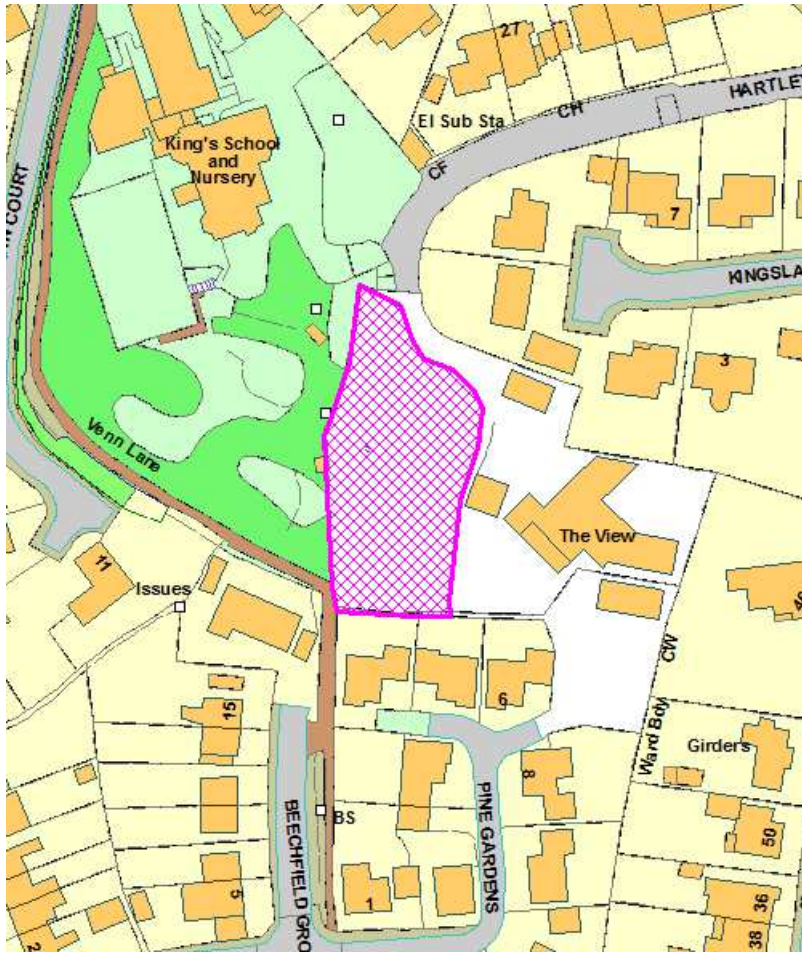


PLANNING APPLICATION REPORT



Application Number	16/02413/S73	Item	10
Date Valid	15.12.2016	Ward	PEVERELL

Site Address	Former Plymouth College Site, Hartley Road Plymouth PL3 5LW		
Proposal	Variation of condition 2 of application 14/02196/FUL (for block of 8 flats etc.) to allow provision of two (reduced) roof terraces to the two top floor apartments		
Applicant	Mr Kevin Briscoe		
Application Type	Removal or variation of a condition		
Target Date	09.02.2017	Committee Date	09.02.2017
Decision Category	Member referral		
Case Officer	Mr Jon Fox		
Recommendation	Grant Conditionally		



This application has been called to committee by Councillor Mahony

1. Description of Site

The site comprises the four-storey (eight flats) building approved under application 14/02146, which is currently under construction. The building site is bounded to the north by houses in Kingsland Garden Close, which is at a higher level, and to the south by new houses in Pine Gardens and an established dwelling at the top end of Beechfield Grove, all of which are at a considerably lower level. To the west lies the grounds of Kings School and, to the east, a large, recently constructed modernist style house that shares an access with the application site from Hartley Road.

2. Proposal Description

The proposal is for variation of condition 2 of application 14/02196/FUL (for block of 8 flats etc.) to allow provision of two (reduced) roof terraces to the two top floor apartments. The proposals include the construction of a new stairwell to provide access to the roof.

The terrace on the west side is approximately 36.33m² and is set back approximately 2.14 metres from the southern edge of the roof, and the terrace on the east side is approximately 27.35m², and set back approximately 3.38 metres from the southern edge. Both terraces are set back approximately 5.00 metres from the north edge of the building and approximately 5.7 metres from the western edge and 4.3 metres from the eastern edge respectively.

The southern edges of the terraces are approximately 27 to 28 metres from the boundaries of the new houses in Pine Gardens. The eastern terrace is approximately 6.5 metres from the boundary of the large modernist house, and approximately 21 to 22 metres from the boundary of properties in Kingsland Garden Close.

