

## PLANNING APPLICATION REPORT

**Case Officer:** Matt Jones

**Parish:** Exbourne **Ward:** Exbourne

**Application No:** 1987/17/FUL

**Agent/Applicant:**  
Mr John Wilde  
4 Crestfield Rise  
Ivybridge  
PL21 9TJ

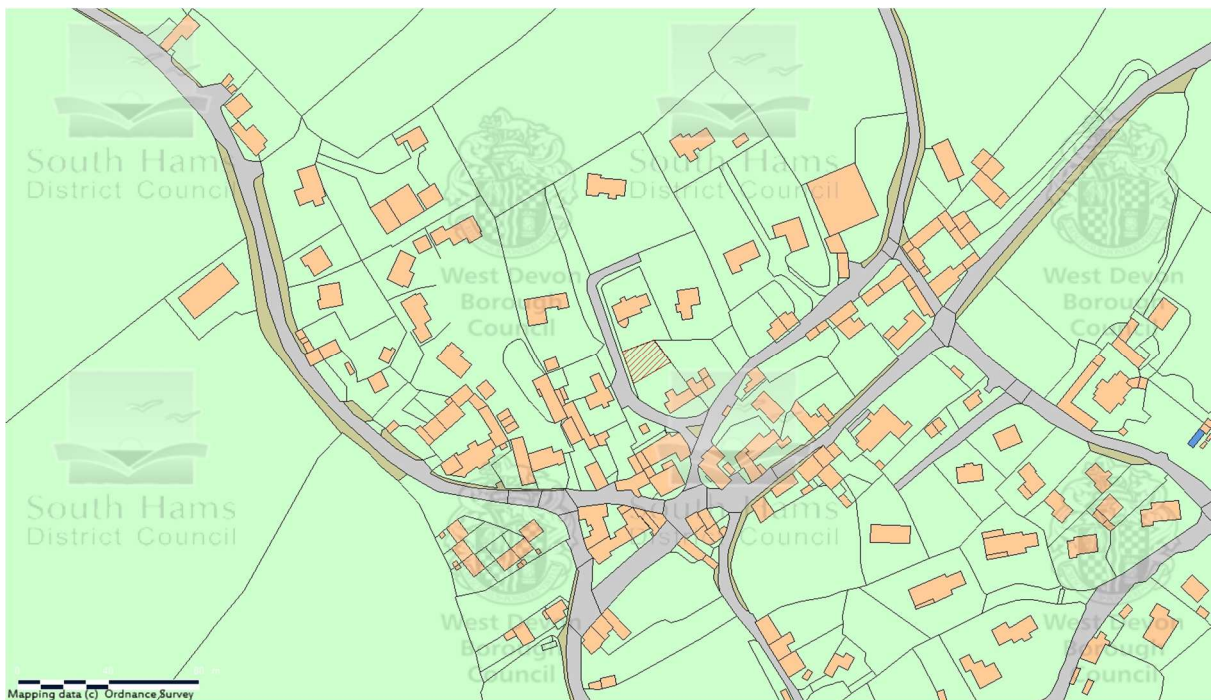
**Applicant:**  
Ms Mandy Rideout  
Hayfield House,  
Hayfield Road  
EX20 3RS

**Site Address:** Hayfield House, Hayfield Road, Exbourne, EX20 3RS

**Development:** Erection of a 2 storey 3 bedroomed house, a separate single garage and parking for 2 vehicles

### **Reason item is being put before Committee:**

Cllr Samuel has requested that this application is determined by Development Management and Licensing Committee due to concerns regarding the impact of the proposal on heritage and neighbour amenity.



**Update:**

Members may recall that this application was originally deferred during a previous committee due to a small but material technical issue relating to the accuracy of the submitted Site Location Plan. A late, unverified third party submission led to a subsequent delay, prior to the eventual presentation of the scheme at this forthcoming January 2018 committee.

The applicant has taken this opportunity to revise the scheme from that originally presented, with the omission of a first floor window on the north elevation, and the creation of a detached allocated parking space on the land to the south west of the site.

