

# Planning Committee

10 November 2016

**Reference:**  
**APP/16/01089**

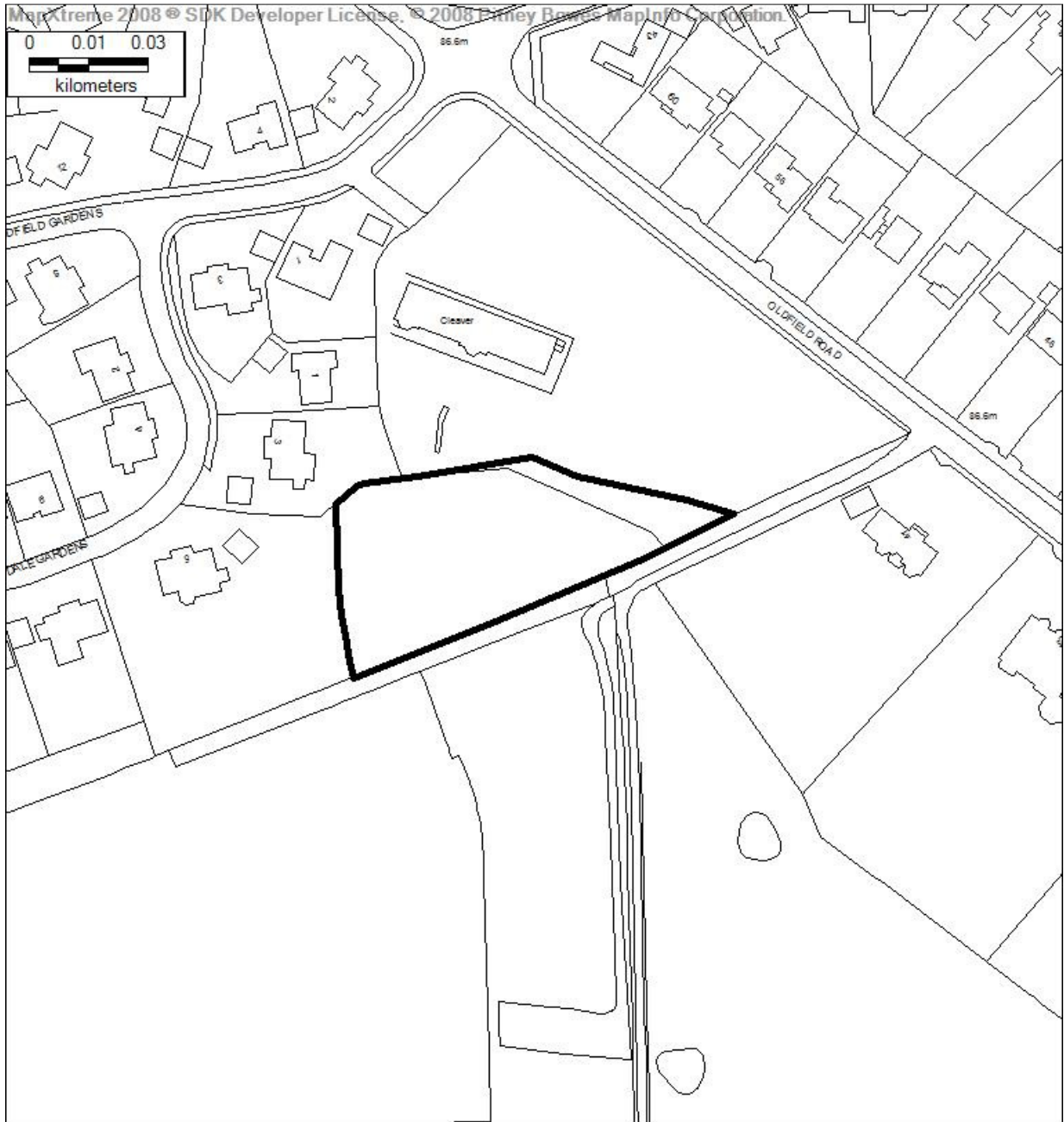
**Area Team:**  
**South Team**

**Case Officer:**  
**Miss A McDougall**

**Ward:**  
**Heswall**

**Location:** LAND ADJACENT TO 3 DALE GARDENS, HESWALL, CH60 6TQ  
**Proposal:** New build dwelling with access from Oldfield Road  
**Applicant:** Mr Christopher Weatherstone  
**Agent :** Mr Weatherstone

## Site Plan:



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**Development Plan Designation:**

