

Planning Committee

13th October 2022

Reference:	Area Team:	Case Officer:	Ward:
APP/21/01924	DM	Mr M Klabou	Heswall

Location:	9 PIPERS END, HESWALL, CH60 9LW
Proposal:	ERECTION OF 1 NO. DETACHED DWELLING AND FORMATION OF NEW VEHICULAR ACCESS (Amended Scheme)
Applicant:	Mr Forsey
Agent:	Mr Roberts, Planscape, Architectural Design Consultant

Qualifying Petition

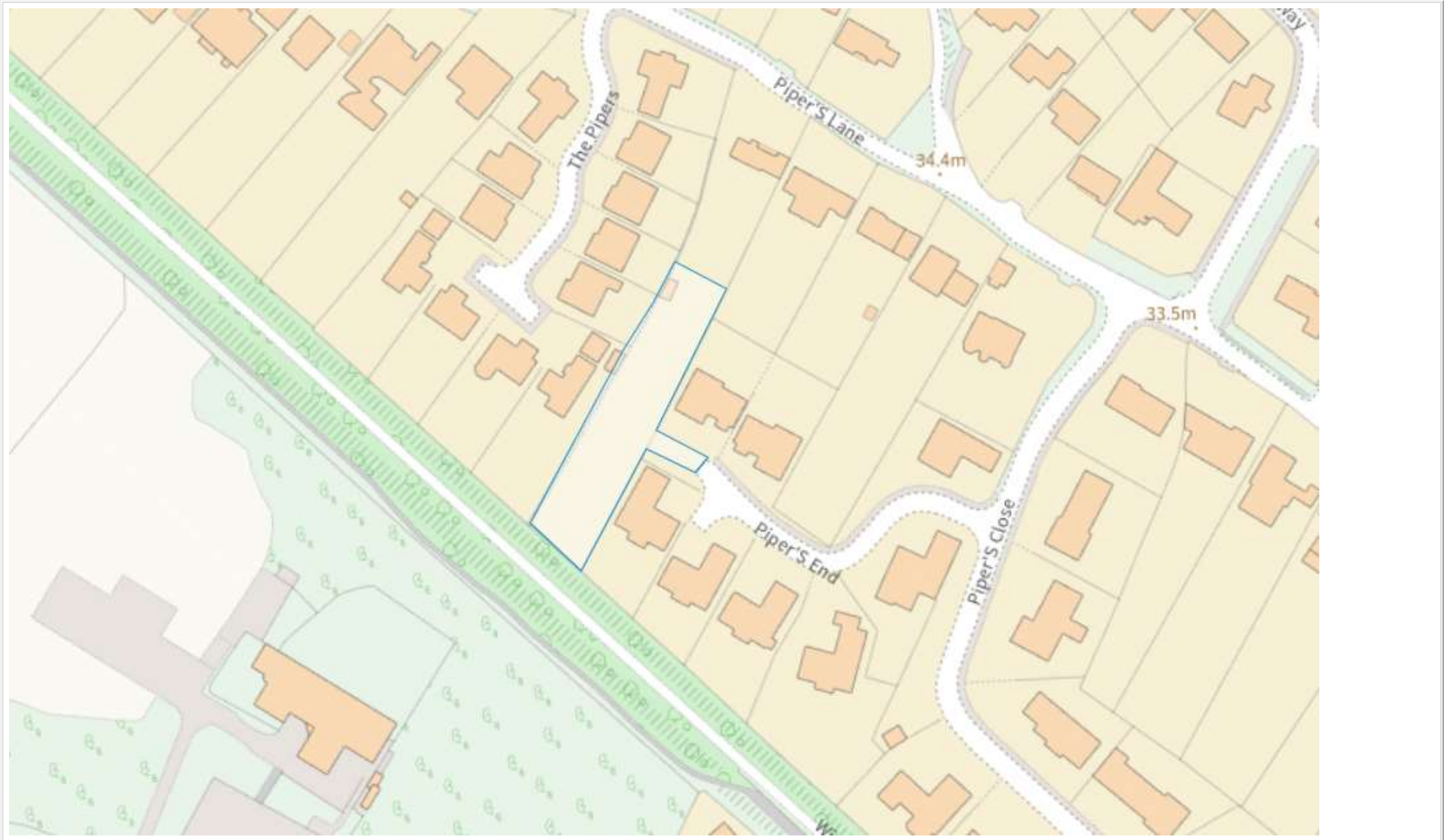
Yes – Number of signatures: 34.

