



---

## Appeal Decision

Hearing held on 7 September 2020

Site visit made on 2 September 2020

**by Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7<sup>th</sup> October 2020**

---

### **Appeal Ref: APP/B3410/W/20/3245077 Land off Aviation Lane, Burton-upon-Trent**

- 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 Partner Construction Ltd, Midland Heart, Inside Land (Burton) Ltd against the decision of East Staffordshire Borough Council.
  - The application Ref P/2018/01291, dated 5 October 2018, was refused by notice dated 18 July 2019.
  - The development proposed is 128 no. affordable dwellings off Aviation Lane.
- 

### **Decision**

1. The appeal is allowed, and planning permission is granted for 128 no. affordable dwellings on land off Aviation Lane, Burton-upon-Trent in accordance with the terms of the application Ref P/2018/01291, dated 5 October 2018 subject to the conditions set out below.

### **Procedural Matter**

2. The development is described as the erection of 131 No affordable dwellings on the planning application form. However, during the course of the Council's consideration of the planning application the subject of this appeal, the number of units was reduced. Both parties confirmed at the hearing that the development proposed is for 128 affordable dwellings and it is on that basis that the Council determined the planning application. I have proceeded on that basis.
3. With agreement, after the Hearing, a legal agreement under S106 of the Town and Country Planning Act 1990 was submitted (the S106). This secures contributions towards education, health services, open space provision, refuse containers and the monitoring and review of a Travel Plan and the monitoring of the agreement by the County Council. It also includes for the provision of 100% affordable housing, the provision and management of open space and the submission and implementation of a Travel Plan. The S106 is a material consideration to which I return later in the decision.

### **Main Issues**

4. The main issues relate to:
  - the weight to be given to the provision of affordable housing at this time;
  - and

- whether the proposal would provide an appropriate site for development having regard to local and national planning policies that seek to manage the location of new development.

## Reasons

### *Affordable housing*

5. The annual requirement for new affordable housing contained within the East Staffordshire Borough Council Local Plan 2015 (Local Plan) is 112 units. This is based on the findings of the Strategic Housing Market Assessment 2013, updated 2014 (SHMA). It is agreed within the Affordable Housing Statement of Common Ground (AHSOCG) that since the start of the plan period, 638 affordable dwellings have been completed, equating to 80 dwellings per annum, leaving a shortfall of 258 dwellings.
6. As well as the current shortfall, I understand that there are some 2,166 households on the Council's Housing Register. While the Council advised that not all are in priority need, which would relate to those with medical conditions, or homeless persons, all meet the relevant qualification criteria.
7. The Council states that the number of affordable houses that currently have permission and are anticipated to come forward (using the permissions as at March 2020) is around 1,076 units, some 884 of which would come forward over the next five years on sites that either have planning permission, or from planning applications that are awaiting determination. The appellant is of the view that only 625 would be likely to come forward within the next five years.
8. The appellant suggests that the Council should recoup the existing shortfall over the next five years, in line with the approach set out in the Planning Practice Guidance (PPG) for overall housing shortfalls.<sup>1</sup> That would result in the need to secure delivery of some 164 dwellings per year over the next five years. The Council, on the other hand, considers that the total amount of required affordable housing, constituting some 1,484 dwellings, would be provided over the whole plan period (2012-2031). In my view, the extent of the shortfall and the number of households on the Council's Housing Register combine to demonstrate a significant pressing need for affordable housing now. As such, I consider that, the aim should be to meet the shortfall as soon as possible.
9. Of the seven disputed sites within the five year affordable housing land supply figures, two do not have planning permission, with planning applications from 2017 still awaiting determination<sup>2</sup>. Furthermore, on both there is no agreement to the exact level of affordable housing. Therefore, I am not convinced, in accordance with the guidance in the PPG and the Framework<sup>3</sup>, that there is clear evidence that the 108 dwellings relied on by the Council from these two sites would be deliverable within five years. There is nothing within the Framework or the PPG to suggest that this definition should not apply to affordable housing as well as market housing.

