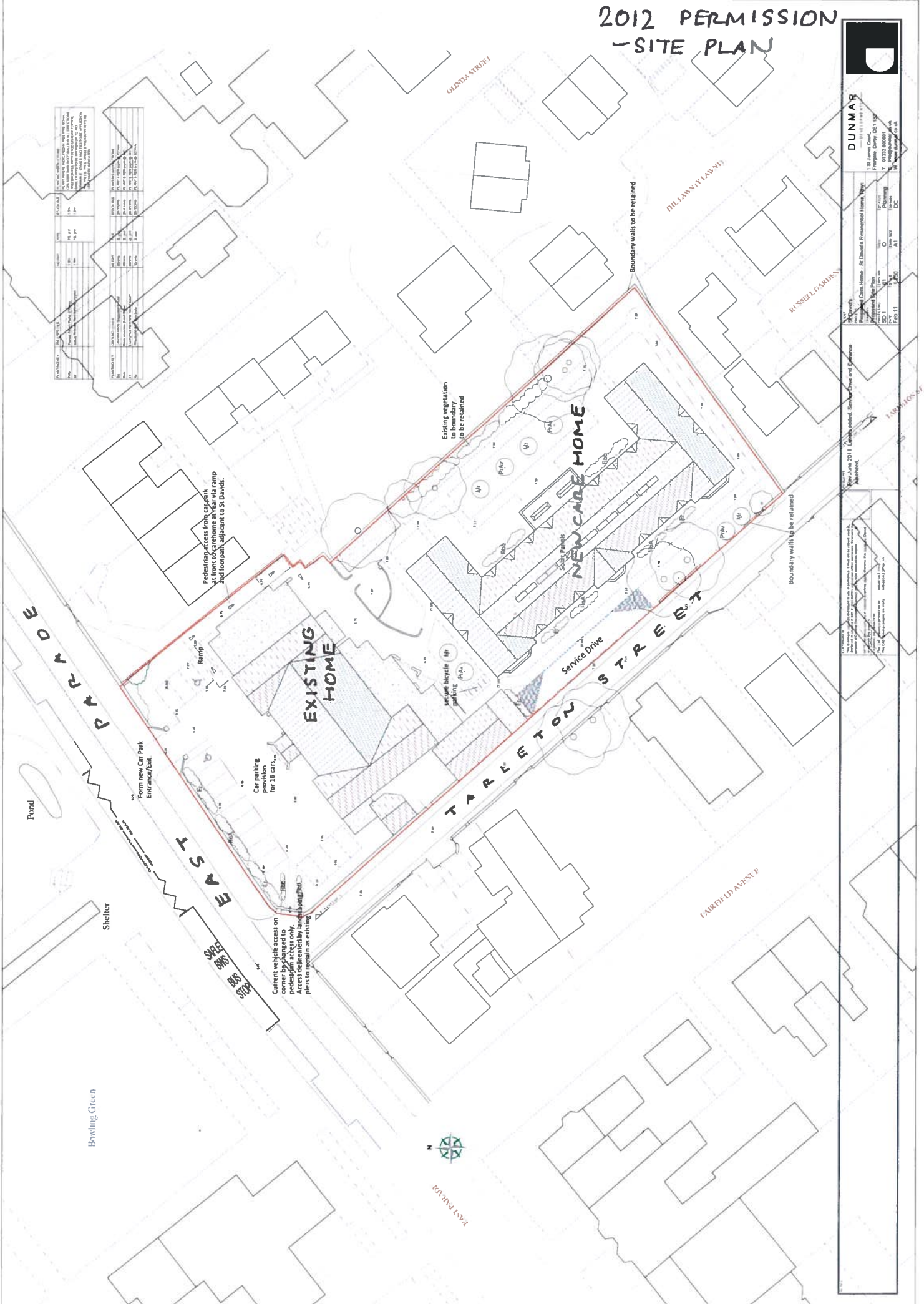


45/2017/0507 - 36 East Parade, Rhyll
 Scale: 1:1250
 Printed on: 27/6/2017 at 10:41 AM

2012 PERMISSION -SITE PLAN

| NO. | DESCRIPTION | AREA | PERCENT | REMARKS |
|-----|---------------|--------------|---------|---------------|
| 1 | EXISTING HOME | 14,234 sq ft | 100% | EXISTING HOME |
| 2 | NEW CARE HOME | 14,234 sq ft | 100% | NEW CARE HOME |
| 3 | POND | 1,000 sq ft | 7% | POND |
| 4 | SHED | 1,000 sq ft | 7% | SHED |
| 5 | DRIVEWAY | 1,000 sq ft | 7% | DRIVEWAY |
| 6 | PARKING | 1,000 sq ft | 7% | PARKING |
| 7 | LANDSCAPE | 1,000 sq ft | 7% | LANDSCAPE |
| 8 | WALKWAY | 1,000 sq ft | 7% | WALKWAY |
| 9 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 10 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 11 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 12 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 13 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 14 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 15 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 16 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 17 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 18 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 19 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |
| 20 | BIKEWAY | 1,000 sq ft | 7% | BIKEWAY |



DUNMAR

18 James Street, Dunfermline, Fife KY11 1JG
 Tel: 01320 600000 Fax: 01320 600001
 Email: sales@dunmar.co.uk Website: www.dunmar.co.uk