**Recommendation:** Conditional approval

**Conditions:**

1. Standard time limit
2. Accord with plans
3. Window, chimney and eaves details
4. Roof specification including P.V. panels and rooflights
5. Window to be obscure glazed
6. Construction management plan
7. Landscaping
8. Stonework sample panel
9. Unexpected contaminated land
10. Removal of Permitted Development Rights
11. Drainage details as submitted

**Key issues for consideration:**

- Principle of a new dwelling
- Effect on Conservation Area and setting of heritage assets
- Design
- Amenity of surrounding residents
- Access and parking
- Drainage

**Site Description:**

The site is located within the existing rear garden of and to the north of Hayfield House, located on the east side of the lane known as The Tumbles, to the north of Hayfield Road. The Tumbles is a narrow unadopted private lane that provides access to six properties, including Hayfield House. The ground level rises from Hayfield Road and The Tumbles is positioned on higher ground than the application site.

The site is located within the centre of the settlement of Exbourne and the land to the south comprises Exbourne Conservation Area. The Conservation Area boundary passes through the site. The site is not within a Critical Drainage Area. The site is within the Exbourne Settlement Boundary.

In 2015 an application was refused, and the subsequent appeal dismissed, for the erection of a single detached dwelling. That appeal decision has been circulated to members and it remains a significant material consideration in this assessment.

### **The Proposal:**

This is a planning application for the erection of a 2 storey 3 bedroomed house, a separate single garage and parking for 2 vehicles.

The house and garage are set back from The Tumbles and are set down at a lower level. Materials are render and sate with wooden joinery. Bin storage is provided forward of the principal elevation.

This submission seeks to address comments made by the Council and Planning Inspector.

This application was previously deferred as it was brought to the Council's attention that there was a small discrepancy between the revised layout plan and the corresponding Site Location Plan. As such, the Site Location Plan was revised incorporating a small extension at the south section of the site. The scheme was readvertised accordingly.

Following that the scheme was again deferred due to a late letter which could not be verified prior to the relevant committee meeting. The applicants have also now taken the opportunity to omit a window on the north elevation which previously provided overlooking from a distance to towards no.3 the Tumbles. The scheme also now shows a spate detached parking space serving the dwelling, adjacent to the garage currently serving Hayfield House to the south west of the proposed dwellinghouse.

### **Consultations:**

- County Highways Authority – Standing advice applies, reaffirm previous comments
- Environmental Health Section – No comment but under the previous application for the site an unexpected contaminated land condition was requested.
- Parish Council – Object

*'The view of the Parish Council is the proposal doesn't maintain or enhance the character of the conservation area. The scale and massing of the building is inappropriate in this space and will result in a poor relationship with Hayfield House particularly when extended as per the current approval for the dwelling which is a material planning consideration. It is also considered that the design fails to give due weight to Hayfield House as an undesignated heritage asset within the conservation area.*

*The positioning, particularly of the first-floor windows, will lead to undue overlooking of adjacent gardens resulting in lack of privacy, and adversely affecting the amenity of adjoining properties. In addition, it appears that the first-floor windows facing West will*

*look directly into the windows of The Tumbles adjacent to the Lane. In the previous appeal decision, relating to the site, in paragraph 6, the Planning Inspector noted “I had a general sense that the core of the Village is tighter-knit than the area North of the appeal site with the existing garden of Hayfield House being the first part of this feathering of the edge of the Village.*

*This space provided by the undeveloped site does not look out of place and compliments the rural character of this part of the settlement.” It follows that if this development were allowed it would adversely affect the character of the conservation area and this part of the village. The Parish has also received representations due to the proximity of the development to a hedge line on the Northern boundary due to the position of excavation of the garage which would be in contravention to British Standard 5827:2012’*

### **Representations:**

The application has drawn approximately 14 objections from neighbours and local residents. The concerns can be summarised as follows:-

- Applicants do not have a right to access the site via The Tumbles
- Loss of amenity and overbearing impact on neighbours
- Overlooking of 3 The Tumbles and Wheelwrights Cottage
- Loss of light / overshadowing
- Excavation of driveway and garage would kill conifer hedge
- Excavation could undermine The Tumbles track
- The setting of Hayfield House would be spoiled due to loss of garden and proximity of the development
- Contrary to Article 8 of the Human Rights Act
- Parking provision is inadequate and no turning is provided
- The Tumbles track would be damaged by development vehicles and services disrupted
- Development would be ‘garden grabbing / garden gobbling’
- House is too big for the plot
- Design is poor and ‘suburban’ and does not reflect local character
- Materials proposed are inappropriate
- 3D images are misleading
- Solar panels are inappropriate
- Some of land identified by blue line is not owned by the applicants
- The turning area for the parking encroaches on third party land
- The detached parking area should serve Hayfield House as amenity space

