

Derry City and Strabane District Council Planning Committee Report

COMMITTEE DATE: 4th November 2020

APPLICATION No: LA11/2018/1038/O

APPLICATION TYPE: Outline Application

PROPOSAL: Proposed site for one detached dwelling and garage

LOCATION: Rear of 12 & 13 The Beeches & Rear of 14 Ballyfatten Park, Sion Mills

APPLICANT: E Patton, 4 Primrose Park, Sion Mills, Strabane, BT82 9QB

AGENT: Desmond O'Neill, 17 Main Street, Dromore, Co. Tyrone, Omagh, BT78 3AE

ADVERTISEMENT: 22.11.2018, 14.05.2020

STATUTORY EXPIRY: 06.12.2018, = 28.05.2020

RECOMMENDATION: APPROVE

REASON FOR PRESENTATION TO COMMITTEE: 5 or more objections - The application was previously listed to be presented to Planning Committee on 23rd September 2019, however late information was received and the application was deferred for consideration for the late information and consultation with DFI Roads.

All planning application forms, drawings, consultations, letters, representations etc. relating to this planning application are available to view on www.planningni.gov.uk

1. Description of Proposed Development

The proposal is for outline planning permission for one detached dwelling and garage with access through Ballyfatten Park. The application was originally submitted proposing four semi-detached dwellings but subsequent amendments have been received reducing the scheme to one detached dwelling and garage.

2. EIA Determination

This application has been screened by Council and as the development does not meet any thresholds, as set down in The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, an EIA determination is not required.

3. HRA

Assessment under the Habitats Regulations is not required as there is no watercourse within or directly abutting this site. Therefore, it is unlikely that there will any adverse effects on integrity of any National or European site. There are no significant trees or landscape features on this site which will be impacted by this proposal. Therefore, it is unlikely that this proposal will adversely affect a priority species or their habitat which is afforded protection.

4. Site and Surrounding Area

The application site is a 0.13 ha parcel of land located between Primrose Park and Ballyfatten Park in Sion Mills. It is a flat area of rough and partly overgrown ground which appears to form an informal part of the garden to the rear of the dwelling at 4 Primrose Park. The site is enclosed by mature trees and hedges to its south and west boundaries. The eastern boundary has trees in the north east corner and the boundary to the rear of the properties at 12 & 13 The Beeches is defined by 2m high wooden fence and hedge. A wall also separates the site from the access road and row of garages at Ballyfatten Park to the immediate south.

The site is located within an established residential area which is characterised by a mix of house types. These include detached single storey and two storey dwellings along Primrose Park to the north and higher density two storey dwellings (detached, semi-detached and terraces) to the east at The Beeches and to the south at Ballyfatten Park and Churchside Court.



Figure 1 : Aerial view of application site (red) and adjoining dwelling 4 Primrose Park (blue)



Figure 2 : Site Location Plan (Drawing 01 received 09/11/2018, date stamped 31/10/2018)