3. Pre-application enquiry

There was no pre-application enquiry in this case.

4. Relevant planning history

(The application site forms part of the former Plymouth College Preparatory School site which has been subject to a number of applications on different parts of the site since 2005.)

Application site

14/02196/FUL - Development of vacant site with a block of 8 flats, cycle store and amenity space - GRANTED.

13/00426/FUL - Plot 1 Demolition of existing buildings and erection of a large detached house with two double garages and vehicular circulation - GRANTED.

Adjoining site to the east

13/01275/FUL - Plot 2 - Proposed detached modernist dwelling with double garage, out houses and associated vehicular circulation: application to vary Condition 2 of Planning Permission 13/00443/FUL to include enlargement of the first floor on the northern elevation, reduction of the ground and lower ground floor on the southern elevation and fenestration changes - GRANTED and substantially built.

13/00443/FUL - Plot 2 - Proposed detached modernist dwelling with double garage, out houses and associated vehicular circulation - GRANTED.

Northern part of the former school site excluding the playing field

09/01930/FUL - Demolition of existing buildings, conversion of gatehouse into two flats and erection of 12 houses, associated access road, parking and landscaping - GRANTED subject to a section 106 agreement - LAPSED.

The southern former playing field

14/00128/FUL - Development of site by erection of 12 dwellings, access and associated works (existing building to be removed) - GRANTED subject to a section 106 agreement - Under construction.

07/00867/FUL - Formation of vehicular access to service lane r/o 54 Thornhill Road - GRANTED.

07/00041/FUL - Formation of vehicular access to Beechfield Grove and service lane r/o 54 Thornhill Road - REFUSED.

The whole of the former school site including the playing field

05/02044/OUT- Outline development of all of the former school site by the erection of 24 dwellings (with associated access roads and parking areas) and a new community sports hall/gymnasium - REFUSED.

5. Consultation responses

There were no consultations carried out in this case.

6. Representations

Six letters of representation were received, which raise objections on the following grounds:

1. Loss of privacy from roof terraces and windows in proposed stairwell. The glass balustrades will offer no additional privacy.
2. Roof terraces are communal areas and significant numbers of people could gather resulting in noise disturbance and more scope for invasion of privacy.
3. Loss of outlook.
4. The building would be too high and out of character and scale in the area.
5. Loss of natural light.
6. The position of the bin store will result in noise and odour nuisance. The bin store should not be in the common area giving access to a neighbouring property and should not be close to a neighbouring property.
7. One of the proposed extra parking spaces will be adjacent to a neighbour's wall.
8. The flats already have outside amenity space in the form of balconies and communal garden, and therefore there is no need for this extra outside space.
9. The proposals do not provide extra housing and cannot be justified on those grounds.
10. The proposals constitute a fifth storey and would overdevelop the site in terms of scale and density. The overall building height will exceed 14.5 m. Properties on Kingsland Gardens Close are approximately 9 m
11. Adding an additional level will have an overbearing and adverse impact on neighbouring property.
12. The original plans for the flats included 9 flats over five stories and were considered to represent the overdevelopment of the site as stated in the Case Officers report in respect of application 14/02196.

7. Relevant Policy Framework

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 development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- * The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- * The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are outofdate, granting permission unless:

- * Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits;
or
- * Specific policies in the Framework indicate development should be restricted.

Additionally, the following planning documents are also material considerations in the determination of the application:

- * Sustainable Design Supplementary Planning Document
- * Development Guidelines Supplementary Planning Document

8. Analysis

This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7. The relevant policies are CS02 (design), CS15 (housing provision), CS22 (pollution), CS34 (planning application considerations).

1. Principle of Development

1.1 The development seeks to extend an existing residential building and notwithstanding impacts on design and residential amenity is considered acceptable in principle. Comments have been received about the extra height of the resulting building, and how this was resisted by the Local Planning Authority previously. However, the scale and overall size and nature of the stairwell and balustrades are not considered to have the impact of a full extra building storey. In this respect the proposals are not considered to be out of scale or character in the area.

2. Design

2.1 The raised stairwell, which is necessary to provide access to the proposed terraces, would break the roofline visually. However, this element of the proposed build would be set back from the edges of the roof and on balance is not considered to mar the overall design of the building. The glass balustrades themselves would be light-weight, visually, and are not considered to adversely affect the appearance of the building.

