

ITEM

Application Reference	DC/082734
Location:	Richmond Court 214 Moss Lane Bramhall Stockport SK7 1BD
PROPOSAL:	Variation of conditions 1 and 10 of DC/058634 to facilitate the removal of the trees to the rear boundary of the site and their replacement with a laurel hedge together with new planting to the front of the site.
Type Of Application:	Minor Material Amendment
Registration Date:	21.09.2021
Expiry Date:	20211116
Case Officer:	Jane Chase
Applicant:	Mr. J Stott
Agent:	NJL Consulting

DELEGATION/COMMITTEE STATUS

4 objections – Area Committee. Called up by Cllr Bagnall

DESCRIPTION OF DEVELOPMENT

Planning permission was approved for this residential development in 2016 (DC058634) subject to the imposition of conditions requiring the carrying out of the development in accordance with specific plans (condition 1) and the submission and approval of a scheme of landscaping (condition 10). Condition 12 also confirmed that no existing tree within the site shall be cut down, topped, lopped, uprooted, wilfully damaged or wilfully destroyed without the prior written approval of the local planning authority, with the exception of those indicated otherwise on the approved plan.

This application seeks to vary conditions 1 and 10 by proposing an alternative scheme of landscaping to include the removal of the trees to the rear boundary of the site and their replacement with a new hedge. As originally proposed this new hedge would comprise the planting of 23no. laurels at 1m intervals and 2.5m to 3m high at the time of planting. This has since been amended as the request of the Council's Tree Officer to also include the planting of 5no. common hawthorn at 4m intervals and 14-16cm girth (heavy standard stock) with a 1.8m minimum clear stem.

The application advises that the existing conifers have grown too large and create issues of debris on the development and parked cars beneath. The proposed development would remove these trees and replace them with a substantial laurel hedge. Submitted with the application is a maintenance plan for the proposed hedge which will be allowed to grow to its natural height of around 7m.

SITE AND SURROUNDINGS

The application site is located on the south side of Moss Lane and accommodates a 4 storey apartment building with the 3rd floor of accommodation positioned within the hipped roof of the building. Access to the development off Moss Lane runs under the

building to a rear car park which spans the width of the site and shares a boundary with houses to the rear of the site within the Syddal Park Conservation Area.

The rear (south) boundary of the site is screened from residential properties on Syddal Road by a mature conifer hedge. The site is adjoined to the east by 218-222 Moss Lane, a two-storey property used for retail purposes with residential accommodation above south, and to the west by 212 Moss Lane, a two-storey building with front and rear dormers within the roof space used for office purposes. The adjoining houses and gardens to the rear of the site on Syddal Road fall within the Syddal Park Conservation Area, designated in 2005, which also adjoins the western boundary of 212 Moss Lane and marks the end of the District Centre. Immediately opposite the site lies 'The Tudors', a three-storey development of 18 apartments.



POLICY BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan includes-

- Policies set out in the Stockport Unitary Development Plan Review adopted 31st May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17th March 2011.

Saved policies of the SUDP Review

HC1.3 Special Control of Development in Conservation Areas

LDF Core Strategy/Development Management policies

H1 Design of Residential Development

CS8 Safeguarding and Improving the Environment

SIE1 Quality Places

SIE3 Protecting, Safeguarding and Enhancing the Environment

Supplementary Planning Guidance

Supplementary Planning Guidance does not form part of the Statutory Development Plan; nevertheless it does provide non-statutory Council approved guidance that is a material consideration when determining planning applications.

Design of Residential Development

National Planning Policy Framework

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) on 20th July 2021 and replaced the previous NPPF (originally issued 2012 & revised 2018 and 2019). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

Para.1 “The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.

Para.2 “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Para.7 “The purpose of the planning system is to contribute to the achievement of sustainable development”.

Para.8 “Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed,*

beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

Para.11 “Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

Para.12 “.....Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.

Para.38 “Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.

Para.47 “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.

Para.126 “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”

Para. 130 “Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built

environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

Para. 131 “Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.”