Urban Greenspace  
Area of Special Landscape Value

**Planning History:**

No planning history

**Summary Of Representations and Consultations Received:**REPRESENTATIONS:

Having regard to the Council Guidance on Publicity for Applications, 7 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report 13 objections have been received, listing the following grounds:

1. unacceptable access point
2. damage to woodland
3. impact onto species habitats
4. loss of trees

CONSULTATIONS:

**Head of Environment & Regulation (Traffic & Transportation Division)** - No Objection subject to conditions

**Head of Environment & Regulation (Pollution Control Division)** - No Objections

**MEAS** – No objections subject to conditions

**The Heswall Society** - Harmful to the character of the land and conflicts with Wirral's UDP

**Wirral Wildlife** - Conditions required

**Director's Comments:**

Consideration of this item was deferred by Planning Committee on 21 October 2016 to allow for a formal Members Site Visit to take place.

**REASON FOR REFERRAL TO PLANNING COMMITTEE**

The application represents a departure from the Development Plan and is therefore required to be considered by the Planning Committee.

**INTRODUCTION**

The proposal is for the erection of a detached house in an overgrown area of woodland to the rear of 3 Dale Gardens.

The site is accessed via a narrow un-adopted lane off Oldfield Road, which also leads to Dale Farm to the south.

**PRINCIPLE OF DEVELOPMENT**

The proposal for a dwelling is contrary to the Unitary Development Plan, as the land is designated as Urban Greenspace.

**SITE AND SURROUNDINGS**

The site is an overgrown piece of land located to the rear of 3 Dale Gardens, the land is accessed via a lane off Oldfield Road which also provides access to Dale Farm. The site itself is located on the edge of housing and located to the rear of Cleaver Residential Care Home to the north and immediately adjacent to the Heswall Dales SSSI to the south.

The site is designated as Urban Greenspace and is under private ownership of the current owner of 3 Dale Gardens, the edge of the site contains numerous trees but the central section of the site is relatively clear of trees with numerous plants and foliage. The proposal is to retain the outer tree boundary and clear the central section of the site to accommodate a dwelling.

## **POLICY CONTEXT**

The proposal is for a new dwelling and having regard to the restrictions on the site will be assessed in accordance with Wirral's UDP Policies GRE1, GR1, GR7, NC3, LAN1 and LA1, and Waste Local Plan Policies WM8 and WM9. Although applicable to development within the Primarily Residential Area, the criteria for new housing in UDP Policy HS4 would also be relevant.

### HS4 Criteria for New Housing Development Policy

Proposals for new housing development on allocated sites and within the Primarily Residential Areas shown on the Proposals Map will be permitted subject to the proposal fulfilling all the following criteria:

- (i) the proposal being of a scale which relates well to surrounding property, in particular with regard to existing densities and form of development;
- (ii) the proposal not resulting in a detrimental change in the character of the area;
- (iii) access and services being capable of satisfactory provision, particularly for off-street car parking areas and garages, and adequate vehicular access;
- (iv) the provision of appropriate landscaping and boundary treatment which relates the proposed development to its surroundings, paying particular attention to the maintenance of existing natural features and vegetation in accordance with Policy GR5;
- (v) the appropriate provision of design features which contribute to a secure environment and reduce the likelihood of crime;
- (vi) incorporating provision for accessible public open space and children's play areas in accordance with Policy GR6; and
- (vii) the provision of adequate individual private or communal garden space to each dwelling.

For all proposals whose main elevations are parallel, or nearly so, an adequate distance should be kept between habitable rooms in separate dwellings. In addition, where the gable end of one property fronts onto the rear elevation of another, then an adequate separation should be achieved.

### GR1 The Protection of Urban Greenspace Policy

On land designated as Urban Greenspace, facilities for visitors, sport or play will be permitted where it can be demonstrated that the proposals would not:

- (i) prejudice the continued use of the site for open air recreation; or
- (ii) prejudice the visual amenity, landscape character or nature conservation value of the site.

Development for other purposes on land designated as Urban Greenspace, other than for the re-use of existing buildings, will not be permitted unless alternative provision of equivalent community benefit is made available.

### GR7 Trees and New Development Policy

In assessing the protection to be given to trees on development sites the Local Planning Authority will consider the general health, structure, size and life expectancy of trees, their visual value within the locality and their value for nature conservation and will require that buildings, structures and hard surface areas are sited in order to:

- (i) substantially preserve the wooded character of the site or of the surrounding area;
- (ii) provide for the protection of trees of greatest visual or wildlife value and other vigorous healthy trees;

(iii) ensure that trees to be retained have adequate space in order to prevent damage to their canopy or root structures during construction and to allow for the future growth of canopy and roots to normal mature sizes;

(iv) prevent the removal of trees by occupiers of the development to obtain reasonable sunlight to habitable rooms, secure an open unshaded garden area, or to remove perceived dangers to life and property; and

(v) protect trees on adjacent land which may be affected by the development proposed;

Applications should include detailed plans showing the location of individual trees to be affected by the development proposed, together with information related to trunk girth, species mix, height, canopy spread and general health and condition. Trees to be felled should be clearly indicated.

