

APPLICATION NO: 24/00399/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 8th March 2024		DATE OF EXPIRY: 7th June 2024 <small>(extension of time agreed until 23rd December 2024)</small>
DATE VALIDATED: 8th March 2024		DATE OF SITE VISIT:
WARD: Swindon Village		PARISH:
APPLICANT:	Aster Homes Ltd.	
AGENT:	Black Box Planning	
LOCATION:	The Folley Swindon Road Cheltenham	
PROPOSAL:	Development comprising the erection of 122no. dwellings along with associated access, infrastructure, landscaping, open space and car park.	

UPDATE TO OFFICER REPORT

1. OFFICER COMMENTS

- 1.1 There is an error in the original report at paragraph 6.2.21 (sub-paragraph 3) which should read:

It is recognised that the Council's greenspace team has aspirations to deliver new 3G playing pitches in the Borough, but respectfully, to seek contributions from this development proposal is not needed to make the proposal acceptable in planning terms.

- 1.2 With reference to paragraphs 6.11.3 – 6.11.5 of the original report, Members are advised that a policy compliant 40% affordable housing would be secured by the s106 agreement, with the remainder delivered as additionality via Homes England grant funding secured by the applicant, Aster.
- 1.3 There have also been some amendments made to the conditions listed in the original report to avoid repetition. Other conditions have been omitted where not required (due to the information being provided and included in the list of approved plans). Additional conditions have been imposed in relation to tree protection for the retained trees, and the provision of water butts.
- 1.4 The officer recommendation remains to grant planning permission, subject to signed s106 legal agreements and the updated schedule of conditions below.
- 1.5 Members are reminded that should the committee be minded to grant planning permission contrary to Sport England's statutory objection, the application will need to be referred to the Secretary of State, via the National Planning Casework Unit.

UPDATED SCHEDULE OF CONDITIONS

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the commencement of development, a Construction Management Plan or similar shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period and shall provide details of:

- a) hours of operation;
- b) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- c) routes for construction traffic and appropriate signage;
- d) any temporary access to the site;
- e) locations for loading / unloading and storage of plant, waste and construction materials;
- f) method of preventing and dust mud being carried onto highway;
- g) measures to protect vulnerable road users (cyclists and pedestrians);
- h) any necessary temporary traffic management measures
- i) arrangements for turning vehicles;
- j) arrangements to receive abnormal loads or unusually large vehicles
- k) methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses;
- l) highway condition survey;
- m) control measures for dust and other air-borne pollutants;
- n) measures for controlling the use of site lighting whether required for safe working or for security purposes; and
- o) any generators that will be used at any time during the build phase.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development, and to prevent any loss of amenity to neighbouring land users, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and policies SD14 and INF1 of the Joint Core Strategy (2017). Approval is required upfront because without proper mitigation the works could have an unacceptable impact during construction.

- 4 Prior to the commencement of development, including all site clearance and vegetation removal, an updated walkover survey of the site shall be undertaken by a suitably qualified ecologist and an update to the Ecological Impact Assessment (EclA) shall be submitted to and approved in writing by the Local Planning Authority. The updated EclA shall confirm (or otherwise) whether there has been a significant change to the site since the most recent surveys in 2024 and whether further surveys for protected, priority or locally notable species or habitats are required. In particular this shall confirm the status of the site with regards to the inactive badger sett present.

Reason: To ensure legal and policy compliance with regards to protected species, in particular the Protection of Badgers Action (1992) and habitats, as well as to invasive plant species.

- 5 Prior to the commencement of development, including all site clearance and vegetation removal, a method statement for a Precautionary Method of Working (PMW) with respect to legally protected species shall be prepared by a suitably qualified ecological consultant and submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved method statement.

Reason: To ensure the safeguarding of legally protected and priority species, having regard to policy SD9 of the Joint Core Strategy (2017), the 1981 Wildlife and Countryside Act (as amended), and the 2017 Habitats Regulations. Approval is required upfront to ensure the safeguarding of protected species.