---

<sup>1</sup> Paragraph: 031 Reference ID: 68-031-20190722

<sup>2</sup> Nos 44 and 45 on Appendix 1 to the Affordable Housing Statement of Common Ground.

<sup>3</sup> Paragraph: 007 Reference ID: 68-007-20190722 and Annex 2 Glossary to the Framework

10. One of the seven sites has outline planning permission only<sup>4</sup>. While the Council suggest that it is in advanced discussions with a developer, I have seen nothing conclusive to demonstrate an agreed timescale for the submission of a reserved matters, with no clear evidence that there is a reasonable prospect of the associated eight affordable houses coming forward within the next five years.
11. My concern, given the nature of the development proposed, is whether the affordable housing needs of the Borough are being met. These are households in need of a home now. While the Council is of the view that there is not an overwhelming need for affordable housing which cannot be met within the settlement boundary, on allocated sites or through current planning permissions, just by excluding these three sites from its five year housing supply, the Council's expectation of 884 houses coming forward within five years is reduced to 768 which would be below the five year requirement of 818 dwellings including the existing shortfall.
12. The Council suggested that the delivery of affordable housing through the local plan is not the only route to its provision, but it could only point to delivery through the private rented sector as an alternative. Whether this would be genuinely affordable in accordance with the National Planning Policy Framework (the Framework) definition is not guaranteed. The Council also stated that there would be turnover within the existing affordable housing stock, but I have no figures for this, and there has been no substantiated evidence to demonstrate that any reliance on turnover has worked to deliver a satisfactory supply to date.
13. The appellant suggested that the actual number of affordable units provided is likely to be less than the submitted totals due to the effect of Right to Buy legislation. However, no figures were presented in support of this argument.
14. There is no dispute that, in general, the delivery of market housing within the Borough has met the required rate in the Local Plan, following the proposed trajectory in increased delivery over the plan period. In fact, the Council has surpassed the expected levels of delivery in the last two years and there is agreement that the Council can demonstrate a five year housing land supply. However, this has not translated into the expected levels of affordable housing delivery. It is not clear why affordable housing delivery was not stepped to match that of overall housing and the Council was unable to advise me on this.
15. Even in the last two years where housing delivery has been high, the annual requirement for affordable housing has not been met and has only comprised, at most, some 13% of the overall housing provided. Indeed, over the plan period to date affordable housing has only been provided at an average of 16% of overall housing delivery or, on average, 80 dwellings per annum. I note that over the plan period, the average delivery of affordable housing is at 17% of total housing delivery. Even if I were to use this figure, for the Council to meet its annual affordable housing requirement it would need to deliver over 950 units per year, which has not been achieved to date and is not envisaged in the Council's trajectory contained in Policy SP3 of the Local Plan, which requires 682 dwellings per annum from 2018/19 onwards.

---

<sup>4</sup> No 37 on Appendix 1 to the Affordable Housing Statement of Common Ground

16. Were this trend to continue, then it is unlikely that the required number of affordable homes would be provided in the long term. In any case there is a pressing need now, and the proposed 128 affordable dwellings would go some way to reducing the existing shortfall. I heard from the appellant that funding would be available from Homes England and the site would be delivered quickly, which was not disputed by the Council.
17. In addition, the Statement of Common Ground states that there is a worsening trend in the lower quartile house price to income ratio, as well as the cost of private renting. Furthermore, the average lower quartile monthly rent in East Staffordshire in 2018/19 was £495 per month, an increase of some 24% since 2013/14 and the latest average house price in the Branston ward is around £200,000, an increase of 48% since the start of the Plan period in 2012/13. These affordability factors have all worsened since the adoption of the local plan.
18. In coming to a view on this, I am mindful of the importance attached to the provision of housing and the requirement within paragraph 59 of the Framework to ensure that the needs of groups with specific housing requirements are addressed. In view of the significant number of households on the Council's Housing Register (which demonstrates a significant pressing need now) the current shortfall in affordable housing provision and the worsening affordability factors, I consider that the development proposal would be a significant benefit in terms of helping to address the shortfall in the supply of affordable housing in the Borough in the short term that, based on the evidence before me, there is no certainty will be met from existing or future planning permissions.

