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| PART A | |
| Report of: HEAD OF DEVELOPMENT MANAGEMENT | |
| Date of Committee: | 28th January 2016 |
| Site address: | Rounton, 28, Nascot Wood Road |
| Reference Number: | 15/01670/VAR |
| Description of Development: | Variation of wording of Condition 20 of planning permission ref. 13/00450/OUTM for the erection of up to 20 dwellings, to allow the new vehicular access on Nascot Wood Road to be completed prior to final occupation (and not prior to first occupation) of the development. |
| Applicant: | Persimmon Homes |
| Date received: | 7th December 2015 |
| 13 week date(major): | 7th March 2016 |
| Ward: | Nascot |

SUMMARY AND REASONS FOR DECISION

This application relates to the site known as Rounton at 28, Nascot Wood Road which was granted outline planning permission in July 2013 for the demolition of the existing house and the erection of up to 20 new dwellings on the site (ref.13/00450/OUTM). A reserved matters application for the erection of 20 dwellings was approved in June 2014 (ref. 14/00497/REM) and the houses are currently under construction. Condition 20 of the outline permission required the new access junction on Nascot Wood Road, including the removal of the existing chicane and the formation of a raised table across the junction, to be completed before first occupation.

The junction has been constructed to base course level to the edge of the highway but the chicane has not yet been removed and the raised table has not been constructed. The first houses have now been occupied. The delay in carrying out the works has been caused by delays in the completion of a s.278 agreement under the Highways Act 1985, between the applicant and Herts. County Council, to carry out the works within the highway. Furthermore, due to the proximity of the site to Nascot Wood School, the County Council will only allow the works to be carried out within school holiday periods. The applicant has demonstrated that vehicles can still access the site safely with only the incomplete road junction and the chicane still in place, albeit this is far from an ideal situation.

The applicant has requested that the time period for the works be extended to 'before final occupation' as they have control over this. The County Council has recommended that the highway works be completed within 3 months. However, with no completed s.278 agreement and no agreed time for the works, this cannot be guaranteed. It is therefore recommended that an occupation threshold of 15 dwellings be used as a compromise.

The Head of Development Management therefore recommends that Condition 20 be varied to allow the highways works to be carried out prior to the occupation of 15 dwellings.

BACKGROUND

Site and surroundings

The application site has an area of 1.36 hectares and the previously approved 20 houses are currently under construction. The development area excludes an area of ancient semi-natural woodland which occupies the western and northern parts of the site, which was the subject of an appeal in August 2012, together with a 15m buffer zone around the woodland. The total site area of Rounton in the ownership of the applicants is 2.6 hectares. The site is partially covered by a Tree Preservation Order (TPO 15, 1972),

which also covers the ancient woodland sited outside the development site. A number of other groups of trees and individual trees within the site are not covered by the TPO.

The site is bounded by existing residential development at Bay Tree Walk to the north-east and south-east and Nascot Wood Road to the south-west. The surrounding area is characterised by detached houses in generous plots.

Proposed development

An application to vary the wording of Condition 20 of planning permission ref.

13/00450/OUTM for the erection of up to 20 dwellings, to allow the new vehicular access on Nascot Wood Road to be completed prior to final occupation (and not prior to first occupation) of the development. The original wording of Condition 20 is as follows:-

20. No part of the development shall be occupied until the vehicular access from Nascot Wood Road sited between nos. 24 and 26, Nascot Wood Road, has been laid out and constructed in accordance with the details shown in principle on drawing no. CS-047357-03-T-001A (Capita Symonds). The existing access sited between nos. 26 and 30, Nascot Wood Road shall only be used to serve up to one dwelling.