Figure 3 : Application site and adjoining dwelling at 4 Primrose Park



Figure 4 : Southern boundary with Ballyfatten Park



Figure 5 : Eastern boundary with The Beeches

5. Site Constraints

None relevant

6. Neighbour Notifications

Neighbour Address	Date Neighbour Notified
11 The Beeches, Sion Mills, Tyrone, BT82 9SP	16/11/2018, 30/04/2020, 22.09.2020
12 The Beeches, Sion Mills, Tyrone, BT82 9SP	16/11/2018, 30/04/2020, 22.09.2020
13 The Beeches, Sion Mills, Tyrone, BT82 9SP	16/11/2018, 30/04/2020, 22.09.2020
7 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	30/04/2020, 22.09.2020
12 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	30/04/2020, 22.09.2020
13 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	16/11/2018, 30/04/2020, 22.09.2020
14 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	16/11/2018, 30/04/2020, 22.09.2020
15 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	30/04/2020, 22.09.2020
17 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	30/04/2020, 22.09.2020
18 Ballyfatten Park, Sion Mills, Tyrone, BT82 9QG	30/04/2020, 22.09.2020
Pobal Mhuilleann An Tsiáin, 1 Daisy Park, Sion Mills, Tyrone, BT82 9QD	16/11/2018, 30/04/2020, 22.09.2020
1a ,Daisy Park,Sion Mills,Tyrone,BT82 9QD	16/11/2018, 30/04/2020, 22.09.2020
1b ,Daisy Park,Sion Mills,Tyrone,BT82 9QD	16/11/2018, 30/04/2020, 22.09.2020
1c ,Daisy Park,Sion Mills,Tyrone,BT82 9QD	16/11/2018, 30/04/2020, 22.09.2020
4 Churchside Court, Sion Mills, Tyrone, BT82 9SR	16/11/2018, 30/04/2020, 22.09.2020
6 Churchside Court, Sion Mills, Tyrone, BT82 9SR	30/04/2020, 22.09.2020
4 Primrose Park,Sion Mills,Tyrone,BT82 9QB	16/11/2018, 30/04/2020, 22.09.2020
8 Primrose Park, Sion Mills, Tyrone, BT82 9QB	16/11/2018, 30/04/2020, 22.09.2020
2 Coronation Park, Sion Mills,Tyrone,BT82 9QQ	30/04/2020, 22.09.2020
10, Belldoo, Strabane, Tyrone, Northern Ireland, BT82 9PG	30/04/2020, 22.09.2020
42b,Shannony Road,Douglas Bridge,Tyrone,BT82 8QJ	30/04/2020, 22.09.2020
1A, MELVIN ROAD, STRABANE, TYRONE, Northern Ireland, BT82 9PP	30/04/2020, 22.09.2020

2 Orchard Gardens, Westbrook, Margate, CT9 5JT	30/04/2020, 22.09.2020
3 Rutland Gardens, Cliftonville, Margate, CT9	30/04/2020, 22.09.2020

7. Relevant Site History

J/2009/0090/O

Site for 2no. two storey dwelling houses with domestic garages (access through 4 Primrose Park)
Permission Granted 24.06.2009

LA11/2015/0603/O

2no. two storey dwelling houses with domestic garages (with access through 4 Primrose Park)
Permission Granted 12.01.2017



Figure 6 : Approved concept for LA11/2015/0603/O with access through 4 Primrose Park

8. Policy Framework

Strabane Area Plan 1986 - 2001

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 2 : Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 7: Quality Residential Environments original

Planning Policy Statement 12: Housing in Settlements

Development Control Advice Note 15 : Vehicular Access Standards

Creating Places

9. Consultee Responses

DFI Roads advise the proposals would prejudicial road safety and significantly inconvenience the flow of traffic through Ballyfatten Park.

NI Water highlight the site is within a development consultation zone in proximity to a waste water treatment works and there is a possibility of nuisance from odour and/or noise.

DAERA Land and Groundwater team note there are no records of previous potentially contaminating land uses on the site or the adjacent area and therefor have no objections subject to conditions and informatives regarding unforeseen contamination.

Environmental Health have no objections subject to conditions regarding unforeseen contamination and standard informatives regarding construction noise and dust and radon.

DAERA Water Management Unit refer to standing advice which contains standard conditions and informatives

10. Representations Consideration

There was 1 letter of support received supporting the development as it will have a positive impact upon the applicant's family allowing him to live closer to his mother.

There were 57 letters of objection including a petition with 28 signatures. These objections were from 31 individual properties at Ballyfatten Park, The Beeches, Churchside Court, Coronation Park, Parkside Gardens and Meadow Crescent in Sion Mills as well as from properties outside of the village i.e. Strabane, Douglas Bridge, Glebe, Newry, Kildare, Margate. The objection letters raised the following concerns:

- Proposal will result in intensification of traffic at a dangerous access
- Impact upon safety of children playing
- Access is too narrow compounded by on street parking. Restricted use of pavements. Access not wide enough to allow emergency and amenity vehicles or construction traffic.
- Limited on and off street parking at present. Proposal will result in additional parking congestion. Will prohibit access to garages. Will result in loss of off street parking for residents (some of which have limited mobility and require easy access to vehicles)
- New kerb will cause further difficulty accessing garages, turning/manoeuvring and further limit parking

- Pathway would be used as quick entrance to Primrose Park impacting on privacy and security of residents
- Objectors suggest entrance via Primrose Park
- Impact upon privacy and loss of light to 13 and 14 Ballyfatten Park
- Noise & disturbance of construction traffic and residential traffic
- Application, if approved, would lead to further development of the site
- Degradation and devaluation of property
- Uncertainty of parking availability would cause stress to residents
- Development would disturb colony of bats living in area
- 18 Ballyfatten Park advise they were not notified of the application
- Delays in receipt of neighbour notification letters and limited time frame to respond
- Revised plans were not available online following neighbour notification
- Confusion regarding application dates

In response to the procedural concerns outlined above, officers would highlight that there is no statutory requirement to notify the property at No. 18 Ballyfatten Park as it does not directly abut the application site. With regard to delays in receipt of the neighbour notification letters, officers consider representations received at any stage in the process and are content all issues raised have been considered in this report. . Some objections raised issue with the availability of amended plans online. Upon receipt of these objections the plans were checked by officers and were available online at that stage. There seems to be some confusion regarding when the application was made and when neighbour notification letters were issued. I would clarify that the application was received on 6 November 2018 following which neighbour notification letters were issued on 16 November 2018. Further letters were then issued on 30 April 2020 to advise any neighbours and those who made representation of the receipt of the revised proposal and accompanying amended plans. All other matters raised will be considered in the assessment below.

11. Planning Assessment and Other Material Considerations

Section 6 (4) of The Planning Act (Northern Ireland) 2011 requires the Council to make planning decisions in accordance with the local development plan, unless material considerations indicate otherwise. The site is on unzoned white land located within the settlement development limits of Sion Mills as designated in the Strabane Area Plan 1986 - 2001. This proposal has therefore

been assessed against the policy framework listed in paragraph 8 and all other material considerations including consultation responses, representations and relevant planning history.

Strategic Planning Policy Statement

The SPPS states that PPS 7 is a retained policy until such times as the development plan is adopted, and the development plan will itself have policies directing planning management on a number of issues, including dwellings within settlements. In the interim and prior to the adoption of the plan, both policies should be considered and where there is a conflict, the SPPS should take precedence. In this case there is no conflict.

PPS 7 : Quality Residential Environments

Policy QD 1 allows new residential development where it will create a quality and sustainable residential environment and the development will also be expected to conform with criteria (a) to (i) set out in the policy.

PPS 7 Addendum : Safeguarding the Character of Established Residential Areas

The proposal is for new residential development in the rear garden of an existing property within an established residential area in Sion Mills. The proposal must therefore comply with the criteria set out in Policy LC 1.



Figure 7 : Proposed Site Plan (Drawing 02 Rev 1 received 11/10/2019)

The application originally submitted was for four dwellings but the proposal has since been reduced to one dwelling. The application site is capable of accommodating a single dwelling whilst retaining a sufficient plot size and private amenity space provision both within the application site and the adjoining dwelling at 4 Primrose Park. These would generally be more generous than those found in the surrounding housing developments at Ballyfatten Park, The Beeches and Churchside Court. The submitted site layout also demonstrates the development can provide two in-curtilage parking spaces. I am therefore satisfied that a detached dwelling and garage can be provided on this site in keeping with the scale, density and pattern of the surrounding housing developments and that a sufficient level of private amenity space and in-curtilage parking can also be provided in keeping with the surrounding residential developments, in accordance with criteria (a), (c) and (f) of Policy QD 1 and criteria (a) and (b) of Policy LC 1.

I am also satisfied a dwelling can be provided on this site in accordance with the space standards set out in Annex A and in accordance with criteria (c) of Policy LC 1.