Para.134 “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”

Para. 174. “Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) 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);

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

Para. 189 “Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their

significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”

Para. 195 “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

Para. 197 “In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.”*

Para. 199 “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

Para. 200 “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”

Para. 201 “Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.”*

Para. 202 “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

Para.219 “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”

Planning Practice Guidance

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March

2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

RELEVANT PLANNING HISTORY

DC058634 - Demolition of two semi-detached dwellings and erection of residential development comprising nine apartments on four levels over a service basement
Approved with conditions May 2016

NEIGHBOUR'S VIEWS

The application has been advertised by way of a site and press notice and the occupiers of neighbouring properties have been notified in writing. 4 letters have been received objecting to the application on the following grounds:-

- The original planning approval was granted with the boundary trees remaining to give privacy to the houses on Syddal Rd. It is doubtful permission would have been granted without the trees remaining in place.
- The trees have not been pruned on the Moss Lane side so overhang the car park to a large degree. If they were serious about controlling bird damage then they should prune back the trees. Planting trees that only grow at about 300mm a year is not a solution and birds will soon start to roost again. The problem with roosting birds is a well known issue and should have been foreseen by the developer. There are purpose made shelters that would solve the problem and allow the trees to remain to preserve our privacy.
- Richmond Court is outside but adjacent to the Syddal Park Conservation Area. The rear boundary trees are mature and form high landscaping which screens public and private views of the apartment block. The setting of the Conservation Area would be impacted if the trees are removed. There is a public, wide line of sight (pavement view) between house numbers 14 & 16 Syddal Road. The trees are currently the only public view. If the trees are removed Richmond Court's rear balconies and large windows will dominate the background landscape which clashes with the spirit of the Conservation Area.
- The removal of the existing trees will cause properties to the rear to suffer an invasion of privacy from the rear facing balconies and windows. Residents of Richmond Court will have a direct line of sight into properties on Syddal Road.
- The submitted drawings are not accurate as one of the trees in the car park away from the rear boundary was removed some time ago.
- The removal of the trees will have a harmful impact on the setting of the adjacent Conservation Area.
- The removal of the existing trees would have an adverse effect on the ecology of the site.
- The proposed drawing shows the removal of 16 trees. The proposed mitigation for the loss of trees is the implementation of a laurel hedge which is not compensation for loss of mature trees.
- A 20-25L pot Prunus laurocerasus would be hedge plants smaller than the height specified. The specified height of planting would require a much larger pot size circa 100L which would be difficult / impossible to plant into the locations shown.
- The proposed mitigation for loss of trees would not result in a boundary screen to compensate for the loss of the +11m tall evergreen boundary. Prunus Laurocerasus achieves a mature height of 4-8m with favourable ground and planting conditions. The constrained planting zone on site would restrict the growth of the proposed planting and thus screening potential – therefore the planting would not provide suitable screening to the adjacent properties.
- The planting height does not consider the level change between site and the properties within the Conservation Area, our garden is circa 1.0 to 1.2m higher. The

hedge at the time of planting at 3m will be approximately the same level as the top of our fence, due to the level difference this will offer no screen at all. I have taken the advice of an arboriculturist, and a Laurel Hedge will grow approximately 300mm per year in favourable conditions, so that's 13 years to reach the height stated in the covering letter. The reality is the growing conditions are not favourable, therefore the proposals are wholly inadequate.

- The developer has not implemented the planting as per the proposed scheme and planning conditions, and as such is in breach of the planning approval in place. This also indicates the reluctance to implement any approved landscape planting as approved.

- We note the proposal is for the Sycamore to remain, this too overhangs the car parking spaces so not sure why this doesn't present a bird fouling issue too.

- The line of trees does provide some acoustic separation from the village centre, and noise from patrons leaving bars and restaurants, staff empty bottle bins etc can be heard at night, this will be exacerbated if the trees are removed and will therefore be of concern.

- The applicant should be advised to look at alternative solutions which would allow the retention of the existing trees, and resolve the bird dropping issue whilst providing a positive environmental benefit – such as a carport structure with a green roof.

CONSULTEE RESPONSES

Tree Officer – no objections to the amended proposals which with the inclusion of common hawthorn will enhance the biodiversity value of this boundary treatment.

ANALYSIS

When planning permission is granted, development must take place in accordance with the permission, conditions attached to it, and with any associated legal agreements. New issues may however arise after planning permission has been granted, which require modification of the approved proposals.

Where these modifications are fundamental or substantial, a new planning application under section 70 of the Town and Country Planning Act 1990 will need to be submitted. Where less substantial changes are proposed, an application seeking a minor material amendment under S73 of the Town and Country Planning Act 1990 can be submitted.

Permission granted under S73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is then open to the applicant to decide whether to implement the new permission.

The S73 application is determined in accordance with the Development Plan together with any other material considerations.

At the heart of the NPPF is a presumption in favour of sustainable development (para10). Para 11 of the NPPF reconfirms this position and advises that for decision making this means approving developments that accord with an up to date development plan or where there are no relevant development plan policies granting planning permission unless:

- the application of policies in the Framework that protect areas or assets of importance (that includes those specifically relating to the protection of heritage assets) provides a clear reason for refusing planning permission or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

The main issues for consideration are the impact on the amenities of the neighbouring residential occupiers and the setting of the Conservation Area together with the ecological impact arising from the replacement of the existing trees with that proposed. This assessment is set out below.