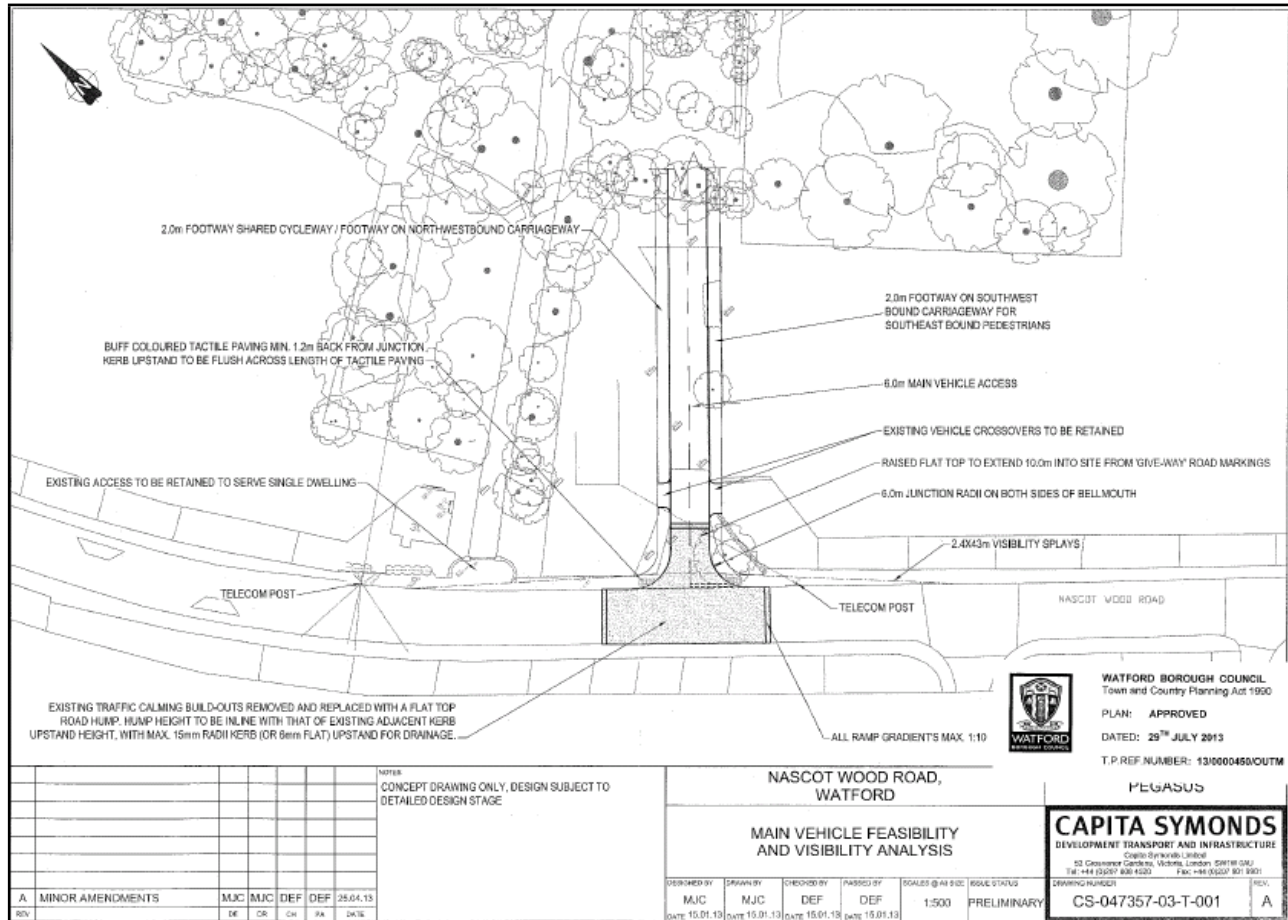
Reason: To minimise danger, obstruction and inconvenience to users of the highway and pedestrians and to ensure adequate servicing access for the development, in accordance with Policy T21 of the Watford District Plan 2000.

The junction layout referred to is shown below.

The variation to the wording of Condition 20 sought by the applicant is:

20. The final occupation in the development shall not take place until the vehicular access from Nascot Wood Road sited between nos. 24 and 26, Nascot Wood Road, has been laid out and constructed in accordance with the details shown in

principle on drawing no. CS-047357-03-T-001A (Capita Symonds). The existing access sited between nos. 26 and 30, Nascot Wood Road shall only be used to serve up to one dwelling.