Project: 2011 (Landscape, Service Drive and Entrance)

Client: St David's Residential Home, Perth

Site: 18 James Street, Dunfermline, Fife KY11 1JG

Scale: 1:500

Author: [Name]

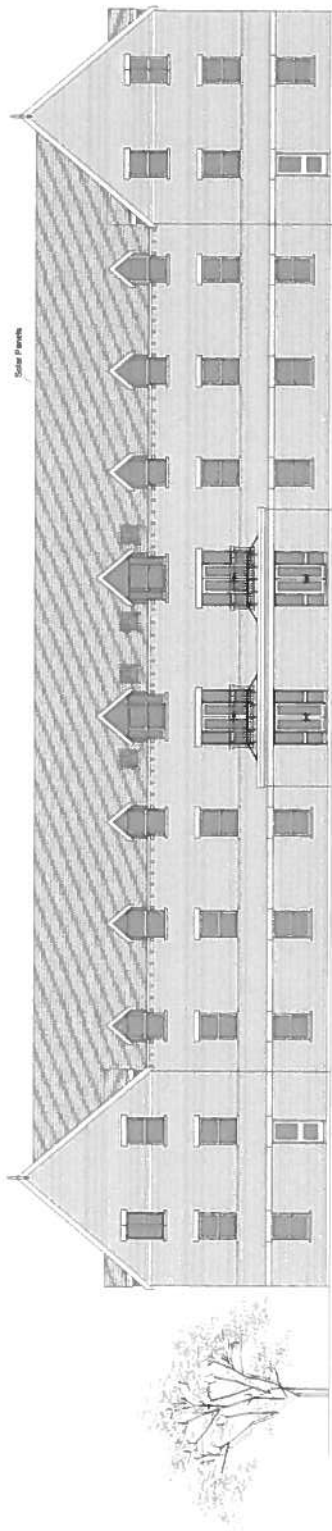
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Date: 12/11/11

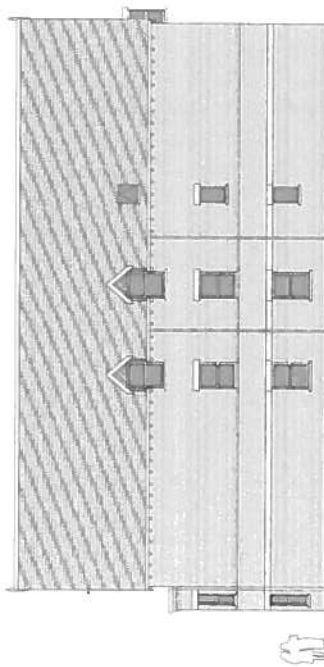
Project No: 11000

Sheet No: 1 of 1

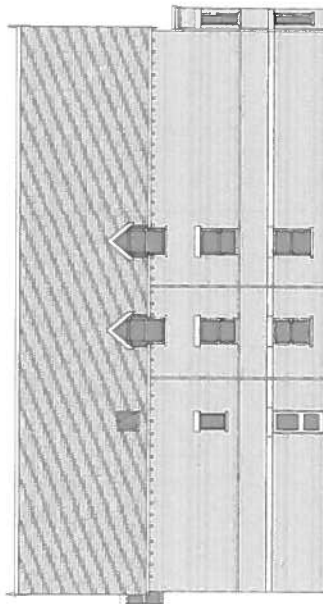
2012 PERMISSION ELEVATION PLANS



PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION



PROPOSED SIDE ELEVATION (Facing St David's)

DUNMAR
INCORPORATED

18 James Clerk
Highway D161 697
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W: www.dunmar.co.uk

Client: St David's
Project: St David's Residential Home, Rhyl
Proposed Side and Rear Elevation
Rev: 01
Date: 11/06/11
Rev: 02
Date: 11/06/11
Rev: 03
Date: 11/06/11
Rev: 04
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Date: 11/06/11



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 19/06/12
Ymweliad â safle a wnaed ar 19/06/12

gan **Tim Belcher FCII, LLB (Hons),
Solicitor (Non-Practising)**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 18/07/12

Appeal Decision

Hearing held and site visit made on 19/06/12.

by **Tim Belcher FCII, LLB (Hons),
Solicitor (Non-Practising)**

an Inspector appointed by the Welsh Ministers
Date: 18/07/12

Appeal Ref: APP/R6830/A/12/2171037

Site address: Land in front and to the rear of St. David's Residential Home, East Parade, Rhyl, LL18 3AN

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by St. David's Care Limited against the decision of Denbighshire County Council.
 - The application Ref 45/2011/0572/PF, dated 21 March 2011, was refused by notice dated 6 October 2011.
 - The development proposed is the erection of a 60 bedroom care home to the rear of St. David's Residential Home, with new car park and new vehicular access from East Parade.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a 60 bedroom care home to the rear of St. David's Residential Home, with a new car park and new vehicular access from East Parade on land in front and to the rear of St. David's Residential Home, East Parade, Rhyl, LL18 3AN in accordance with the terms of application, Ref 45/2011/0572/PF, dated 21 March 2011, subject to the conditions set out in the Schedule of Conditions below.

