



Appeal Decision

Hearing held on 27 September 2022

Site visits made on 4 and 5 July, and 27 September 2022

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal Ref: APP/V4630/W/21/3281592

Land comprising former allotments, Rear of 1 to 9 Cricket Close, Walsall, WS5 3PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Cricket Close LLP against Walsall Metropolitan Borough Council.
 - The application Ref 20/0522 is dated 7 May 2020.
 - The development proposed is the erection of 29 dwellings (comprising 22 open market dwellings and 7 affordable units) with landscaping, access roads, car parking and associated infrastructure.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 29 dwellings (comprising 22 open market dwellings and 7 affordable units) with landscaping, access roads, car parking and associated infrastructure at land comprising former allotments, Walsall, WS5 3PU in accordance with the terms of the application, Ref 20/0522, dated 7 May 2020, subject to the conditions in the Schedule attached to this Decision.

Application for costs

2. An application for costs was made by Cricket Close LLP against Walsall Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. As noted above, this appeal is against a failure to give notice of a decision within the prescribed period. Subsequent to the submission of the appeal, the Council issued a statement setting out the reasons for which they would have refused the planning application, despite the original Officer recommendations to approve it. I have framed the main issues and my reasons in this Decision around this, following discussion with the parties at the hearing.
4. Prior to the hearing, it became apparent that a small part of the appeal site was not within the ownership of the appellant. An updated Certificate B was served on the landowner, and they submitted additional comments to the Planning Inspectorate. Notwithstanding those late comments, the occupiers of that land were consulted by the Council on the appeal application, and I am satisfied that no prejudice arises as a result.

5. Owing to the postponement of the original hearing date, I was able to visit the site and its surroundings in the morning and evening peak hours, as well as during the site visit arranged at the event. This gave me the opportunity to use the Cricket Close and Birmingham Road junction, and observe the use of the surrounding junctions, bus stops and road network at various times of day.

Main Issues

6. Having regard to the papers presented to Planning Committee and the evidence before me, the main issues are i) the effect of the proposal on the living conditions of the existing residents of Cricket Close having regard to increased vehicle movements, ii) whether or not the proposal would cause an unacceptable increase traffic congestion elsewhere, and iii) whether or not the proposal would make appropriate contributions towards affordable housing in the area.

Reasons

7. Policy HC1 of the Walsall Site Allocation Document 2019 (the SAD) sets out the sites allocated for new housing development in the area. It includes the appeal site, which makes up part of site HO305, allocated for 42 dwellings.

Living conditions

8. The Transport Statement (TS) submitted by the appellant and reviewed by Officers of the Local Highway Authority (the LHA) demonstrates through survey work, data and modelling that the appeal proposal is likely to give rise to 15 two-way vehicle trips during the morning peak and 14 two-way vehicle trips in the evening peak. These vehicle movements are described as being roughly one additional trip every four minutes on the local highway network in peak periods. The TS establishes that these vehicle movements are well within the capacity of the local highway network and junctions and the LHA agrees with that position.
9. Consultation responses from the LHA demonstrate their agreement with these conclusions with regard to trip-rates and overall number of vehicle movements. Notably, in their consultation response, the LHA stated that the proposed development would be "largely imperceptible" to existing highway users and residents.
10. It is demonstrated in the written evidence and was confirmed during discussion at the hearing that the appellant, the Council and the LHA are satisfied that the proposal would be compatible with existing highway conditions on Cricket Close, including the bends in the road, visibility, existing levels of on-street parking and vehicle speeds.
11. Despite this, I wholly accept that existing residents of Cricket Close, currently a cul-de-sac, will perceive an increase in the number of vehicle movements and that this decision must tread the line between objectively measurable data and lived-experience with regard to the likely effects of the proposal. I also accept that the number of trips and vehicle movements during the morning and evening peaks do not represent the only vehicle movements associated with the development. However, they are a well-established means of measuring the overall effect of a development with regard to additional vehicle movements.

