

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 7 September 2022**

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<b>APPLICATION REF. NO:</b>	22/00503/FUL
<b>STATUTORY DECISION DATE:</b>	9 <sup>th</sup> August 2022
<b>WARD/PARISH:</b>	SADBERGE & MIDDLETON ST GEORGE
<b>LOCATION:</b>	Land At Rear Of High Stell MIDDLETON ST GEORGE DARLINGTON
<b>DESCRIPTION:</b>	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 (phasing) attached to planning permission 17/01151/RM1 dated 14 March 2018 (Reserved matters relating to details of access, appearance, landscaping, layout, and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016) to remove reference to the house build trigger point
<b>APPLICANT:</b>	HOMES BY CARLTON LIMITED

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**RECOMMENDATION: GRANT SUBJECT TO A SECTION106 AGREEMENT** (see details below)

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**APPLICATION AND SITE DESCRIPTION**

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:  
<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RBO484FPIGU00>

Background

1. The application site comprises 8.46 hectares of agricultural land on the west edge of Middleton St. George. The site boundary is formed by existing field boundaries defined by hedgerows and fencing. To the west, the site is bounded by residential properties in

Grendon Gardens and High Stell. To the north, the site is bounded by the Middleton St. George Water Park. The site is bounded by open countryside to the west and south comprising of open agricultural fields. There is an existing railway line approximately 160 metres from the southern boundary of the site.

2. As background, outline planning consent (15/00976/OUT) was granted in July 2016 for 'the erection of up to 200 dwellings including highway improvements, public open space, landscaping, and associated works. A Reserved Matters consent (17/01151/RM1) relating to details of access, appearance, landscaping, layout, and scale for the erection of 198 dwellings was subsequently granted in March 2018. The approved layout includes two accesses to the development, one via Grendon Gardens / The Greenway, and one via High Stell. The conditions attached to these permissions were subsequently discharged.
3. Several of these conditions (Outline Condition 9, Reserved Matters Condition 2, and Reserved Matters Condition 3) were allowed and part discharged at Appeal (Ref: 3223154, 3223155) in July 2019 in respect of the first 50 units occupied only utilising the approved access via Grendon Gardens/The Greenway. These conditions related to the Construction Management Plan and Phasing Plan. The appeal was lodged as the Council considered at the time that both accesses should be constructed at the commencement of the development in order to reduce the impact of construction traffic and later residential traffic on residents living in the locality. The proposal was instead for only the access from Grendon Gardens to be used initially, with the access off High Stell to be brought into use once the first 50 dwellings have been constructed on site. The inspector allowed the appeal in respect of the use of the Grendon Gardens access, with the provision of a second access not being required until the first 50 dwellings had been built out.
4. The inspector determining the appeal referred to the lack of objection from both the Environmental Health Officer and the Highways Engineer. The inspector was satisfied that the proposal would not be harmful to highway or pedestrian safety or living conditions, and allowed the appeals, awarding costs against the Council. The inspector made the following points:

*'In March 2015 the Highway department consultation response in relation to application Ref 15/00041/OUT stated that it would be difficult to recommend refusal of the residential development based on generated traffic given the carriageway width and number of existing dwellings on Grendon Gardens and The Greenway but noted concerns about the impact of using one access on residential amenity' (para. 13).*

*'Having regard to the fact that no objections to the submitted information have been raised by the Council's Environmental Health department and to the Highway departments previous comments in relation to highway capacity together with the approval by the Council of application Ref 18/01215/CON for the same phasing, I consider that the details submitted are acceptable to discharge the highways related*

*conditions having particular regard to the living conditions of the occupiers of nearby residential properties' (para. 14).*

*'Subject to compliance with the submitted details, I am satisfied that the proposal is unlikely to be materially harmful to highway or pedestrian safety or to living conditions having regard to noise and air quality' (para. 21).*

5. Since the adoption of the new Local Plan, it should be noted that the site is allocated for housing as an existing commitment.

#### Current proposals

6. The first phase of development (dwellings 1-50) is nearing completion. The submitted Construction Phase Health & Safety Plan and accompanying Delivery & Directions Instructions confirms that Phase 2 – 4 will continue to be developed by the same single developer, Homes by Carlton delivering approximately 30 dwellings per annum. The information submitted in support of the application states that the remaining phases (dwellings 51-198) will continue to utilise the existing access arrangement via The Greenway / Grendon Gardens, as used to deliver Phase 1. No second access via High Stell will be created due to constraining factors outside of the control of the applicant.

