2020 was 91% of homes delivered against homes required by Government targets. The HDT result for 2021 is lower at 63%. This is indicative of a deteriorating position on the supply of housing, with the HDT consequence of *"presumption"*.
9. In these circumstances, it is necessary to apply the presumption in favour of sustainable development as set out at Paragraph 11(d) of the Framework. As such, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
10. Policy CP25 of the TMBCS requires all development proposals to *"either incorporate the infrastructure required as a result of the scheme or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation"*. Policy OS3 of the MDE DPD sets standards for open space provision on all developments of 5 units or above. The Council have specified a requirement of £44,195 to mitigate impacts on identified local areas of open space. Also, on the basis of Policy CP25, Kent County Council have requested contributions towards primary and secondary education, community learning, youth services, social care, waste and libraries totalling £178,426.33.

11. There is therefore policy justification for the Council's requested contributions. However, supporting paragraph 6.4.9 to Policy CP25 states, "*Where a developer considers that the full funding or provision of all necessary infrastructure and facilities is not possible, the Council will require the applicant to provide validated open book accounts, on a confidential basis, to substantiate their case*". The appellant's Unilateral Undertaking does not include any contribution towards open space enhancement nor for the County Council's infrastructure requirements. The contribution towards affordable housing is also substantially below that sought by the Council. It is therefore necessary to examine any extenuating circumstances.

Financial Viability Assessment

12. A Financial Viability Assessment (FVA) was submitted as part of the planning application following identification of widespread contamination across the site arising from the demolition of former buildings. A site investigation report confirms that the contamination could be remediated, but that this would incur significant costs which would affect the development's overall viability.
13. The FVA assess the value of the completed development against development costs including contributions from a planning obligation and developer profit. The residual value of the development (total value less all development and policy costs, including planning obligations) is compared to a benchmark land value (BLV). The scheme is considered to be viable if the residual value exceeds the benchmark.
14. The FVA indicated that even without the affordable housing or financial contributions sought, the proposed development would produce a negative residual land value of -£173,856.00. It is evident from the main parties' appeal submissions that there has been dialogue on the FVA but without reaching agreement. Disagreements centred mainly on abnormal and site specific infrastructure costs, the costs of garages, external costs and benchmark land values.
15. The proposal was submitted with a site investigation and remediation strategy and the costs associated with this were provided by independent chartered cost consultants and quantity surveyors. Remediation costs of £877,912.00 have been declared relating to the removal of material beneath proposed roads, paths, houses and gardens. There is no alternative information before me to dispute these abnormal costs.
16. In relation to garages, the Council's consultant appears to have adopted costs for garages of a lower specification than set out in the proposal which reflect the character of existing garages at Orwell Spike. As a consequence of building on made-up ground it would also be necessary to have piled foundations for houses and their garages on some of the plots resulting in additional costs.
17. The appellant points out that the proposal would require installation of a Section 278 access junction, extensive roads and driveways, services and foul and surface water drainage, which are not readily available in King Hill. It would seem reasonable in these circumstances, and with additional remediation works, that overall external costs would be at a higher percentage against build costs than for many sites of comparable size. As such, reliance on the standard external cost percentage specified in the Council's Viability Study (2018) would be likely to understate true costs.