The petition's objections included the following material planning considerations:

- Separation distances
- Overshadowing
- Overdevelopment of site

This petition was based on the original proposal for two new detached dwellings. Although the proposal has been reduced to one new detached dwelling, the petition holds as the amendments have been accepted within this application.

Site Plan:



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Development Plan designation:	Primarily Residential Area
	Wirral Way Local Wildlife Site (adjoining southern border)
	Heswall Dales SSSI (to north of site)

Planning History:	OUT/13/00797 – Outline application for two detached dwellings to the rear of 39 Pipers Lane, Heswall REFUSED 19/09/2013
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Summary Of Representations and Consultations Received:

1. Ward Member Comments	Councillor Andrew Hodson has expressed concern about the application, primarily due to its impact on neighbouring properties.
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2. Summary of Representations	<p><u>REPRESENTATIONS</u></p> <p>A petition of objection, containing 34 signatures, was received in response to the original proposal. Having regard to the Council's Guidance for Publicity on Planning Applications, 16 re-notifications relating to the amended scheme were sent to adjoining properties. At the time of writing, 6 comments had been received, all objecting to the proposal. The relevant material planning matters contained within these comments on the amended submission are summarised as follows:</p> <ul style="list-style-type: none"> • Visual Appearance and Design — including overdevelopment; • Residential Amenity; • Highway Safety – including egress from the site; • Ecology; • Trees – including removal of trees prior to application; and • Application Details <p>Comments on the application have also been received from Wirral and Cheshire Badger Group.</p>
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	<u>CONSULTATIONS</u>
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	<p>Highways 17.08.2022 – No Objection subject to satisfactory completion of highway works</p> <p>Dwr Cymru Welsh Water 10.12.2021 – Commented with advisory conditions and notes</p> <p>Ecology (Merseyside Environmental Advisory Service) 17.12.2021 and 30.06.2022 – No objection to revised proposal with comments submitted for consideration.</p>
<p>3.1 Site and Surroundings</p>	<p>The proposal relates to land that has been cleared at the end of the residential plot of 39 Pipers Lane to the north, No. 9 Pipers End to the east and 6 The Pipers to the west. It will be accessed from a dedicated access track to the east, from Pipers End. There is a relatively gentle fall of land from 39 Pipers Lane to the Wirral Way at the south of the site.</p>
<p>3.2 Proposed Development</p>	<p>The application originally proposed the erection of two dwellings. This has been amended down to one new dwelling following positive and pro-active discussions between the Council and the agent. The amendments have also amended the design and reduced the scale of the remaining dwelling. The amended proposal is for a proposed split level detached property with an external garage and associated landscaping. The property is single-storey to the front and utilise the fall of the land to become two-storey towards the rear.</p>
<p>3.3 Development Plan</p>	<p>The Wirral Unitary Development Plan (UDP) designates the site as a Primarily Residential Area.</p> <p>Relevant Constraints are:</p> <ul style="list-style-type: none"> • Local Wildlife Site (LWS) Wirral Way; and • Heswall Dales (SSSI) <p>Relevant policies are:</p> <ul style="list-style-type: none"> • HS11 (New Housing Development); • TR9 (Requirements for Off-Street Parking); • GR5 (Landscaping and New Development); • GR6 (Greenspace within New Family Housing Development); • GR7 (Trees and New Development); and • NC7 (Species Protection)

The Joint Waste Local Plan for Merseyside and Halton has the following relevant policies:

- WM8 Waste Prevention and Resource Management; and
- WM9 Sustainable Waste Management Design and Layout for New Development

3.4 Other Material Planning Considerations

The revised National Planning Policy Framework (NPPF) is a material consideration in the determination of this planning application. It supports sustainable housing development which encompasses good design and widens the choice of high quality homes. Development should make a positive contribution to an area and use opportunities to improve the character and quality of an area. Planning policies and decisions should optimise the potential of sites to accommodate development as long as the resulting scheme would provide acceptable living standards. The NPPF also states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)

In particular, the NPPF (March 2021) relevant sections are:

- Chapter 12 (Achieving well-designed places)
- Chapter 15 (Conserving and enhancing the natural environment)

Wirral's Supplementary Planning Document 4: Parking Standards sets (among other matters) maximum limits for vehicle parking spaces.