7. To enable this to occur, a variation of condition 2 of the reserved matters approval 17/01151/RM1, would be required. The condition states:

*'Before development commences, a plan showing the phasing of development and the route of construction shall be submitted to and approved in writing by the Local Planning Authority. This will include details of the house build trigger point for the creation of the access point off High Stell.*

*REASON – In order that the Local Planning Authority can ensure that the development will be carried out in a manner that will minimise the impact of the construction of the development on local residents and minimise the impact of traffic generated by the new development on local residents.*

8. The application seeks planning permission for the variation of the above condition, which will entirely remove the second sentence of the condition, which reads as follows:

*'This plan will include details of the house build trigger point for the creation of the access point off High Stell'.*

9. A further condition (3) of the approval requires submission and agreement of a Construction Management Plan, and one which relates to these later phases of the development, has been submitted to support the application.
10. All other elements of the scheme remain as approved, however the proposal has resulted in a small change to the area where the road would have connected to High

Stell on the eastern boundary of the site, which has been amended to include an area of landscaping, which results in an amended layout plan.

11. In summary, the developer is now unable to provide a second access. Therefore the purpose of this application is to agree to the removal of the house building trigger point to allow the remainder of construction to proceed through The Greenway / Grendon Gardens access on a site which has a detailed planning permission in place and is allocated for housing in the Local Plan. A Construction Management Plan has been submitted for consideration to demonstrate that construction can be acceptably managed for the remainder of the phases of the development. No technical objections have been raised from the Highways Engineer (subject to a Section 106 agreement) or the Environmental health Officer.

#### Legal position

12. Officers have sought opinion on the position from a leading planning QC. The advice received is summarised as follows:
  - An inspector dealt, on 30th July 2019, with appeals arising under both 00976 and 01151. It is apparent that the inspector considered that development, i.e., construction could proceed notwithstanding the fact that there would be but one access. The inspector was concerned with the first 50 units to be built.
  - Construction has been taking place for some time so an application can be considered in the light of practical experience;
  - In respect of the current application, in respect of the construction management plan...the inspector's comments impair the Council's ability to argue that, at the very least for construction purposes, two accesses are necessary. Putting the matter more broadly the inspector's comments impair the ability of the Council to secure two accesses to the development.
  - The consequence, as it appears, of the present application is that, if it were granted, the whole of the site would come to be developed without a second access point. This result would inevitably further support the proposition that a second access should not be required.
  - In those circumstances it is appropriate for the Council to accept an application under section 73 of the Town and Country Planning Act 1990. It would then be appropriate to deal with the application on its merits in terms of the removal of the house build trigger point and the submitted Construction Management Plan.
13. It should be noted that one additional application appears on this agenda, flowing from the same issue, 22/00501/CON seeking discharge of condition 9 of the original outline approval (construction management plan) as it relates to the later phases of the development.

## Nutrient Neutrality

14. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16<sup>th</sup> March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.
15. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.
16. Having discussed the specifics of this proposal with Natural England, officers have arrived at a view that the proposed development does not fall within the scope of the above as it is an extant planning permission that has lawfully commenced, where all of the planning conditions have been discharged. It is therefore not appropriate to revisit the proposal in terms of nutrient neutrality.
17. Notwithstanding the above, the applicant has submitted a Nutrient Neutrality Calculator and accompanying written statement produced by Nutrient Neutral consultants. As a detailed planning permission is in place, this specifically deals with the differences between the existing approval and this new variation in terms of physical changes. It identifies that, with the removal of a small section of road associated with the new defunct second access, the overall budget for the proposed revision results in a net reduction of 0.10 kgN/yr. It can be concluded that there would be no adverse effect on the integrity of the conservation objectives of the Teesmouth and Cleveland Coast SPA/Ramsar, either in isolation or in-combination.

## **MAIN PLANNING ISSUES**

18. The main issues for consideration are:
  - (a) Principle of the development;
  - (b) Impact on visual amenity;
  - (c) Impact on residential amenity;
  - (d) Highway Safety;
  - (e) Developer Contributions.

## **PLANNING POLICIES**

19. The site now forms a commitment in the Local Plan, being an extant planning permission (policy H2) and this application seeks variation of a condition on the reserved matters approval. This position is considered further below. The relevant policies in the determination of this application which change the development only in the context of the construction access arrangements with a small addition of landscaping in lieu of the High Stell connection are:

- The proposal reflects the local environment and creates an individual sense of place with distinctive character (DC1).
- The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (policy DC1 and IN4) .
- The proposal is sited, designed, and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (policy DC4).