18. Benchmark Land Value (BLV) comprises the Existing Use Value (EUV) enhanced by a premium. Planning Practice Guidance (PPG) makes clear that the premium should provide a reasonable incentive for a landowner to bring forward land for development whilst allowing a sufficient contribution to fully comply with policy requirements. It also indicates that BLV should reflect a minimum return to a reasonable landowner and should reflect the costs of development, including those specific to the site.
19. The Council's consultant has suggested a BLV of £435,000 calculated on the basis of an EUV of £20,000 per acre and a premium of 10 x EUV. The appellant's adopted BLV of £624,000 was based on independent advice from Savills using a multiplier of 12 based on the road frontage, and development nearby. The appellants later obtained further separate independent advice from Chartered Surveyors Lambert & Foster who concluded on the same EUV but advised a premium based on a multiplier of 15 resulting in a BLV of £750,000, higher than that advised by Savills and used to inform the FVA.
20. The Council's approach seems to relate to an appeal decision on land at Warburton Lane, Trafford (Ref. APP/Q4245/W/19/3243720) where the Inspector confirmed that a premium of 10 should apply to the site. However, this relates to agricultural land on a much larger site in which economies of scale and a lower premium might reasonably be expected to apply. The present appeal site has different characteristics. It is therefore reasonable to apply the appellant's approach to BLV. Moreover, PPG does not indicate what the uplift should be as this will vary according to site specific and policy circumstances.
21. Inputs used to inform the FVA will change over time due to market conditions and any economic uncertainty surrounding property development and the wider economy. But even allowing for such changes, the FVA indicates a substantial shortfall in the proposal's ability to satisfy requirements relating to affordable housing and all financial contributions sought.
22. As a result of the disagreements, the Council has applied only limited weight to the FVA. However, it seems to me that the viability information demonstrates that a full contribution in relation to affordable housing and all other matters would represent a disproportionate burden on the appellant and would undermine the deliverability of the appeal proposal. Having regard to the Council's shortfall in housing supply and the need for additional homes, I afford significant weight to the findings of the FVA.

Unilateral Undertaking

23. The appellant has submitted a Unilateral Undertaking (UU) with an offer of £45,000 (£5,000 per home) as a commuted sum towards off-site affordable housing. The Council confirms that this would be considerably short of the sum required for the 4 affordable units sought by planning policies. Furthermore, the UU does not include any payment towards the contributions being sought totalling £222,621.33.
24. The appellant claims significant amounts have been invested through pre-application engagement with the Council and other stakeholders and that it was only once the initial site investigation works had been carried out that the remediation costs required to develop the site were known. Notwithstanding the loss indicated by FVA, the sum offered in the UU is considered plausible in bringing the scheme forward in view of investment made to date.

25. Policies CP17, CP25 and OS3 are relevant to the development and provide justification for the contributions sought. The proposal should include contributions compatible with the development's viability and which would still enable the proposal to come forward. As such, the UU should be taken into consideration. I am satisfied that the UU is complete and in accordance with the tests for planning obligations set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) in that it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development.
26. The Council has not suggested any prioritising of contributions in the event that the proposal is not able to satisfy all policy requirements. In my judgement, having regard to the Council's dire housing position, it would be reasonable for the contribution offered to go wholly towards affordable housing as set out in the UU. It is evident from the appeal submissions that the appellant offered a S.106 Agreement with a review mechanism, which would have enabled consideration of market conditions at the time of commencement of building operations. However, the Council has not accepted this and in my judgement the UU forms an acceptable obligation without such a review mechanism.

Planning balance

27. The proposal would have the social benefit of providing 9 new homes in a sustainable location with reasonable access to everyday services in nearby settlements. In view of the Council's current housing supply position, this is a benefit that attracts significant weight.
28. In addition, there would be the environmental benefit of clearing the land of contaminants. Without this, the options for future use of the land would be limited. It is a hidden cost arising from the manner of clearance of former buildings on the site. The scale of this cost has been revealed by the appellant's site investigations. Remediation of the land would also enable biodiversity benefits through enhancement of the site's landscape buffers.
29. From an economic perspective, there would be short-term benefits arising from the construction phase and modest longer term benefits related to increased expenditure arising from the additional population. Finally, there is the benefit of the sum of £45,000 towards off site affordable housing. This sum is short of what the Council would expect such a proposal to deliver, but it is still a benefit and according to the FVA is through sacrificing profit whilst still allowing the scheme to come forward.
30. The Council do not identify any on-site harm arising from the proposal. The harm identified comprises, no affordable housing provision (other than the £45,000 contribution), no contributions towards the enhancement of public open space in the vicinity and no contributions towards any of the infrastructure improvements identified by the County Council.
31. The proposal would be contrary to relevant development plan policies in these respects, but the policies and the Framework allow for the scheme viability to be considered when full provision of contributions may not be affordable. The evidence before me indicates that the scheme would not be delivered with insistence on the full provision of both affordable housing requirement and all financial contributions.