12. Whilst I therefore accept that there would be an increase in vehicle movements, given the number of them, which is the subject of broad agreement between the appellant and the LHA, I do not consider that they would be so frequent or numerous that they would give rise to the harm alleged by the Council either in terms of the direct effects of vehicle movements past existing houses, or in terms of additional traffic using the junction and wider highway network. In addition, Cricket Close, combined with the appeal proposal would still be a cul-de-sac. There would be no through-running or short-cutting and the overall composition of traffic on Cricket Close would remain the same.
13. I note the particular concerns of the occupiers of the properties immediately adjacent to the access of the site from the end of Cricket Close, particularly as the site access has for some time been used for informal parking, despite being within the ownership of the appellant.
14. Whilst it is unfortunate that 11 Cricket Close (No 11) appears not to have sufficient off-street parking within their plot, I note that the appellant has offered to provide equivalent, compensatory parking spaces within the appeal site. Although there are concerns over the enforceability and practicality of such an arrangement, I consider that these are essentially private matters which appear capable of resolution, and the solution proposed appears a generous and pragmatic one. I acknowledge that the extensions to No 11 which have led to this situation were apparently granted planning permission by the Council. However, this does not alter my conclusions above, and as noted, this is a private matter.
15. During the event, several third-parties highlighted that on-street parking is only compatible with existing levels of vehicle movements due to residents being polite, courteous to their neighbours and considerate to each-other. There is however, nothing to suggest that this would not continue to be the case following the implementation of the appeal proposal, and in any event, as set out, the level of additional vehicle movements are considered acceptable and within the capacity of the existing conditions.
16. I therefore find that the proposal would not have an unacceptable effect on the living conditions of the existing residents of Cricket Close having regard to increased vehicle movements. It would therefore not conflict with relevant saved policies in the Walsall Unitary Development Plan (the UDP), policies in the Black Country Core Strategy 2011 (the BCCS) or the SAD; notably saved Policy ENV32 of the UDP, Policy TRAN2 of the BCCS and Policy T4 of the SAD. All of these seek, amongst other things, to ensure that development may be safely and suitably accessed, and that proposals take proper account of their context. The proposal would also not conflict with guidance in the National Planning Policy Framework (the Framework) on achieving well-designed places and promoting safe and sustainable transport.

Traffic congestion

17. At the hearing it was confirmed that the position of the LHA, set out in written evidence, that there was no objection to the proposal in terms of its effect on highway safety, congestion at the Cricket Close junction or elsewhere on the network, even taking into account the effects of the SPRINT bus, remains the most up to date position and has not changed.

18. It was also confirmed that the position of the LHA regarding the suitability of the Broadway for construction access and the only for access to two properties on completion of the development had not changed. I acknowledge queries from third-parties around this, but my consideration is limited to the proposal before me, and in any event, the position of the LHA, that Cricket Close provides an appropriate access for the bulk of the development, remains unchanged.
19. I note the concerns of third parties around the potential combined effects of the appeal proposal with an application currently under consideration for a food-store close to the junction of Birmingham Road with Cricket Close. However, the appellant has confirmed that according to their modelling, levels of traffic would remain acceptable, and the Council did not offer any further objection. It was also discussed and confirmed that the appeal site is allocated for the appeal proposal, the appeal application pre-dates that application, that site is currently a hotel with its own associated vehicle movements and load on the highway network and is not apparently allocated for such a development.
20. I note also third-party concerns regarding driving standards, the operation of the bus stops and the relationship of those to the Cricket Close junction and others nearby. I have no reason to doubt that the incidents described took place as well as the level of concern they create. However, this is an existing issue, relating to a relatively new arrangement. I am also mindful of the very low level of additional vehicle movements that the proposal would create and the very small proportion of overall traffic on the network that they represent. As a result, I do not consider that the proposal would contribute such traffic to cause any material change to the operation of the highway network. The contents of the TA and the consultation responses of the LHA, both of which already factor in the effects of the bus stops, reinforce this conclusion.
21. As a result, I am satisfied that the proposal would not cause an unacceptable increase traffic congestion elsewhere and would not therefore conflict with Policies in the SAD and BCCS, notably T4 in the SAD, and TRAN2 in the BCCS, both of which seek, amongst other things, to ensure that development has an acceptable effect on and relationship to the wider highway network and can be safely and suitably accessed.
22. In addition, the proposal would not conflict with the Framework guidance to ensure that development would not have an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe.