### **Relevant Planning History**

01110/2015 - Householder application for demolition of single storey extension and construction of two storey extension and boundary treatments – Conditional Approval May 2016

01108/2015 - Readvertisement (Revised Plans received): Application for new 2 storey 3 bedroomed dwelling with single storey garage/workshop. Refusal. Appeal dismissed August 2016

Please note, the appeal for the new dwelling was dismissed 3 months after the granting of the two storey rear extension at Hayfield House. When making his assessment, the Inspector would therefore have had regard to this extant permission as a material planning consideration.

## **Analysis**

### Principle of Development/Sustainability:

The proposal would be sited within the settlement limits of Exbourne therefore policy H28 saved from the 2005 Local Plan applies. This policy states that within defined limits residential development will be permitted provided that it is consistent with other policies and then it is acceptable in relation to criteria (i) to (vi).

In addition policy H39 addresses proposals for the redevelopment of large single residential plots within settlement limits and states that these will be acceptable provided the proposal is compatible with the surrounding residential area. Given Hayfield House benefits from a substantial sized rear garden this is considered to qualify as a 'large single residential plot'.

Exbourne is a sustainable settlement with a good range of local facilities and relatively good connectivity. Policy TTV2 of the draft Joint Local Plan states, 'The LPAs will support development proposals in the Thriving Towns and Villages Policy Area which reinforce the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development. In addition to the provisions of Policies SPT1 and SPT2, specific attributes of rural sustainability to be supported through development include: 1. The location of housing where it will enhance or maintain the vitality of rural communities.

The principle of residential development on this site is therefore considered acceptable subject to consideration of its local setting.

### Previous planning refusal and appeal decision:

This application is submitted following a previous refusal, with the subsequent appeal dismissed by the Planning Inspectorate. The appeal decision, and associated report, is a significant material planning consideration and it is circulated to members within the committee agenda.

Although certain individual comments made by the Inspector can be used, in isolation, to form views of the appropriateness of this new proposal, it is essential that the appeal decision is read in full, with full reference to both the refused scheme and that now before members.

It is obvious that the Inspector and the Council shared specific concerns about elements of the previous proposal, for example, its design and subsequent impact

upon the Conservation Area. However, officers maintain that the Inspector's comments and decision do not entirely sterilise the future development potential of the site, and officers maintain that the principle of development remains acceptable. Although it is agreed that the current openness of the site provides a contribution to the village, officers are of the opinion that a well-considered dwelling in itself could provide its own contribution to the development of Exbourne.

### Design:

Both Hayfield House and the proposed dwelling are considered to maintain an acceptable degree of curtilage to avoid overdevelopment of the plot. Officers are mindful that the historic core of Exbourne is high density, with in many cases small areas of curtilage serving dwellings. Again, the degree of curtilage for both the proposed dwelling and Hayfield House was not an issue raised by the Inspector.

The design is contemporary but incorporates features characteristic of the local vernacular. A hipped slate roof with chimneys, smooth rendered walls, oak windows and traditional eaves all relate well to the character of properties in Exbourne.

Although officers acknowledge the comments made by third parties regarding the solar panels and rooflight within the principal roof slope, the addition of solar panels is in accordance with policy and these elements are to be set within the roof to minimise visibility, with the final roof specification secured through a planning condition.

Although officers are firmly of the opinion that views of the site from Hayfield Road are extremely limited, the comments of the Inspector regarding this issue are addressed as the location of the dwelling is now set back further into the plot. This setting back of the dwelling, away from The Tumbles, ensures that the development will be less visible from the public areas around Hayfield Road.

Overall, the previous incongruous and rather utilitarian design response has been replaced with a dwelling more traditional in design, and its appearance will not appear out of place in form, scale or materials. Important architectural details will be controlled by conditions.