#### *Location*

19. Policy SP2 of the Local Plan sets out the settlement hierarchy for the Borough. This seeks to direct development towards the most sustainable locations in terms of the level of services and facilities and concentrate development within the designated settlement boundaries of those locations.
20. As the appeal site is outside of the settlement boundary of Burton upon Trent then the Council is of the view that there is clear conflict with Policy SP2. While the wording of the policy may be "open textured" as suggested by the appellant, I am satisfied, that when read in conjunction with Policy SP4 of the Local Plan, which states that "the Development Requirement assigned to the Main Towns and Tier 1 and Tier 2 settlements will be delivered within settlement boundaries or in accordance with a Made Neighbourhood Plan" then the thrust of the policy within the Local Plan is to direct development to within settlement boundaries. As the appeal site is neither a strategic allocation nor within the settlement boundary then there is conflict with Policies SP2 and SP4 of the Local Plan.
21. The Council confirmed that the purpose of the settlement boundaries, is not only to direct development to the most accessible locations, but also to protect the character and appearance of the countryside.
22. In this instance, no harm is alleged by the Council to the character and appearance of the area. The appeal site forms a large area of undeveloped land on the edge of Burton-upon-Trent, but is bound by housing on its north, east and west boundaries and, as a result, does not have a strong relationship with

- the open countryside beyond. While its southern boundary is open to fields, the narrowness of the appeal site together with the containment of the proposed housing within the existing built form means it would be viewed in the context of existing development. So, while the appearance of the site would clearly change, there would be no harm to the character and appearance of the wider area.
23. Local residents suggest that future occupiers would be isolated due to the distance to services and facilities. While the appeal site is somewhat removed from the centre of Burton upon Trent, it is located on a main route into the centre (B5017) which is well served by bus routes and benefits from a constant, lit footway. The Branston Neighbourhood Plan as modified in 2020 (the NP) sets out that there are places where the B5017 is considered to be narrow, cars are parked on the footway and on refuse collection day pedestrians are hindered by bins left out on the footway. However, the parking of vehicles and placement of bins on the footway would not occur at all times.
24. I saw that facilities such as a local convenience store and school are within a convenient walking and cycling distance of the appeal site. I was also advised that the local bus service is now in operation every half an hour during the day. I appreciate that there may be no service after 7pm or on a Sunday. However, I am satisfied that while there may be sites which are in or nearer the centre of Burton-upon-Trent, there would be no conflict with paragraphs 8b and 103 of the Framework in that future residents would have nearby accessible services, with the location of the appeal site offering a genuine choice of transport modes.
25. Policy SP8 of the Local Plan states that development beyond settlement boundaries will not be permitted unless it sits within one of nine categories. It was agreed at the hearing that the only two categories which could be relevant to this proposal would be whether it was in accordance with a made Neighbourhood Plan, or whether it was development under the Rural Exception Sites policy (SP18).
26. The NP does not allocate any sites for development, as when it was made there were more than sufficient allocated sites to meet the Local Plan requirements. In as much therefore that the NP does not allocate any sites for development the proposal would not be in accordance with any allocation within it. This would be particularly so given that Policy SP4 of the Local Plan states that the development requirement assigned to main towns will be delivered within settlement boundaries or in accordance with a made Neighbourhood Plan. Therefore, purely for the purposes of Policy SP8, which deals with the location of new development, the development cannot be said to be in accordance with a made Neighbourhood Plan. Further discussion on individual policies is set out in paragraphs 37-41 below.
27. Policy SP18 is permissive of small developments of new affordable housing on suitable sites outside settlement boundaries where there is a need for such that would be not otherwise be met, subject to certain criteria. With regard to those criteria, the Council maintained that this is not a small development and that the need for affordable housing would be otherwise met within settlement boundaries. The Council also asserted that the policy is aimed at ensuring that affordable housing need arising in small rural villages is provided. However,

there is nothing in the policy itself, or the reasoned justification, that indicates that it only applies to small rural villages.