- 6 Prior to the commencement of development, an Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to and approved in writing by the Local Planning Authority. The EMES shall include details of the provision of integral bird (50no.), bat (50no.), insect (50no.) and hedgehog (40no.) boxes, and the location, specification, height and orientation of these features shall be shown on a plan. The bird boxes must include bricks or tiles for swift and house sparrow. The development shall thereafter be carried out in full accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain on site, having regard to policy SD9 of the Joint Core Strategy (2017), and Schedule 7A of the Town and Country Planning Act 1990.

- 7 Prior to the commencement of development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Local Planning Authority. The HMMP shall be prepared in accordance with the approved Biodiversity Gain Plan and include:
- (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority.

Notice in writing shall be given to the Council when the:

- (f) HMMP has been implemented; and
- (g) habitat creation and enhancement works as set out in the HMMP have been completed.

All habitat creation and enhancement works set out in the approved HMMP shall be carried out no later than the first planting season following first occupation of the building or the completion of the development whichever is the sooner, and a completion report evidencing the completed habitat enhancements, shall be submitted to and approved in writing by the Local Planning Authority. The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site, having regard to policy SD9 of the Joint Core Strategy (2017), and Schedule 7A of the Town and Country Planning Act 1990.

- 8 Prior to the commencement of development, drawings of the following off-site works shall be submitted to and approved in writing by the Local Planning Authority:

Works Description – Identified on drawing 230290-RAP-XX-XX-DR-TP-6000

- Implementation of pedestrian walking route improvements including but not limited to;

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- Widening of the existing central reserve to accommodate an uncontrolled staggered pedestrian facilities at Swindon Road / Malvern Street.
- Drop kerbs and tactile paving at various locations listed below—
 - o Crossing Malvern Street near Swindon Road
 - o Crossing Bridge Street near Malvern Street
 - o Crossing Malvern Street near Elm Street
 - o Crossing Elm Street near Service Road
 - o Crossing Waterloo Street near A4019 Tewkesbury Road
 - o Crossing Service Road near Waterloo Street
 - o Crossing Addis Road near Waterloo Street
 - o Crossing Compton Road near Waterloo Street
 - o Crossing Waterloo Street near Swindon Road
 - o Crossing Swindon Road near Waterloo Street

The development shall not be occupied until those works have been completed as part of a S278 agreement in accordance with the approved details.

Reason: To promote sustainable travel and healthy communities, having regard to policy INF1 of the Joint Core Strategy (2017).

- 9 Prior to the commencement of development (including demolition and site clearance), tree protective fencing to BS 5837:2012 shall be installed in accordance with the submitted Arboricultural Impact Assessment, Arboricultural Method Statement, and Tree Protection Plan Revision B (Hillside Trees Limited, dated May 2024). The protective fencing shall thereafter remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to adopted policies GI2 and GI3 of the Cheltenham Plan (2020).

- 10 Prior to the demolition of the building known as the 'Pavilion' a permanent record of the structure and setting shall be made to Historic England's Level 3 standard. Once completed, the record shall be submitted to and approved in writing by the Local Planning Authority and deposited with the Gloucestershire Historic Environment Record and retained in perpetuity.

Reason: To ensure that an appropriate record is made of the historic building fabric that would be affected by the development in the interests of the historic environment, having regard to Policy SD8 of the Joint Core Strategy 2017, Chapter 16 of the National Planning Policy Framework and Historic Environment Good Practice Advice (note 2).

- 11 Prior to the commencement of development, the applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the recording of any archaeological remains that may be destroyed by ground works, having regard to adopted policy HE2 of the Cheltenham Plan (2020) and adopted policy SD8 of the Joint Core Strategy (2017).

- 12 Prior to the commencement of development, an Air Quality Assessment shall be submitted to and approved by the Local Planning Authority. If the assessment indicates that air quality is likely to affect this proposed residential development then a detailed scheme for protecting the future residential occupiers of the development from the effects of nitrogen dioxide/airborne particulate matter arising from an increase in road traffic shall subsequently be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the occupation

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of the building hereby approved, and thereafter maintained for the lifetime of the development.

Reason: To safeguard the amenity of future occupiers of the development, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 13 Prior to the commencement of development (excluding demolition, site clearance and initial ground investigation works), details of the access into the site, together with parking and turning areas (including details of lines, widths, levels, gradients, cross sections, drainage and lighting) shall be submitted to and approved in writing by the Local Planning Authority.