## **RESULTS OF TECHNICAL CONSULTATION**

20. The Council's Highways Engineer and Environmental Health Officer have raised no objections.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

21. A total of 83 No. objections have been received from local residents, raising the following concerns:

- Impact on residential amenity; noise, vibration, dust and air pollution from final development and construction traffic;
- Highway safety, for road users, cyclists, and pedestrians; dangerous parking taking place; congestion; particularly at busy school times;
- Damage to road surface;
- Impact on ecology;
- Current infrastructure cannot cope with new development;
- Increase in crime;
- Developer not complying with construction management plan regarding delivery and construction times;
- Loss of green space;
- Proposed development does not comply with the Parish Plan;
- Work to provide the necessary utilities has caused major disruption to residents;
- Application should be halted to consider nutrient neutrality.

22. Middleton St George Parish Council has objected to the proposed development, raising the following concerns:

- The proposals remove the High Stell access point;
- The trigger point should be retained as originally intended to fairly distribute the traffic to the development;
- The original approved plans show two access points;
- Appeal inspector allowed appeal only in relation to the first 50 dwellings (and that future phases would be enabled when the second access was brought forward);
- To take all the development traffic from the entire 198 houses (all four phases) in addition to the all the construction traffic, would constitute a severe impact on residential amenity in terms of noise, dust, traffic safety hazards;
- Parish Council regularly receive complaints from residents regarding the development including the developer not adhering to agreed delivery / construction times;
- The proposal will cause damage to the already poor road surface of The Greenway / Grendon Gardens;
- The proposal will cause damage to the drainage system;
- Inadequate evidence to support application / discharge of conditions including inadequate road safety audit;
- Impact on highway safety; Pedestrian safety;
- Proposal will promote car use and is not sustainable development;
- Parish Council traffic surveys are evidence of traffic issues in the locality; cumulative impact of traffic from all developments should be taken into account.

23. CPRE Durham has objected to the development on the following grounds.

- Support the representations made by MSG Parish Council and concerns raised by residents;
- Impact on amenity / nuisance;
- Proposal could exacerbate existing problems identified.

## **PLANNING ISSUES/ANALYSIS**

### **a) Principle of the proposed development**

24. This variation relates to a condition that was attached to a reserved matters approval and relates only to the continued construction of the site with the implementation of only one of the previously approved accesses. The principle of the development of the site for housing (which is now a commitment in the Local Plan), therefore, is not at issue.
- 25. The wording of the condition referenced above, relating to the phasing of the site and the submitted construction management plan, which specifically referred to actions required on the completion of the 50<sup>th</sup> dwelling, will need to be reconsidered as due to constraints, the developer will not be implementing the second access from High Stell and is therefore only partially implementing the planning permission, which results in the remaining phases of construction (and access to the new dwellings) having to be accessed from The Greenway / Grendon Gardens. Any decision to refuse the variation of the condition, must be backed up by expert evidence, to**

**support any potential appeal and to reduce the risk of any award of costs being made against the Council as it was in 2019.**

**26. The only other issues for consideration are any resultant physical changes to the scheme brought about through the omission of the second access (as referenced in paragraph 10 above and considered in section b below), and the acceptability or otherwise of the phasing plan / construction management plan submitted in terms of the construction phase of the development.**

**b) Impact on visual amenity**

27. Whilst all other elements of the scheme remain as approved, the proposal has resulted in a small change to the area where the road would have connected to High Stell on the eastern boundary of the site, which has been amended to include an area of landscaping, which results in an amended layout plan. This minor change is considered acceptable in respect of its impact on the visual amenities of the locality and complies with policy DC1 in this regard.

**c) Impact on residential amenity**

28. The application has been submitted with a proposed Site Plan with Material Storage Compound Shown; a Construction Phase Health and Safety Plan prepared by Temple Safety Ltd which contains mitigation measures which would minimise the construction phase of the development for nearby residents; A Proposed Phasing Plan for the development; and Delivery and Directions Instructions for site vehicles.