Approved junction layout with new raised table

Planning history

11/00174/OUTM - In February 2011, an application for outline planning permission was submitted for the erection of up to 45 dwellings on the Rounton site, with only access to be determined (utilising the existing unused access between nos. 24 and 26, Nascot Wood Road) and all other matters reserved. This application was eventually refused permission in October 2011 for five reasons. The main reason related to the loss of a significant part of the woodland sited along the north-western and north-eastern parts of the site which was considered to be ancient semi-natural woodland. The other reasons for refusal related to the failure to complete a s.106 agreement to secure contributions towards

infrastructure and community facilities. This decision was appealed and the appeal was heard at a public inquiry in August 2012. In September 2012 the appeal was dismissed with the Inspector concluding that the woodland on the site was ancient semi-natural woodland and that the loss of a significant part of this woodland would be contrary to policies in the National Planning Policy Framework (NPPF) and the local development plan and that this harm would not be outweighed by the provision of housing on the site.



Site layout approved under ref. 14/00497/REM

13/00450/OUTM – Outline planning permission was granted in July 2013 for the erection of up to 20 dwellings on the site, with the retention of the ancient woodland and a 15m buffer zone. Access from Nascot Wood Road was approved as part of this permission.

14/00497/REM – Reserved matters approval granted in June 2014 for the appearance, layout, scale and landscaping of 20 new dwellings, pursuant to outline planning permission ref. 13/00450/OUTM.

All the relevant conditions of planning permission ref. 13/00450/OUTM have been discharged.

Relevant policies

National Planning Policy Framework

Achieving sustainable development

Section 4 Promoting sustainable transport

Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026

No relevant policies.

Hertfordshire Minerals Local Plan Review 2002-2016

No relevant policies.

Watford Local Plan Part 1 - Core Strategy 2006-31

T3 Improving Accessibility

T4 Transport Assessments

Watford District Plan 2000

T21 Access and Servicing

Supplementary Planning Documents

None.

CONSULTATIONS

Neighbour consultations

Letters were sent to 34 properties, in Nascot Wood Road. 7 replies have been received and make the following comments:

- Delay in the removal of the chicane will only add further to the disruption currently experienced when using this road.
- Chicane should have been removed prior to any works commencing. Chicane could be in place for a further 12 months.
- Chicane has caused accidents and near misses.
- Unreasonable request. Applicant should comply with the condition.
- All the chicanes should be removed.

Advertisements in local paper/site notices

One site notice was displayed outside the site on 18th December 2015. A public notice was also published in the Watford Observer on 18th December 2015. The consultation period for both expired on 8th January 2016.

Consultations

Hertfordshire County Council (Highway Authority)

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following condition:

1) Within three months of the grant of planning permission the proposed junction on Nascot Wood Road as shown in principle on drawing number CS-047357-03-T-001 Rev A should be completed to the satisfaction of the Highway Authority.

Reason: To ensure that the highways are constructed to the current Highway Authority's specification and that all highway areas are built to adoptable standards and to maintain highway safety for all road users.

Informative:

The Highway Authority has no objection to the variation of Condition 20 of the planning permission, but the site access and associated highway improvement which are subject to a S278 Agreement are to be completed within 3 months of the grant of planning permission. To this end the above condition should be attached to any planning permission that may be granted.

APPRAISAL

In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:

- (a) the *Watford Local Plan Part 1 - Core Strategy 2006-31*;
- (b) the continuing "saved" policies of the *Watford District Plan 2000*;
- (c) the *Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026*; and
- (d) the *Hertfordshire Minerals Local Plan Review 2002-2016*.

Background

Following the grant of outline planning permission in July 2013 and reserved matters approval in June 2014, construction works commenced on the site in November 2014. Construction works have been completed on several of the houses and it is understood

first occupation took place in December 2015. The only matter for consideration relates to the timing of the highway works to complete the new access junction, remove the existing chicane and construct the raised table. These works were required as part of the outline permission for the development of the site in order to ensure safe access to the site in accordance with current highway standards. Previously, the site had been accessed via an existing private drive sited between nos. 26 and 30, Nascot Wood Road, to the north-east of the new access and the existing chicane. As the new access conflicted with the chicane, the County Council as the Highway Authority required the chicane to be removed and replaced with a raised table. The latter would comprise an appropriate speed reducing measure in place of the existing chicane, within the series of chicanes along Nascot Wood Road forming the speed reduction scheme in this road.