The development shall not be occupied until the access into the site, together with parking and turning areas within the site have been laid out in accordance with the approved details. These areas shall thereafter be retained and not be used for any other purpose for the life of the development.

Reason: In the interests of highway safety, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 14 Prior to the commencement of development, a detailed Site Waste Management Plan (SWMP) or equivalent shall be submitted to and approved in writing by the Local Planning Authority. The SWMP must identify: - the specific types and amount of waste materials forecast to be generated from the development during site preparation and demolition and construction phases; and the specific measures will be employed for dealing with this material so as to: - minimise its creation, maximise the amount of reuse and recycling on-site; maximise the amount of off-site recycling of any wastes that are unusable on-site; and reduce the overall amount of waste sent to landfill. In addition, the SWMP must also set out the proposed proportions of recycled content that will be used in construction materials. The development shall be fully implemented in accordance with the SWMP unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures in accordance with adopted core policy WCS2 of the Gloucestershire Waste Core Strategy and adopted Minerals Local Plan for Gloucestershire Policy SR01.

- 15 Prior to the commencement of development, details of any proposed external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include a lux level contour plan, and seek to ensure no light spill outside of the site boundaries. The lux contour plan shall show lux levels at frequent intervals (lux levels at 0, 0.2, 0.5, 1, 1.5, 2, 3, 4, 5 lux and higher are particularly useful) and extend outwards to additional levels (above the pre-existing background light level) of zero lux. The lux contour levels shall be superimposed on a site plan which includes all land that is affected by raised light levels (including potentially land outside the red line planning application area) and shall reflect the use of any proposed mitigation, e.g visors. All external lighting shall thereafter be implemented and maintained in accordance with the approved details.

Reason: To safeguard the amenities of the area and avoid light pollution, and to ensure that foraging and commuting of bats is not discouraged in this location, whilst providing adequate safety and security, having regard to adopted policy SL1 of the Cheltenham Plan (2020), adopted policies SD9 and SD14 of the Joint Core Strategy (2017), and the requirements of the 1981 Wildlife & Countryside Act (as amended).

- 16 Prior to the commencement of any works above ground level, full details of the provision made for facilitating the management and recycling of waste generated during occupation shall be submitted to and approved in writing by the Local Planning Authority. This must

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include details of the appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The development shall be fully implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The refuse and recycling storage facilities shall be maintained for this purpose thereafter.

Reason: To ensure the effective implementation of waste minimisation and resource efficiency measures in accordance with adopted Gloucestershire Waste Core Strategy: Core Policy WCS2 – Waste Reduction

- 17 The development shall be carried out in accordance with the plans as described in in the submitted Flood Risk and Drainage Statement (Infrastruct CS Ltd, ref. 4829-FILL-ICS-XX-RP-C-07.001 revision A, dated November 2024).

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution, having regard to adopted policy INF2 of the Joint Core Strategy (2017).

- 18 The development shall be carried out in accordance with the recommendations in section 7 of the submitted Noise Impact Assessment (Acoustic Consultants Ltd, Report Ref. 10652/BL/SF, dated February 2024) for the set plots to have the additional noise protection measures built into the construction to protect future residents from potential noise disturbance.

Reason: To ensure that suitable mitigation measures are installed to protect future residents of the dwellings, having regard to adopted policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 19 No external facing and/or roofing materials shall be applied unless in accordance with:
a) a written specification of the materials; and
b) physical sample(s) of the materials.
The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD4 of the Joint Core Strategy (2017).

- 20 The following elements of the scheme shall be installed, implemented or carried out in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority:
a) Windows;
b) External doors; and
c) Rainwater goods (including water butts).

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020), and adopted policy SD4 of the Joint Core Strategy (2017).

- 21 Water butts shall be installed for each dwelling prior to first occupation, and be retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

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Reason: To promote water conservation and contribute to the minimisation of surface water run-off, having regard to policy INF2 of the Joint Core Strategy (2017).