29. In addition to reviewing the above, the Environmental Health Officer has also undertaken a site visit and noted that a large proportion of Phase 1 of the development has already been completed. The site compound and materials storage area are well away from Grendon Gardens/The Greenway, there is now a tarmacked road into the development (which will cut down on dust) and the site appears to have been connected to mains power meaning potentially noisy diesel generators are no longer required on site.

30. Based on the site visit, background documents and the current situation in terms of the omission of the second access, the Environmental Health Officer has confirmed no objections to the proposed variation of condition. Whilst several objections cite issues regarding noise, disturbance, and disruption in terms of the first phase of the development, an element of this relates to the connection to existing services which is now complete. It is noted that some concerns relate to an apparent lack of accordance with the current CMP in terms of delivery and construction times, and this can be monitored to ensure that any lack of compliance is addressed with the developer. Accordingly, the proposal is considered to comply with policy DC4 in this regard.

31. In addition to the above considerations, it should be noted that the appeal decision cited at the beginning of the report, whilst not considering whether the two accesses



were necessary, makes it clear that the Council would struggle to make that argument on the grounds of amenity and safety. This appeal was allowed with costs awarded against the Council.

**d) Highway safety**

32. The submitted CMP follows the measures set out as part of the upheld Appeal considered by the Planning Inspectorate Decision (Ref: 3223152). The Highways Engineer has noted that the previously consented first phase of construction (50 dwellings) was initially refused at Committee, where elected Members considered that to construct 50 dwellings off one point of access would have an unacceptable impact on residential amenity. The subsequent appeal was upheld, where the Planning Inspectorate did not consider that there was sufficient harm to warrant refusal. It would therefore be difficult to justify refusal where further phased development is proposed, based on the previously accepted principles set out within the Construction Management Plan.
33. The first phase of development is now substantively completed, whilst the next phases will be delivered by the same developer, Homes by Carlton, at the same build out rate as Phase one (30 dwellings per annum). A further 148 dwellings are proposed across three phases, at approximately 50 dwelling per phase. Based on this phased approach it is not expected that daily vehicle movements associated with construction would exceed those already experienced by residents as part of phase one.
34. In light of the second High Stell access now being undeliverable additional predicted vehicle movements with Grendon Gardens will now be roughly double what was first anticipated. The Highways Engineer considers it reasonable that additional mitigation measures should be sought from the developer to ensure a safe highway environment and has therefore requested that a 20mph zone is implemented for the existing estate roads of Grendon Gardens/The Greenway. It is suggested that a 20mph 'gateway' feature is installed within the first 20-25m of the existing estate, with at least two additional traffic calming features to be installed before the entrance to the Middleton Waters development.
35. This has been discussed with the applicant who is keen to ensure that the Highway environment is safe for all users and has agreed to enter into a Section 106 agreement which would require a financial contribution to enable the delivery of the suggested mitigation, with the trigger point for payment to be agreed.
36. The existing construction phases will also delay the final adoption of the Middleton Waters internal estate roads, as the Highways Authority will not be willing to accept the maintenance duty of these roads prior to the completion of construction where roads and footways are expected to be damaged by additional phases of construction. This will need to be discussed further with the Highways Asset management Team, as to how the structural integrity of the newly constructed highways can be protected. The developer may be required to enter into a Section 59 Agreement to offer assurance

that they will be accountable for the cost of repairing any subsequent damage. This process is dealt with separately under Highways legislation.

### Traffic Impact

37. SAJ Transport Consultants have been commissioned by the applicant to consider the impact of construction traffic accessing the development site beyond the completion of the 50th dwelling and up to the full build of the site for the consented 198 dwellings via a single point of access (Grendon Gardens). This follows the principle of the previously agreed construction management plan which was considered by the Planning Inspectorate with regard to the appeal for the construction of 50 dwellings. On this basis it would be difficult to object to the methodology set out once more given that it has been tested
38. It is also acknowledged within the SAJ Technical Report that as the site is built out, the trip generation associated with the proposed occupied properties will increase. Upon occupation of the final dwelling, The Greenway/Grendon Garden route will be used by the 198 properties on the site. This is addition to the existing 76 properties on The Greenway and Grendon Gardens, giving a total of 274 properties. The DBC design guidance confirms that a 5.5m wide road, which is the standard of The Greenway/Grendon Garden access route, is suitable to serve up to 300 properties. It is therefore difficult to demonstrate that this is an over intensification of use with regard to traffic generation, notwithstanding the basic assumption that the additional generated traffic would be previously have been distributed approximately 50/50 between Grendon gardens and High Stell.
39. The trip rates from the approved Transport Assessment for the outline application for the development have been used to quantify the level of trip generation associated with 198 dwellings. The trip generation for 198 dwellings is shown to be 164 two-way trips in the AM peak and 155 two-way trips in the PM peak, respectively. Bearing in mind that, approval is already granted for 50 dwellings most of which are now occupied by residents, this can be effectively netted off from proposed increase, giving a total additional traffic generation of 122 two-way trips in the AM peak and 115 two-way trips in the PM peak.
40. Whilst many residents clearly state that they have road safety concerns with the junction of The Greenway/Middleton Lane particularly with regard to possible pedestrian collision, the evidence presented by Police accident data, demonstrates that there have been no recorded personal injury collisions (PICS) within the most recent 5-year period (standard period of assessment). Indeed an extended 10-year search period taken from Crashmap.co.uk also demonstrates no PICS have occurred at the Greenway/Middleton Lane junction or the internal estate roads of Grendon Gardens.