### Heritage:

The loss of the large garden will change the character of this edge of the Conservation Area (CA). As an open space to the rear of the dwelling it does not, however, play a very significant role in the way in which Exbourne is perceived as an historic settlement. The backdrop to views from Hayfield Road is not a particularly attractive one at present and contributes little to the character and appearance of the CA. Views from around the application site are not significant to the setting of the Conservation Area. Clearly the quality of building and materials for the proposed development will need to be demonstrably high, but this can be achieved via the proposed conditions.

Officers acknowledge that the Inspector was of the opinion that the openness of the space is a positive characteristic, but officers do not believe that this comment sterilises the site nor prohibits any future development within the space. Indeed, it is

considered that an attractive and well-designed dwelling, with high quality detailing and materials, can itself offer a positive contribution to the settlement.

Hayfield House is old but its altered state meant that the listing Inspector decided not to give it statutory protection. The effect of the proposal on Hayfield House as a non-designated heritage asset will be minimal – settings change over time and the construction of the modern housing and inappropriate means of enclosure within The Tumbles certainly had a significant and negative impact in the 1980's. The development can be seen as part of the ongoing change that all settlements face and is considered to have a broadly neutral impact within this context.

Overall, the proposal is considered to preserve the character and appearance of the Conservation Area, and to maintain an acceptable impact upon the setting of non-designated heritage assets.

#### Landscape:

Following discussion with officers, the architect has amended plans to include a stone wall along the edge of The Tumbles and also along the boundary with Hayfield House. This is a positive enhancement of the Conservation Area. Further landscaping details will be required by condition.

The effect of the development on the Leylandii hedge on the boundary with 3 The Tumbles is something that can be addressed via the landscaping condition and by consideration of construction methods.

However, this hedge is not of specific merit and has no statutory protection; it is not within the Conservation Area. It could be removed at any time by the landowner without any consent from the Council, and could be replaced by a 2m high fence without the need for planning consent from the Local Planning Authority.

#### Neighbour Amenity:

The previous scheme was considered by the Inspector to maintain an appropriate impact on neighbouring dwellings. Although there are many similarities in massing and overlooking, this scheme is also assessed on its own individual merits.

The outlook of neighbours will be altered and there is an element of overlooking, especially towards Hayfield House and the garden of Wheelwrights Cottage. The impact is not of a nature that is unusual in a village location and it is noted that one can already look from first floor windows into the neighbouring gardens of Hayfield House and Wheelwrights.

The rear elevation of the proposed dwelling will lead to a degree of overlooking from first floor windows, but this will be in excess of 10m to the shared boundary with Wheelwrights and is considered acceptable within this specific context. The overlooking from these windows to Wheelwrights itself will be at a further distance and at an oblique of approximately 90 degrees.

Overlooking towards the bungalow to the west will be restricted to passing views from the stairwell, a single bedroom and an ensuite which will have frosted glass. This limited mutual overlooking leads officers to conclude that the impact upon this property will be acceptable. The single bedroom window previously leading to overlooking at a distance of 20m to the north has now been removed from the scheme.

There is no dominance, loss of light or overshadowing issue that would mean the development would be unacceptable.

#### Highways/Access:

Officers are satisfied that adequate space for turning is achievable and this has now been demonstrated through the submission of a vehicle swept path analysis for the separate parking areas. The access arrangements will necessitate reversing to or from the site but officers are conscious that this is an unadopted lane with infrequent car movements at low speed.

The question of the applicant's rights to use such access as proposed is a civil matter between the interested parties and not a reason for planning refusal. If there are civil impediments which prohibit motor vehicle use this will need to be addressed by the applicant regardless of the outcome of this planning application. The requirement for a Construction Management Plan can overcome concerns regarding damage to the road surface, lorries, dust, noise etc.

A late letter has previously asserted that the turning area will encroach on to third party land, but the applicant has provided a thorough overview of land ownership throughout the Tumbles and this has evidenced that turning can be achieved within the private lane itself, without encroaching on to third party land.

Although the highways authority has only offered standing advice on this specific scheme, it previously offered a written response that *'The Tumbles is a private street, i.e. not a publicly maintained highway. The highway authority have previously assessed the suitability of the junction of The Tumbles with the public highway at the time the former application was submitted and it is confirmed the junction is suitable to accommodate the additional traffic generated.'*

Again, it is noted that the Inspector did not raise access nor highways safety as a reason to dismiss the previous appeal on the site. The highways officer did not previously request that the road be adopted, and has reaffirmed this view.