Where development involving the loss of trees is to be permitted, the Local Planning Authority will, as a condition of planning consent, require replacement trees to be planted elsewhere on the site where this is required in order to protect or preserve local amenity.

Planning conditions will include provision for the future maintenance of newly planted stock, including the replacement of failures, until the newly planted stock is established and capable of normal unaided growth; and during the construction period, measures related to the protection of trees to be retained.

Work to trees, including felling, removal, thinning and crown lifting should be completed prior to construction commencing in accordance with a scheme of work agreed in advance with the Local Planning Authority.

#### NC3 The Protection of Sites of National Importance For Nature Conservation Policy

Development proposals likely to affect, directly or indirectly, sites of national importance for nature conservation will be subject to special scrutiny and will not be permitted unless it can be demonstrated that the reasons for the development clearly outweigh the nature conservation or earth science value of the site and the national policy to safeguard the national network of such sites.

Where such development proposals are to be approved, the Local Planning Authority may impose planning conditions and/ or planning obligations to secure the protection and enhancement of the site's value for nature conservation or earth science. In this respect the Local Planning Authority will need to be satisfied that:

(i) the development proposals are sited and designed in such a way as to conserve the integrity of the site;

(ii) adequate provision has been made to minimise the potential for damage or injury to any part of the site during construction and after the development proposed is occupied; and

(iii) adequate measures have been taken in order to safeguard compliance with these requirements and where appropriate to provide for the reinstatement of damaged areas.

#### LA1 Protection for Areas of Special Landscape Value Policy

The Local Planning Authority will protect the character and appearance of areas designated as Areas of Special Landscape Value from the adverse effects of development and will not permit proposals which would:

(i) introduce new intrusive development within an otherwise open setting, especially along a prominent skyline or along the undeveloped coast; or

(ii) result in the loss or erosion of distinctive landscape features, such as woodlands, hedges or trees, without appropriate replacement provision; and

(iii) other proposals which, in terms of their siting, scale, form and external appearance, would detract from the appearance of the Area or intrude within important views into or out of the Area.

Proposals for public utilities, telecommunications apparatus, the working of minerals or landfilling of waste, may be permitted where they would not cause unacceptable impact.

### **Policy Implications**

Planning legislation requires that the application is determined in accordance with the statutory development plan which consists of the Wirral Unitary Development Plan and the Joint Waste Local Plan for Merseyside unless material considerations indicate otherwise.

Development within Urban Greenspace is not normally permitted unless alternative provision of equivalent community benefit is made available.

The main policy objective in UDP Policy GRE1 is to regulate the supply and distribution of accessible public open space and other land with amenity value and to protect areas of visual importance to the locality or wider area (with or without direct public access) [Criterion 4 refers].

The objective of Policy GR1 is to protect the continued use of land for open air recreation, visual amenity, landscape character or nature conservation value.

The objective of Policy GR7, in line with the Council's wider responsibility to conserve the natural beauty of the area, is to protect trees on development sites and open and wooded character of the area.

While Policy LA1 does not exclude development, the primary objective is that landscape considerations are given special priority to ensure the landscape framework and distinctive character of the locality continue to be protected.

NPPF became a material consideration in March 2012. The applicant claims that because the Council cannot demonstrate a 5 year supply of deliverable housing sites UDP Policy GR1 should be afforded limited weight. The absence of a 5-year housing land supply does not mean that housing development should be permitted anywhere; it should be permitted only where it amounts to sustainable development taking account of any other relevant issues.

NPPF indicates that the purpose of the planning system is to contribute to the achievement of sustainable development and that paragraphs 18 to 219 taken a whole constitute the Government's view of what this means in practice for the planning system. Paragraph 14 and its footnote make it clear that land designated as Local Green Space should be restricted and is not subject to the general national presumption in favour of sustainable development.

Although UDP Policy GRE1 and Policy GR1 pre-dates the NPPF, they have similar aims to the criteria for Local Greenspace designation in NPPF paragraph 77 in that they protect a network of designated green spaces that: are in close proximity to community it serves, are locally significant and local in character.