32. The tilted balance at Paragraph 11(d) of the Framework also needs to be applied to the planning balance in view of the Council's poor recent record on housing delivery. Paragraph 60 of the Framework states the Government's objective to significantly boost the supply of homes. Paragraph 58 of the Framework confirms that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment and that the weight to be given to this is a matter for the decision maker having regard to relevant circumstances.
33. Having regard to the evidence before me, any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Other Matters

34. I have noted the objections to the proposal from the Parish Council and local residents. I concur with the Council that development of the land would not effectively merge the settlements of West Malling and Kings Hill but would afford an opportunity to reinforce landscape buffers to major roads that presently represent barriers. In respect to the permission for the development of 5 houses on land at 3 Orwell Spike, there is no information before me in relation to that scheme's ability to fund the full contributions sought by the Council, but the FVA submitted with this appeal is a material consideration to which I have afforded significant weight. The use of suitably worded planning conditions should ensure that the remediation works do not materially impact on the living conditions of nearby residents.

Conditions

35. I have had regard to conditions suggested by the Council and comments from the appellant and consultees. I have included most of these but have amended texts in the light of guidance on conditions in PPG. In addition to the statutory condition limiting the lifespan of the permission, a condition is needed to list the plans and supporting documents in the interests of certainty.
36. Approval of a construction method statement is needed in the interests of amenity and highway safety prior to works starting. Pre-commencement conditions are also necessary in relation to archaeological investigations, remediation of contaminated ground and in relation to surface water drainage arrangements to ensure that planning concerns on these matters are fully addressed. Conditions are necessary to approve finished floor levels and external materials to ensure a satisfactory appearance to the development. Conditions are also needed to ensure that a satisfactory access to the site is formed in the interests of highway safety and that approved details relating to parking spaces, electric car charging points and refuse storage are provided for the proper functioning of the site. To safeguard living conditions for future occupiers, conditions are needed in relation to noise mitigation and acoustic fencing provision. Conditions are necessary to require implementation of the submitted landscape and fencing plans and to provide protection during the building operations for trees and shrubs shown to be retained. Finally, in the interests of ecological enhancement, a condition is needed to ensure that the recommendations in the submitted ecology report are adhered to.

Conclusion

37. My findings are that the proposed development would make adequate provision for affordable housing, having regard to relevant planning policies and the proposal's viability in relation to site circumstances. The FVA indicates that there would not also be scope to provide for enhancement of public open space and contributions towards infrastructure requirements requested by the Council. For the reasons given I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

Rory MacLeod

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Layout 200-BP P4 received 07.10.2020, Proposed Plans and Elevations WI - 200 plot 6 received 07.10.2020, Proposed Plans and Elevations AP - 200 plot 3 received 07.10.2020, Proposed Plans and Elevations TU - 200 plot 1 received 07.10.2020, Proposed Plans and Elevations AP - 202 plot 7 received 07.10.2020, Proposed Plans and Elevations AP - 203 plot 8 received 07.10.2020, Proposed Plans and Elevations SP - 200 plot 2 received 07.10.2020, Proposed Plans and Elevations TU - 200 plot 1 received 07.10.2020, Proposed Plans and Elevations TU - 201 plot 4 received 07.10.2020, Proposed Plans and Elevations TU - 202 plot 9 received 07.10.2020, Site Layout OS - 200 P4 coloured received 07.10.2020, Site Layout OS - 200 P4 received 07.10.2020, Boundary Treatment OS - 300 received 07.10.2020, Boundary Treatment OS - 301 received 07.10.2020, Boundary Treatment OS - 302 received 07.10.2020, Boundary Treatment OS - 303 received 07.10.2020, Boundary Treatment OS - 304 received 07.10.2020, Boundary Treatment OS - 305 received 07.10.2020, Street Scenes SS - 100 received 07.10.2020, Proposed Plans GA - 200 garage received 07.10.2020, Location Plan OS - SL01 received 07.10.2020, Design and Access Statement received 07.10.2020, Ecological Assessment received 07.10.2020, Master Plan 1586/002 landscape received 07.10.2020, Planning Statement received 07.10.2020, Letter received 07.10.2020, Arboricultural Survey received 07.10.2020, Archaeological Assessment received 07.10.2020, Noise Assessment dated July 2020, Flood Risk Assessment appendices received 07.10.2020, Flood Risk Assessment /drainage strategy received 07.10.2020, Report Geotechnical site investigation received 07.10.2020, Report Phase 2 site investigation received 07.10.2020, Transport Statement received 07.10.2020, Site Survey Badger received 07.10.2020, Report Phase 2 Site Investigation received 17.11.2020, Desk Study Assessment Phase 1 received 23.10.2020,