Wirral Borough Council – Tree, Hedgerow and Woodland Strategy

This Strategy is a material consideration. It provides amongst other matters that planning applications will need to demonstrate that there will be enough room for the future growth of new and retained trees to ensure long term retention and avoid pressure from future occupiers to top, lop, or fell healthy trees due to safety concerns or effects on living conditions in order to obtain reasonable sunlight and unshaded external amenity space. Planning applications will need to provide sufficient information to enable proper consideration of trees on and around the development site with tree survey and planting scheme with appropriate root protection zones undertaken to the latest British Standard. The selection of new species to be planted will use the “right tree for right place” approach.

Status of the Emerging Wirral Local Plan:

Wirral Borough Council is in the process of submitting a new local plan for examination.

On 21 March 2022 full Council approved publication of the Draft Local Plan under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 before submission to the Secretary of State. The plan has been duly published and representations were available to be submitted until 25th July 2022.

In attaching weight to emerging plans such as Wirral's paragraph 48 of the NPPF is relevant as it states:

"Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

As the Wirral Local Plan is at an early stage it is a Material Consideration and can be afforded limited weight in the decision-making process.

3.5 Assessment

This assessment is based on the amended proposal. The original proposal is not included in this assessment as it is no longer the scheme which is being submitted for planning permission.

Due to the location of the site and the proposed access from Pipers End, it is not considered to constitute backland development. A previous outline application for two dwellings on this site was refused due to the impact on residential amenity. Notably, the access was to be created off Pipers Lane, running down the side of 39 Pipers Lane. The access for the new dwelling subject to this application is directly into the site from the adopted Pipers End.

The main planning issues relevant to this application are:

- Principle of Development;
- Visual Appearance and Design;
- Residential Amenity;
- Highway Safety;
- Ecology ;
- Trees and Landscaping;

	<ul style="list-style-type: none"> • Drainage; and • Bin Provision
3.6 Principle of Development	<p>UDP Policy HS4 (New Housing Development) considers proposals for new housing development on allocated sites and within the Primarily Residential Areas acceptable in principle.</p> <p>The proposal is located within a Primary Residential Area and is therefore acceptable in principle.</p>
3.7 Design	<p>UDP Policy HS4 (New Housing Development) considers development acceptable if the visual appearance and design aspects of the proposal are sympathetic to the character and appearance of the neighbouring buildings and the surrounding area. The proposal should be of a scale that relates well to surrounding properties particularly in terms of existing densities and forms.</p> <p>The plot occupies a strip of land that creates a gap between the relatively recent developments of The Pipers and Pipers End. An area of land to the rear of 39 Pipers Lane separates the two developments with a long linear vegetated area that runs north to south. Although it was previously heavily vegetated, it does now have the appearance of a reasonable development plot and would be viewed as a continuation of the Pipers End development. This is partially due to the fact that it is not a natural long rectangular break in the landscape caused by a stream, for example, but rather a site that was left undeveloped when the Pipers End and The Pipers developments took place. The size of the proposed plot is consistent with those within the surrounding area and the proposal therefore will visually fit in with the pattern of Pipers End because it continues the existing dead-end of Pipers End in a simple and straightforward way and follows the fall of the land to access the property.</p> <p>Within the site itself, as viewed from Pipers End, it will not be visually intrusive, over dominant or jarring on the street-scene and although of a slightly different character to surrounding properties, this is not negatively so and not to a degree that causes a significant impact on the character of the street-scene. The front elevation on Pipers End is single-storey and this will help the dwelling fit into the character of Pipers End, which contains bungalows on the eastern side of the highway. As viewed from the popular bridleway of the Wirral Way, the proposal will not be over dominant, as it maintains the ridge line and uses the fall of land and hipped roof lines to soften the bulk of its appearance. It also follows similar design trends in the nearby area, which often use large areas of glazing and balconies to take advantage of the considerable high-quality views in this area. Similar to the front elevation, the rear does not strictly match the character of the modest Pipers End or the larger The Pipers properties, but it has an individual form that is between the two and (as mentioned above), a style similar to those in the nearby area.</p> <p>Given the above, as the proposal causes no significant impacts on the character of the property and the immediate street-scene, it is considered to comply with UDP Policy HS4</p>

3.8 Highways

UDP HS4 (New Housing Development) considers development acceptable if there is safe and suitable access for vehicles and services as well as provision for sufficient off-street parking.