Affordable housing

23. As noted above, the site is allocated within the SAD. Within that, policy HC3 identifies the requirement for affordable housing on all sites of 15 dwellings or more *where this is financially viable* (my emphasis) in accordance with Policy HOU3 of the Black Country Core Strategy 2011 (the BCCS).

24. Policy HOU3 of the seeks to deliver affordable housing in partnership with developers and states that local planning authorities will seek to secure 25% affordable housing on all sites of 15 dwellings or more where this is financially viable. The policy goes on to make clear that the tenure and type of that housing will be determined on a site-by-site basis, based on best available information regarding housing need, site surroundings and viability considerations. The policy provides significant detail on viability considerations and the need to agree methodologies. However, given the construction of the policy, these details relate only to sites where 25% affordable housing is proven not to be viable. That is not the case here.
25. This proposal would provide the required amount of affordable housing, but not in the tenure preferred by the Council.
26. In evidence, it appears that the tenure preference of the Council comes from the Walsall Council Supplementary Planning Document for Affordable Housing April 2008 (the SPD). However, this predates the development plan policies which deal with affordable housing provision. At the hearing, the Council agreed that as a matter of policy interpretation, it could not properly rely on the SPD for evidence of the requirement for their preferred tenure on this site. Instead, they suggest that the preference comes from the consultation responses of the Housing Officer.
27. Whilst that may be the case, the Committee Reports refer to the 2008 SPD and there is no further evidence on the basis for the Council's tenure preference. As a result, I give the SPD very little weight in my decision.
28. In this case, I have been presented with two assessments of the financial viability of the proposal and its ability to deliver affordable housing in the tenure preferred by the Council, or at all. The Council commissioned, and received in January 2021, an assessment¹ which concluded that the proposal should be viable with that preferred tenure.
29. Subsequent to that, the appellant prepared a detailed, updated Financial Viability Appraisal (FVA) in August 2021, submitted in evidence to the appeal. This FVA both questioned the assumptions and methodology of the January 2021 appraisal and carried out a detailed assessment of the viability of the proposal, taking into account the current context of the development industry. This FVA demonstrates that it is not financially viable for the development to deliver the affordable housing tenure preferred by the Council, and having regard to it, I agree with the conclusions its presents.
30. It was confirmed at the hearing that this FVA is the most up to date evidence before me on viability.
31. Returning to the requirements of Policy HOU3 of the BCCS, I find that the evidence before me, including amongst other things the FVA, the Statement of Case of the appellant and the Affordable Housing Statement of Walsall Housing Group is the best, most up-to-date and reliable information I have available to me regarding housing need, site surroundings and viability considerations when considering affordable housing.

¹ Carried out by Lambert Smith Hampton and supplied in the evidence of the appellant.

32. Taking all of that into account, I am satisfied that the proposal would make appropriate contributions towards affordable housing in the area, primarily through the delivery of 7 on-site units of affordable housing but also through the payment of an Affordable Housing Contribution subject to a viability review, set out in the planning obligation. I acknowledge that this affordable housing would not be delivered in the Council's preferred tenure, but find nothing in the evidence which would support dismissing the appeal on this basis.
33. As a result, I find that the proposal would not conflict with Policy HC3 of the SAD or Policy HOU3 of the BCCS, as it would deliver affordable housing on the site, the tenure and type of which reflects site-specific considerations. The proposal would also therefore not conflict with the aims of the Framework and the Planning Practice Guidance (the PPG) to deliver affordable housing on the basis of up-to-date policies and information.

