



**Town and Country Planning Act 1990**

**OUTLINE PLANNING PERMISSION**

**Name and Address of Applicant**

Persimmon Homes (South Midlands) Ltd  
Persimmon House  
Birmingham Road  
Studley  
Warks  
B80 7BG

**Name and Address of Agent (if any)**

Pegasus Planning Group  
6-20 Spitalgate Lane  
Cirencester  
Glos  
GL7 2DE

**Part I - Particulars of Application**

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Date of Application: 6th February 2004

Application No: 04/00182/OUT

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Grid Ref: Easting: 377336 Northing: 248317

PROPOSAL: Redevelopment for housing, employment (Class B1), community school, local centre, open space, landscaping, site roads, amendment of existing access and creation of new access.

LOCATION: DRA North Site Leigh Sinton Road Malvern

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**Summary of Reasons for Approval**

This decision to grant planning permission takes into account the provisions of the Worcestershire County Structure Plan, The Malvern Hills District Local Plan and, where applicable, the Leominster District Local Plan (Tenbury Wells Area), in particular, the key policies set out below, and all other material considerations. It was considered that, on balance, the development was generally in accordance with the Development Plan and was not outweighed by any other material consideration.

DS09 Meeting the strategic employment land requirement

DS16 Development and Flood Risk

DS18 Planning Obligations

EP4 Design Standards for Employment Sites

QL01 Design of New Development

QL02 Protection and enhancement of greenspace in and adjacent to Malvern

QL18 Protected Species

QL19 Protection of Wider Biodiversity

QL20 Creation of Habitats

QL21 Landscaping

QL22 Protection of Trees, Woodland & Hedgerows

QL24 Landscape Character

QL27 Foul Drainage

QL26 Pollution Control

QL28 Surface Water Drainage

QL29 Contaminated Land

QL30 Renewable Energy

ST02 Public Transport, Walking and Cycling

ST03 Parking, Servicing and Commuted Parking Requirements

ST04 Minimising Travel Impacts

SD1 Prudent Use of Natural Resources

SD2 Care for the Environment

SD3 Use of Previously Developed Land

SD4 Minimising the Need to Travel

SD6 Location of Development in Urban Areas

SD7 A Sequential Approach to the Location of Development

CN01 Dwelling Mix

CN02 Providing Affordable Housing in New Housing Development

CN06 Efficient Use of Land for Residential Development

CN12 Provision of Public Open Space

CN14 Recreation, Sports and Leisure Facilities

CN15 Provision of New Local Shopping Facilities

DS01 The Location of Development

DS02 Sustainable Development

DS03 General Development Requirements

DS04 Meeting the Strategic Housing Requirement

DS05 Housing sites within the Malvern urban area

DS06 Phasing of residential allocations

DS07 North Site

DS08 The Strategic Employment Land Requirement

CF1: Housing within the Major Urban Areas

CF3: Levels and distribution of housing development

PA3: High-Technology Corridors

PA14: Economic Development and the Rural Economy

CTC1 Landscape Character

CTC5 Trees, Woodlands and Hedgerows

CTC6 Green Open Spaces and Corridors

CTC8 Flood Risk and Surface Water Drainage

CTC9 Impacts on Watercourses and Aquifers

CTC13 Protection of Species

CTC16 Archaeological Sites of National Importance

CTC17 Archaeological Sites of Local Importance

D1 Overall Level of Provision

D3 New Housing Provision

D4 Distribution of Housing Provision

D6 'Affordable' Housing Needs

D9 Density of Housing Development

D19 Employment Land Requirements

D26 Office Development (Class A2 and Class B1)

D43 Crime Prevention and Community Safety

T1 Location of Development

T2 Resources

T4 Car Parking

T10 Cycling and Walking

RST3 Public Rights of Way

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## Part II - Particulars of Decision

The Malvern Hills District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act, 1990 that **Outline permission has been granted** for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions (if imposed):

- 1 Approval of the details of the siting, design and external appearance of the building(s), means of access thereto (other than provided for by condition nos. 12 and 13) and the landscaping of the site ("the reserved matters") in each phase of the development shall be obtained from the Local Planning Authority in writing before any development in that phase is commenced.

Reason: To enable the Local Planning Authority to exercise proper control over these aspects of the development in accordance with Policy CTC1 of the Worcestershire County Structure Plan and Policy DS3 of the adopted Malvern Hills District Local Plan.

- 2 Applications for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of six years from the date of this permission.

Reason: Required to be imposed pursuant to Section 92(2) of the Town and Country Planning Act 1990 (as amended), having regard to the scale of development proposed and the likely phasing.

- 3 The development hereby approved must be begun not later than:-

(i) the expiration of three years from the date of this permission; or  
(ii) if later, the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: Required to be imposed pursuant to Section 92(2) of the Town and Country Planning Act 1990 (as amended), having regard to the scale of development proposed and the likely phasing.

- 4 The development hereby approved shall be carried out in accordance with the District Council's approved Development Brief for the site unless otherwise approved in writing by the Local Planning Authority.