3. Residential amenity and the character of the area

3.1 In terms of the impact on residential amenity, the proposed terraces are set back from the north, south, east and west sides of the building. Given the terraces are screened by a 1700mm high obscure glazed screen on three sides, and that there are already bedroom windows facing north, it is considered that there would be no significant additional loss of privacy for neighbouring properties to the north, west and east. The southern side of the terraces would be screened by an 1100mm high clear glass balustrade, which would allow open views to the south, i.e. towards the new houses in Pine Gardens and established dwellings in Beechfield Grove. However the combination of the set back on the roof, and the overall separation distance of approximately 27 to 28 metres, as well as the significant change in levels, would in officers' opinion avoid an unreasonable of privacy for the occupiers of Pine Gardens.

3.2 In terms of the use of the terraces the roof space is only accessible to the top two units of accommodation and as such is not a communal amenity area, which lessens the likelihood of large groups of people on the terraces creating a noise nuisance.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act

itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

Not relevant in this case.

11. Planning Obligations

Not relevant in this case.

12. Equalities and Diversities

The proposals do not raise any issues relating to equality and diversity.

13. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and would not be harmful to the character of the area or residential amenity. The proposals are therefore considered to be in accordance with policies CS02 (design), CS15 (housing provision), CS22 (pollution) and CS34 (planning application considerations) of the Core Strategy of Plymouth's Local Development Framework. It is therefore recommended that planning permission be granted.

14. Recommendation

In respect of the application dated **15.12.2016** and the submitted drawings it is recommended to **Grant Conditionally**

15. Conditions

1) CONDITION: APPROVED PLANS

The development hereby permitted shall be carried out in accordance with the following approved plans: 305F Proposed Site Layout - 8 Apartments, 320F Proposed Floor Plans - 8 Apartments, 321F Section A-A Site Analysis, 323F Proposed Elevations - 8 Apartments, 325F Proposed Context Elevations - 8 Apartments, 327F Existing Site Topography as amended by drawing 883-940-0003B in respect of the roof terraces, associated balustrades and access staircase only and all other changes to the previously approved scheme including materials are not approved.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61-66 of the National Planning Policy Framework 2012.

2) **PRE-OCCUPATION: DETAILS OF BOUNDARY TREATMENT**

The positions, design, materials and type of boundary treatment shall accord with the details approved under condition discharge application 15/01674/CDM. The boundary treatment shall be completed before the building is first occupied. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the details of the development are in keeping with the standards of the vicinity in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

3) **CONDITION: PROVISION FOR TREE PLANTING**

All proposed tree planting, and the proposed times of planting, shall accord with the details approved under conditions discharge application 15/01674/CDM and all tree planting shall be carried out in accordance with those details and at those times.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61, 109 and 118 of the National Planning Policy Framework 2012.

4) **PRE-OCCUPATION: REFUSE STORAGE DETAILS**

The refuse storage area shall accord with the details approved under conditions discharge application 15/01674/CDM. The works shall conform to the approved details and shall be completed before the development is first occupied.

Reason:

To ensure that the details of the development are in keeping with the standards of the vicinity in accordance with Policies CS15 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

5) **CONDITION: ARBORICULTURAL METHOD STATEMENT**

The Arboricultural Method Statement shall accord with the details approved under conditions discharge application 15/01674/CDM. The measures contained in the approved statement shall be fully implemented and shall remain in place until construction work has ceased.

Reason:

To ensure that the trees on site are protected during construction work in accordance with Policy CS18 of the Plymouth Local Development Framework Core Strategy (6) 2007, and paragraphs 61,109 and 118 of the National Planning Policy Framework 2012.

6) **CONDITION: LANDSCAPE DESIGN PROPOSALS**

The hard and soft landscape works and programme for their implementation shall accord with the details approved under conditions discharge application 15/01674/CDM.

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61, 109 and 118 of the National Planning Policy Framework 2012.

7) **GRAMPIAN CONDITION- PEDESTRIAN FACILITIES**

The improved pedestrian facilities shall accord with the details approved under conditions discharge application 15/01674/CDM.

Reason:

In order to provide a satisfactory means of access to the development for pedestrians in the interests of pedestrian safety and sustainability to comply with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

8) **PRE-OCCUPATION: PEDESTRIAN/CYCLE ACCESS**

The building shall not be occupied until a means of access for both pedestrians and cyclists has been constructed in accordance with the approved plans.