Other Matters

34. There is no suggestion that the proposal does not comply with the allocation in the SAD, although it is clear that Members of the Council would prefer to see the whole site developed. However, that is not what was applied for in this case. There is no suggestion that the appeal proposal would render the remainder of the allocation area undevelopable, or that the proposal otherwise conflicts with the requirements of the policy with regard to character, appearance or density.
35. In my Procedural Matters above, I referred to the late service of notice on an adjacent landowner. I acknowledge comments from the agents acting for the landowners who consider the proposal to be undeliverable owing to their perceived development value of their land and the compatibility of that with proposals before me. Noting the details of the proposal before me, this does not in itself make the proposal before me undeliverable or make the site non-effective. In addition, ownership matters such as this are capable of resolution outwith the planning process, and in any event, the grant of planning permission does not outweigh legal rights, nor does it confer rights where there are none.
36. I note various other matters which have been raised by third-parties both in representations to the Council and in response to the appeal. As set out in the Council Committee reports, the proposal is considered acceptable in all other regards, and any outstanding matters can be properly dealt with through the imposition of suitable conditions. This position was confirmed at the hearing; I therefore adopt those conclusions and I am satisfied that the proposal is acceptable in all other regards.
37. At the hearing my attention was drawn to access arrangements for other developments in the area and comparisons were drawn with the proposals in this appeal. Consistency in decision making is an important part of the planning process, but all decisions are made on the particular merits of the case, including consideration of the peculiarities of the site, its surroundings and its effects. In this case, on this site, having regard to the evidence before me, I have found that this proposal would be acceptable.

Planning balance

38. Parties agree that there is an insufficient supply of housing land, and the most recent Housing Delivery Test results, reported to the Council's Committee in May of this year are clear that the Council is not delivering sufficient homes. As a result of this and Footnote 8 of the Framework, paragraph 11d of the Framework is immediately engaged and there is no discretion to consider whether there are relevant development plan policies or whether policies that are most important for determining the application are out-of-date.
39. Had I not found that the proposal accords with the development plan, I would be required to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in this Framework taken as a whole. As set out above, I have not found any adverse impacts which would arise from the grant of planning permission, and the proposal, through the delivery of market and affordable housing in an area of need, on an allocated site would deliver substantial benefits when assessed against the policies in the Framework taken as a whole.
40. As a result, the proposal therefore benefits from the presumption in favour of sustainable development set out in the Framework.

Conditions

41. The Council has suggested a number of conditions to be attached, should planning permission be granted. The appellant has agreed to the scope, range and wording of these conditions through the Statement of Common Ground.
42. Having had regard to the requirements of the Framework and the Planning Practice Guidance I have largely imposed the agreed conditions, subject to various corrections as agreed at the hearing. I am satisfied that the conditions imposed meet the legal tests and the policy tests.
43. The appellant has confirmed in writing through the Statement of Common Ground that they have no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development.
44. The conditions imposed are necessary to ensure the satisfactory appearance of the completed development, to ensure that it would not have any other unacceptable effects and in particular that it can be implemented without harm to amenity or safety.
45. Two of the agreed, proposed conditions sought to remove national permitted development rights, both for new windows, doors and openings, and for extensions and additions. At the hearing, these conditions were discussed, with the Council suggesting the first was required to protect the living conditions of future occupiers of the appeal site and the second was required both to safeguard the openness of the nearby Green Belt and to protect amenity.

46. Although I acknowledge these points, given the combination of the proposed site layout, its relationship to the Green Belt (being adjacent to, but not within it) and the conditions within the General Permitted Development Order, I do not find that I have been presented with clear justification to restrict national permitted development rights. Nor do I find that these conditions would pass the relevant policy tests. As such, these conditions have not been imposed.
47. I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Planning obligation