Reason: The District Council's North Site Development Brief has been the subject of extensive public consultation and has been adopted as Supplementary Planning Guidance. The development should be carried out in accordance with this document in the interests of achieving a high quality form of development.

- 5 Before the development hereby approved is commenced, a Masterplan shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan shall be based on the provisions of the District Council's development brief referred to in condition no.4 above and shall provide details of the disposition of land uses for the residential development (open market and affordable), employment, local centre, education facilities and public open space and the detailed phasing of the development. The Masterplan shall also provide details of the site road hierarchy including home zones and bus stop facilities, cycle and pedestrian circulation routes and connections (including the retention of the existing public footpaths).

The development shall be carried out in accordance with the details so approved.

Reason: To ensure that the site is coherently and comprehensively developed and appropriately integrated into the surrounding area in accordance with Policy CTC1 of the Worcestershire County Structure Plan and Policies DS3 and DS7 of the adopted Malvern Hills District Local Plan.

6 The development hereby approved shall:

Provide at least 390 dwellings but no more than 490 dwellings.

Provide for 3.5 hectares of Class B1 employment land,

Provide not less than 2.4 hectares (6 acres) of public outdoor playing space per 1000 population. This shall be subdivided into the following types of space:

- a) children's equipped play space, a minimum of 0.2 hectares (0.5 acre) per 1000;
- b) children's informal play areas, a minimum of 0.4 hectares (1 acre) per 1000; and
- c) playing field / sports ground for youth and adult use, a minimum of 1.6 hectares (4 acres) per 1000 population of which at least 1.2 hectares shall be for sports pitches. (1 adult grass pitch and 1 junior grass pitch).

Provide for a one form entry community primary school,

Provide a new local centre which includes local shopping facilities (subject to commercial viability in accordance with schedule 15 of the Section 106 legal agreement dated 15th December 2006. Any Class A1 retail unit shall not exceed 250 square metres floor area (net).

Provide for a community facilities building including changing facilities for 2 teams and 1 official, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the redevelopment of this site contributes towards meeting the housing, employment, leisure, recreation and community needs of the District and the the development itself in accordance with Policy D2 and D19 of the Worcestershire County Structure Plan and Policies DS1, DS4, DS5, DS7, CN6 and CN12 of the adopted Malvern Hills District Local Plan.

7 Details of the phasing of the land uses specified in condition nos.5 and 6, the infrastructure and facilities to be provided, shall be submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters application. The details of the phasing shall provide for the construction of the internal distributor road (to include the provision of a new bus stop and shelter), the closure of the "tank road" to motorised traffic, and the construction of the associated north and south access to the site and their interconnection. The details of the phasing shall also provide for the implementation of the surface water attenuation scheme and works to the Whippets Brook water course, provision of the serviced site for the community primary school, the local centre including local retail facilities, recreation facilities, public open space and the removal of the existing security fencing around the site perimeter. The development shall be carried out in accordance with the details so approved.

Reason: To ensure that this site is redeveloped coherently and comprehensively, that the site can be appropriately served by public transport and encourages walking and cycling to reduce car dependency, to ensure the whole site is appropriately drained, to safeguard and enhance biodiversity and to allow the Local Planning Authority to consider the disposition of land uses and their inter-relationships, in accordance with Policies SD4, CTC6, CTC8, CTC12, CTC13, T1 and T10 of the Worcestershire County Structure Plan and Policies ST2, QL17, QL18, QL19 and QL20, of the adopted Malvern Hills District Local Plan.

8 The reserved matters shall include provision for public open space, amenity areas, play areas and strategic landscaped areas. The plans submitted shall define the boundaries for such areas, their proposed uses, age groups for which they are intended and the items of equipment, means of enclosure and all other incidental structures, including street furniture, seating, public art, pedestrian shelters, lighting and covered cycle parking which it is proposed to install.

The plans shall also provide for the landscaping of all such areas. The approved landscaping scheme shall be carried out concurrently with that phase of the development and shall be completed within one year of substantial completion of that phase of the development. Any trees or shrubs dying or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted. The landscaping/planting required to be carried out shall be retained and maintained in accordance with the approved scheme.

The submitted plans shall also include a full design and build specification for the proposed formal sports pitch areas and the buffer to Whippets Brook. The submitted details shall also provide for the phased implementation of all public open spaces and such public open space shall be completed in accordance with the details so approved.

The reserved matters shall include details of the proposed maintenance arrangements for all areas of public open space.

Reason: To ensure that the site is redeveloped in such a way as to provide an attractive environment in which to live and work in accordance with Policy CTC1 and SD2, of the Worcestershire County Structure Plan and Policies DS7, QL1 and QL21 of the adopted Malvern Hills District Local Plan.