Application for costs

2. At the Hearing an application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Policy

3. The development plan for the area includes the Denbighshire Unitary Development Plan (the UDP). The Council have identified the proposal as being contrary to Policies GEN6, CF5, TRA6 and TRA9.
4. I have also been referred to advice in Supplementary Planning Guidance Note 21 – Parking Requirements in New Developments (the SPG) and various parts of Planning Policy Wales. The Council explained that the UDP policies reflect the guidance in Planning Policy Wales.

5. The Council confirmed that Supplementary Planning Guidance Note No. 4 – Recreational Public Open Space was not relevant to the determination of the appeal.
6. I was referred to the National Dementia Action Plan for Wales by the appellants. The proposal would be used for specialist dementia care. It was explained that people often go into care homes due to becoming frail and unable to live in their own homes and later develop dementia. There are examples in the area where existing care homes are unable to provide the specialist care for those residents who develop dementia.
7. Interested parties claimed that there are local care homes that are able to cope with residents who suffer from dementia.
8. The Council confirmed that it was not necessary to establish need as a pre-requisite for the grant of planning permission.

Main Issues

9. It was agreed at the Hearing that the main issues in this case are whether the proposal:
 - a) would increase highway safety problems in Tarleton Street,
 - b) would materially harm the character and appearance of the area,
 - c) would provide suitable private amenity space for the residents of the combined St. David's Residential Home (St. David's) and the proposed care home.

Highway Safety

10. The UDP explains that development will be permitted provided that adequate parking is provided in accordance with the Council's approved standards. The Council confirmed that the standards were those set out in the SPG. The SPG explains that the maximum number of car parking spaces for a residential institution such as that proposed in this case is one space per three beds. In this case there would be 112 beds in total. Therefore, the maximum number of on-site car parking spaces would be 37. The proposal includes 16 car parking spaces at the front of St. David's which would be accessed off East Parade. Accordingly, there would be a shortfall of 21 car parking spaces.
11. The exceptions to the parking standard are set out in paragraph 5.1 on the SPG. This explains that:
 - a) There may be occasions where a particular development does not justify the levels of parking as set out in the SPG. Consideration to a variation of the standards will relate to the nature of the development. A lower level of car ownership is likely in urban areas and sites well serviced by public transport. In this case the appellants confirmed that none of the residents would own cars and that the site is well served by public transport. This was not disputed by the Council.
 - b) Variations may also be allowed in the light of local circumstances including the availability and existing capacity of nearby parking. In this case there is on-street parking available (subject to payment) on the north side of East Parade throughout the year and there is parking available on the south side of East Parade between 1 October to the following 31 March. Further, there is a very large public car park within a short walking distance of the St. David's. It was suggested that parking

was much more difficult in the height of the tourist season. However, there was no evidence that it was not possible to park in the public car park even at the height of the holiday season.

12. Further, the UDP explains that:

- a) Development will be permitted provided that it does not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated.
- b) New residential institutions will be permitted provided, amongst other things, that sufficient scope exists within the site for car parking and servicing arrangements; that the proposal has no acceptable impact on the local highway network; that the proposal does not unacceptably affect the safe and free flow of traffic and the traffic conditions on the surrounding road network are satisfactory.

13. Tarleton Street is a narrow all-purpose highway that links East Parade to Russell Road. There is a narrow footway on the west side of Tarleton Street. I was advised that the footway is not used by many pedestrians and could not be used by people in wheelchairs, those pushing buggies or prams or those using mobility scooters. Therefore, the carriageway is shared by pedestrians and vehicles.

14. The current informal pattern of on-street parking is for vehicles to be parked on the west side of Tarleton Street. This in effect leaves a narrow width of carriageway available for vehicles to pass along. There is only enough room for one car to pass along at any one time. There are limited opportunities for cars to pull into informal passing areas to allow other vehicles to pass by.

15. From my own inspection of Tarleton Street I noted that it was possible for a maximum of about 15 cars to be parked so as to avoid either parking on double yellow lines or in front of garages or other vehicular accesses to adjoining premises. It is also clear to me that for most of the working day there is little or no on-street parking available in Tarleton Street.

16. It is clear from the evidence that parking in Tarleton Street is used for parking by people other than local residents. The main problem caused by this is that some inconsiderate drivers park in front of or close to garages and accesses and either block or make it difficult for local residents to manoeuvre between their premises and Tarleton Street. I accept that when this occurs it must be very annoying for the residents concerned and causes considerable inconvenience for them.

17. Some local residents claim that some of the parking spaces in Tarleton Street are taken up by staff working at St. David's or visitors to St. David's. I was advised that oral complaints had been made to the management at St. David's about this and nothing had been done to resolve the issue. The appellants explained that there are eight car parking spaces currently available at St. David's (three at the front and five at the back). Local residents claim that the car parking spaces at the front are rarely used. The appellants explained that there was sufficient on-site parking to meet the needs of the staff that drive to the site and therefore they could not understand why residents perceived that staff were parking on-road in Tarleton Street.

18. It was agreed that the on-street problems explained above are also caused by commuters who park in Tarleton Street (so as to avoid car parking charges) who then walk to their place of work in the Town Centre.