The applicant is not requesting that this requirement be removed, only that the timing for the completion of the works be extended. This is to reflect the reality that the s.278 agreement under the Highways Act 1985 has not yet been completed to enable the works to take place. Furthermore, due to the proximity of the site to Nascot Wood School, the County Council will only allow the works to take place during school holiday periods. As the works are expected to take 2 weeks, the next available period for the works to take place (assuming the s.278 agreement is completed) will be the school Easter holidays between 2nd-17th April 2016.

Highway safety and access

The applicant has submitted a swept path analysis for a fire engine and a refuse lorry entering and leaving the site, for both northbound and southbound movements. These show that both vehicles can enter and exit the site within the confines of the highway and can negotiate the chicane. These movements will require additional care as some are not normal highway movements, i.e. entering the site from the south will necessitate over-running the give way line where vehicles leaving the site would be waiting. However, given the limited number of movements likely to be generated and the fact that care is already needed due to the continuing construction works on the site, the County Council have not objected to the delay in completion of the works.

With an anticipated date of early April for the works (school Easter holidays), the County Council has suggested a 3 month time period for the works to be completed. The applicant has expressed concern at this time frame stating:

Although we will of course exercise best endeavours to gain approval and carry out the work at the earliest possible juncture, we would be reluctant to agree to a strict deadline of three months as we are still beholden to HCC. Especially as the crux of the matter is whether or not it is safe to continue to occupy units with the chicanes in place, the amount of occupations, not the timing, is the material point. We would be concerned that should HCC's approval remain outstanding, that meeting the deadline could be taken out of our control.

Therefore, we can only agree to a limit on occupations as per the current application. As it has been proven that occupations can continue to safely occur until the final occupation and this has been agreed by HCC, we would respectfully request that the application be recommended for approval at Committee in its current format.

The County Council have concerns regarding the threshold for completion of the highways works being 'prior to final occupation' as this could, conceivably, never occur (i.e. if one of the properties was purchased as an investment and not occupied immediately or for some time afterwards). In this scenario, the works could, potentially, never be completed although this is considered to be highly unlikely. Nevertheless, in the absence of a completed s.278 agreement, neither the applicant nor the County Council (utilising a bond given by the applicant and secured by the s.278 agreement) would be in a position to carry out the works. In extreme circumstances, the County Council would have to carry out the works at public expense. As an alternative, if a lower occupation threshold were to be used, either the County Council or the Council could seek an injunction to prevent any further occupation. It is therefore proposed that an occupation threshold of 15 units be used.

Other planning considerations

All other matters remain as previously approved. As a new planning permission will be granted in the event of the variation of Condition 20 being agreed, the previously approved reserved matters and the approved details pursuant to the various conditions of the outline planning permission can be attached to the new permission.

Section 106 planning obligations

The original outline planning permission (ref. 13/00450/OUTM) was subject to a s.106 agreement to secure the following:

- i) *To secure financial payments to the Council of:*
 - a) *A payment of £985 (index linked) per dwelling of 2 or more bedrooms towards the provision and improvement of children's playspace in the Borough in accordance with Policy L9 of the Watford District Plan 2000;*
 - b) *£350 towards the monitoring of the agreement.*

- ii) *To secure financial payments to the County Council based upon the charges in Table 1 and Table 2 of 'Planning Obligations Guidance – Toolkit for Hertfordshire' (January 2008) as follows:*
 - a) *A payment (index linked) based upon Table 1 towards the implementation of the South West Hertfordshire Transport Strategy and sustainable transport measures in Watford in accordance with Policies T3, T4, T5 and INF1 of the Watford Local Plan Core Strategy 2006-31;*
 - b) *A payment (index linked) based upon Table 2 towards the provision of secondary education facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;*

- c) *A payment (index linked) based upon Table 2 towards the provision of primary education facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;*
 - d) *A payment (index linked) based upon Table 2 towards the provision of nursery education facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;*
 - e) *A payment (index linked) based upon Table 2 towards the provision of youth facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;*
 - f) *A payment (index linked) based upon Table 2 towards the provision of childcare facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;*
 - g) *A payment (index linked) based upon Table 2 towards the provision of library facilities in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000.*
- iii) *To secure the provision of 35% of the dwellings as affordable dwellings, of which at least 60% are to be for affordable rent, at least 15% for social rent and at least 10% for intermediate tenures, in accordance with Policy HS3 of the Watford Local Plan Core Strategy 2006-31.*
- iv) *To secure the provision of necessary fire hydrants as required to serve the development.*