- 9 Before any development hereby approved is commenced on site, details of all trees and hedgerows to be retained on the site, as well as trees and hedgerows on or overhanging the site boundaries and a specification for temporary protective fencing and its location around such trees and hedgerows, having regard to advice in BS5837:2005 shall be submitted to and approved in writing by the Local Planning Authority. All such trees to be retained shall be protected in accordance with the details so approved before any development is commenced on site, including site preparation works or related storage or demolition of any existing buildings. The temporary protective fencing shall be retained in the agreed position until the development is completed or until otherwise agreed in writing by the Local Planning Authority.

All proposed functional services above and below ground (i.e drainage, power, communication cables, pipelines, indicating lines, inspection points and supports), materials, machinery or equipment shall be excluded from the areas to be protected around trees and hedgerows to be retained on site, having regard to advice in BS5837:2005.

No access, works or placement of materials or soil shall take place within the protected areas around trees to be retained without the prior written approval of the Local Planning Authority. No burning or storage of materials shall take place where damage could be caused to any tree, shrub or natural feature to be retained on the site or adjoining land.

Reason: To ensure that all proposed and re-utilised services are constructed or re-commissioned such that the health of existing trees to be retained as part of the development is safeguarded. The existing trees to be retained will form an important part of the development in terms of public amenity and provide a buffer with the adjacent countryside. To secure the well being of the trees and hedgerows to be retained which make a positive contribution to the character and appearance of the site and the surrounding area and enhance the site as a biodiversity asset in accordance with Policies SD2, CTC1, CTC12, CTC13 and CTC14 of the Worcestershire County Structure Plan and Policies DS2, DS3, DS7 and QL1 of the adopted Malvern Hills District Local Plan.

- 10 Details of the phased implementation of the hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place in any phase until full details of the landscaping works for that phase have been submitted to and approved in writing by Local Planning Authority. The details shall include survey details of all existing trees and hedgerows and identify those to be removed and those to be retained. Retained trees shall be those defined in accordance with condition no.9. All planting, seeding or turfing comprised in the approved details of landscaping as referred to in this condition, condition no.1 and condition no.8 shall be carried out in accordance with the approved programme of implementation; and any trees or shrubs uprooted, removed, destroyed, dying or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted and shall be planted at such time as may be specified in writing by the Local Planning Authority. The landscaping/planting required to be carried out shall thereafter be retained and maintained in accordance with the approved scheme.

Reason: To secure the highest environmental quality of comprehensive redevelopment in accordance with Policy SD2, CTC1, CTC12, CTC13 and CTC14 of the Worcestershire County Structure Plan and Policies DS3, DS7, QL1 and QL21 of the adopted Malvern Hills District Local Plan.

- 11 The reserved matters shall include a schedule of all the materials to be used in the external surfaces of all buildings in each phase of the development. The schedule shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that phase of the development. The development shall be carried out in accordance with the details so approved.

Reason: To ensure that the character and appearance of the development is sympathetic to the character and appearance of the surrounding area and is locally distinct in accordance with Policy SD2 and CTC1 of the Worcestershire County Structure Plan and Policies DS2, DS3, DS7 and QL1 of the adopted Malvern Hills District Local Plan.

- 12 The North access to the site as shown on Drawing No. 50602/170D shall be consolidated, surfaced, drained, lit and otherwise constructed in accordance with details and specifications to be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority, before the first dwelling is occupied.

Reason: To ensure the safe and free flow of traffic on the public highway.

- 13 The South access to the site and the alterations to Leigh Sinton Road Service Road as shown on Drawing No. 50602/177D (or such later revision that has been submitted to and approved in writing by the Local Planning Authority) shall be consolidated, surfaced, drained, lit and otherwise constructed in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, before the 200th dwelling on the site is first occupied.

Reason: To ensure the safe and free flow of traffic on the public highway.

- 14 The improvements to the Link Top (Newtown Road) junction as shown on drawings nos 50602/140B or 50602/141B or 50602/142 shall be consolidated, surfaced, drained, lit and otherwise constructed in accordance with schedule 4 of the Section 106 legal agreement dated 15th December 2006 and in accordance with separate details and specifications to be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure the proper construction of this junction and the safe and free flow of traffic on the public highway.

(Note: Alternative schemes for improvements to this junction are subject to a Section 106 legal agreement and details set out on drawing no.50602/141B and 142).

- 15 No dwellings constructed on this site, pursuant to this permission shall be first occupied until the improvements to the A449, Lower Howsell Road junction as shown on Drawing No. 5062/130E have been consolidated, surfaced, drained, lit and otherwise constructed in accordance with details and specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure the safe and free flow of traffic on the public highway.

- 16 The improvements to the A4104/B4503 Leigh Sinton junction as shown on Drawing [50602/150D] shall be consolidated, surfaced, drained, lit and otherwise constructed in accordance with details and specifications to be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority. Such construction shall be commenced within 12 months of the implementation of the development hereby approved and be completed not later than 18 months following the implementation of this permission. No more than 200 dwellings shall be constructed on the site pursuant to this permission until the junction improvements shown on drawing no. [50602/150D] have been completed.

Reason: To ensure the safe and free flow of traffic on the public highway.