Impact on Residential Amenity

In approving the redevelopment of this site in 2016 (DC058634) it was noted that the distance between the development on this site and houses to the rear on Syddal Road exceeded the privacy distances set out in the Council's SPD 'Design of Residential Development'. The presence of the mature conifer hedge on the rear boundary and its screening of the development from the adjacent properties and Conservation Area was also acknowledged in the assessment of this development. It is important to note however that this development was never approved simply because of the screening of the development by this hedge nor was it suggested that without this screening the development would have a harmful impact and would have been refused planning permission.

This is an important consideration as the permanent retention of such screening cannot be assured given that trees die, become damaged and are often removed. As such whilst such features may assist in securing a satisfactory form of development in terms of landscaping and biodiversity, and conditions will be imposed to secure their retention for these reasons, the screening afforded from them is rarely used as a justification for approving otherwise unacceptable development.

Core Strategy policies H1 and SIE1 require residential developments to maintain good standards of amenity and privacy for existing housing. This position is reflected in the NPPF at para 130. The Council's SPD for Design of Residential Development also acknowledges that:

"a feeling of privacy, both within the dwelling and the associated garden, is a widely held desire that the Council has a duty to secure for the occupants of new and existing housing.....In general terms, the design and layout of the development should minimise the degree of overlooking between new houses and should not impose any unacceptable loss of privacy on the residents of existing dwellings."

The SPD advises that between habitable room windows on the private or rear side of dwellings there should be a minimum distance of 31m for 4 storey development. Between habitable room windows and the site boundary there should be 12m. The distance between the rear elevation of the residential development on this site and that of the houses on Syddal Road is circa 40m. This exceeds that suggested as appropriate in the SPD by 9m. The distance between the rear elevation of the residential development on this site and the boundary with houses on Syddal Road is circa 18m. This exceeds that as suggested appropriate in the SPD by 3m.

On this basis and even without any screening afforded by trees or a hedge on the boundary, the siting of the development in relation to the houses to the rear on Syddal Road exceeds the privacy distances set out in the SPD. As such, it is not considered that an unacceptable impact in relation to overlooking of these adjacent houses or gardens would arise and on this basis, objections regarding a loss of privacy cannot be sustained. It is acknowledged that residents are concerned in this respect and that visibility between the development and neighbouring properties will be possible that currently does not exist however given the exceedance of the privacy distances in the SPD, the Council could not sustain a refusal of planning permission.

It is also accepted that at the time of planting, the hedge will clearly not offer the same level of screening as the existing trees do and that it will take time to reach the proposed height of 7m. In time however the hedge will afford more screening than it does at the outset. It is however important to reiterate that the grant of planning permission was not justified because of the screening afforded on the boundary by the conifers but rather, was considered in any event to be of an acceptable size, siting and design. As such, any impact on the neighbouring occupiers until such a time as the proposed hedge has matured, would not be unacceptable nor justify the refusal of this application.

The reference by objectors to the difference in ground levels between the site and neighbouring gardens is noted however having regard to the exceedance of the privacy distances and the screening that will be afforded from the planting proposed, it is not considered that any impact would justify the refusal of planning permission.

For the above reasons the proposal is considered compliant with Core Strategy policies H1 and SIE1, para 130 of the NPPF and the Council's SPD for Design of Residential Development.

Impact on the Setting of the Conservation Area

Saved UDP Review policy HC1.3 confirms that development proposals outside of a Conservation Area which would affect its setting or views out of the area will not be permitted unless the siting, scale, design, materials and landscaping of the development are sympathetic to the site and surroundings. Policy SIE3 of the Core Strategy confirms that harm to the significance of a heritage asset through development within its setting will require clear and convincing justification. This position is reflected in chapter 16 of the NPPF at para's 195 and 200.

In approving this development under application DC058634 it was noted that the development was very similar to that previously approved under DC051511 in terms of the design approach, size and siting. The Officers report notes that as with this earlier application, there were no objections to the approach adopted in terms of the impact of the development upon the character of the locality and streetscene which can be described as mixed in this locality. It was also noted that private views from the adjoining Conservation Area would be screened to a large extent by the mature and high landscaping which forms the rear boundary. For these reasons it was not considered that the proposed development would affect the setting of the Conservation Area. It is important to note that there is no reference in the report to the impact of the development upon the adjacent Conservation Area only being acceptable because of the screening afforded by the conifers and that without this screening there would be such an unacceptable impact that the development would be refused planning permission.