The detailed design of the proposed dwelling can be reviewed at Reserved Matters stage in accordance with criteria (g) of Policy QD 1.

Objections received from 13 and 14 Ballyfatten Park raise concerns regarding loss of privacy and loss of light. The submitted site layout demonstrates that a dwelling can be provided on the site whilst retaining a separation distance of at least 19 metres to the objector's rear gardens and at least 29 metres to the objector's rear windows, which is considered to sufficient separation to omit any significant overlooking impacts, loss of privacy or loss of light. It is considered that sufficient separation can be provided between a new dwelling on the site and any of the adjoining residential properties. The detailed design of the proposed dwelling can be reviewed at Reserved Matters in relation to placement of windows to further mitigate any impacts in terms of overlooking or loss of privacy. Objectors have also raised concerns regarding noise and disturbance from construction traffic and residential traffic. Any noise generated from the construction of the development and associated construction traffic would be for a temporary period only and it is not considered that the additional residential traffic associated with one dwelling would have a significantly greater impact than existing traffic noise levels upon surrounding residential properties. Objectors are also concerned the new pathway would be used as quick entrance to Primrose Park and would impact upon resident's privacy and security. The new section of footpath would not provide through access to Primrose Park and the footpath is proposed where there is an existing road and is not considered that this will adversely impact upon residential amenity. Overall, it is not considered that the development will conflict with the

adjacent residential properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance etc. in accordance with criteria (h) of Policy QD 1 and paragraph 2.3 of the SPPS.

NI Water advise the development is in proximity to a waste water treatment works and there is possibility of nuisance arising from odour or noise. The site is located within an existing residential area and the development will be no more affected than the surrounding residential properties in the area, however advice can be attached to any planning approval to make future occupants aware of this matter.

The site is not affected by any archaeological or built heritage in accordance with criteria (b) of Policy QD 1. Objectors have raised concerns that the development would disturb a colony of bats living in area, however there is no supporting evidential context. The development is not proposing to demolish any existing buildings which would provide a suitable habitat. Given the extent of the vegetation on the site and the extant outline planning approval for two dwellings, it is not considered that a bat survey would be required for at this stage. Accordingly, there are no significant landscape features within the site worthy of protection and the development is unlikely to adversely impact a priority species or its habitat in accordance with criteria (b) of Policy QD 1 and also Policies NH 2 and NH 5 of PPS 2.

Criteria (d) (e) and (i) of Policy QD 1 are not required given the scale of the development.

Other concerns raised by objectors are that the application, if approved, would lead to further development of the site. The Council can only assess the proposals presented and cannot speculate on future development. Any subsequent application would be subject to the same planning process. Issues regarding the uncertainty of parking availability causing objectors stress are not planning considerations which can be afforded material weight. Issues raised regarding the impacts of the development on the degradation and devaluation of objector's property have not been substantiated and are not material planning issues in any case.

PPS 3 : Access, Movement and Parking

The development proposes access to the site through Ballyfatten Park to the south as indicated below. Objectors have raised issues with these arrangements in relation to road safety, pedestrian safety and parking congestion, as summarised in paragraph 10. Whilst the objectors suggest access should be taken from Primrose Park as previously approved and this would be the preferred option of DFI Roads, the Council has to consider the proposals as presented which incorporate access through Ballyfatten Park.



Figure 8 : Aerial view showing proposed access through Ballyfatten Park (Source : Google Maps)