- 17 The improvements to Cowleigh Road/Cowleigh Bank junction as shown on Drawing [ 50602/160A ] shall be consolidated, surfaced, drained, lit and otherwise constructed in accordance with schedule 5 of the section 106 legal agreement dated 15th December 2006 and in accordance with separate details and specifications to be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure the safe and free flow of traffic on the public highway.

- 18 Details of the permanent directional signage (and details of illumination) to the site, to be informed by the concept details shown on drawing no.44357/062 including the location, size and design of the signs shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority before the first occupation of the first dwelling. The signage so approved shall be erected before the first occupation of the first dwelling.

Reason: To ensure the safe and free flow of traffic on the public highway and encourage this as the main route to the site from Worcester and the M5 Motorway.

- 19 Prior to the commencement of the development hereby approved or such other period that has been agreed in writing by the Local Planning Authority), details of the design, layout, levels, gradients and finished surface materials of all roads including public transport routes, footways and traffic calming measures forming part of each phase of the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new building shall be first occupied until that part of the vehicular and pedestrian access thereto has been constructed to a standard that has been agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is of an appropriately high standard of design, to ensure the safe and free flow of vehicles and pedestrians within the site and to ensure that Home Zone criteria are adhered to in accordance with Policy T10 of the Worcestershire County Structure Plan and Policies DS7 and QL1 of the adopted Malvern Hills District Local Plan.

- 20 No development approved by this permission shall be commenced until a scheme for the phased provision and implementation of surface water run off limitation, including a balancing pond and appropriate sustainable urban drainage (SUD) system techniques, which improve water quality and amenity, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, the Environment Agency and Severn Trent Water Ltd. The development shall be carried out in accordance with the details so agreed.

Reason: To prevent flood risk and provide for water quality and biodiversity benefits, through the incorporation of SuDS in accordance with Policy CTC8, CTC9, CTC12 and CTC13 of the Worcestershire County Structure Plan and Policies QL18, QL19, QL16 and QL28 of the adopted Malvern Hills District Local Plan.

- 21 Prior to the commencement of the development hereby approved, a specification (including methodology and programme of implementation) for the works necessary to Whippets Brook to remove existing obstructions, trees and the bank undercut by erosion as indicated by the Environment Agency (photographs received 10th June 2005), incorporating a detailed scheme for the conservation of habitat for associated wildlife and in a manner which enhances the habitat for White Clawed Crayfish shall be submitted to and approved in writing by the Local Planning Authority. The works so approved, shall be carried out and completed before any dwelling is constructed on the site.

The specification referred to above shall include a Method of Working Statement including pollution prevention measures to protect the Whippets Brook from pollution (for example, by silt, soil, oil, cement, concrete and chemicals etc) during the demolition and construction works.

Before the first occupation of the first dwelling on the site, details of the future management and maintenance of Whippets Brook and the wildlife corridor within the associated landscape buffer as shown hatched dark blue on drawing no.44357/087A shall be submitted to and approved in writing by the Local Planning Authority.

All natural aquatic features and associated vegetation within the Whippets Brook buffer zone shall be retained unless otherwise approved in writing by the Local Planning Authority and protected from physical disturbance and pollution prior to the commencement and for the duration of the construction phase of the development.

Reason: To safeguard and enhance biodiversity and prevent pollution of the water environment in accordance with Policy CTC8, CTC9, CTC12 and CTC13 of the Worcestershire County Structure Plan and Policies QL18, QL19, QL16 and QL28 of the adopted Malvern Hills District Local Plan.

- 22 Prior to the commencement of the development hereby approved details of a scheme for the disposal of foul sewage to the mains public sewerage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason: To provide a sustainable and satisfactory method of foul water disposal in accordance with Policy SD2 of the Worcestershire County Structure Plan and Policies DS3 and QL27 of the adopted Malvern Hills District Local Plan.

- 23 No development approved by this permission shall be commenced until full details of the phased remediation measures to be undertaken to any residual contamination on the site have been submitted to and approved in writing by, the Local Planning Authority. The phased remediation shall be carried out in accordance with the details so approved and the Local Planning Authority shall be advised in writing when each phase of remediation has been completed.

Before the development hereby approved is commenced, a scheme for the monitoring of groundwater and surface water shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, sampling and monitoring results, on a quarterly basis shall be submitted to the Local Planning Authority in accordance with the approved monitoring scheme specifically and in writing. Future monitoring proposals and reporting shall also be detailed in the report with all measures needed to render the development safe and water environment protected submitted to and approved in writing by the Local Planning Authority, in accordance with a timetable to be agreed in writing by the Local Planning Authority.

Reason: To monitor the groundwater quality and through site investigations and remediation ensure that the development will not cause pollution of the water environment in accordance with Policies SD2 and CTC9 of the Worcestershire County Structure Plan and Policy QL29 of the adopted Malvern Hills District Local Plan.

- 24 Prior to the commencement of the development hereby approved details of phased on-site parking for site operatives, delivery areas, site compound locations and materials and top-soil storage areas, a specification for a wheel washing facility and details of on site accommodation for the Community Link Officer shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided on the site in accordance with the details so approved and shall be retained throughout the period of construction.

