

RECOMMENDATION : RELAX CONDITION GRANT WITH CONDITIONS

REFERENCE: P/15/179/RLX
APPLICANT: CORNERSTONE CONSTRUCTION BRIDGEND LTD
17 BRYNGLAS BRYNTIRION BRIDGEND

LOCATION: LAND ADJ 13 HEOL TRE DWR WATERTON BRIDGEND

PROPOSAL: EXTEND CONSENT P/10/836/FUL (4 BED DETACHED PROPERTY & CHILDRENS PLAY AREA) FOR A FURTHER FIVE YEARS

RECEIVED: 17th March 2015

SITE INSPECTED: 11th May 2015

APPLICATION/SITE DESCRIPTION

This application seeks to vary the standard condition attached to P/10/836/FUL which required the development to be begun on a date which was not later than five years from the date of the permission - 4th January 2016. Development has not yet commenced and the applicant seeks to extend the planning permission for a further five years.

A Design and Access Statement, Planning Statement and copies of the original decision notice and layout plan have accompanied this application.

The site is on land to the south of 13 Heol Tre Dwr, Waterton which is located within the triangular development at the junction of the A48 and the A473, close to the Waterton Roundabout. The site measures approximately 0.04 hectares in area.

The 2010 consent and earlier permissions relate to the construction of a four bedroom property with integral garage and the provision of children's play area. Proposed external finishes for the dwelling are red rustic brickwork with dark brown stained timber panelling (painted render infill) and dark grey concrete tiles, which is in keeping with the newer properties adjoining the site.

A Tree Report was submitted with earlier applications, which indicated that the Poplar tree on site should be felled, whilst the Oak requires the removal of one lower branch, crown lifting on the main trunk and minor thinning to the canopy. The oak tree remains on site.

RELEVANT HISTORY

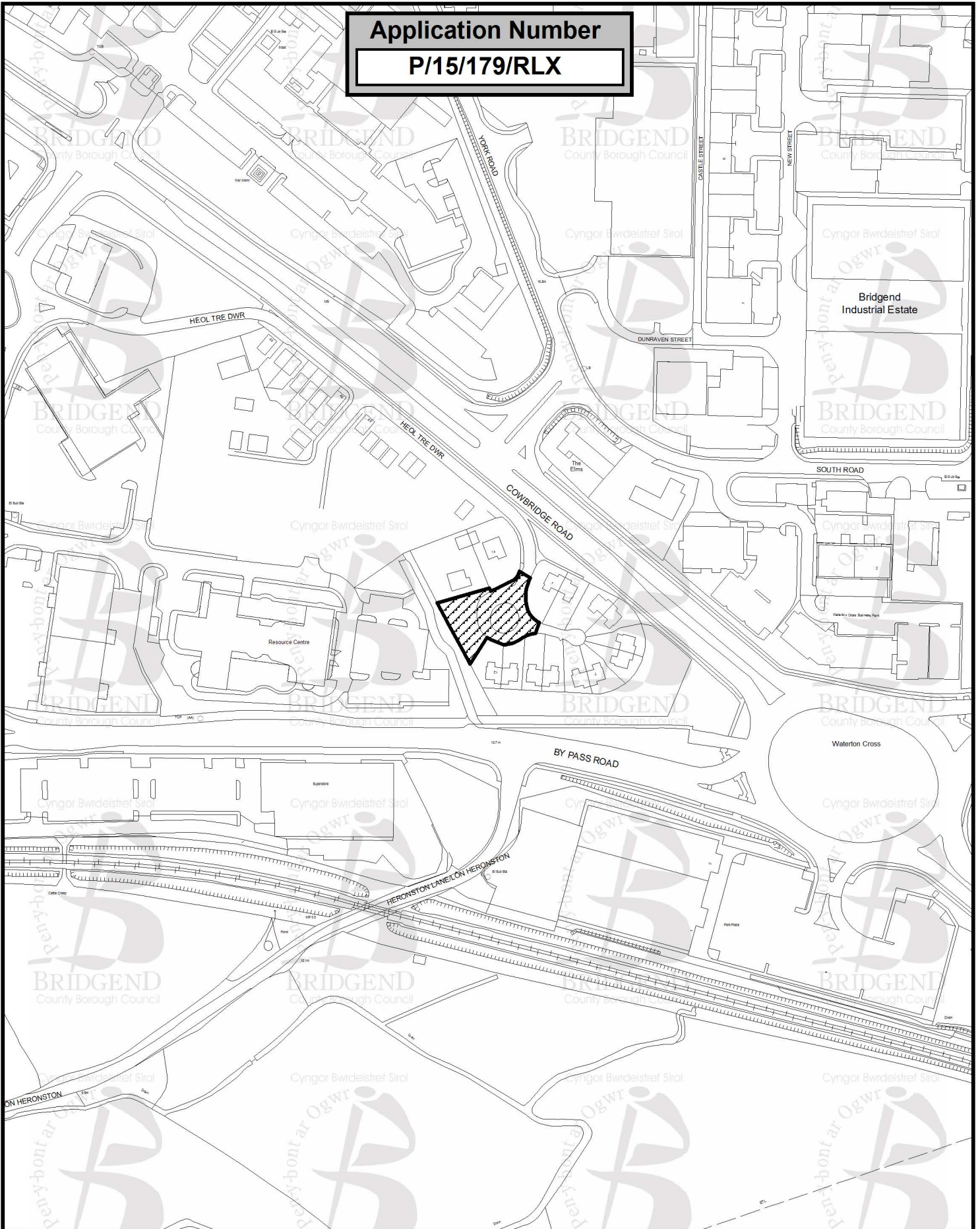
P/04/1117/OUT REFUSED 01-10-2004
TWO 4-BEDROOM DETACHED HOUSES OUTLINE APPLICATION