### Background to Capacity Assessment and Road Safety

41. The Nationally adopted Department for Transport guidance Manual For Streets (MfS) sets out good design practices for residential streets and developments and is therefore applicable to the development being considered. Our own local guidance, The Tees Valley Design Guide (TVDG) which we use to assess the requirements for new residential development, has principles broadly based on the MfS documents among other sources. Should applications be taken to appeal, Nationally recognised guidance as MfS, tends to be relied upon more heavily than local guidance, during decision making by the Planning Inspectorate.
42. In terms of link capacity of the access route, there is a section within MfS that summarises research data carried out on traffic flow and road safety for streets with direct frontage access, this states that; *“The relationship between traffic flow and road safety for streets with direct frontage access was researched for MfS. Data on recorded accidents and traffic flow for a total of 20 sites were obtained. All of the sites were similar in terms of land use (continuous houses with driveways), speed limit (30 mph) and geometry (single-carriageway roads with limited side road junctions). Traffic flows at the sites varied from some 600 vehicles per day to some 23,000 vehicles per day, with an average traffic flow of some 4,000 vehicles per day”*.
43. *“It was found that very few accidents occurred involving vehicles turning into and out of driveways, even on heavily trafficked roads. Links with direct frontage access can be designed for significantly higher traffic flows than have been used in the past, and there is good evidence to raise this figure to 10,000 vehicles per day. It could be increased further, and it is suggested that Local Authorities review their standards with reference to their own traffic flows and personal injury accident records. The research indicated that a link carrying this volume of traffic, with characteristics similar to those studied, would experience around one driveway-related accident every five years per kilometre. Fewer accidents would be expected on links where the speed of traffic is limited to 20mph or less, which should be the aim in residential areas. ”*
44. Prior to any additional development The Greenway had recorded traffic flows of around 600 vehicles per day and therefore is well below the average figure quoted in the above paragraphs. Even with the addition of the traffic from the new dwellings would still be below the average of 4000 vehicles per day as a target point. As stated previously, the accident rate on the immediate surrounding highway network is low and does not raise cause for concern.

#### Accident History and Road Safety

45. Whilst anecdotal evidence of frequent minor incidents or near misses are often quoted within objection letters, unfortunately this is not something which the Local Planning Authority can substantiate if challenged and is therefore difficult to add weight towards a recommendation of refusal on highway safety grounds. Whilst officially recorded Police data, may not include the most minor incidents, it is the only consistent approach to assessing road safety history. The Highways Engineer however agrees that the presence of parked vehicles at the junction is a legitimate road safety concern, and as

such it would be a recommendation to implement further parking restrictions, however this is something which would need to be undertaken by the Highways Authority and requires consultation with affected residents and businesses. This process is challengeable, and as such implementation can't be guaranteed where persons may be inequitably disadvantaged, for instance if a disability impact assessment is undertaken, considering how this would impact disabled residents, or customers using the pharmacy who have mobility impairment. The Highways Authority is looking into the feasibility of providing alternative offsite parking provision for these residents and customers, and as yet do not have such a site available.