Proposed Plans and Elevations AP - 201 Plot 5 received 23.10.2020, Drawing streetscene received 27.10.2020, Drawing aerial view received 27.10.2020, Desk Study Assessment Phase1 Desk Study Final REV A received 17.11.2020, Other Noise Response received 13.11.2020, Viability Assessment received 09.11.2020, Proposed Plans and Elevations SP - 200A Plot 2 received 23.10.2020, Master Plan 1586 -002A Landscape received 27.11.2020, Design and Access Statement parts 1 and 2 received 27.11.2020, Site Plan OS-200 P5 received 27.11.2020.

- 3) No development shall take place, including any works of remediation of contamination, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- the parking of vehicles of site operatives, contractors and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - provision and maintenance of visibility splays at the proposed access with no obstructions;
 - delivery, demolition and construction working hours; and
 - procedures for notifying properties identified as likely to be affected as to the ongoing timetabling of works, the nature of the works and their likely duration.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development, including a detailed design of foundations, piling configurations, drainage and services and method statements relating to carrying out these works, shall take place until the applicant, or their agents or successors in title, will secure the implementation of a programme of:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority; and
 - (ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- 5) Prior to commencement of development below ground, the applicant, or their agents or successors in title, will secure the implementation of a programme of heritage interpretation in accordance with a written specification and timetable which has been submitted to and approved by the local planning authority.

- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.
- 7) The assessment shall include: a survey of the extent, scale and nature of contamination; the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems and archaeological sites.
- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred options, the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied. A minimum of two weeks written notification of the commencement of the remediation scheme works shall be provided to the local planning authority.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed.
- 10) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Drainage Strategy prepared by Considine and dated 03 October 2020 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

- 11) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a verification report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the local planning authority. The report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 12) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the local planning authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.
- 13) No development shall take place above ground level until full details of the finished levels, above ordnance datum, of the ground floors, eaves and ridge levels of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 14) No development above finished ground floor level shall take place until details of materials to be used externally have been submitted to and approved by the local planning authority; the development shall be carried out in accordance with the approved details.
- 15) The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.
- 16) The houses shall not be occupied, until the areas shown on the submitted layout as vehicle parking spaces have been provided, surfaced and drained. Thereafter they shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to reserved parking spaces.

- 17) No development above ground level shall take place until details of proposed car charging points have been submitted to and approved by the local planning authority. The charging points shall be installed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.
- 18) The houses shall not be occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the local planning authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.
- 19) Prior to the first occupation of the development hereby approved, the mitigation / attenuation measures set out in the Noise Impact Assessment report dated July 2020 needed to attain the required noise levels shall be fully implemented as approved and thereafter retained and maintained at all times.
- 20) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 21) The scheme of hard and soft landscaping and boundary treatment shown on the approved landscape masterplan (ref 1586-002 Rev A) shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 22) The development hereby permitted shall not be occupied until the boundary and acoustic fences shall have been constructed in accordance with details shown on submitted Proposed Boundary Plan 200-BP P4.
- 23) The development shall be carried out in accordance with the recommendations of the Ecology Report by Bakerwell Ecological Expertise received 07.10.20 and works undertaken shall be retained and maintained thereafter.