P/05/1000/OUT APPROVED 04-10-2005
+conditions
PROPOSED 1 No. DETACHED DWELLING & PLAY AREA

P/05/631/OUT REFUSED 21-06-2005
ONE DETACHED HOUSE AND GARAGE

Application Number

P/15/179/RLX



Scale 1:2,500

**Date Issued:
15/07/2015**

**Development-Mapping
Tel: 01656 643176**

Mark Shephard

Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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Cyngor Bwrdeistref Sirol



BRIDGEND
County Borough Council

P/06/1099/FUL APPROVED 06-11-2006
+conditions
DETACHED DWELLING & CHILDRENS PLAY AREA

P/10/52/FUL APPROVED 12-03-2010
+conditions
4 BED DETACHED PROPERTY AND CHILDRENS PLAY AREA (AMENDED HOUSE TYPE)

P/10/836/FUL APPROVED 04-01-2011
+conditions
AMENDED POSITION OF DWELLING (PREVIOUS PLANNING APP. P/10/52/FUL)

PUBLICITY

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 17th June 2015.

NEGOTIATIONS

Commenced on 19th May and related to the submission of the correct planning certificate and a revision to the submitted plan to include the access to the public highway.

CONSULTATION RESPONSES

Town/Community Council Observations

Notified on 26th March 2015

No objections subject to existing planning conditions P/10/836/FUL remaining in place.

Cllr Edith M Hughes

I am very pleased that the youngsters will be able to continue to play in close proximity to their homes out in the fresh air

Head Of Street Scene (Highways)

No objection.

Head Of Street Scene (Drainage)

No objection subject to conditions.

Natural Resources Wales

No comments to make.

Welsh Water Developer Services

No objection subject to conditions.

REPRESENTATIONS RECEIVED

Steven & Andrea Thomas, 14 Heol Tredwr

I support the proposal.

Letters Of Objection Have Been Received From The Following: , .