Reason:

To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

9) **PRE-OCCUPATION: PROVISION OF PARKING AREAS**

Each parking space shown on the approved plans shall be constructed, drained, surfaced and made available for use before the unit of accommodation that it serves is first occupied and thereafter that space shall not be used for any purpose other than the parking of vehicles.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

10) PRE-OCCUPATION: CYCLE PROVISION

The building shall not be occupied until a cycle store for 8 bicycles has been provided in accordance with the details approved under conditions discharge application 15/01674. The secure area for storing bicycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

11) PRE-OCCUPATION: LANDSCAPE WORKS IMPLEMENTATION

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61, 109 and 118 of the National Planning Policy Framework 2012.

12) CONDITION: CODE OF PRACTICE

During development of the scheme approved by this planning permission, the developer shall comply with the relevant sections of the Public Protection Service, Code of Practice for Construction and Demolition Sites, with particular regards to the hours of working, control of mud on roads, control of dust and prohibition of bonfires.

Reason:

The proposed site is in immediate vicinity to existing residential properties, whose occupants will likely be disturbed by noise and/or dust during demolition or construction work and to avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

13) CONDITION: REPORTING OF UNEXPECTED CONTAMINATION

In the event that unacceptable levels of risk, unexpected contamination or ground conditions are found when carrying out the approved development, that were not previously identified, expected or anticipated; they must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to any or all of the following that apply:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,

o ground and surface waters, o ecological systems,
o archeological sites and ancient monuments; (iii) a remedial and preferred options appraisal.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed

remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site is suitable for use and will not qualify as contaminated land under Part 2A of the Environmental Protection

Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the environment, future users of the land and neighbouring land are minimised, and ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors; and to avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007

14) **CONDITION: EXISTING TREE/HEDGEROWS TO BE RETAINED**

In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the commencement of development.

A: No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with BS 3998: 2010 Tree Work Recommendations.

B: If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or pruned in breach of (a) above in a manner which, in the opinion of the Local Planning Authority, leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

C: The erection of barriers and ground protection for any retained tree or hedgerow shall be undertaken in accordance with the approved plans and particulars [plan no. IN] (or in accordance with Section 6.2 of BS 5837:2012

Trees in Relation to Design, Demolition and Construction - Recommendations) before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have

been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained are protected during construction work and thereafter are properly maintained, if necessary by replacement, in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61,109 and 118 of the National Planning Policy Framework 2012.

15) **CONDITION: HIGHLEVEL WINDOWS**

The horizontal windows in the east elevation of the building shall at all times be high level, at least 1.7 metres above the floor level of the room in which the window is installed.

Reason:

To protect the privacy of the neighbouring dwelling in accordance with Policies CS15 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

16) **CONDITION: LIFETIME HOMES**

A minimum of 2 flats shall be built to Lifetime Homes standards and shall thereafter be retained to this standard.

Reason:

To ensure that 20% of the dwellings on site are built to Lifetime Homes standards to comply with policy CS15 of the adopted City of Plymouth Core Strategy Development Plan Document 2007 and the NPPF.

17) **CONDITION: SOFT LANDSCAPE WORKS**

The details of soft landscape works shall accord with the details approved under conditions discharge application 15/0164/CDM and shall include planting plans including the location of all proposed plants their species, numbers, densities, type (i.e bare root/container grown or root balled, girth size and height (in accordance with the HTA National Plant specification), planting specification including topsoil depths, soiling operations, cultivation, soil ameliorants and all works of ground preparation, and plant specification including handling, planting, seeding, turfing, mulching and plant protection.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61, 109 and 118 of the National Planning Policy Framework 2012.

18) CONDITION: OBSCURE GLAZING

The obscure glazed screen shown on the plans shall be provided prior to the first use of the terraces hereby permitted and shall thereafter be permanently retained in accordance with details of the design and level of obscurity of the glass that shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to protect the privacy enjoyed by the occupiers of the adjacent dwelling in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 61 of the National Planning Policy Framework 2012.

Informatives

1) INFORMATIVE: (CIL LIABLE) DEVELOPMENT LIABLE FOR COMMUNITY INFRASTRUCTURE CONTRIBUTION

The Local Planning Authority has assessed that this development will attract an obligation to pay a financial levy under the Community Infrastructure Levy Regulations 2010 (as amended). Details of the process can be found on our website at www.plymouth.gov.uk/CIL. You can contact the Local Planning Authority at any point to discuss your liability calculation; however a formal Liability Notice will only be issued by the Local Planning Authority once "planning permission first permits development" as defined by the CIL Regulations. You must ensure that you submit any relevant forms and get any pre-commencement details agreed before commencing work. Failure to do so may result in surcharges or enforcement action.

2) INFORMATIVE: CONDITIONAL APPROVAL NEGOTIATION

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.