48. I have had regard to the evidence, the relevant guidance in the Framework and considered whether the requirement for a contribution towards off-site open-space, the provision of on-site affordable housing and a mechanism for an additional affordable housing payment subject to conditions meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. I am satisfied that such contributions would be necessary to make the development acceptable in planning terms, they directly relate to the development and are fairly related in scale and kind to the development.
49. A signed and sealed unilateral undertaking, dated August 2021, under section 106 of the Act was provided with the appeal to secure these contributions. During the course of the appeal the appellant submitted an updated version of this obligation to improve the drafting and attempted to secure the agreement of the Council to its wording and structure, notwithstanding the fundamental objection of the Council to the affordable housing offer it contained. During the hearing it became apparent that the Council still had concerns over elements of the drafting of this updated obligation but did not share these until the day of the hearing.
50. As a result, the appellant confirmed that they no longer wished to pursue the updated obligation but wished to rely on the August 2021 version. Whilst they acknowledge that the drafting could be improved, the proposed changes were not substantive and, in their view, it remains an effective, enforceable obligation which delivers what is required of it.
51. In particular, I note that the Council is concerned that the owners of the small strip of land referred to in my Procedural Matters above are not named on the deed, and as a result, the obligation may not be enforceable. In response, the appellant has confirmed that as no development is proposed on that piece of land, none of the covenants within it relate to that piece of land and all of the obligations bind on the relevant landowner for the purpose of the deed, the obligation remains enforceable and effective.
52. I agree with that conclusion and on that basis, I consider that the submitted obligation, and in turn, the proposal could secure satisfactory contributions towards open space and affordable housing as required by development plan policies set out in my reasoning above.

Conclusion

53. For the reasons given above I conclude that the proposal accords with the development plan and there are no material considerations which indicate that a decision be taken other than in accordance with it. I have also found that the content of the Framework is a significant material consideration which weighs in favour of the proposal.
54. I note the minor concerns over site ownership, but do not consider that this is so significant, nor so obviously insurmountable that it could not be resolved within the lifetime of the planning permission granted here, such that this proposal would or could not deliver its clear benefits.
55. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Appearances

FOR THE APPELLANT:

Gary Grant	Counsel, of Kings Chambers instructed by
William Thomas	Shoosmiths LLP
John Williams	PlanIT Planning and Development Ltd
Rob Csonder	RCA Regeneration
Jenny Raleigh	RCA Regeneration
Ben Smith-Lang	Hydrock
John Bedford	WHG
Duncan Smith	WHG

FOR THE LOCAL PLANNING AUTHORITY:

Alison Ives	Head of Planning and Building Control
Sally Wagstaff	Principal Planning Officer

INTERESTED PARTIES:

Keith Thorley	Resident of Cricket Close
Jane Wilding	Resident of Cricket Close
Hardeep Sandhu	Resident of Cricket Close
Claire Dowling	Resident of Cricket Close
Margaret Dowling	Resident of Cricket Close
Helen Archer	Resident of Cricket Close
Nick Archer	Resident of Cricket Close
Pam Allen	Resident of Cricket Close
John Allen	Resident of Cricket Close
Loraine Thorley	Resident of Cricket Close
David Wilding	Resident of Cricket Close

Schedule of Conditions

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.
2. This development shall not be carried out otherwise than in conformity with the following approved plans and documents: -
 - Location Plan, drawing no. DOOD, deposited 13/1/2021
 - Site Layout Plan, drawing no. D01 Revision AC, deposited 2/1/2021
 - Garage and Utility Plan, drawing no. D10 Rev. B, deposited 7/5/2020
 - House Type 2B A AF Plans and Elevations drawing no. D09 Rev. F, deposited 7/5/2020
 - House Type 2B N OM Plans and Elevations drawing no. D02 Rev. G, deposited 7/5/2020
 - House Type 3B N2 OM Plans and Elevations drawing no. D04 Rev. F, deposited 7/5/2020
 - House Type 3B WN OM Plans and Elevations drawing no. D06 Rev. F, deposited 14/8/2020
 - House Type 4B 2.5S OM Plans and Elevations drawing no. D12 Rev. G, deposited 14/8/2020
 - House Type 4B 2S OM Plans and Elevations drawing no. D07 Rev. G, deposited 14/8/2020
 - House Type 5B 2.5S OM Plans and Elevations drawing no. D08 Rev. F, deposited 14/8/2020
 - Landscape Plan, drawing no. D900 Rev C, deposited 7/5/2020
 - Street Elevations 1, 2 & 3, drawing no. D20I, deposited 13/1/2021
 - Street Elevations 4 & 5, drawing no. D21J, deposited 13/1/2021
 - Street Elevations 6 & 7, drawing no. D22 C, deposited 13/1/2021
 - Boundary Treatment, drawing D14 Rev. O, deposited 13/11/2020
 - Materials Schedule, drawing no. D30 F, deposited 13/1/21
 - Site Construction Vehicle Access drawing D50B deposited 25/1/21
3. a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a bat survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of roosting or hibernating bats. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b) Should bats be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

c). The development shall not be carried out otherwise than in accordance with the approved details.