19. The important issue is whether this unsatisfactory situation is going to be made any worse if the proposal is implemented.
20. The proposal would result in the following benefits:
- a) The access to the car parking area at the rear of St. David's would be closed off thus reducing the number of cars using Tarleton Street to access that car parking area and thus improving the safety of pedestrians walking along the carriageway of Tarleton Street.
 - b) The existing vehicular access to the car parking at the front of St. David's would be closed. It was acknowledged by all parties that this access is unacceptable due to its position and limited visibility for drivers leaving St. David's.
 - c) The bungalow within the appeal site would be demolished and its access would be closed. That use could currently resume and thus generate its own vehicular movements along Tarleton Street. Therefore, there is a further reduction in the number of potential vehicular movements along Tarleton Street.
 - d) There are currently about 15 deliveries a week and a further two per month made to St. David's. Some of the delivery vehicles are not able to pull off-street and therefore have to park in Tarleton Street whilst they collect or deliver thus blocking all use of it. This would cause congestion and/or inconvenience for other drivers wishing to pass along Tarleton Street. The proposal includes a service drive in Tarleton Street which would allow all delivery vehicles to pull off the highway and this would overcome the problems identified above. The appellants also suggested that the proposed car parking area at the front of St. David's could also be used for deliveries. Further still, the service drive could also be used by ambulances and/or doctors visiting patients at the combined care home. Finally, the service drive would provide another informal passing place so that vehicles meeting each other in Tarleton Street could pull over and allow the other vehicle to pass by.
21. It was suggested that the drivers of the delivery vehicles would not use the service drive because it would be inconvenient in terms of where the goods had to be delivered to. The appellants did not agree with that assessment. I doubt whether the management of the combined care homes would allow Tarleton Street to continue to be obstructed by delivery vehicles when a service drive was specifically available for such use.
22. From the information that I have been provided with the appellants have shown that the sixteen car parking spaces would be sufficient to cope with the anticipated parking requirements of the staff working at the combined care home without the need to seek car parking off-site. I was advised that the need for parking by doctors at the care home was relatively limited. It was anticipated that there would be sufficient space for visiting doctors to park within the proposed car parking area. Further still, the appellant explained that specialist care staff would be employed to care for residents suffering from dementia and the need for additional doctor visits would not be significant.
23. Visitors to the combined care home would be able to come throughout the day but they currently tend to come in the afternoon. I anticipate that there may be occasions when there would be not on-site parking available for visitors. However, the evidence is that Tarleton Street is already parked to capacity during the day. In my judgement the vast majority of visitors to the combined care home would use the public car parking facilities which are readily available and close by.

24. I have noted the concerns raised by Councillors and local residents regarding access by emergency services to the proposed development. However, the Fire & Rescue Service were consulted at the application stage and they did not raise any objection.
25. Finally, I understand the concerns of local residents as to the safety of residents if they were to go on to Tarleton Street without being accompanied by a carer. This is a matter for the appellant to address in terms of on-site management and their duty of care for their clients.
26. I therefore conclude, having regard to all the factors explained above, that the proposal would not increase highway safety problems in Tarleton Street and given the local circumstances that prevail I do not consider that highway safety problems would be increased in Tarleton Street. Accordingly, there would be no conflict with the relevant parts of the UDP or the SPG.

Character and appearance

27. The UDP explains that development will be permitted if, amongst other things it:
 - a) respects the site and surroundings in terms of siting, layout, scale, and spaces around and between buildings, and
 - b) does not unacceptably affect the form and character of the surrounding townscape.
28. The proposal is designed by an architect specialising in the provision of care homes throughout Wales and England. The Council confirmed that there was no objection to the appearance of the proposed building.
29. The proposal would be set back from and sited parallel to Tarleton Street. The set back from Tarleton Street would in line with the main elevation of the closest building i.e. 7 Russell Gardens that backs on to Tarleton Street and also broadly in line with the main side elevation of St. David's that faces on to Tarleton Street.
30. Whilst the building contains three levels of accommodation its overall height would be about 11m with the third level being accommodated in the roof space. The height of nearby buildings varies but there are a significant number that would be much taller than the proposed building. I also consider that it would provide a reasonable transition between the domestic height of the dwellings in Russell Gardens and the main building at St. David's.
31. I have also noted the proposed height of the building in relation to the narrow width of Tarleton Street. There is no standard in the UDP relating to this issue. Having regard to the height of the main building at St. David's and the set back of the proposed building I do not consider the building to be out of scale in the street scene of Tarleton Street.
32. I have also had regard to the space between the proposed building and the existing built development and I consider there is sufficient space to ensure that the proposal would not look cramped and squashed into the site.
33. I therefore conclude, for the reasons explained above, that the proposed building would not materially harm the character or appearance of Tarleton Street or the wider area and would not be contrary to the relevant parts of the UDP.