UDP Policy TR9 (Requirements of Off-Street Parking) considers development acceptable if a safe and suitable means of access can be provided and parking is in accordance with Highways Authority advice and considering local highway safety and traffic management issues. Dwellings with 2-3 bedrooms require 2 parking spaces and dwellings with 4 bedrooms require 3 parking spaces.

The proposal has 4 bedrooms and there is sufficient space for 3 parking spaces, including the use of the garage. The Council's Highways teams has reviewed the proposed plans for crossing the public highway and has no objections, subject to conditions being imposed to reinstate the highway's access. The new road extension would remain private and requires demarcation from the adopted highway.

Therefore, as there is provision for suitable parking as well as safe and suitable access, the proposal is considered to comply with UDP Policy TR9.

3.9 Ecology

UDP Policy NC7 (Species Protection) considers a proposal unacceptable if it has a significant adverse effect on wildlife species protected by law and it will not be permitted unless the protection of species can be secured through planning conditions or obligations.

Concerns have been raised that the site had been cleared prior to application submission and ecology survey completion, however, there is insufficient evidence to demonstrate this, and the ecology report as submitted is therefore considered sufficient.

The site lies with Heswall Dales SSSI to the north and the Wirral Way Local Wildlife Site adjoining its southern boundary. This gives rise to the potential for a wildlife corridor and there is evidence of badger pathways on site. As such, nature conservation measures including badger pathways and gates are secured through conditioning of plans and a specific planning condition.

With immediate proximity to the Wirral Way on the south, inappropriate external lighting has the potential to cause significant impacts on the adjacent habitats, particularly with regards to the foraging and commuting habitats of bats (which are present in the area). As such, it is considered that conditions prohibiting external lighting, unless otherwise agreed with the Council, can satisfactorily resolve the adverse impacts.

In addition to this, bat boxes have also been included, as good practice ecological enhancement measures, in the eastern side elevation of the dwelling and the front elevation of the garage. Further ecological enhancement measures of bird boxes, as well as a Construction Environmental Management Plan to mitigate the environmental impacts of construction, can be secured through planning condition.

Given the above, the proposal is considered to comply with UDP Policy NC7 as there are no significant impacts on protected species.

3.10 Amenity

UDP Policy HS4 (New Housing Development) considers development acceptable if it does not lead to significant overbearing, overshadowing or overlooking impacts.

The key residential amenity issues arise from the potential impact on the two side facing windows of No.9 Pipers End, which serve two habitable rooms (bedrooms), and the side facing windows of approved extension APP/21/00844, at No.6 The Pipers, which is a two-storey rear/side extension including balconies.

With regards to No.6 The Pipers, the ground floor of the proposed dwelling will be set approximately 1 metre higher than the existing property. With only a short separation distance of approximately 5 metres between these side facing windows, some overbearing and overshadowing impacts would occur on the windows to the side of the proposed extension at 6 The Pipers. However, these are not the primary windows of the habitable room it serves, with the main outlook being large windows facing south, ensuring that the proposal will have limited direct impact on the amenities of this property. In addition, the proposal has a hipped roof to the side, which will further lessen the impact. As such, the impact the proposal will have on 6 The Pipers is considered acceptable and insufficient to warrant refusal of the application.