4. a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a badger survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of badgers and their setts. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b) Should badgers be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

c) The development shall not be carried out otherwise than in accordance with the approved details.
5. a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a habitat survey shall be undertaken at the optimum time as prescribed by Table 2: Optimum Survey Times for Vegetation Surveys, page 33 of Conserving Walsall's Natural Environment, by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to assess the plant species and plant communities present. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b) Should important, rare or endangered plant species be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

c) The development shall not be carried out otherwise than in accordance with the approved details.
6. a) Prior to commencement of the development hereby permitted and notwithstanding the information provided, a reptile survey shall be undertaken by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy to determine the presence or absence of reptiles including slow worms. Details of mitigation measures and contingency plans shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b) Should reptiles be found on site during the course of construction the approved mitigation measures and contingency plans shall be implemented

c) The development shall not be carried out otherwise than in accordance with the approved details.
7. a) Prior to commencement of the development hereby permitted, drainage plans for the discharge of surface water and disposal of foul sewerage shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.

8. a) Prior to the commencement of development, a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:
- i. Construction working hours
 - ii. Parking and turning facilities for vehicles of site operatives and visitors
 - iii. Loading and unloading of materials
 - iv. Storage of plant and materials used in constructing the development
 - v. A scheme for recycling/disposing of waste resulting from construction works
 - vi. Temporary portacabins and welfare facilities for site operatives
 - vii. Site security arrangements including hoardings
 - viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
 - ix. Measures to prevent flying debris
 - x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
 - xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
 - xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
 - xiii. Re- covering of holes, escape from holes, tree/hedgerow protection, newts, bats etc.
 - xiv. Scheme for the ecological protection of the Full Brook Wildlife Corridor and watercourse buffer from site preparation, clearance, and during construction.
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.
9. a) Prior to commencement of the development hereby permitted a survey shall establish whether there are any invasive species such as Japanese Knotweed and Giant Hogweed on the site and shall be submitted in writing to the Local Planning Authority for approval.
- b) If any invasive species are identified in the survey report a detailed method statement for the long term eradication and management of any invasive species on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of any invasive species and measures to ensure that any soils brought to the site or used from within the site are free of seeds, roots or stems of any invasive plant covered by the Wildlife and Countryside Act 1981. Any Japanese Knotweed to be removed utilising "dig and dump" shall not be removed from the site otherwise than by a carrier licensed to carry it to a landfill site licensed to accept it.
- c) No works shall be carried out on site until the detailed method statement has been approved.
- d) The agreed works shall thereafter be carried out and retained for the lifetime of the development.

10. a) Prior to the commencement of any building or engineering operations of the development hereby approved details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.
- b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.
11. a) Prior to the commencement of building operations above damp proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces that match the existing materials including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.
12. a) Prior to commencement of the development hereby permitted details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.
- c) If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.
13. a) Prior to commencement of the development hereby permitted details of a programme of site investigations and archaeological work, to include a watching brief and a method of preserving/recording any archaeology found during the site investigations, shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) No development shall be carried out on site otherwise than in accordance with the approved details.
14. a) The development hereby permitted shall not be brought into use until the approved drainage scheme shown in the Flood Risk Assessment and Drainage Strategy, Hydrock, 26th March 2020 and Technical Design Note, Hydrock, 18th September 2020, have been implemented.
- b). The development shall not be carried out otherwise than in accordance with the approved details included in the Management and Maintenance Schedule outlined in the Technical Design Note.