28. I accept that 128 dwellings may not be considered to be a small development and, with regard to the definition of Rural Exception Sites in the Framework, that this may not be a "small" site, although there is no definition of small in either the Local Plan of the Framework in this regard. However, having regard to the other criteria, the scale of development would, in this case, be appropriate given the size of Burton upon Trent. As set out above, I have found that it is not certain that the current and future identified need for affordable housing could be accommodated in the short term, by existing sites with planning permission some of which are within settlement boundaries.
29. The last of the pertinent criteria requires that the development comply with other relevant policies of the plan. In as much as the development and the site are not small, and I have found conflict with Policies SP2 and SP4 then there is conflict with Policy SP18. That brings the proposal into conflict with Policy SP8.

### **Other matters**

30. Properties along Aviation Lane mainly present a side elevation to the appeal site. Those that do have a rear elevation facing the site are set well back from the boundary. Similarly, properties on Henhurst Hill have long rear gardens which would abut an area of open space on the proposed layout. Properties to the east are still under construction, but most on the proposed layout would have lengthy gardens adjoining the boundary. Therefore, I am satisfied that intervening distance between the houses would ensure that the proposal would not cause harm to existing residents' living conditions with regard to privacy, outlook and light.
31. The proposed development would be served from one access from Aviation Lane. At the hearing the appellant confirmed that both Aviation Lane and the immediate access point to the development are of sufficient width to allow cars and larger vehicles to pass and would include a footway. I take the point that cars may be parked on these roads which would narrow the carriageway. However, much of the neighbouring road network is subject to a one way system and, in any case, I have seen no substantiated evidence to suggest that parked cars lead to an unacceptable level of congestion. Moreover, their presence often helps to slow down traffic. Furthermore, the proposed layout, although only served by one access, would incorporate a looped or interconnected street pattern which is considered appropriate for developments of up to 200 dwellings in accordance with the Staffordshire County Council Residential Design Guide 2000.
32. The appellant also confirmed that the submitted Transport Assessment 2018 (TA) had regard to all existing and committed development to 2025, as well as the level of HGV movements on the roads, in reaching its conclusions. Furthermore, while there have been four personal injury collisions within the last five years, these appear to have been due to user error rather than any discernible pattern to the use of the carriageways and junctions in the area.
33. The TA concludes that the development does not have an adverse impact on the safety of all users of the highway. Staffordshire County Council as Highway Authority has assessed the TA and raised no objections to the development.