With regards to No.9 Pipers End, two side windows are impacted by the proposal in terms of overshadowing and overbearing. These windows will be approximately 3.5 metres from the new dwelling. However, the main glazing in these windows is obscured, with clear glazing in the side (bay) parts of these windows. The short separation distances mean that the development is not strictly policy compliant. However, in this instance, it is noted that these windows are on the side (non-principal) elevation of the existing dwelling and there have been no objections received from the property it affects. The existing obscured nature of these windows is also relevant, meaning that the proposed development will not have a significant impact on actual outlook from these rooms. The proposal has also been amended to incorporate a hipped roof on this elevation, lessening the impact on these windows. Windows on side elevations of bungalows being impacted by properties to the side is not uncommon and it appears that there may even be examples of this within Pipers End itself. The application site does now read as a development plot that was simply never developed and the benefit of a new dwelling on a suitable plot within a Primarily Residential Area is considered to have significant weight, especially given the pressures meeting housing supply numbers is potentially having on other parts of the Borough. Therefore, on balance, the potential impact on the residential amenity of future occupiers of this property is considered acceptable in this instance given the reasons set out.

The windows on both side elevations of the proposed dwelling that would appear above a 1.8m high fence (considering the fall of land) will be obscured and this can be secured through a specific planning condition.

Sufficient residential amenity space is created in the rear garden.

Given the above the impact on surrounding properties is considered acceptable and, as such, the proposal is considered to comply with UDP Policy HS4.

3.11 Trees and Landscaping	<p>UDP Policy HS4 and GR5 consider development acceptable if the proposed landscaping and boundary treatments are appropriate to the surroundings and maintain, replace or enhance existing natural features, vegetation and wildlife. UDP Policy GR7 (Trees and New Development) considers development acceptable if there are no significant negative impacts on important trees, or if there are, these are mitigated. If an important tree needs to be removed, it should be replaced following the principal of 'right tree in the right place.'</p> <p>There are no protected trees on the site. The proposed planting of new native trees will improve the landscaping (and partially the biodiversity of the site), as it was presented at the time of application. This landscaping will be secured through condition.</p> <p>Given the above, the proposal is considered to comply with UDP Policy GR5 and GR7 as tree protection measures can be secured through planning condition and a suitable landscaping scheme has been incorporated into the proposal.</p>
3.12 Drainage	<p>UDP Policy HS4 considers development acceptable if sufficient drainage can be provided for foul and surface water. Surface water will be drained to soakaways and a new foul water drain.</p>
3.13 Bin Provision	<p>UDP Policy HS4 considers development acceptable if adequate provision can be made for bins services. The proposal includes a dedicated bin storage area.</p>

Summary of Decision	<p>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:-</p>
	<p>By virtue of its design, siting and location, the proposal is considered to comply with Wirral Unitary Development Plan Policy HS4 (New Housing Development), TR9 (Requirements for Off-Street Parking), SPD 4 (Parking Standards), GR5 (Landscaping and New Development), GR7 (Trees and New Development) and NC7 (Species Protection), and the National Planning Policy Framework.</p>

Recommended Decision:	Conditional Approval
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Recommended Conditions and Reasons:	
1. The development must be begun not later than the expiration of three years beginning with the date of this permission.	
Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.	

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

Proposed Site Layout Ref F1528-3C rec 08.09.2022

Proposed Floor Plans Ref F1528-1 rec 06.07.2022

Proposed Elevations Ref F1528-2A rec 31.08.2022

Proposed Double garage Ref F1528-4 rec 06.07.2022

Badger Pathways V2 rec 16.08.2022

Reason: For the avoidance of doubt having regard to WMBC UDP Policy HS4 (New Housing Development) and TR9 (Requirements for Off-Street Parking)

3. The materials to be used on the external surfaces of the development (brickwork, cladding and roofing materials along with materials used in any hard surface) shall be as outlined on the following plans and documents, unless otherwise agreed in writing by the Local Planning Authority:

Proposed Elevations Ref F1528-2A rec 31.08.2022

Reason: To ensure the appearance of the development is satisfactory having regard to WMBC UDP Policy HS4 (New Housing Development)

4. The two en-suite windows on the western side elevation and the en-suite and kitchen window on the eastern elevation will be of the development hereby permitted must be;

- a) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and;
- b) fitted with glass which has been rendered permanently obscured to Group 5 level of privacy or equivalent.

Thereafter, those window(s) must be retained to this specification throughout the lifetime of the development.