Private amenity space

34. The UDP explains that new residential institutions will be permitted provided, amongst other things, the site is suitable for the use in terms of private open space.
35. The private amenity space in this case has to be suitable for the residents of the proposed 60-bed care home and the existing 52-beds at St. David's.
36. The majority of the site where the new development is proposed comprises a former bowling green and a bungalow and its former garden. This land is currently largely enclosed by a high wall with substantial landscaping along the front and rear boundaries.
37. The appellants claimed that the current residents at St. David's use only a very small part of the open land within the site. Many of them are not sufficiently mobile to get outside without the help of carers or relatives. Local residents claimed that the current residents use the former bowling green area but I noted at my site visit that the vast majority of benches to sit at, the paved patio & garden ornaments were provided between the rear of St. David's and the former bowling green.
38. The appellants explained that there would be about 1730 square metres of land available for residents to use outside St. David's and the proposed building. The Council are of the view that only a limited amount of this space i.e. about 680 square metres was usable as private amenity space. They were concerned that the private amenity space lacked quality and would result in residents sitting outside facing a high boundary wall. I do not agree with that assessment. There is attractive existing vegetation growing along the rear boundary that would be retained and it is in the interest of the appellants to make this area as attractive as possible so that residents would come to this care home rather than any other.
39. The appellants explained that many existing residents are bedridden. However, the appellants want to encourage as many residents as possible to go outside so as to improve the quality of their lives. The more mobile residents could also, with the help of staff or visiting relatives, be taken to the attractive promenade to enjoy the activity there and the various adjoining facilities.
40. In my assessment there is sufficient space around the existing and proposed building to provide suitable private amenity space for the residents of both the existing and proposed building. I am in no doubt that an attractive outdoor area can be created which would benefit those residents who are able to use those facilities.
41. I therefore conclude, for the reasons explained above, that the proposal would provide suitable private amenity space for the residents of the combined St. David's and the proposed care home. Accordingly, there would be no conflict with the relevant parts of the UDP.

Other Matters

42. I noted the change in levels between East Parade and the front of the site and other changes in levels within the site. The scheme's architect confirmed that it would be possible to provide pathways and ramps within the site which complied with the relevant standards for access within the building regulations regime and that it would be possible to push wheelchairs around the site.
43. Conditions can be used to ensure that drainage of both foul and surface water can be satisfactorily achieved without causing problems for nearby residents.

44. I am aware that Mr & Mrs Whitehead have only recently purchased their home at 1 Glendower Court. Mrs Whitehead explained that she was unaware of the appeal proposal. This is a matter which she needs to take up with whoever carried out the conveyancing procedures to see whether the appropriate question was raised when the Local Land Charges Search was made and whether the correct answer was provided.
45. I have had regard to her concerns regarding the impact of the proposal in terms of loss of privacy and loss of outlook. I am satisfied that:
- a) there is sufficient distance between the bedroom and lounge windows in her property and the habitable room windows in the proposed care home, and
 - b) there is a substantial amount of landscaping between the buildings at Glendower Court and the proposed care home,
- so as to ensure that no significant loss of privacy or outlook would arise from the proposal.
46. For the same reasons I do not consider there would be any material harm to the living conditions of any of the other occupiers at Glendower Court due to overlooking or their loss of outlook.
47. Further still, I have had regard to the height of the proposal, its relationship to the communal gardens at Glendower Court, the movement of the sun through the sky and existing landscaping and I do not consider there will be any unacceptable overshadowing resulting from the proposed development.
48. I have noted the concerns raised by local residents regarding noise nuisance early in the morning caused by collections at St. David's. The Traffic Survey Report indicates that there is a waste collection three times a week at about 04:30. The appellants were unaware that the collection was causing any nuisance and they indicated that they were willing to ensure collections were made at an appropriate time. This is a matter which can be referred to the Environmental Health Officer if these noise problems continue.
49. I have also had regard to the position of the proposed car parking area at the front of St. David's and its proximity of windows in Glendower Court. I do not consider that any unacceptable noise or disturbance or unacceptable smells from car exhaust fumes will arise from the use of the car parking area so as to harm the living conditions of the occupiers of Glendower Court.

Conditions

50. I have considered the conditions suggested by the Council¹ and discussed at the Hearing in the light of the advice in Circular 35/95 "*The Use of Conditions in Planning Permissions*". In addition to the statutory time commencement condition I consider it is reasonable and necessary to ensure that:
- a) Conditions 2, 4, 5, are used to secure a satisfactory standard of development and to protect the character and appearance of the area,
 - b) Conditions 3, 4 are used in the interests of highway safety,

¹ Document 1

- c) Condition 6 is used to retain and protect trees and other vegetation on the site,
- d) Condition 7 is used to protect the living conditions of nearby neighbours and to ensure access is maintained to adjoining properties during the construction stage,
- e) Condition 8 is used to protect the integrity of the public sewerage system,
- f) Conditions 9 to 11 are used to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and avoid detriment to, or pollution of, the environment,
- g) Condition 11 is used in the interests of wildlife conservation, and
- h) Condition 12 is used to ensure that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