Reason: To ensure that such facilities are provided on site and that site operatives and discouraged from parking on the public highway. To minimise the transfer of deleterious material being transferred onto the public highway from the site. To ensure that the Community Link Officer is appropriately accommodated on site.

- 25 Prior to the commencement of the development details of on-site supervision whilst construction work is taking place, together with method of communication with the Local Planning Authority and contact arrangements shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that appropriate lines of communication are open and maintained between the developers representative on site and the Local Planning Authority in the event that the Local Planning Authority or any Statutory Consultee needs to contact the developer in case of an emergency situation.

- 26 No construction or demolition works shall be carried out and no plant or machinery or power tools shall be operated in connection with site clearance, demolition or construction of the development before 07:00 hours on weekdays and Saturdays, nor after 18:00 hours weekdays and 13:00 hours on Saturdays, nor at any time on Sundays and Public/Bank Holidays.

Reason: To safeguard the amenities of adjacent occupiers.

- 27 No movement of vehicles or plant of 2499kg Gross Vehicle Weight and above shall occur to, from or within the site in connection with the site clearance or construction of the development before 07:30 hours on weekdays and 08:00 hours on Saturdays, nor after 18:00 hours on weekdays and 13:00 hours on Saturdays, nor at any time on Sundays and Public/Bank Holidays. In addition to the above, there shall be no movement of vehicles or plant of 2499kg Gross Vehicle Weight and above, into or out of the site between 08.30 hours and 09.00 hours at any time and between 15.20 hours and 15.50 hours on weekdays during school term times at Dyson Perrins Secondary School.

Reason: To safeguard the amenity of the area and avoid the times when school children will be arriving at and leaving Dyson Perrins Secondary School and primary schools in the locality, in the interests of highway/pedestrian safety.

- 28 Any facilities for the storage of oils, fuels or chemicals must be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To minimise the risk of pollution of rivers and watercourse and other surface waters in accordance with Policy CTC 9 of the Worcestershire County Structure Plan and Policies QL25, QL19 and QL26 of the adopted Malvern Hills District Local Plan.

- 29 The employment land use activities hereby approved shall be limited to use class B1 (b) and (c) only with ancillary offices as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended).

Please refer to informative no.11.

Reason: To ensure that the Class B1 use on this site is not solely offices, in accordance with the sequential test set out in Policy D26 of the Worcestershire County Structure Plan, and Policy DS7 of the adopted Malvern Hills District Local Plan.

- 30 Any lighting of the development shall be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/ cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Guidance Notes for the Reduction of Light Pollution issued by the Institute of Lighting Engineers published 2000.

Reason: To safeguard the amenities of adjacent residents and reduce the potential effect of light pollution on the character of the area in accordance with Policy CTC1 of the Worcestershire County Structure Plan.

- 31 No external lighting fixtures or moveable lighting for any purpose shall be constructed or used or installed whether for temporary or permanent use in each phase until details of all external lighting proposals have been submitted to and approved in writing by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with the details so approved.

Reason: To safeguard the amenities of adjacent residents and reduce the potential effect of light pollution on the character of the area in accordance with Policy CTC1 of the Worcestershire County Structure Plan.

- 32 Prior to the development in each phase being first brought into use (with the exception of any solely residential "housing" phases), details of refuse storage facilities (including that for apartments) shall be provided in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such facilities shall thereafter be retained to serve the development.

Reason: To ensure that refuse storage facilities are considered at an early stage as part of the comprehensive layout and design of each phase in the interests of achieving a high quality residential and commercial environment.

- 33 Prior to the commencement of any phase of the development hereby approved, details of facilities for the storage and collection of domestic recyclable materials (recycling micro-sites) including the recycling of green waste, within that phase shall be submitted to and approved in writing by the Local Planning Authority. The facilities so approved shall be provided before any building within that phase of the development is first brought into use and retained thereafter.

Reason: To maximise the opportunity and encourage residents and employers to recycle waste materials in accordance with DS3 of the adopted Malvern Hills District Local Plan.

- 34 No deliveries shall be made to and no goods, plant or other equipment despatched from any premises within Class B1 of the Town and Country Planning (Use Classes Order) (as amended), utilising vehicles of 2499kg Gross Vehicle Weight and above, outside the hours of 08:00 hours and 18:00 hours on weekdays and Saturdays, nor at any time on Sundays or on Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the area and adjacent residents.

- 35 No development shall take place within the area indicated on the 1:4000 site plan MH/04/0182-3 produced by the Worcestershire Historic Environment and Archaeology Service until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority.

Reason: To enable expert investigation of this site of archaeological interests during the excavation of the site in accordance with Policies CTC16 and CTC17 of the Worcestershire County Structure Plan and Policy QL14 of the adopted Malvern Hills District Local Plan.