L Lewis & C Robinson 1 Heol Tre Dwr;
The owner/occupier 2 Heol Tre Dwr;
P.W & A.L James 3 Heol Tre Dwr;
A Dykstra & J Dykstra 6 Heol Tre Dwr;
R James 8 Heol Tre Dwr;
The owner/occupier 10 Heol Tre Dwr;
L Jordan 11 Heol Tre Dwr;
A.M. Reed 13 Heol Tre Dwr;

The following is a summary of the objections received:

1. The applicant has already breached the existing planning consent by removing a poplar tree, with a TPO on it, plus the applicant has not replaced it as required under the existing application. The Council should not support applications where the law has been broken but should uphold the law and not be seen to condone it.
2. The existing foul drainage facility is privately owned and the owners will not allow any applicant access to them and there is no access available to the public foul water system.
3. The existing play area will be reduced to less than the 150 square metres indicated in the application which will be totally unacceptable to the existing residents in 14 houses in Heol Tre Dwr. This area of land has been classified as a play area since 1948 and the residents want it to remain so
4. Access to the planning application is subject to a Ransom strip that is owned by Cornerstone (Bridgend) Ltd, whose shareholders are the twelve house owners in the immediate location of the land to which this application is related. The reason the existing application has not been able to commence is that these shareholders are not prepared to sell the Ransom strip of land and this situation will not change. The applicants have been trying to sell this land for the past five years without success.
5. Failure by the Council to refuse this application will result in the residents taking this matter to the Ombudsman and the Welsh Government.
6. Development so close to 13 Heol Tre Dwr it will reduce daylight.
7. Insufficient space on road for parking of vehicles from the development.

COMMENTS ON REPRESENTATIONS RECEIVED

The following comments are provided in response to the representations received:

1. In granting previous schemes it has been acknowledged that the poplar tree on site would be removed, based on a recommendation in a tree surgeon's report that accompanied an earlier planning application. Between 2009 and 2012, the tree was removed without the formal consent of the authority. Whilst such unauthorised works could be the subject of prosecution, on the basis that the removal of the tree has previously been recommended and accepted by this Council, such action could be difficult to justify and given the time since the breach occurred it would be difficult to compile evidence to support a prosecution.
2. The Council's Land Drainage Engineer has indicated that the existing system is classed as a private transferred sewer and it will be necessary for the developer to contact Dwr Cymru Welsh Water (DCWW) to ensure the acceptability of the additional flows. In providing observations on

the application DCWW have not indicated any issues regarding capacity. In technical terms, a drainage solution for the site should be achievable. Any concerns regarding the need for landowners consent to connect to the system goes beyond the planning process.

3. As with previous consents, the renewal of the permission proposes the retention of 50% of the site for an upgraded equipped play area for children, which was deemed compatible with the policies of the former Unitary Development Plan and is so with regard to the policies of the Bridgend Local Development Plan. It is highlighted that the facility will be upgraded with the provision of three items of play equipment.

4. As with previous applications, objectors claim that the application site is not wholly within the ownership of the applicant - a ransom strip exists along the site frontage. This was apparent on previous applications but was not grounds for resisting the development. The applicant's agent has however included the land within the application site and has completed Certificate B and served Notice on the respective owners (1-14 Heol Tre Dwr). Any permission to cross this disputed land is a private matter.

5. Planning guidance on the renewal of permissions is set out in detail in the Appraisal section of this report. Any favourable recommendation to Members would only be made if it accorded with the said guidance. It is a matter for the objectors to refer the matter to the Public Service Ombudsman and this is not a material consideration in this case.

6. The relationship of the proposed dwelling to the neighbouring properties has been considered on earlier applications and was considered to be acceptable. It was also considered that the proposed dwelling would not project so far beyond the rear building line of the property to the north (No. 13) as to infringe the daylight protection zone of ground floor windows in the rear elevation of that property. A first floor window in the side elevation of the neighbouring property was noted on the previous application but it was not considered that the proposal would dominate or overshadow this property to an unacceptable degree.