34. I accept that local knowledge is important, and that the NP acknowledges problems with the B5017 and that development in the locale should be carefully controlled. However, in the absence of any substantiated evidence to dispute that provided by the appellant within the TA, I am satisfied that the proposal would not have an adverse impact on highway safety.
35. The appellant's ecological report finds that the appeal site is mostly of low ecological value, but that the hedgerows and boundary vegetation and some trees have value in supporting some species. The landscape masterplan (500237/001B) shows that existing hedgerows would be mostly retained in the proposed layout.
36. Furthermore, a condition could be imposed both to seek an appropriate landscaping plan and ecological measures to improve the overall biodiversity of the site. I am satisfied therefore that the proposal would not be materially harmful to ecology and biodiversity.
37. The proposed layout provides the potential for linkages to both Aviation Lane and the development to the east under construction. Policy B1 of the NP requires that all new development, defined as major for planning application purposes, will be expected to include the provision of new, safe walking, and where appropriate cycling and mobility vehicle routes, linking into existing wider routes, creating an attractive pedestrian friendly neighbourhood in Branston which encourages travel by means other than the car for short journeys. While there is no guarantee that the pedestrian linkages between the different residential areas would be established, this would not in itself prevent occupiers walking to nearby facilities.
38. The design and layout of the proposed housing forms a development pattern not dissimilar to that in the adjacent housing estates. I am satisfied therefore that there is no conflict with Policy B2 of the NP regarding high quality design.
39. Policy B5 of the NP requires that overall a green infrastructure approach to design should be provided. Furthermore, Policy B7 states that new developments will be required to provide a mix of private space and open space uses which meets local need, including children's play areas, sports pitches, allotments and amenity green space in accordance with the most up to date guidance adopted by the Council. While there is a deficit in the overall level of open space that would be delivered on the appeal site when assessed against the requirements of the Council's Open Space and Playing Pitches Supplementary Planning Document 2019 (the SPD), a commuted sum, to be spent on facilities close by, would mitigate that. This is an approach supported in the SPD. The proposal would also provide children's play space and equipment. The central area of open space breaks up the two areas of development, with that to the north providing a buffer to the existing housing on Henhurst Hill.
40. It was agreed at the hearing there is no reason why trees could not be planted on the areas of green space and this could come forward as part of a landscaping scheme secured through the imposition of a condition.
41. The proposed parking provision is in accordance with the Council's Parking Standards Supplementary Planning Document 2017. However, amendments made to Policy B11 of the NP in February 2020, after the determination of the planning application, means that it would not meet the required one off-street

car parking space for each bed space provided. Nevertheless, the Policy goes on to state that the requirements may be varied where in the opinion of the Local Planning Authority, the additional parking likely to be generated by the development can be safely accommodated on-street, without causing obstruction to driveways or hindering the passage of emergency, refuse collection and delivery vehicles. The Council raised no objection to this part of the proposal. Furthermore, I heard from the appellant that the width of the road would be such that on street parking could be safely accommodated. I have seen no evidence to suggest any different. Therefore, I find no fundamental conflict with Policy B11 or any policies within the NP.

42. Concern was raised regarding the potential for the flooding of gardens of properties on Henhurst Hill given the slope of the land. However, the appellant confirmed that both the Lead Local Flood Authority and the Environment Agency have raised no objections to the development based on the submitted Flood Risk Assessment and Drainage Strategy. I see no reason to disagree.

### **S106 Agreement**

43. All of the dwellings would be provided as affordable homes secured by the planning obligation. Since the justification for the development on land outside the settlement boundary, is reliant on the proven need for affordable housing, the arrangements secured are necessary.
44. The financial contribution of £9,600 towards refuse containers is in accordance with the £75 costs per unit which is the cost of providing the recycling wheelie bin and associated set up costs for each household.
45. The provisions for open space and children's play facility is in line with the requirements of the SPD. As there would be an increased population due to the proposal, I am satisfied that the proposed development would generate a requirement for the suggested level of open space, some of which would be met on site. The SPD allows for the payment of a contribution where the on-site provision would fall below the required amount of open space. Therefore, the financial contribution of £37,302 towards public open space is necessary. The agreement also includes provision for the maintenance of the on-site provision.
46. The statement from the education authority shows that existing education provision for primary, secondary and sixth form provision is at capacity, and the proposed development would increase demand for places. The S106 includes a sum of £376,534.32 towards primary, £85,570 towards secondary and £18,560 for sixth form provision at the closest facilities. I am therefore satisfied that the payment of the required contributions would adequately mitigate the impact of the proposal on the education infrastructure.
47. The evidence presented by the NHS East Staffordshire CCG demonstrates that the existing GP practices do not have the capacity to manage increased patient demand. Occupation of the 128 dwellings proposed would lead to an increase in demand for local health facilities. From the evidence before me, I am satisfied that the requested contribution of £55,020 towards a new facility in the locality of the appeal site is fairly and reasonably related in scale and kind to the development and necessary to make the development acceptable.