51. It was agreed by the Council at the Hearing that their suggested Conditions 7 and 12 were not necessary.

Conclusion

52. For the reasons explained above I conclude that the appeal should be allowed.

Tim Belcher

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the care home hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) No part of the care home hereby permitted shall be brought into use until the approved vehicle access off East Parade, the car parking area and the service drive off Tarleton Street have been completed. The parking area and service drive shall be retained at all times for use in connection with the existing St. David's Residential Home and the permitted care home.
- 4) Prior to the commencement of the development the written approval of the local planning authority shall be obtained in respect of:
 - a) the levels of the access off East Parade, the car parking area, the service drive, the pathways and the ramp within the site,
 - b) the drainage arrangements of the pathway and ramp relative to adjacent properties,
 - c) the detailed surfacing materials of the access off East Parade, the car parking area, the service drive and the pathways and ramp within the site,
 - d) any associated external lighting of the access off East Parade, the car parking area, the service drive, and the pathways and ramp within the site, and
 - e) the detailed arrangements for restricting the existing vehicle access at the junction of East Parade and Tarleton Street to a pedestrian only access.The development shall be carried out in accordance with the approved details.
- 5) All planting comprised in the details of landscaping shown on Drawing No. SD1 01 – Proposed Site Plan shall be carried out in the first planting season following the completion of the development and any trees or plants which, within a period of five years of the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) All trees and other vegetation to be retained as shown on Drawing No. SD1 01 – Proposed Site Plan as part of the development hereby permitted shall be protected during site clearance and construction work by one metre high fencing erected one metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme submitted to and agreed in writing by the local planning authority. No construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or vegetation and such fencing, nor within these areas shall the existing ground levels be raised or lowered, or any trenches or pipe runs excavated, without the prior written consent of the local planning authority.
- 7) No development shall commence on the site until a detailed Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall include details of the proposed days and hours of work, arrangements for accessing Tarleton Street and protecting rights of access to properties off Tarleton Street and the means

of mitigating the impact of noise and dust from construction works. The development shall be carried out in accordance with the agreed Construction Method Statement.

- 8) Foul water and surface water discharged from the appeal site shall be drained separately.
- 9) No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise approved in writing by the local planning authority.
- 10) Land drainage run off shall not be permitted to discharge either directly or indirectly into the public sewerage system.
- 11) Prior to the commencement of the development the written approval of the local planning authority shall be obtained in respect of the details of bat friendly features to be provided on or within the building hereby approved. The development shall be carried out in accordance with the approved details.
- 12) The development hereby permitted shall be carried out in accordance with the following approved plans: SD1 LP1 – Site Location Plan; SD1 01 – Proposed Site Plan; SD1 02-A – Proposed Ground Street Scene; SD1 03-C – Proposed Ground Floor Plan and Front Elevation; SD1 04-A – Proposed First Floor Plan; SD1 05-A – Proposed Second Floor Plan; SD1 06-B - Proposed Side & Rear Elevation & SD1 07-B - Proposed Side Elevations.

WARD : Rhyl East

WARD MEMBER(S): Barry Mellor
Anthony Thomas

APPLICATION NO: 45/2017/0507/ PS

PROPOSAL: Variation of condition no. 1 of planning permission code no. 45/2011/0572 allowed under appeal to allow an extension of time to commence the development

LOCATION: St. Davids Residential Home 36 East Parade Rhyl

APPLICANT: David Waltho

CONSTRAINTS: Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Planning history - Referral by Head of Service / Development Manager

CONSULTATION RESPONSES:
RHYL TOWN COUNCIL
"No objections".

RESPONSE TO PUBLICITY:

None received at the time of drafting the report.

EXPIRY DATE OF APPLICATION: 26/07/2017

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposal

- 1.1.1 This application relates to a condition attached to a planning permission granted on appeal in 2012 for a large development at the rear of the St David's Residential Home, which is located on East Parade / Tarleton Street in Rhyl.
- 1.1.2 The development consented in 2012 was described as a 60 bedroom care home, with a new car park and vehicular access from East Parade. The site plan and elevational details of the approved scheme are at the front of the report.
- 1.1.3 Condition 1 of the permission granted by the Appeal Inspector was worded as follows:

"The development hereby permitted shall begin not later than five years from the date of this decision."

As the date of the Planning Inspector's Appeal Decision was 18th July 2012, this required commencement of the development no later than the 18th July 2017.

- 1.1.4 The development has not been started, and hence the applicant is now seeking to extend the period within which it can be commenced. Following communication with the applicant, it has been confirmed that a further 5 year extension is being sought for the period for commencement, as there have been recent management changes at the property and there needs to be some certainty for business plans which are in preparation for the development.

1.2 Description of site and surroundings

- 1.2.1 The application site is to the rear of the substantial St David's Home building which fronts East Parade.
- 1.2.2 It comprises a former bowling green located adjacent to a single storey detached dwelling located off Tarleton Street. The site as a whole comprises some 0.2 hectares bounded to the west, east and south by traditional stone and brick walls with trees along the Tarleton Street boundary and younger trees and shrubs along the east boundary.
- 1.2.3 Tarleton Street is a narrow road with unrestricted parking (other than close to its junctions with East Parade and Russell Road), and as a result of on-street parking, is effectively of single lane width. It has only a narrow footway along its western side, and no footway along the side bordering the application site.
- 1.2.4 Apart from the bungalow which forms part of the site, Tarleton Street itself only has one dwelling, The Coach House, which actually fronts directly onto the highway, all other properties which are located on Fairfield Avenue and Russell Gardens, having backs or sides onto the street. However, many of these properties have detached garages and vehicular access points off Tarleton Street.
- 1.2.5 St. David's Residential Home fronts onto East Parade and backs onto the north west of the site, with residential properties on Russell Gardens located on the south east boundary and properties on The Lawn and Olinda Street on the north east boundary.
- 1.2.6 There are a mixture of architectural styles and heights of buildings in the locality, ranging from 2 storey dwellings on Russell Gardens, The Lawn and Olinda Street; two and 3 storey dwellings on Fairfield Avenue, which back onto Tarleton Street; the 4 storey St. David's Home itself, and the 5 storey block at Glendower Court.
- 1.2.7 The existing St. David's Home is serviced by a main access point off Tarleton Street, which provides entry to a rear yard, where there is space for 5 or 6 cars to park. This access point is used by all service/delivery/emergency vehicles. There is a narrow second access on the junction of Tarleton Street and East Parade, which provides entry to a small parking area at the front of St. David's home, but this is not in regular use by staff or visitors.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within the development boundary of Rhyl, and has no specific designation on the proposals map included in the Local Development Plan.