7. The parking and access arrangements have been considered on previous applications and been considered acceptable by the Transportation and Engineering Section. Although a new housing development has been permitted and is under construction on the adjoining site (the former Day Care Centre site) the access arrangements have not significantly altered. It is noted that no objections have been received from the Transportation and Engineering Section to this application to renew the consent.

APPRAISAL

The application is referred to Committee in view of the number of objections received.

This application seeks consent to vary the standard time limit condition attached to planning consent P/10/836/FUL which required the development to be begun on a date which was not later than five years from the date of the permission - 4th January 2016. The applicant seeks to extend the planning permission for a further five years.

Welsh Government Circular 016/2014 - 'The Use of Planning Conditions for Development Management' provides specific guidance on the renewal of planning permissions before the expiry of time-limits and states that, as a general rule, such applications should only be refused where:

(i) there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy

guidance, material to the renewal application);

(ii) continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or

(iii) the application is premature because the permission still has a reasonable time to run.

Considering each of the criterion above, it is noted that a material change in planning circumstance has occurred since the original permission in that the adopted Bridgend Local Development Plan has replaced the Unitary Development Plan which was the policy document against which the previous application was assessed. Notwithstanding this change the site is still considered suitable for residential re-use under Policy COM3 of the LDP, being a site that is located in the settlement of Bridgend. Whilst Policy COM 7 provides some protection for outdoor recreation facilities i.e. the existing play area, it does permit a loss or partial loss where a suitable alternative location is available and a facility of equivalent community benefit is provided by the developer on or off the site. In this case, the retention of an equipped play area, albeit a smaller facility satisfactorily addresses this Policy.

Changes of national policy have occurred but again, not in a manner that would direct the Council to an unfavourable determination of this application. Furthermore, highway considerations have not altered significantly and this is confirmed by the observations received from the Highways Section.

The proposal therefore accords with (i) above.

Whilst residents widely oppose the renewal of the permission, no one has argued that the continued failure to commence the development has created unacceptable uncertainty. The advice in the Circular is, however, more concerned about delays affecting the pattern of development in a wider context i.e. the delivery of sites that go toward the housing targets for the County Borough. Given the size of the site (1 unit) it would be difficult to reasonably argue that the failure to begin the development has had any wider impact beyond that of the surrounding residents.

This application is not considered premature, being made some six months before the permission was to expire.

Criteria 2 and 3 are also addressed.

On the basis of the above there are no reasons why the planning condition cannot be varied on this occasion and the planning permission renewed for this development.

CONCLUSION

This application is recommended for approval because the development complies with Council policy. When considering the application against the relevant Circular and notwithstanding the objections received there are no reasons why the planning condition cannot be varied and the planning permission granted for a further five years.

RECOMMENDATION

(R53) That approval be GRANTED subject to the following condition(s):-

1 The development shall be carried out in accordance with the following approved plans and

documents: drawing numbers 010:28:01, 02, 03, 04, 05 and 06.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

- 2** The works to the Oak tree shall proceed in accordance with the details submitted with application P/06/1099/FUL prior to the commencement of any development on site.

Reason: For the avoidance of doubt as to the extent of the works to the trees in the interests of visual and residential amenity.

- 3** No development shall commence on site until details of fencing or other protection measures around the retained oak tree have been submitted to and agreed in writing by the Local Planning Authority. The fencing or other agreed method of protecting the tree shall be implemented before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced/protected in accordance with this condition and the ground levels within the fenced/protected area shall not be altered, nor shall any excavation be made without the prior written consent of the Local Planning Authority.

Reason: To maintain and improve the appearance of the area in the interests of visual and residential amenity.

- 4** The fence line fronting the play area shall be set back a minimum of 0.45m from the edge of the carriageway and the play area shall be surfaced and equipped, as shown on the approved site plan Drawing No 010/01/01 prior to the dwelling being brought into beneficial use. The equipped play area shall thereafter be retained in perpetuity.