The Council is currently preparing a Core Strategy Local Plan, in which the existing Greenspace designation will remain unchanged pending the preparation of an additional site specific Local Plan. Core Strategy Policy CS30 – Requirements for Green Infrastructure seeks to ensure new development contributes towards the provision, protection and enhancement of green infrastructure. Core Strategy Policy CS31 – Recreational Land and Buildings seeks to protect the provision of open space to the same standard included in the adopted UDP.

The Wirral Open Space Assessment (2012) indicated a deficit of 8.22 hectares of Amenity Green Space within the Heswall Settlement Area and deficit of between 1.81 and 2.93 hectares of Natural and Semi-natural Green Space, although a surplus of between 86.56 and 88.37 hectares is identified when a 400 metre buffer from the adjoining rural area is added to the calculation. While the proximity of Heswall Dales (28.85ha of natural and semi natural green space) means there is no local shortage of open space within the immediate locality, the approval of development on this site could serve to isolate the designated area of Urban Greenspace along the frontage to Oldfield Road from the main body of Heswall Dales to the south and west of the application site.

## **APPEARANCE AND AMENITY ISSUES**

The application site is not publicly accessible and is private land. Its main value as Urban Greenspace is therefore primarily visual and as part of the setting of the wider open area of special landscape, which includes Heswall Dales to the south.

The site is in a location where development could reduce a gap of undeveloped land between the Primarily Residential Areas in Oldfield Road and Dale Gardens. The proposed dwelling is a low, split level building that takes account the land levels of the site which rise to the north and west, the residential care home at Cleaver is much higher than the site and is quite prominent when viewed from within the site.

The building is to have a flat roof and will be a modern design that has been sighted in such a way to cause the least disruption onto the wooded character of the area, the woodland characteristics are to be retained by keeping the mature trees along the outer boundaries.

The design of the building is square and will be externally clad in materials yet to be determined although the examples provided appear to be a slate finish. Due to the land levels the building has a split level appearance and will be built into the raised grass bank, the orientation of the dwelling is that the front elevation faces east towards Oldfield Road and the rear elevation faces west onto the grass bank and a section of the cleared land which will be utilised as private garden space.

The house measures 14m by 13m, with a garage and pool to the lower level and a central staircase that will gain light from a large central glass roof, at first floor each room is accessed via the central staircase and around an open internal walkway, the habitable rooms have outlook to the east, south and west, the north elevation facing Cleaver Residential Care Home is blank. The driveway access into the property is gained off an existing lane from Oldfield Drive and runs to the east elevation of the dwelling which includes a garage access door.

The applicant has submitted a tree survey as the site contains a Tree Preservation Order that dates back to 1983. The siting of the house has been identified to the west of the site within a relatively more cleared area. However, the construction of the house and driveway will result in the removal of at least 17 trees. The majority of the trees on site will, however, be retained. Given the scale of the house, it is considered that the remaining trees will retain the wooded character of the site and there will be sufficient land within the cleared section for the provision of private useable garden space. The garden area measures approximately 10m by 14m.

Whilst residential development is contrary to UDP Policy GR1 and Proposal GR2, in this particular case, the siting and design of the proposed house is considered to retain the visual amenity of the land and the wooded character of the site. The land itself is located on the edge of an existing modern residential development. Given the large development to the north at the Cleaver Care home, development of this type that reflects the land levels and retains the trees is not considered to result in unacceptable harm or loss of visual amenity.

A habitat survey has been provided and assessed by MEAS. The proposed survey has been considered to address protected species and, subject to conditions to protect wildlife and habitats, the survey can be accepted.

It is considered that having regard to the relevant surveys that have been produced, the siting of the proposed dwelling and the character of the surrounding area, and the conditions that can be applied, that the proposal will not harm visual amenity and would retain the wooded character of the site without compromising the ecology or appearance of the land when viewed from neighbouring sites. As such the proposal is considered acceptable having regard to the Councils current policies and the NPPF.

## **SEPARATION DISTANCES**

The property provides outlook to the east, south and west elevations, all of which look into the existing site and the south elevation faces the access lane to Dale Farm. The north elevation faces Cleaver Residential Home however this elevation does not contain any window openings.

The proposed house meets the Councils current window to window interface distance of 21m and 14m to blank walls (direct outlook).

## **HIGHWAY/TRAFFIC IMPLICATIONS**

The property is to be accessed via the existing lane off Oldfield Drive, due to the nature of this lane providing the only access to Dale Farm, a construction management plan should be submitted in order to minimise disruption to the lane.