1.4 Relevant planning history

- 1.4.1 The site has been the subject of three major applications for development since 2000. These are referred to in detail in Section 2.
- 1.4.2 There have been refusals of permission at previous planning Committees for a 17 apartment scheme in 2005, and a 12 flats/3 lodges scheme in 2007. Both refusals went to appeal, which were dismissed by the respective planning inspectors.
- 1.4.3 The application for the 60 bedroom care home, submitted in March 2012 was refused at Planning Committee in September 2012 on 2 grounds - highway, access and parking; and overintensification

of development. The appeal against this decision was upheld and planning permission was granted in a decision letter dated 18th July 2012. A copy of the Appeal Inspector's decision letter is attached as an appendix to the report.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 An applicant's right to seek an amendment to an existing permission is set out in Section 73 of the 1990 Planning Act, which allows applications to be made for planning permission without compliance with conditions previously imposed on an extant planning permission. An application to extend the time limit of an existing permission (referred to traditionally as a 'renewal' application) is one of three types of application which can be made under Section 73 (the other two being ones seeking to allow 'minor material amendments' to a permission, and to allow the variation or removal of a condition attached to a permission).

1.6.2 Welsh Government guidance on the determination of a Section 73 application is given in the 2016 Development Management Manual. Matters specific to these applications is in Section 13.3.12 – 13.3.14, as quoted in full below:

" 13.3.12 Sections 73(2) and (4) of the 1990 Act restrict the LPA in their determination of section 73 applications. The effect of the provisions is to limit the LPA to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove them. The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place. However as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been in terms of policy since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

13.3.13 The LPA can grant permission unconditionally or subject to different conditions. They can refuse the application if they decide that the original conditions should continue. The original planning permission will continue whatever decision is taken on the section 73 application.

Attaching fresh conditions

13.3.14 In granting permission under section 73 the LPA may impose new conditions upon the consent – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission."

2. DETAILS OF PLANNING HISTORY:

45/2005/0445/PO

Demolition of existing dwelling and development of land by the erection of 17 no. apartments with associated vehicular access (outline application)

REFUSED 23rd November, 2005 at Planning Committee (inadequate highway network; overdevelopment of the site.

Appeal DISMISSED in July 2006.

45/2007/0470/PF

Demolition of existing dwelling and development of land by the erection of 12 no. 1-bed flats and 3 no. 2-bed lodges for assisted living for St. David's Care Home and formation of new vehicular and pedestrian access (outline application seeking approval of siting and means of access).

REFUSED 12th December 2007 at Planning Committee. (inadequate highway network).

Appeal DISMISSED in July 2008.

45/2011/0572/ PF

Erection of 60-bed care home to the rear of St. David's Residential Home, construction of new car park and new vehicular access from East Parade and service drive from Tarleton Street

Refused 6th October 2011 (parking and access arrangements, inadequate highway network; overintensification of development).

Allowed on appeal – decision letter dated 18/07/2012

Permission was subject to 12 conditions, see Appeal decision letter at the end of the report.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance considered relevant to an application to extend the 2012 permission are:

3.1 Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy ASA3 – Parking standards

3.1 Supplementary Planning Guidance

Supplementary Planning Guidance Notes:

- - Access for All
- Planning Obligations
- Parking requirements in new developments

3.3 Government Policy / Guidance

Planning Policy Wales Edition 9, 2016

Technical Advice Notes

TAN 18 Transport

4 MAIN PLANNING CONSIDERATIONS:

General guidance on matters relevant to the consideration of a Section 73 application are set out in Welsh Government's Development Management Manual, 2016. The relevant sections are quoted in paragraph 1.6.2 of the report. The Authority cannot revisit the original permission and reconsider whether it should have been granted in the first place.

It is necessary to assess whether there have been any material changes in terms of policy and circumstance in order to ensure that all relevant material considerations have been assessed.

4.1 The main planning issue in relation to this particular type of application is therefore considered to be what, if any, material changes to planning **policy** or circumstances have occurred since the original grant of consent on appeal.

In relation to the main issue, in respect of Condition 1 – it should be recognised that the application seeks only to allow an additional period for the commencement of a development. In this instance, the applicant is seeking an extension to July 2022.

Factually, a full planning permission was granted on appeal for the development of the land in July 2012, having regard to the policies and guidance in place at that time. Conditions were imposed on this permission, including the 'standard' national condition requiring commencement of development within 5 years.

It has been clarified that the applicant is seeking a 5 year extension to the period for commencing the development.

Planning policy context

The planning policies relating to development in the County in 2012 were those in the Denbighshire Unitary Development Plan. This has since been superseded by the Local Development Plan, which was adopted in 2013 and has not been revised since that time.