- v) *To secure an Environmental Management Plan for the area of retained ancient woodland and the 15m wide buffer zone around the woodland within the site.*

In respect of obligations i) and ii), the payments due to the Council and County Council have not yet been paid. In respect of obligation iii), the affordable housing provision was provided at the applicant's development site at Blackwell House, Aldenham Road, in accordance with the detailed provisions of the s.106 agreement which allowed provision to take place on an alternative site in the applicant's ownership. In respect of obligation iv), fire hydrants were provided as part of the water scheme installed at the site. In respect of obligation v), a Woodland Management Plan has been drawn up for the site. As obligations i) and ii) have not yet been fulfilled and obligation v) is a continuing obligation relating to the maintenance of the ancient woodland at the site, a deed of variation will be required to link the new planning permission to the existing s.106 agreement.

Community Infrastructure Levy (CIL)

The Council introduced the Community Infrastructure Levy (CIL) with effect from 1 April 2015. The CIL charge covers a wide range of infrastructure as set out in the Council's Regulation 123 list, including highways and transport improvements, education provision, youth facilities, childcare facilities, children's play space, adult care services, open space and sports facilities. CIL is chargeable on the relevant net additional floorspace created by the development. The charge is non-negotiable and is calculated at the time that planning permission is granted.

The charge is based on the net increase of the gross internal floor area of the proposed development. The proposed development has already paid contributions under the previous s.106 agreement and no additional floorspace is being created as a result of the variation of Condition 20. As such, in order to avoid double counting, no CIL charge is applicable in this case.

HUMAN RIGHTS IMPLICATIONS

The Local Planning Authority is justified in interfering with the applicant's human rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party human rights, these are not considered to be of such a nature and degree as to override the human rights of the applicant and therefore warrant refusal of planning permission.

RECOMMENDATION

That planning permission be granted subject to:

i) the completion of a deed of variation to link the new planning permission to the original s.106 agreement dated 29th July 2013, forming part of planning permission ref.

13/00450/OUTM, to ensure the obligations contained in this agreement continue to apply to the new planning permission, and

ii) the conditions as set out below:

Conditions

1. The development shall only be constructed in accordance with the details shown on the following approved drawings:

The development shall only be constructed in accordance with the details shown on the following approved drawings:

11.060.100 Rev.9 (black and white), 11.060.100 Rev.9 (colour), 11.060.101, 11.060.102 Rev.9, 13.060.103 Rev.9, 13.060.104 Rev.9, 11.060.105 Rev.A (all Eric Cole Architecture)

11.060.01A, 02A, 03, 04A, 07A, 08A, 09A, 10A, 11A, 12A, 15A, 16A, 17A, 18A, 19, 20A, 30A, 31, 32 (all Eric Cole Architecture)

P694/1 (PFA Consulting)

100D (hardsurfacing details only), 201D (hard landscaping only), 500D, 501C, 502B, 701B (arboricultural construction works only) (all RPS)

Typical Tree and Shrub Palette (RPS)

Materials Schedule

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

2. The development shall only be carried out in accordance with the approved schedule of external materials and hard landscaping.

Reason: In the interests of the appearance of the site, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

3. The development shall only be carried out in accordance with the tree protection measures shown on approved drawing no. 701 Rev.D (RPS).

Reason: To ensure the works within the root protection zones of the retained trees do not harm the health of the trees.

4. Construction of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays and not at all on Sundays and Public Holidays unless agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties during the time that the development is being constructed.

5. The development shall only be carried out in accordance with the approved Construction Environmental management Plan Rev.A dated 26th September 2014.

Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties and prevent obstruction of the adjoining highway during the time that the development is being constructed.

6. The development shall only be carried out in accordance with the ground levels and finished floor levels of the proposed houses as shown on approved drawing no. 5029:02 (MJA Consulting).