48. The S106 requires the submission of a Travel Plan, the appointment of a Travel Plan Co-ordinator together with its implementation and the production and submission of an annual performance report for approval to the County Council. This is necessary to ensure that the proposal contributes to sustainable development as required by Policy SP1 of the Local Plan. There is little detail before me regarding how the monitoring sum requested by the County Council has been calculated. I was advised by the Council that it is a standard sum requested for major developments. The PPG<sup>5</sup> requires that the costs are proportionate and reasonable and reflect the actual cost of monitoring. Bearing in mind that there is an ongoing requirement for annual monitoring of the Travel Plan after its initial approval I am satisfied that the sum requested of £11,900 meets the requirements of the PPG.
49. The County Council has also requested the sum of £1,110 towards the cost of monitoring (including reporting under the CIL regs) the obligations contained in the Deed. From my understanding of the Deed this would relate to the three contributions to education for which there are two trigger points for payment. Based on this, the requested sum seems a reasonable amount and in accordance with the PPG.
50. Therefore, based on the evidence before me, these obligations, are necessary and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.

### **Planning balance and conclusion**

51. To develop the appeal site as proposed would be contrary to Policies SP2, SP4 and SP8 of the Local Plan. I am mindful that the Framework recognises that the planning system should be genuinely plan led. However, I have found in this instance that the aims of the spatial strategy regarding accessibility and protection of the countryside contained in the development plan would not be unacceptably harmed and therefore any harm caused by the conflict with the development plan as a whole would be very limited.
52. Planning law requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case I have found that the delivery of the site for 100% affordable housing would be a very significant benefit. Indeed, the SOCG sets out agreement that the weight to be afforded to the provision of affordable housing is at least significant. On a straightforward development plan balance, I am firmly of the view that the provision of the affordable housing proposed is a significant material consideration which, in this instance, outweighs the development plan conflict.
53. The Council referred me to an appeal decision<sup>6</sup> which it considers to be similar circumstances to the appeal before me now. The Inspector found that, in light of the Council being able to demonstrate a five year supply of housing, the material considerations were not sufficient to outweigh the conflict with the development plan, even though the scheme would amount to sustainable development for the purposes of the Framework. However, that scheme was for a market led housing scheme which did not accord with Policies SP2, SP4 and SP8 of the Local Plan. The proposal before me is different in providing

---

<sup>5</sup> 036 Reference ID: 23b-036-20190901

<sup>6</sup> APP/B3410/W/16/3150471

100% affordable housing as a material consideration which would outweigh the conflict with the development plan in this instance.

54. We spent some time at the hearing discussing which were the most important policies for determining the appeal and whether or not they were out of date for the purposes of paragraph 11d of the Framework. However, given my findings regarding the development plan balance I have not considered this matter further.
55. For the reasons given above I conclude that, on balance, the appeal should be allowed.

### **Conditions**

56. 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 PPG and have made such amendments as necessary to comply with those documents.
57. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans and details of a phasing plan are submitted for approval.
58. Conditions regarding materials, finished floor levels and landscaping (including landscape management) are necessary to protect the character and appearance of the area.
59. Details of protection of existing hedgerows and trees on site are required prior to work commencing on site to ensure that the existing landscaping is protected from construction damage.
60. A condition requiring details of an open space strategy and its implementation are necessary to ensure that such facilities are available on site for the future occupiers in accordance with the Councils SPD.
61. A condition requiring 10% of the dwellings to meet standard M4 (2) of the Building Regulations is necessary to ensure that a proportion of the proposed dwellings are accessible and adaptable. Details need to be submitted prior to work commencing on site to ensure that the required proportion are provided in a satisfactory manner.
62. Details of the disposal of foul and surface water are required prior to development taking place to ensure that the proper systems are in place and that the development does not cause flooding elsewhere.
63. Conditions regarding the implementation of boundary walls and fencing, a construction management plan and noise and dust mitigation are required to protect residents' living conditions.
64. A condition requiring details of ecological enhancement measures is necessary to ensure that biodiversity on the site is improved.
65. Conditions 14, 15 and 16 are required to protect highway safety. A condition regarding unexpected contamination and soil imported to the site are necessary to ensure that satisfactory living conditions are provided for future occupiers of the development.