- 36 Subsequent to any approval of reserved matters under condition no.1, and notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking or re-enacting that Order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed within the curtilage of any building forward of any wall of that building which fronts onto a road, public footpath or area of public open space as permitted by Schedule 2, Part 2, Class A, or any other part of that Order without first obtaining planning permission from the Local Planning Authority.

Reason: To ensure that the open character and appearance of the development is retained particularly in the case of Home Zones, in the interests of creating a safe and integrated residential and commercial community environment.

- 37 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, (or any Order revoking or re-enacting that Order), details of the design, location and external materials for any above ground structures required by any of the statutory undertakers shall be submitted to and approved in writing by the Local Planning Authority, before any such structures are constructed. The development shall be carried out in accordance with the details so approved.

Reason: To ensure that such development is of the same high standard of design as the principal buildings on the site.

- 38 Prior to the commencement of any development within each phase, a travel plan (to include details of a travel pack for all new residential occupiers and employees of the development) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, delivering sustainable transport objectives including measures to reduce car usage, measures to increase the use of public transport, walking and cycling for employees of commercial premises and residents of all new dwellings along with the promotion of transport links within Malvern. The approved travel plan (with any subsequently approved revisions), shall be implemented in accordance with the details so approved.

Reason: To ensure that the development accords with the sustainability objectives of the Development Plan, particularly Policy T1, RST14 and SD4 of the Worcestershire County Structure Plan and the guidance contained within PPG 13 "Transport" to reduce reliance on the private motor car.

- 39 The materials resulting from the demolition of any existing buildings on the site shall not be crushed or processed for re-use on site until such time as a method statement and programme for this activity has been submitted to and approved in writing by the Local Planning Authority. The method statement shall stipulate the extent, location and timing of such operations within each phase and include mitigation measures to reduce dust and noise nuisance for adjacent occupiers.

Reason: To safeguard the amenities of adjacent residents.

- 40 Prior to the commencement of any phase of the development hereby approved, a specification for all buildings to be constructed in that phase, detailing the proposed design features for "secured by design" and "eco-homes" for approval to an agreed standard "Good" in the case of eco-homes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason: To ensure that the detailed design of the buildings to be erected as part of this mixed use development take advantage of the opportunity to reduce crime and the fear of crime in accordance with Policy D43 of the Worcestershire County Structure Plan and Policy QL1 of the adopted Malvern Hills District Local Plan.

- 41 Prior to the commencement of any phase of the development hereby approved (or such other time that has previously been agreed in writing by the Local Planning Authority), details and specifications for all new buildings within that phase that will reduce total energy use and minimise long term running costs for the owners/occupiers shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include an assessment of energy conservation methods and products and include proposals relating to the building design, choice of materials and construction method, location, orientation, integration with other land uses, and products to be incorporated into the new buildings. The development shall be carried out in accordance with the details so approved for each phase.

Informative no. 12 refers.

Reason: To minimise energy consumption and the use of natural resources in accordance with Policy SD1 of the Worcestershire County Structure Plan and Policy QL1 of the adopted Malvern Hills District Local Plan.

- 42 Prior to the commencement of each phase of the development hereby approved, engineering details and specifications of the proposed site roads and highway drains shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure adequate and acceptable means of access is available before any dwelling or other building is first occupied.

- 43 No development in any phase approved by this planning permission shall be commenced until the following has been carried out for that phase:

a) A site investigation has been designed for the site using the information obtained from the desktop study (Land Quality Assessment dated March 2004), Geo-Environmental Report dated January 2006, and any diagrammatical representations (Conceptual Model). This should be submitted to, and approved in writing by the LPA prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable: a risk assessment to be undertaken relating to the receptors associated with the proposed new use, those uses that will be retained (if any) and other receptors on and off the site that may be affected, and refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.

b) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment undertaken.

c) A Method Statement detailing the remediation requirements using the information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site. The development shall be carried out in accordance with the approved method statement

If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval of the addendum(s) shall form part of the Method Statement.

Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

There should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason: To ensure that the proposed site investigations and remediation will not cause pollution of Controlled Waters and to ensure that the development complies with approved details in the interests of protection of Controlled Waters. In order to prevent pollution of the water environment in accordance with Policies SD2 and CTC9 of the Worcestershire County Structure Plan and Policy QL29 of the adopted Malvern Hills District Local Plan.

- 44 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking or re-enacting that Order with or without modification), no extensions within Classes A or B or C of Schedule 2, Part 1 of the Order shall be made to the affordable dwellings hereby approved (and referred to in the Section 106 legal agreement) without express planning permission being granted by the Local Planning Authority.

Reason: To ensure that any enlargement of the affordable dwellings can be considered in terms of the affect this would have either individually or cumulatively.

- 45 The affordable housing hereby approved shall be distributed throughout the development and shall not be concentrated in any particular phase, in accordance with details and a schedule of unit types to be submitted to and approved in writing by the Local Planning Authority as part of all reserved matters applications relating to residential phases of the development.