Reason: To preserve the amenities of neighbouring properties, having regard to WMBC UDP Policy HS4 (New Housing Development)

5. The Badger protection measures described in Badger Pathways V2 rec 16.08.2022 shall be implemented prior to first occupation of the development hereby permitted and maintained in perpetuity for the lifetime of the development. This shall include two-way opening badger gates in the location shown, a minimum of 500mm wide badger pathway in the location shown and a clearance of the garage from the side fence, in the location shown, to allow these pathways of between 0.81m and 0.98m in width

Reason: To preserve the foraging and dispersal habits of badgers, a protected species, and having regard to WMBC UDP Policy NC7 (Species Protection).

6. No external lighting shall be used until a scheme for external lighting has been submitted in writing and approved by the Local Planning Authority.

Reason: To mitigate potential impacts to the foraging and commuting habitats of bats and having regard to WMBC UDP Policy NC7 (Species Protection).

7. The submitted landscaping plan and details described in:

Proposed Site Layout Ref F1528-3C rec 08.09.2022

Shall be implemented prior to first occupation of the development hereby approved and shall be maintained for at least a period of 7 years after first occupation of the development.

Reason: In the interests of visual amenity and having regard to WMBC UDP Policy HS4 (New Housing Development).

8. Prior to the commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The provisions of the CEMP 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.

The CEMP should be accessible to site managers, all contractors and sub-contractors working on site as a simple point of reference for site environmental management systems and procedures, and should include Pollution control measures to protect the adjacent Wirral Way Local Wildlife Site and adjacent habitats, particularly trees. This should include precautionary measures in respect of breeding birds and avoidance measures for badgers, hedgehogs, amphibians and reptiles. These should incorporate any appropriate mitigation measures suggested in the submitted ecological reports in addition to those suggested below.

Specific mitigation measures raised by WMBC MEAS consultation response that should be included in the CEMP include:

For the protection of Badgers and Hedgehogs:

A pre-commencement check for badger and hedgehog;

The Installation of protective fencing to prevent badgers entering the construction area;

Construction work should be limited to daylight hours to avoid disturbing badger commuting in the vicinity of the development site;

All trenches and excavations should be covered or have a means of escape (e.g. a ramp);

Any exposed open pipe systems should be capped to prevent mammals gaining access;

Appropriate storage of materials to ensure that mammals do not use them;

Chemicals or harmful materials stored on site should be kept in secure compounds away from access by animals.

For the protection of Amphibians and Reptiles:

Existing vegetation on the site will be gradually cut and removed under ecological supervision to encourage any amphibians / reptiles present to move away from the affected areas;

The working area, together with any storage areas, will be kept clear of debris, and any stored materials will be kept off the ground on pallets so as to prevent amphibians / reptiles from seeking shelter or protection within them; and

Any open excavations (e.g. foundations / footings / service trenches etc) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil or similar) to prevent amphibians / reptiles from seeking shelter beneath them. Any excavation must be infilled and made good to ground level with compacted stone or similar at the earliest opportunity, so as to remove any hazard to amphibians / reptiles.

For the protection of breeding birds:

No tree felling, scrub clearance or vegetation management should take place during the period 1 March to 31 August inclusive.

If it is necessary to undertake works during the bird breeding season then all trees, scrub and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected should be submitted for approval.

Reason: To mitigate the risk of accidental damage or pollution to the Wirral Way Local Wildlife Site that adjoins the southern boundary and to protect badgers, hedgehogs, amphibians, reptiles and breeding birds and to and comply with WMBC UDP Policy NC7 (Species Protection).

9. An ecological enhancement of 2 bird nesting boxes (including sparrow and/or swift boxes on new buildings) shall be installed prior to first occupation and retained as such thereafter

Reason: To improve bird breeding habitat and comply with UDP Policy NC7 (Species Protection).

10. PRIOR TO COMMENCEMENT OF DEVELOPMENT, detailed drawings indicating the finished site and ground floor levels intended at the completion of the development in relation to the existing site levels and the levels of the adjoining land shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

Reason: To ensure that the development is satisfactorily sited and designed in relation to adjacent properties having regard to Wirral Unitary Development Plan Policy HS4

Last Comments By:	03-August-2022
Expiry Date:	24-November-2021