It is acknowledged that the removal of the conifers will increase views of this development from the neighbouring private rear gardens within the adjacent Conservation Area however in time these views will be softened as the replacement planting grows. As shown in the aerial image below the development will also be seen in the context of the rear elevations of adjacent development of a similar scale and as such will not appear out of keeping with the context of development within which it is located. As such and noting that any public views of the development from Syddal Road will be restricted to glimpses between dwellings, it is not considered that the resulting impact of the development arising from the replacement of the planting on the boundary will cause harm to the significance of the adjacent Conservation Area or views out of it.



For the above reasons the proposal is considered compliant with saved UDP Review policy HC1.3, Core Strategy policy SIE3 and chapter 16 of the NPPF.

Ecological Impacts

Core Strategy policy CS8 confirms that development which is landscaped to a high standard and which makes a positive contribution to a sustainable and attractive built and natural environment will be given positive consideration. Development will be expected to make a positive contribution to the protection and enhancement of the Borough's natural environment and biodiversity.

This is reflected in policy SIE1 which confirms that development which is landscaped to the highest standard will be given positive consideration. Specific account should be had of the potential to incorporate appropriate landscaping.

Policy SIE3 confirms that proposals affecting trees which make a positive contribution to amenity should make provision for the retention of the vegetation unless there is justification for felling. Even where there is justification the proposal should maximise the potential for replacement planting of appropriate species.

The trees to be removed comprise conifers which in terms of biodiversity offer less than native species. They provide a habitat that supports less bird and insect life and as they allow less light to penetrate to ground level, there is less opportunity for other plants to grow around them. In ecological terms there is little objection to their loss.

It is accepted that the planting of laurels will also bring little benefit to biodiversity which is why amendments have been secured to also introduce native planting in the form of common hawthorn. This species presents blossom in the spring which once pollinated produces berries. Common hawthorn can support more than 300 insects, its flowers are eaten by dormice and provide nectar and pollen for bees and other pollinating insects. The berries are eaten by birds as well as small mammals and the dense, thorny foliage provides shelter for many species of bird.

From an ecological perspective therefore, there are no objections to the loss of the conifers. That proposed whilst also including non native planting, does provide for native common hawthorn which will aid biodiversity. In this respect the proposal is considered compliant with Core Strategy policies CS8, SIE1 and SIE3.

Other Matters

In response to the objections received which have not been addressed above, Members are advised as follows:

- It is noted that the branches of the existing trees overhang the car park and if they were cut back then it is accepted that this would assist in reducing the damage caused to parked vehicles from bird droppings. The removal of all these overhanging branches to one side of these trees only would however be harmful to the stability and health of the trees. Furthermore the removal of all the branches would result in little or no growth to one side such that only the trunks are visible. It is considered that this would have a negative impact upon the appearance of the trees as well as detracting from the visual amenities of the area. The benefit with the planting proposed is that it is a more upright form of planting than the existing conifers such that the branches will not project over the parked cars thus reducing the damage caused by roosting birds. It is accepted that there may be other forms of development such as a covered car port that would enable the retention of the conifers and protect parked cars, however, this application must be determined on its merits and not in relation to what other forms of development could be proposed.
- It is noted that one of the trees which is shown to be removed (adjacent to the south west corner of the site and projecting out over the car park) has already been removed. This however does not affect the merits of this current proposal.
- Any breach of the conditions imposed on the planning permission can be investigated if reported to the Council's Planning Enforcement section. This does not however prevent the consideration of this application.
- It is noted that the applicant has chosen not to propose the felling of the existing Sycamore which also overhangs part of the car park. This however does not undermine the determination of this application.
- The grant of planning permission for this development made no reference to the need to retain the conifers so as to provide attenuation from night time noise in the District Centre. As such this cannot be used as a reason to oppose the grant of planning permission for the removal of these trees. Given the short extent of this screening (circa 21m) it is unlikely that it provides any meaningful attenuation from noise pollution noting that other boundaries to the District Centre to the north east and east are fairly open.

Conclusions

This development was never approved simply because of the screening afforded by the hedge nor was it suggested that without this screening the development would have a harmful impact on residential amenity or the adjacent Conservation

Area sufficient to refuse planning permission. A harmful development is rarely approved because screening exists on a boundary as it cannot be guaranteed that the screening will remain in perpetuity (noting that trees die, become damaged or are removed for one reason or another).

The siting of this development relative to the neighbouring properties to the rear exceeds the Council's privacy distances as set out in the SPD 'Design of Residential Development'. As such, even if there were no hedge present to screen this development there would not be an unacceptable impact on privacy or visual intrusion.

It is accepted that the proposed hedge may not provide the same level of screening that it afforded at present however given the above, it is not considered that there are ground to refuse the grant of planning permission.

RECOMMENDATION Grant subject to conditions