66. An Air Quality Impact Assessment, including any mitigation measures is required to be submitted prior to work commencing on site to ensure that accurate details are submitted prior to construction works.

67. Details of cycle parking are necessary to encourage travel by an alternative means than the car.

*Zoe Raygen*

INSPECTOR

#### APPEARANCES

##### **FOR THE LOCAL PLANNING AUTHORITY**

Helen Kent

Associate Director LUC on behalf of East Staffordshire Borough Council (ESBC)

Naomi Perry

Planning Manager, ESBC

Kerry Challoner

Principal Planning Officer, ESBC

Michael Petter

Housing Officer, ESBC

##### **FOR THE APPELLANT**

Thea Osmund Smith of Counsel

Instructed by:

Andrew Gore

Partner, Marrons Planning

James Stacey

Senior Director, Tetlow King Planning

Annie Gingell

Senior Planner, Tetlow King Planning

Anna-Maria Edwards

Head of Business Development, Midland Heart

Dr Amer Halabi

IPRT Planning

##### **INTERESTED PERSONS**

Councillor Mike Ackroyd

Chair, Branston Parish Council

##### **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Statement by Councillor Ackroyd
- 2 Tenure Plan 41262/026G
- 3 Statement of CIL Compliance

##### **DOCUMENTS SUBMITTED AFTER THE HEARING**

- A Section 106 Agreement

### **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 hereby permitted shall be carried out in accordance with the following approved plans subject to compliance with other conditions of this permission: 41262/002A, 41262/006G, 41262/007F, 41262/008H, 41262/009G, 41262/010D, 41262/013E, 41262/014F, 41262/015F, 41262/016E, 41262/018F, 41262/019F, 41262/020H, 41262/021H, 41262/023F, 41262/024F, 41262/025G, 41262/026G, 41262/027F, 41262/028C, 41262 /029, SK1c, D3665-02, 500237/001B.

#### **Phasing**

- 3) Prior to commencement of development a phasing plan identifying all phases of development should be submitted to and approved in writing by the Local Planning Authority. The development will only be carried out in accordance with the agreed phasing plan.

#### **Materials**

- 4) No development above damp proof course shall take place until samples of all materials to be used externally ensuring the product name and manufacturer is provided (including details of coursing of brickwork and roof tiles) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with the approved details.

#### **Landscaping and ecology**

- 5) No development shall take place until a scheme of landscaping to include full details of National Forest Planting has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out for each particular phase in the first planting and seeding season following the first occupation of the building(s) of the same phase or completion of the same phase, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation
- 6) No development shall take place until a scheme of tree and hedgerow protection to include full details of measures for the protection of trees and hedges to be retained during the course of development has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
- 7) Prior to first occupation of the development hereby permitted details of ecological enhancement measures (including bird nesting and bat roosting facilities) to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved ecological enhancement measures shall be installed prior to the 50% occupation of the development and thereafter made available at all times for their designated purposes.

- 8) No development above damp proof course shall take place until a landscape management plan for all phases of development has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

#### **Boundary walls and fences**

- 9) Prior to the first occupation of any of the residential units hereby granted permission the fencing and walling shown on plan ref 412/62/024F to serve the respective dwelling shall be provided.

#### **Levels**

- 10) Before the development hereby permitted is first commenced, details showing the existing and proposed land levels of the site including site sections and spot heights and the finished floor levels, ridge and eaves heights of all buildings hereby permitted with reference to the finished floor levels, ridge and eaves heights of neighbouring buildings shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in strict accordance with the approved details.

#### **Open space**

- 11) No development shall take place until an open space strategy, to include a timescale for implementation, for the development has been submitted to and approved in writing by the Local Planning Authority. The open space strategy shall be in line with the requirements of the Councils Open Spaces SPD and shall include full details of children's play area equipment. The children's play area shall be provided no later than the occupancy of the 80<sup>th</sup> dwelling within the development. The development shall only be carried out in accordance with the approved details.