46. An additional 148 dwellings are likely to prolong construction works and traffic for a further 5 years based on the current build-out rate of 30 dwellings per year. The public highway within the Grendon Gardens estate is already showing accelerated wear and tear from the first phase of the build and is unlikely to withstand this additional period of heavy traffic without significant maintenance intervention from the Highways Authority. As such the Highways Engineer has indicated that this places an unreasonable financial burden upon the Highways Authority, in maintaining a road which is not constructed to withstand the long-term HGV traffic. The Highways Engineer therefore recommends that appropriate mitigation is put in place regarding reconstruction of the road, and/or agreement for the developer to undertake repair to damaged. This was considered at outline stage and is covered by condition 10 of the outline permission (15/00976/OUT) which requires a condition survey (initial survey prior to phase one already discharged) and subsequent review in the latter stages of the development, with any identified damage caused by construction traffic to be rectified at the cost of the developer.
47. Whilst the above is a commitment of the outline planning permission, the Highways Engineer has also confirmed that the Highways team intend to deal with this matter under other legislation, namely Section 59 of the Highways Act which will require the developer to enter into an agreement with the Highway Authority to rectify any additional damage associated with construction vehicles. This matter will be pursued with the developer under this separate legislation.
48. Overall, based on current guidance and the evidence presented by the applicant it would be difficult to demonstrate the 'severe impact' required to warrant refusal on highway safety grounds, given that the total quantum of development is under the permitted upper limit of 300 dwellings via a single point of access, and that road widths meet both local and nationally recognised standards. The acceptability of construction via a single point of access has also been tested before the Planning Inspectorate, and as such there is no reason to conclude that if a further appeal was to be submitted a different outcome would be expected.
49. In view of the above considerations, and the appropriate controls in respect of financial contributions towards traffic calming measures, the road condition survey requirements set out in condition 10 of the outline permission and the ability of the Highways teams to deal with any damage to the carriageway under other legislation, the proposal is

considered to be acceptable on highway grounds and complies with policy IN4 in this regard.

#### **e) Developer Contributions**

50. Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

51. The Heads of Terms that have been agreed with the applicant are, as outlined in section d of this report:

- A financial contribution to allow delivery of mitigation in the form of traffic calming measures and a 20mph zone in (Grendon Gardens / The Greenway) (Approximately £85,000)

52. Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

#### **CONCLUSION AND RECOMMENDATION**

53. There are no objections to the proposals from the Highways Engineer in terms of highway and pedestrian safety subject to a Section 106 agreement), or the Environmental Health Officer in terms of the impact of the proposal on residential amenity. The site is an existing commitment in the Local Plan, to provide 198 dwellings. The proposal complies with the relevant policies in the local plan and is acceptable in terms of visual and residential amenity and highway safety. In considering the proposal, it is also noted that should permission not be granted, this will result in the Local Planning Authority preventing the development of the rest of the site, and the completion of an already commenced development on a site identified in the Local Plan, leaving an unsatisfactory environment for both existing residents and potential occupiers of phase one of the scheme. The position in terms of impact on amenity and safety as set out in this report, is informed by the Inspectors comments on these matters at appeal. The Local Planning Authority has no expert evidence to support a refusal of planning permission. Should planning permission be granted, the condition in relating to phasing and the construction management plan can be combined to refer to that submitted in support of this planning application, with the reference to the trigger point removed.

## **PUBLIC SECTOR EQUALITY DUTY**

54. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

## **RECOMMENDATION**

55. THAT THE HEAD OF PLANNING DEVELOPMENT AND ENVIRONMENTAL HEALTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- A financial contribution to allow delivery of mitigation in the form of traffic calming measures and a 20mph zone in (Grendon Gardens / The Greenway) (Approximately £85,000)

56. AND FOLLOWING THE COMPLETION OF THE ABOVE AGREEMENT, THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING PLANNING CONDITIONS:

1. The development shall be carried out in complete accordance with the approved plans as detailed below:

House types  
The Abbey  
The Amble  
The Ascot  
The Brocklehurst  
The Chestnut  
The Croft  
The Damson  
The Eleanor  
The Epsom  
The Fairfax  
The Galloway  
The Hamilton  
The Juniper  
010 Rev L Site layout / phasing plan

Any material change to the approved plans will require a formal planning application to vary the condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

REASON – In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material amendments to the scheme are properly considered.

2. The development shall be carried out in complete accordance with the submitted phasing / site plan and Construction Phase Health and Safety Plan prepared by Temple Safety Ltd and Delivery Directions and instructions prepared by Homes by Carlton unless otherwise agreed in writing by the Local Planning Authority.

REASON – In order that the Local Planning Authority can ensure that the development will be carried out in a manner that will minimise the impact of construction of the development on local residents.