The site remains within the defined development boundary for Rhyl, and has no specific use allocation in the Local Development Plan. The basic policies relevant to the determination of planning applications for development in a

town location are substantially the same as in the Unitary Development Plan, requiring consideration of material considerations such as impacts on the locality, including on highways, design, visual and residential amenity, drainage, ecology, etc. (Policy RD1). Policy ASA3 relates specifically to parking standards in association with development proposals.

The Council has adopted an SPG in relation to Parking Requirements in new developments in October 2014. This sets basic standards for on site provision of parking spaces in connection with different forms of development, and outlines considerations to be given to adapting those standards where local circumstances do not justify the levels indicated. In relation to the application now before the Committee, it is highly significant that the 2012 Planning Inspector came to clear conclusions in respect of the parking / highway situation in relation to the proposed care home in paragraphs 10 -26 of the decision letter, that the development would not increase highway safety problems in Tarleton Street, and there would be no conflict with the planning policies and parking standards SPG in place at that time. Officers do not consider, in light of the Appeal Inspector's conclusions on these matter, that the current Parking Requirements SPG introduces different considerations in relation to the development which would lead to a different conclusion on its acceptability in 2017.

Planning Policy Wales remains the Welsh Government's main policy document relating to land use planning. The current version (9) contains substantially the same policy / guidance relating to development in urban areas as edition 4 which was in place in 2012.

Changes in circumstances since 2012.

Officers are not aware of any significant developments in the locality since 2012 which impact on the particular development granted on appeal, to the extent that it can now be questioned whether it is appropriate to permit a limited additional time period for commencement for the 2012 scheme. There are ambitious plans in progress involving the (re)development of the waterfront along East Parade and West Parade, but respectfully, these only raise issues over use of that road, and it is not considered that the scale or nature of the redevelopment create grounds for considering that in combination with the St David's Home scheme there would now be unacceptable impacts on highways in the area.

Other matters

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The principles of sustainability are promoted in the Local Development Plan and its policies and are taken into account in the consideration of development proposals. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs.

It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5 SUMMARY AND CONCLUSIONS:

5.1 Planning permission was granted on appeal in July 2012 for the development of a 60 bed care home to the rear of St David's Home. The permission included a 'standard' 5 year commencement condition, requiring the implementation of the permission by 18th July, 2017. This is a significant material consideration.

5.2 It is not considered there have been any material changes to planning policy or circumstances since the original grant of consent which justify refusing to permit an additional period of time for the commencement of the development.

RECOMMENDATION GRANT – Subject to compliance with the following conditions:

1) The development hereby permitted shall begin not later than 12th July 2022.

2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the care home hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

3) No part of the care home hereby permitted shall be brought into use until the approved vehicle access off East Parade, the car parking area and the service drive off Tarleton Street have been completed. The parking area and service drive shall be retained at all times for use in connection with the existing St. David's Residential Home and the permitted care home.

4) Prior to the commencement of the development the written approval of the local planning authority shall be obtained in respect of:

a) the levels of the access off East Parade, the car parking area, the service drive, the pathways and the ramp within the site,

b) the drainage arrangements of the pathway and ramp relative to adjacent properties,

c) the detailed surfacing materials of the access off East Parade, the car parking area, the service drive and the pathways and ramp within the site,

d) any associated external lighting of the access off East Parade, the car parking area, the service drive, and the pathways and ramp within the site, and e) the detailed arrangements for restricting the existing vehicle access at the junction of East Parade and Tarleton Street to a pedestrian only access.

The development shall be carried out in accordance with the approved details.

5) All planting comprised in the details of landscaping shown on Drawing No. SD1 01 – Proposed Site Plan shall be carried out in the first planting season following the completion of the development and any trees or plants which, within a period of five years of the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

6) All trees and other vegetation to be retained as shown on Drawing No. SD1 01 – Proposed Site Plan as part of the development hereby permitted shall be protected during site clearance and construction work by one metre high fencing erected one metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme submitted to and agreed in writing by the local planning authority. No construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or vegetation and such fencing, nor within these areas shall the existing ground levels be raised or lowered, or any trenches or pipe runs excavated, without the prior written consent of the local planning authority.

7) No development shall commence on the site until a detailed Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall include details of the proposed days and hours of work, arrangements for accessing Tarleton Street and protecting rights of access to properties off Tarleton Street and the means of mitigating the impact of noise and dust from construction works. The development shall be carried out in accordance with the agreed Construction Method Statement.

8) Foul water and surface water discharged from the appeal site shall be drained separately.

9) No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise approved in writing by the local planning authority.

10) Land drainage run off shall not be permitted to discharge either directly or indirectly into the public sewerage system.

11) Prior to the commencement of the development, the written approval of the local planning authority shall be obtained in respect of the details of bat friendly features to be provided on or within the building hereby approved. The development shall be carried out in accordance with the approved details.

12) The development hereby permitted shall be carried out in accordance with the following approved plans:

SD1 LP1 – Site Location Plan;

SD1 01 – Proposed Site Plan;

SD1 02-A – Proposed Ground Street Scene;

SD1 03-C – Proposed Ground Floor Plan and Front Elevation;

SD1 04-A – Proposed First Floor Plan;

SD1 05-A – Proposed Second Floor Plan;

SD1 06-B - Proposed Side & Rear Elevation;

SD1 07-B - Proposed Side Elevations.