The affordable housing shall be constructed as follows:-

56 affordable housing units completed ready for occupation prior to the first occupation of the 65th Open Market Unit,  
112 affordable housing units completed ready for occupation prior to the first occupation of the 130th Open market Unit and  
168 affordable housing units completed ready for occupation prior to the first occupation of the 195th Open Market Unit

In the event of this site having capacity for more than 390 dwellings in total, the phasing of further affordable housing (following the first occupation of the 195th Open Market Unit referred to above), shall be carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The 200th Open Market Unit shall not be first occupied until such details have been approved in writing by the Local Planning Authority.

Reason: to ensure that the affordable dwellings are provided concurrently with the open market dwellings in the interests of ensuring that a balanced and mixed residential community develops on this site in accordance with Policy D6 of the Worcestershire County Structure Plan and Policy CN2 of the adopted Malvern Hills District Local Plan.

- 46 A landscape management plan for each phase of the development hereby approved, including long term proposed use and related design objectives of each public open space that is identified, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any new building constructed pursuant to this permission. The landscape management plan shall be carried out as approved.

Reason: To ensure that the use of these areas and their design objectives is defined, and management responsibilities and maintenance regimes are agreed in the interests of achieving an attractive mixed use environment in the long term, in accordance with Policy CTC1 and SD2 of the Worcestershire County Structure Plan and Policy QL21 of the adopted Malvern Hills District Local Plan.

47 The plans and particulars submitted in accordance with condition no.9 above shall include:

- a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
- b) details of the species, diameter (measured in accordance with paragraph a) above), and the approximate height, an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs c) and d) below apply;
- c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent the site;
- d) details of any proposed alterations in any existing ground levels, and of the position of any proposed excavation, (within the crown spread of any retained tree or of any tree on land adjacent the site or within a distance from any retained tree, or on land adjacent to the site, equivalent to half the height of that tree;

Reason: To secure the well being of the trees and hedgerows to be retained which make a positive contribution to the character and appearance of the site and the surrounding area and enhance the site as a biodiversity asset in accordance with Policy SD2, CTC1, CTC12, CTC13 and CTC14 of the Worcestershire County Structure Plan and Policies DS2, DS3, DS7 and QL1 of the adopted Malvern Hills District Local Plan.

48 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To minimise the risk of pollution of rivers and watercourse and other surface waters in accordance with CTC 9 of the Worcestershire County Structure Plan and Policies QL25, QL19 and QL26 of the adopted Malvern Hills District Local Plan.

49 Prior to the commencement of the development hereby approved, a specification (including methodology and programme of implementation) for the enhancement of biodiversity through the provision of features (boxes, lofts and /or tiles) suitable for roosting and hibernating bats shall be submitted to and approved in writing by the Local Planning Authority. The works so approved, shall be carried out in accordance with the approved programme of implementation.

Reason: To protect and enhance biodiversity on accordance with Policy CTC13 of the Worcestershire county Structure Plan and Policy QL20 of the adopted Malvern Hills District Local Plan.

## INFORMATIVES

1 With respect to condition no.6 the Local Planning Authority will expect the playing pitches and the changing facilities to comply with Sport England advice and specifications current at the time the details are submitted.

2 With respect to condition no.13, the developer has provided a commuted sum for the severance of the service road if this is necessary, by legal agreement under Section 106 of the Town and Country Planning Act 1990.

3 No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into.

4 The Applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system.

5 The attention of the applicant is drawn to the need to keep the highway free from any mud or other deleterious material emanating from the site or any works pertaining thereto.

6 The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.

7 This Decision Notice must be read in conjunction with the terms of a Legal Agreements)of the 15th December 2006. You are advised to satisfy yourself that you have all the relevant documentation.

8 Most contaminated soils are regarded as controlled waste. If controlled waste is to be deposited on the site then either a Waste Management License will be required or the applicant will need to register an exemption to licensing with the Environment Agency. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the licensable status of any proposed on-site operations is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

9 Most contaminated soils are regarded as controlled waste. Therefore, their handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- i.) Duty of Care Regulations 1991
- ii.) Special Waste Regulations 1996
- iii.) Waste Management Licensing Regulations 1994 (as amended)

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the licensable status of any proposed off site operations is clear. If in doubt, the Agency should be contacted for advice at an early stage to avoid any delays.

Only uncontaminated, chemically inert material should be used as fill on site.

10 Where lighting works are to form part of any highway alterations or improvements the design and installation shall be in compliance with BS EN 13201 2003 and BS EN 5489 1 2004. These schemes shall also be in accordance with Worcestershire County Councils specification and design guidance. The Worcestershire County Council will expect the design and specifications to be submitted to the highway Authority for approval prior to inclusion in any tender documents or contracts.

11 Any subsequent application for Class B1 a) Offices will be considered against the following Development Plan policies:- Policy D26 of the Worcestershire County Structure Plan and the stance taken in Policy DS7 of the emerging Malvern Hills District Local Plan.