Policy AMP 2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic. DCAN 15 states that the intensification of an access is considered to occur when a development would increase traffic flow using that access by 5 percent or more. DFI Roads advise the proposed development would lead to an 8.3 percent intensification of traffic using the Ballyfatten Park access off Marshall's Row. They advise that the existing carriageway width of 4.9m and footway width of 1.9m is inadequate for this intensification and they also highlight that 7 of the 11 houses within Ballyfatten Park have no in-curtilage parking and park on the street. They advise a minimum 5.5m carriageway and a 2.0m footway would be required to assist the flow of traffic through Ballyfatten Park and to mitigate the parking of vehicles on the footway. This is not possible within the confines of Ballyfatten Park. Subsequently, DFI Roads consider the proposal would prejudice road safety and significantly inconvenience the flow of traffic through Ballyfatten Park and have recommended refusal. Officers would however take into consideration the fact that Ballyfatten Park is a dead end road, it is not a through road and does not have direct access onto a protected route. The vehicular traffic associated with one dwelling would not be considered to be a significant increase and it is unlikely Council would be able to sustain the necessity for upgrades to the access based on a 3.3 percent exceedance of the 5 percent intensification figure. Officers also acknowledge DFI Roads comments regarding on street parking and service vehicles etc. however it is not considered that the vehicular movements associated with one dwelling would significantly inconvenience traffic flow. The above factors would be afforded determining weight in relation to the upgrade of the existing access.



Figure 9 : Road and footpath at Ballyfatten Park

Figure 10 : On street parking.

DFI Roads advise that a 2.0m footway is required to provide a pedestrian connection between the new development and the existing footway, however a 6.8m width is also required for turning and manoeuvring of vehicles in front of the single row of garages, as shown in Creating Places. None of the above are achievable given the confines of the road at the access to the site. The most recently submitted proposals incorporate a 2.0m footpath within the site which would reduce to 1.2m opposite the garages and link to the existing footpath at the front of 14 Ballyfatten Park (see below).