Reason: To ensure that the proposed buildings and any other changes in level on the site maintain a satisfactory relationship between the development and existing properties to safeguard the character and appearance of the street and the privacy and amenities of neighbouring uses in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

7. The routing of below ground services shall only be carried out in accordance with the following approved drawings:

Affinity Water - Drawing no. 44258-01 Rev. T1

Virgin Media - Unnumbered drawing

BT Openreach - Unnumbered drawing

Reason: To ensure the retention of the existing trees on the site is not prejudiced by the development in accordance with Policy SE37 of the Watford District Plan 2000.

8. The foul and surface water drainage scheme, shall only be constructed in accordance with the following approved drawings:

Drawing no. 5029:01E (MJA Consulting)

Drawing no. 5029:2 (MJA Consulting)

Drawing no. 5029:22 (MJA Consulting)

Drawing no. 5029:23 (MJA Consulting)

No dwelling shall be occupied until the drainage scheme has been constructed in accordance with the approved details.

Reason: To ensure the foul and surface water drainage is designed to minimise the likelihood of flooding downstream, to reduce the risk of flooding by ensuring the satisfactory storage of and disposal of surface water from the site, and to reduce the impact of flooding on the proposed development and future occupants in accordance with Policy SD2 of the Watford Local Plan Core Strategy 2006-31.

9. No dwelling shall be occupied until a post construction stage final certificate has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling has achieved code level 3 of the Code for Sustainable Homes.

Reason: To accord with Policies SD1, SD2 and SD3 of the Watford Local Plan Core Strategy 2006-31.

10. The external lighting scheme for the site shall only be installed in accordance with the approved drawing no. 5029:01E (MJA Consulting) and utilising the DW Windsor DW400 lantern on 5m high columns. The scheme shall be installed as approved before the first occupation of any part of the development.

Reason: To meet the needs for safety and security for users of the site in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

11. The development shall only be carried out in accordance with the bat mitigation strategy and method statement detailed in the following approved documents:

Bats – Method Statement template to support licence application (Natural England)
Drawing nos. C5A, C5B, E.2.A, E.3.a, E.4.A, E2A, C.6.B, C.6.C, C.6.D, D (all RPS)

Reason: All bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal intentionally or recklessly to kill, injure or take any individuals or to deliberately capture or disturb individuals. It is an offence intentionally or recklessly to damage or destroy a roost, to obstruct a roost, and to disturb an individual whilst occupying the roost.

12. No trees, scrub or hedges on the site shall be lopped, topped, felled, grubbed up or otherwise removed from the site between 1st March and 31st August in any year unless a suitably qualified ecologist has previously surveyed the trees, scrub or hedges and certified in writing to the Local Planning Authority that such works of removal are unlikely to harm any protected species.

Reason: In order to avoid harm to any protected species, in accordance with Policies GI1 and GI3 of the Watford Local Plan Core Strategy 2006-31.

13. The approved soft landscaping scheme shall be carried out as approved not later than the first available planting and seeding season after completion of each phase of the development. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with details approved by the Local Planning Authority.

Reason: In the interests of the visual appearance of the site in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

14. Car parking provision for the development provided in accordance with the approved drawings, unless otherwise agreed in writing by the Local Planning Authority. No dwelling shall be occupied until the respective car parking spaces for the occupants and their visitors have been constructed, unless otherwise agreed in writing by the Local Planning Authority. These facilities shall be retained at all times and shall not be used for any other purpose.

Reason: In the interests of the visual appearance of the site and to ensure that adequate parking facilities exist for residents of the proposed development, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31 and Policies T22 and T24 of the Watford District Plan 2000.

15. The occupation of no more than 14 dwellings shall take place until the vehicular access from Nascot Wood Road sited between nos. 24 and 26, Nascot Wood Road, has been laid out and constructed in accordance with the details shown in principle on drawing no. CS-047357-03-T-001A (Capita Symonds). The existing access sited between nos. 26 and 30, Nascot Wood Road shall only be used to serve up to one dwelling.

Reason: To minimise danger, obstruction and inconvenience to users of the highway and pedestrians and to ensure adequate servicing access for the development, in accordance with Policy T21 of the Watford District Plan 2000.

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