15. a) Prior to the first occupation of any dwelling of the development, the development shall be constructed with the access road, parking and vehicle manoeuvring areas being consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain, together with the clear demarcation of all parking bays.
- b) These areas shall thereafter be retained and used for no other purpose.
16. a) Prior to the first occupation of the development hereby permitted, a scheme of bat and bird boxes to be incorporated into the development site shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) The development shall not be carried out otherwise than in accordance with the approved details and shall thereafter be retained.
- c) The entrances to bat and bird boxes shall be kept clear from obstructions at all times.
17. a) Prior to the commencement of the hereby approved development above damp-proof course, details of the number, type and location of the proposed electric vehicle charging points shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) Prior to the first occupation of any dwelling of the development, the development shall be constructed in accordance with the agreed electric vehicle charging points and thereafter retained and available for the use of future occupiers of the development and used for no other purpose.
18. Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between mid-February and September inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.
19. No boilers shall be installed in any of the units hereby permitted, save for;
- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
 - Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

20. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum security measures and thereafter the security measures shall be retained;
- All external doors to individual dwellings to be PAS24; 2016
 - All ground floor windows and over accessible roofs to be PAS24; 2016
 - All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.
 - Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors
 - Recycling and refuse areas to be secured at the rear of the properties in a lockable storage facility
 - 1.8m high closed board fencing with 0.3m trellis topper to be erected around the perimeter (inside of the boundary hedging) of each dwelling.
 - All access gates shall be of the same construction of the perimeter fencing, self-closing, facing the street, lockable with a key front and rear, designed to not create any climbing aids
 - No Lead or metal shall be used on the ground floor.
 - All the dwellings shall be suitably with an intruder alarm by a registered SSAIB or NSI engineer to British Standard (BS EN 50131 Grade 2)
 - All energy meters shall be placed at the front of the dwellings
21. a) No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.
- b) No external lighting shall be installed on the site otherwise than in accordance with the approved details.
22. a) Prior to occupation of the development hereby permitted, a scheme for the provision of tactile pedestrian dropped kerbs across the Cricket Close estate road shall be submitted in writing to and approved in writing by the Local planning Authority. The scheme shall include;
- the provision of tactile pedestrian dropped kerbs across the service road access junction serving nos. 2 to 6 Cricket Close, together with any minor footway extension works to accommodate the crossing
 - the provision of a tactile pedestrian crossing across Cricket Close at the termination of the existing footway outside no. 1 Cricket Close across the bend.
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.
23. a) Prior to the commencement of the development hereby permitted, the details for energy saving based on the approved Energy Statement prepared by Focus Consultants dated April 2020, shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

24. a) No works or development shall take place before a scheme for the protection of the existing trees which are shown to be retained on the Pre-Development Tree Survey by Dr Stefan Bodnar dated February 2020, has been submitted in writing to and agreed in writing by the Local Planning Authority. Such a scheme will comply with the provisions of BS5837 ("Trees in relation to construction – 1990") and BS 3998 ("Recommendations for tree works – 1989").
- b) Prior to the commencement of the development hereby permitted the scheme for the protection of the existing trees shall be implemented. The development shall not be carried out otherwise than in accordance with the approved scheme for the protection of the existing trees and the approved details shall thereafter be maintained in full throughout the lifetime of the construction period until the development has been fully occupied.
25. a) Notwithstanding the details as submitted and prior to the commencement of building operations above damp proof course of the development hereby permitted, a noise attenuation scheme taking into account Professional Practice Guidance (Pro PG) Planning and Noise shall be submitted in writing to, and agreed in writing by, the Local Planning Authority.
- b) The development hereby permitted shall not be carried out otherwise than in accordance with the approved noise attenuation/mitigation scheme and thereafter be retained for the lifetime of the development.
26. a) No occupation or use of the development hereby permitted shall commence until ground contamination mitigation and ground gas protection measures have been put in place and a competent person's verification report has been submitted in writing to the local planning authority. The verification report shall include full details and specification of the ground contamination mitigation and ground gas protection measures installed and confirmation that all membranes and other equipment have been installed in accordance with the manufacturer's requirements and British Standard 8485:2015+A1:2019 as revised or amended from time to time
- b) The ground contamination mitigation and gas membranes and equipment shall thereafter be retained for the lifetime of the development.
27. All construction traffic shall enter and exit the site via the temporary haul road onto The Broadway which is approved by drawing D50 B. The haul road is to be used for construction traffic only and shall be removed in its entirety upon the completion of construction works.

End of Schedule of Conditions