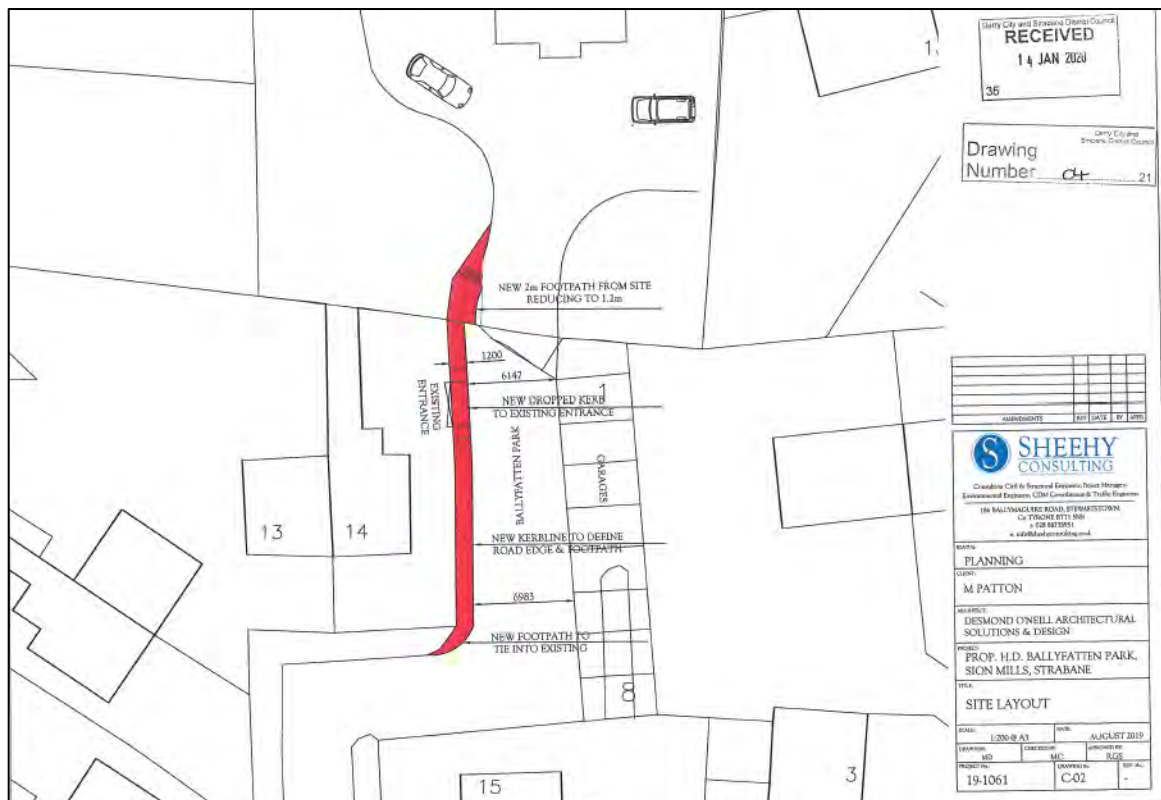


Figure 11 : Current footpath proposals



Figure 12 : Garages at Ballyfatten Park



Figure 13 : Access to site off Ballyfatten Park

DFI Roads advise that the proposed 1.2m footpath is below the minimum 2.0m requirement and the provision of this footpath will also reduce the area in front of the garages to less than 6.2m wide. Officers would concur that the provision of the footpath along this section of road opposite the garages would make access to the garages more difficult and would restrict the turning and manoeuvring area for vehicles at the end of this road, which would be further compounded if vehicles were to park on the new footpath also as they do on the remainder of the road. These issues have been raised by a number of the objectors also. The footpath proposals would further hinder the turning, manoeuvring and parking situation on this road and would not have any benefit to the flow of traffic. Whilst a new footpath would link the site to the existing footpath on Ballyfatten Park, it comprises only a small 20m section of road and would serve only one dwelling. In these particular circumstances, the pedestrian traffic associated with one dwelling would not be considered to be significant to merit the footpath provision, particularly when it would adversely impact upon traffic flow. For these reasons, officers on balance consider it appropriate to proceed with the previous scheme for a dwelling on the site without the footpath proposals as indicated in the submitted Drawing 02 Rev 1 received 11/10/2019 (below).



Figure 14 : Proposed Site Plan (without footpath proposals) Drawing 02 Rev 1 received 11/10/2019

On balance, it is considered that a single dwelling can be provided on this site with access onto Ballyfatten Park without prejudicing road safety or pedestrian safety or significantly inconvenience the flow of traffic in accordance with Policy AMP 3 of PPS 3.

12. Conclusion and Recommendation

Having considered all material considerations, including the development plan, relevant planning policies, relevant planning history, consultations and representations, approval is recommended for the scheme shown in Drawing 01 received 09/11/2018 (date stamped 31/10/2018) and Drawing 02 Rev 1 received 11/10/2019 subject to the conditions outlined below.

13. Conditions

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the floor levels of the proposed dwelling in relation to existing and proposed ground levels.

Reason: To ensure the development takes account of the sites natural contours and to ensure resident's privacy is not adversely affected.

4. The dwelling hereby permitted shall not be occupied until the northern boundary of the site has been defined by a 1.8 metre high screen wall or close boarded timber fence.

Reason: In order to preserve the amenity of the adjoining property at 4 Primrose Park

5. The existing vegetation along the eastern, western and southern boundaries of the site, (except that required to be removed for access purposes) shall be permanently retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to, prior to removal.

Reason: To safeguard the amenities of neighbouring residential properties.

6. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use, another tree or trees shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

7. If during development works, should any unforeseen ground contamination or risks to the water environment be encountered which have not been previously identified, all works on the site should cease immediately and the Planning Department and Environmental Health Services of Derry City and Strabane District Council should be informed. This new contamination shall be fully investigated with a full written risk assessment in line with current government guidance (Model Procedures for Management of Land Contaminated CLR11) that details the nature of the risks and any necessary mitigation measures should be prepared and submitted for appraisal and agreed with the Planning Department and Environmental Health Services of Derry City and Strabane District Council. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use and to protect human health

8. After completing any remediation works required under Condition 8 and prior to occupation of the development, it will be necessary for the applicant to demonstrate through a verification report that the identified pollutant linkages are effectively broken and the site is now fit for its intended end use. The verification report shall be submitted to and agreed in advance with the Planning Department, in consultation with the Environmental Health Service and all works carried out to the satisfaction of the Council. This report should be completed by competent persons in accordance with Model Procedures for the Management of Land

Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use and to protect human health.

9. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.