12 In respect of condition no.41 the submitted details should include an appraisal of building insulation, remote and central heating systems, solar heating and power, passive ventilation, natural lighting,

- energy efficient lighting and glazing specifications.
- 13 You are hereby advised of the need to apply for and obtain a licence from English Nature before carrying out any works affecting the Whippets Brook and any White-clawed crayfish habitat.
- 14 The applicants attention is drawn to the route of public right of way no.12 that is adjacent the North Site.
- 15 All wild bird species are legally protected under the Wildlife and Countryside Act 1981 (as amended) from any form of disturbance between the onset of nest building and until such time as any dependent young have left the nest, principally from the end of March to the end of August.

Great Crested Newts are protected under both UK and European legislation and it is an offence to kill, injure or disturb them or obstruct access to places used for shelter. Work should be undertaken with due care and if Great Crested Newts are discovered during work on the development, all work should be halted and English Nature should be notified and further advice sought.

All species of bats and their roosts (whether the bats are present or not) are protected from reckless killing, disturbance or destruction under both national and European legislation. Cracks, cavities and holes in trees and buildings can provide suitable places for bats to rest or hibernate; these should be carefully inspected prior to carrying out any works. If bats are discovered during work on trees or are suspected of being present, the relevant work should be halted and English Nature notified and further advice sought.

- 16 Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from the site. This approach can also offer other benefits in terms of promoting groundwater recharge, water quality improvement and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy of surface water disposal which encourages a SUDS approach.

Further information on SUDS can be found in PPG25 paragraphs 40-42, PPG25 Appendix E, in the CIRIA C522 document Sustainable Urban Drainage Systems - design manual for England and Wales and the Interim Code of Practice for Sustainable Drainage Systems.

In order to ensure that any future discharges into Whippets Brook do not detrimentally affect White Clawed Crayfish, all proposals must be approved by English Nature. English nature Consent such works through the provision of a Crayfish Licence.

- 17 It will be necessary for English Nature to consent the works referred to in condition no.21 to carry out any works on or adjacent to the Whippets Brook or any discharge into the Brook, due to the presence of White Clawed crayfish (in accordance with the wildlife and Countryside Act). English nature consent such works through the provision of a Crayfish Licence.
- 18 In respect of condition no.23 due to the extent of the development and the timescales involved, quarterly monitoring will be appropriate for this site, at least until all demolition, reprofiling and foundations are complete. Upstream and downstream samples from Whippets Brook should be taken as well as samples from a number of on site boreholes, both up gradient and down gradient of contamination hotspots. the locations of monitoring boreholes and the proposed testing suite should be detailed in the monitoring scheme. The monitoring scheme should be submitted and agreed by the regulatory authorities prior to any remediation work commencing on site. The monitoring scheme should include results of further investigation and the details of the Risk Assessment, proposed remediation (including target concentrations) and the proposed monitoring strategy. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.
- 19 With respect to condition no.21, reference should be made to the relevant PPG5 "Works in, near or liable to affect watercourses"

Date: 15th December 2006

Development Control Manager (Planning Services)

The Council House Avenue Road Malvern Worcs WR14 3AF (See Notes Attached)

**Note:** This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under The Building Regulations - please Tel: 01684 862151 to check.

آپ انگریزی میں مدد چاہتے ہیں۔ نسلیاتی رسائی [Ethnic Access] سے رابطہ کریں فون: 01905 25121 [Urdu]  
ইংরেজি ভাষার বিষয়ে সাহায্য চান – এথনিক অ্যাকসেস [Ethnic Access] এর সঙ্গে যোগাযোগ করুন, টেলিফোন: 01905 25121 [Bengali]  
'Necessita de ajuda com o seu Inglês? – contacte Ethnic Access Tel.: 01905 25121' [Portuguese]  
'Potrzebujesz pomocy z Angielskim – skontaktuj się z Ethnic Access Tel: 01905 25121' [Polish]  
“如需我們幫助你理解英文—聯繫 Ethnic Access (少數民族服務獲取組) · 電話: 01905 25121” [Chinese]

**This document is also available in large print upon request**

**Pegasus Planning Group  
6-20 Spitalgate Lane  
Cirencester  
Glos  
GL7 2DE**

**TOWN & COUNTRY PLANNING ACT 1990 (SECTION 78)**

**Right of Appeal against decision of the Local Planning Authority**

1. If the applicant is aggrieved by the decision(s) of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the First Secretary of State for the Environment in accordance with Section 78 of the Town & Country Planning Act 1990 six months of the date of this notice (appeals must be made on a form which is obtainable from the Department of the Environment, address shown below). The First Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The First Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

If you wish to appeal against this decision then you should write to:

**Planning Inspectorate Customer Support Unit Temple Quay House 2 The Square Temple Quay BRISTOL BS1 6PN**

You should ask for a set of appeal forms and when you have completed these you should send one copy of the appeal form to:

**The Planning Officer Malvern Hills District Council The Council House Avenue Road Malvern Worcs WR14 3AF**

The second copy of the appeal form should be returned to the Planning Inspectorate in Bristol

2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, he may serve on the Council of the district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town & Country Planning Act 1990.
3. In certain circumstances a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.