## **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

The site is designated as Urban Greenspace immediately adjacent to a Site of National Importance for Nature Conservation. The applicant has provided a habitat survey as well as a tree survey. The information provided has been assessed by Merseyside Environmental Advisory Service and the mitigation proposals have been accepted subject to suitably wording conditions allowing for the protection of the woodland and habitat protection. No bats have been identified within the site. Breeding birds and hedgehogs should be protected by works during specified times of the year and breeding boxes for bats provided within the site. The site can therefore accommodate a dwelling subject to acceptable habitat protection and continued woodland management.

## **CONCLUSION**

The siting, scale, appearance and orientation of the proposed building are considered acceptable having regard to the impact on wildlife habitat and ecology and landscape. The proposal is unlikely to cause harm to visual amenity or the woodland character of the plot when viewed from the surrounding area. On balance, therefore, the proposal could be permitted in this particular case having regard to Wirral's UDP Policies HS4, GRE1, GR1, GR7, NC3, LAN1 and LA1.

## **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The siting, scale, appearance and orientation of the proposed building are considered acceptable having regard to the impact on wildlife habitat and ecology and landscape. The proposal is unlikely to cause harm to visual amenity or the woodland character of the plot when viewed from the surrounding area. On balance, therefore, the proposal could be permitted in this particular case having regard to Wirral's UDP Policies HS4, GRE1, GR1, GR7, NC3, LAN1 and LA1.

**Recommended Decision:                      Approve**

## **Recommended Conditions and Reasons:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11 August 2016.

**Reason:** For the avoidance of doubt and to define the permission.

3. Before any construction commences, samples of the materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

**Reason:** To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy HS4 of the Wirral Unitary Development Plan.

4. No part of the development shall be brought into use until a means of vehicular and/or pedestrian access to the site/development has been constructed. These works shall be in accordance with details as approved by a plan to be submitted to the Local Planning Authority and approved in writing.

**Reason:** In the interests of highway safety and to accord with Policy HS4 of the in the Wirral Unitary Development Plan.

5. No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with a plan to be submitted and approved in writing by the Local Planning Authority .

**Reason:** In the interests of highway safety and protected habitats.

6. Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the Construction Management Plan shall be implemented in full during the period of construction and shall not be varied unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** In the interests of highway safety.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to a dwelling shall be erected unless expressly authorised.

**Reason:** In order to protect the character of the area/residential amenities of nearby occupants and to accord with Policy GR1 of the Wirral Unitary Development Plan.

8. Details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is completed and the work shall be carried out prior to occupation, in accordance with the details so approved, and subsequently maintained to the satisfaction of the Local Planning Authority.

**Reason:** To protect the character of the area having regard to Wirral's UDP Policy GR1.

9. A landscape/woodland management plan, including long term design objectives, management responsibilities and maintenance schedules for all woodland areas, the site should contain a tree belt to the southern boundary of the site 12m in width, the woodland management plan and tree belt shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.

All Rhododendrons within the retained tree belt should be eradicated and replaced with suitable native under storey species.

**Reason:** In the interests of visual amenity and conservation and to comply with Policy GR1 of the Wirral Unitary Development Plan.

10. No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations should take place during the period 1<sup>st</sup> March to 31<sup>st</sup> August inclusive.

**Reason:** To protect birds during their breeding season and to comply with Policy NC3 in the Wirral Unitary Development Plan.

11. Before any equipment, machinery or materials are brought onto site, a 1 metre high fence or other barrier as agreed in writing with the Local Planning Authority, shall be erected around the outer limit of the crown spread of all trees, hedges or woodlands shown to be retained on



a plan to be submitted to the Local Planning Authority. Such fencing shall be maintained in a satisfactory manner until the development is completed. During the period of construction, no material shall be stored, fires started or trenches dug within these enclosed areas without the prior consent in writing of the Local Planning Authority.

**Reason:** To prevent damage to the trees/ hedges in the interests of visual amenity and to comply with Policy GR1 of the Wirral Unitary Development Plan.

12. Two tit bird breeding boxes and a single open fronted bird breeding box shall be installed within the retained woodland together with a bat box and hedgehog and insect habitat.

**Reason:** Having regard to protected species and Wirral's UDP Policy NC3.

13. Details of external lighting within the site must be submitted to the Local Planning Authority showing siting, heights and illuminance levels and spread. All external lighting must follow the guidance of the Bat Conservation Trust. Any lighting should be installed as agreed with the Local Planning Authority.

**Reason:** To protect bat habitat and foraging.

**Further Notes for Committee:**

1. If any European protected species are found, as a legal requirement work must cease and advice must be sought from a licensed specialist.

**Last Comments By:** 20/09/2016

**Expiry Date:** 06/10/2016