Reason: In the interests of residential amenity

- 5** No development shall commence until precise details of the replacement trees have been submitted to and agreed in writing with the Local Planning Authority. The agreed trees shall be planted in the first planting season following beneficial occupation of the dwelling.

Reason: In the interests of visual and residential amenity.

- 6** A warning sign indicating the presence of children to Traffic Signs Regulations & General Directions 2002 Diagram 545, with a bilingual 'Playground' supplementary plate to Diagram 547.2 shall be erected at the entrance to the private road prior to the play area being brought into beneficial use. The sign shall be mounted so as no part of the sign face is within 0.45m of the edge of the carriageway and at a mounting height measured to the underside of the sign face, of 2.1 metres.

Reason: In the interests of highway safety.

- 7** The dwelling shall not be brought into beneficial use until the driveway has been completed in permanent materials.

Reason: In the interests of highway safety.

- 8 No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul drainage and roof/yard water will be dealt with, has been submitted to and agreed in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed scheme prior to the dwelling being brought into beneficial occupation.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

- 9 No development shall commence on site until a scheme for the layout and provision of three items of children's play equipment on the land identified as Children's Play Area on the approved site plan (Drawing No: 010:28:01) has been submitted to and agreed in writing by the Local Planning Authority. The Play Area shall be provided in accordance with the agreed scheme prior to the dwelling being brought into beneficial occupation and retained thereafter in perpetuity.

Reason: To ensure the provision of the replacement upgraded play facility given the isolated nature of the site and the lack of suitable alternative facilities.

* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

(a) This application is recommended for approval because the development complies with Council policy. When considering the application against the relevant Circular and notwithstanding the objections received there are no reasons why the planning condition cannot be varied and the planning permission granted for a further five years.

(b) The permanent materials referred to in Condition 7 above shall be tarmacadam, concrete or brick pavements and compacted chippings would not be acceptable.

(c) The play area will not be adopted by Bridgend County Borough Council and the maintenance, repair and replacement of the equipment in the play area will remain the responsibility of the landowners.

(d) It is suggested that the landowners obtain a RoSPA Post Installation Report for insurance purposes. The suppliers/installer may be able to assist with this.

(e) The soakaways to be used for the disposal of surface water from the proposed dwelling must be designed to the requirements of BRE Digest 365 and the design proposals and the location of the soakaways should be submitted to the Assistant Director & Engineering for approval.

(f) It will be necessary to consult Dwr Cymru Welsh Water regarding the status of the drainage system. If a connection is required to the public sewerage system, Dwr Cymru/Welsh Water's Network Development Consultants should be contacted on 01443 331155. If the system is not public it will be necessary to obtain the permission of the owners of the private foul sewer and to utilise the sewer for the disposal of foul drainage from the new dwelling. The use of a septic tank/cesspit would not be supported in this location.

(g) Foul and surface water shall be disposed of separately to their respective systems.

(h) No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system.

(i) No land drainage run off will be permitted to discharge (either directly or indirectly) to the public sewerage system.

(j) With regard to the surface water drainage system, the applicant should ensure that an assessment is carried out into the potential for disposing of the surface water by means of a sustainable drainage system in accordance with the principles set out in accordance with TAN 15 and the results of the assessment provided to the Local Planning Authority in discharging the drainage condition. Where a sustainable drainage system is to be provided the submitted details shall:

- * Provide information about the design, storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent the pollution of the receiving groundwater and/or surface water.

- * Provide a timetable for its implementation and

- * Provide a management and maintenance plan for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime

- * Provide a ground investigation report sufficient to support the design parameters and suitability of the proposed system.

(k) The developer is reminded that the oak tree adjacent to the rear (western) site boundary is protected by a Preservation Order and any works to the tree over and above that already agreed will require to be the subject of a separate tree application.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None