#### Drainage

Although officer's first preference is for water to be dealt with on site through soakaway, the applicant has demonstrated that this is not viable and, instead, has proposed attenuation of the water prior to discharge into the public combined sewer. South West Water have confirmed directly with the applicant that such a drainage solution is acceptable, with the attenuation rate as agreed.



## 'Garden Grabbing'

Some objectors have continuously raised objection to this scheme based on the notion of 'garden grabbing'. The local authority has no policy specifically addressing garden grabbing, and the only reference to this within the Framework relates to plan making, not decision making.

In any case, the issues which are germane to the concept of garden grabbing, such as design, overdevelopment, visual and neighbour impact, are indeed relevant to member's assessment and are captured in the various relevant policies within the Development Plan. As such, continued references to the concept of garden grabbing itself maintain little relevance to the necessary planning assessment of this application, which should be made with regard to relevant local and national planning policy.

## Conclusion

For the reasons outlined above this application is considered acceptable and in accordance with the relevant development plan policies. This application is therefore recommended for approval subject to appropriate conditions.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

### **West Devon Borough Council Core Strategy 2011**

SP1 – Sustainable Development  
SP20 – Promoting High Quality Design

### **West Devon Borough Council Local Plan Review 2005 (as amended 2011)**

BE1 – Conservation Areas  
H28 – Settlements within defined limits  
H39 – Redevelopment of Single Residential Plots

### **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

### **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

DEV22 Development affecting the historic environment

#### **NPPF**

137

#### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

#### **Conditions in full**

1. Standard time limit:

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.  
Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Accord with plans:

The approval relates to the plans and documents supplied, including latest revisions.

3. Window, chimney and eaves details

Prior to their installation full details of the items listed below, including sections at a minimum 1:10 or 1:1 scale where appropriate, shall be submitted and agreed in writing with the local planning authority:-

- a) Windows and doors
- b) Chimney
- c) Eaves and rainwater goods

The works shall then be carried out and thereafter maintained as agreed.

Reason: In the interests of visual amenity and the character and appearance of the conservation area.

4. The roofs of the buildings shall be clad in natural slates, fixed in the traditional manner with nails rather than slate hooks. Prior to installation, a full roofing specification including the types and sizes of natural slates to be used, together with the type, colour and profile of the ridge tiles, specification of the hips, details of the solar panels and rooflight shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out and thereafter maintained as agreed.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development and to allow the Local Planning Authority to assess the details of the scheme to ensure that their character is maintained.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting this Order) the ensuite window hereby approved on the south west elevation of the building shall be glazed in obscure glass, be fixed closed, and thereafter so maintained.

Reason: To protect the amenity and privacy of residents of adjoining property.

#### 6. Construction Management Plan

Prior to commencement of any part of the construction phases of the development the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 08.00am and 6.00pm Mondays to Fridays, 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and

waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

The CMP shall be strictly adhered to during the construction of the new development hereby permitted, unless variation is approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, including preventing inconvenient obstruction and delays to public transport and service vehicles and to emergency vehicles.

## 7. Landscaping

The building works shall not be implemented until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority, indicating the garden landscaping, including all means of enclosure and planting, of the proposed development. The scheme submitted shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the planting.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

## 8. Stonework sample panel

Prior to construction a sample panel of each of the stone boundary walls shall be prepared on site for inspection and approval by the Local Planning Authority. Not less than two weeks notice shall be given to the Local Planning Authority when the sample panel is ready for inspection. All external stonework shall be constructed to match the approved panel. The stone boundary wall to the development site and to the boundary between Hayfield house and The Tumbles shall be fully completed prior to any occupation of the approved dwelling.

Reason: To ensure delivery of the proposed enhancement of the locality and of the conservation area.

## 9. Unexpected contaminated land

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and

risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

#### 10. Removal of Permitted Development Rights

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes A-H of the Order, including the erection of extensions, porches, garages or car ports, the stationing of huts, fences or other structures shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area to ensure adequate space about the buildings hereby approved and in the interests of amenity.

#### 11. Drainage details

Surface and foul water drainage shall be carried out in strict accordance with the discharge methods as submitted within the planning application. There shall be no divergence from the drainage methods hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the locality and environment and to ensure that the development is adequately drained.