#### **Accessible and adaptable dwellings**

- 12) No development shall take place until a scheme to provide 10% of dwellings on site to be constructed in accordance with Building Regulation 2010 Standard M4 (2) standards. Those dwellings shall be completed to the Building Regulation 2010 Standard M4 (2) prior to their first occupation.

#### **Drainage**

- 13) No development shall take place until a scheme for the disposal of foul and surface waters, including a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority and Severn Trent Water Ltd. The scheme shall demonstrate:
- i) The surface water run-off generated by the 100 plus 40% (for climate change) critical storm is limited so that it will not exceed the 6.5l/s and not increase flooding off site.
  - ii) Provision of attenuation flood storage on the site to a 100 plus 40% (for climate change) critical storm.
  - iii) Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a

range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

- iv) The Simple Index Approach to the managing run off water quality has been followed as detailed within the CIRIA C753 SuDS manual.
- v) Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.
- vi) Provision of acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.

The development shall be completed in accordance with the approved details prior to its first occupation.

### **Highway Safety**

- 14) No development shall take place until full details of road construction and street lighting, including longitudinal sections and a detailed surface water drainage scheme to demonstrate satisfactory means of draining the roads to an acceptable outfall, has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
- 15) Prior to the first occupation of each dwelling hereby granted permission the access, turning and car parking provision to serve that dwelling shall be provided in a bound porous material, and thereafter shall be made available at all times for their designated purposes.
- 16) The visibility splays shown on drawing ref 41262 /029 shall be provided and thereafter maintained at all times for the lifetime of the development to retain visibility over a height of 600mm above the adjacent carriageway level.

### **Cycle parking**

- 17) No dwelling hereby permitted shall be occupied until a scheme of secure weatherproof cycle storage facilities to serve all of the dwellings within the development has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Once provided the approved secure weatherproof cycle storage facilities shall thereafter be retained as available at all times for their designated purposes.

### **Construction management plan**

- 18) No development shall take place until a Construction Management Plan has been submitted to and agreed in writing with the Local Planning Authority. The submitted Construction Management Plan shall include:
  - i) A site compound with associated temporary buildings
  - ii) The routing of all demolition and construction vehicles to and from the site. The measures shall include the phasing of movements to avoid traffic congestion.
  - iii) The removal of demolition materials from the site
  - iv) The parking of vehicles of site personnel, operatives and visitors

- v) Arrangements for the loading and unloading of plant and materials
- vi) Areas of storage for plant and materials used during the construction of the development
- vii) Measures to prevent the deposition of deleterious material on the public highway during the construction of the development

The approved Construction Management Plan shall be implemented and adhered to throughout the construction period.

### **Contamination**

- 19) If during the course of development, contamination not previously identified is found to be present on the site, then no further development shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.
- 20) Any soil to be imported to the site shall first be chemically analysed for contaminants, with the results submitted to and approved in writing by the Local Planning Authority prior to the soil being installed.

### **Air Quality Assessment**

- 21) No development shall take place until an Air Quality Impact Assessment has been submitted to and approved in writing by the Local Planning Authority which shall include details of any air quality mitigation measures required. The development shall only be implemented in accordance with the approved mitigation measures and maintained as such for the life of the development.

### **Noise and dust mitigation**

- 22) No development shall take place until a scheme of noise and dust mitigation has been submitted to and approved in writing by the Local Planning Authority which shall include details of any emissions of noise, vibration and dust controls during construction and earth moving works so as not to impact on nearby receptors. The noise and vibration control measures shall be devised according to BS 5228-1 & A1:2014 Code of Practice for noise and vibration control on construction sites or updated guidance. The scheme of dust control measures shall be devised in accordance with the 'Guidance on the assessment of dust from demolition and construction' produced by the Institute of Air Quality Management 2014. The development shall be undertaken in accordance with the approved details.

**\*\*\*\*\*END OF CONDITIONS\*\*\*\*\***