- 22 Prior to installation of the proposed air source heat pumps (ASHPs), details of the type/model, location and predicted noise levels shall be submitted to and approved in writing by the Local Planning Authority. The ASHPs shall be installed prior to first occupation of each dwelling in accordance with the details approved. The ASHPs shall be retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of future occupiers and neighbouring properties, and to reduce carbon emissions, having regard to adopted policies D1 and SL1 of the Cheltenham Plan (2020), adopted policies SD3, SD4 and SD14 of the Joint Core Strategy (2017) and guidance set out in Cheltenham Climate Change SPD.

- 23 All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, having regard to adopted policies D1, G12 and G13 of the Cheltenham Plan (2020), and adopted policies SD4 and INF3 of the Joint Core Strategy (2017).

- 24 Prior to first occupation of the development, visibility splays shall be provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.75 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

Reason: In the interests of highway safety for pedestrians and all other users, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 25 Prior to first occupation of the development, visibility splays shall be provided from a point 0.6m above finished surface level at the centre of the various internal roads and footway locations as shown on Drawing No. 230290-RAP-XX-XX-DRTP-3202 / P03. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above finished surface level.

Reason: In the interests of highway safety for pedestrians and all other users, having regard to adopted policy INF1 of the Joint Core Strategy (2017).

- 26 Prior to first occupation of the development, sheltered, secure and accessible bicycle parking shall be provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The cycle storage area shall be maintained for this purpose thereafter.

Reason: To ensure the adequate provision and availability of cycle parking, so as to ensure that opportunities for sustainable transport modes have been taken up, having regard adopted policy INF1 of the Joint Core Strategy (2017).

- 27 Prior to first occupation of the development, details of a Homeowner's Information Pack resource providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should reference local and regional recreation opportunities.

Each household shall be provided with an approved Homeowner Information Pack on first occupation.

Reason: To assist in mitigating any impacts the proposed development may cause to designated landscape areas having regard to adopted policy BG1 of the Cheltenham Plan (2020), and adopted policy SD9 of the Joint Core Strategy (2017).

INFORMATIVES

- 1 **IMPORTANT: BIODIVERSITY NET GAIN CONDITION - DEVELOPMENT CANNOT COMMENCE UNTIL A BIODIVERSITY GAIN PLAN HAS BEEN SUBMITTED TO (AS A CONDITION DISCHARGE APPLICATION) AND APPROVED IN WRITING BY CHELTENHAM BOROUGH COUNCIL.**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan in writing.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Cheltenham Borough Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply. If the onsite habitats include irreplaceable habitats (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitats) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. Advice about how to prepare a Biodiversity Gain Plan and a template can be found at <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>.

Information on how to discharge the biodiversity gain condition can be found here: <https://www.cotswold.gov.uk/planning-and-building/wildlife-and-biodiversity/biodiversity-net-gain-bng/>

30-year Habitat Management and Monitoring Plan templates can be found here: <https://publications.naturalengland.org.uk/publication/5813530037846016>

- 2 The applicant/developer is reminded that the recommended hours of work during the construction phase of the development are 7:30am to 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no working on Sundays and/or Bank Holidays.
- 3 The applicant/developer is reminded that under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development

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does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.

- 4 It is strongly recommended that the applicant/developer make contact with Severn Trent Water and look to submit a Development Enquiry for the site; this will discuss the drainage proposals for site, and if any issues, look to resolve them. You can visit their website: <https://www.stwater.co.uk/building-and-developing/overview/new-site-developments/developer-enquiries/> and follow the application form guidance to begin this process.
- 5 The proposed development includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Legal Agreements Development Management Team at highwaylegalagreements@gloucestershire.gov.uk allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- Drafting the Agreement
- A Monitoring Fee
- Approving the highway details
- Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- 6 The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Legal Agreements Development Management Team at highwaylegalagreements@gloucestershire.gov.uk. You will be required to pay fees to cover the Council's cost's in undertaking the following actions:

- Drafting the Agreement
- Set up costs
- Approving the highway details
- Inspecting the highway works

You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority. The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

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- 7 It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full. The CMP should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues. Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing legislation.
- 8 Sustainable drainage arrangements should be provided to ensure that surface water from the driveways and/or vehicular turning areas do not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- 9 This planning permission is subject to section 106 legal agreements and should be read in conjunction with those agreements.

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