

MEETING:	PLANNING COMMITTEE
DATE:	27 AUGUST 2014
TITLE OF REPORT:	P140164/O - SITE FOR THE ERECTION OF 16 NOS. DWELLINGS AT LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN For: P. J. Developments per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140164&search=140164

Date Received: 23 January 2014

Ward: Sutton Walls

Grid Ref: 351878,247583

Expiry Date: 26 May 2014

Local Member: Councillor K S Guthrie

1. Site Description and Proposal

- 1.1 The application lies to the west of the main settlement of Marden to the North of Hereford. The site lies immediately south of the settlement boundary and the new 'Paradise Meadows' development of 17 dwellings. The site is 0.58 hectares in size and is laid to paddock / grassland. The site levels rise from north to south with mature hedgerow boundary to the south, partial fence and hedge to the west and mature hedge to the east. The boundary with the new dwellings on Paradise Meadows is a new one metre stock proof fencing. To the east of the site are the properties that form part of Orchard Green and to the west are a number of detached dwellings, served via access from the C1122 road between Paradise Meadows and Laystone Bridge.
- 1.2 The application seeks outline planning permission with all matters reserved for the erection of 16 dwellings. An indicative plan has been submitted with the application that provides a suggested layout. A draft heads of terms is attached to this report and includes the provision of 35% affordable housing (6 units). Access to the site would be via Paradise Meadows. A public Right of Way crosses the site.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

2.2 Saved Policies of the Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. Planning History

3.1 130951 - Erection of 5 detached dwellings – Undetermined

4. Consultation Summary

Statutory Consultation responses

- 4.1 Welsh Water – No Objection – recommends conditions be attached to any planning permission. Note regarding the siting of the line of the public Sewer within the site.
- 4.2 Lugg Drainage Board – I would like to inform you of the Board’s standard requirements in respect of the soakaways and ask that they be taken into consideration when the application is assessed.

The developer must establish ground conditions are suitable in accordance with BS 5911-3:2002 for the use of soakaways. Percolation tests to establish the suitability of the use of soakaways must be conducted at the appropriate time of year i.e not during abnormal weather conditions such as heavy rain, severe frost or drought (The method will also require Local Authorities Building Control Departments Approval).

Bearing this in mind, I would like to remind the developer of the Board’s standard requirements in respect of surface waste disposal:

- Rates for storm water runoff discharged from the site to replicate or achieve a reduction from the ‘*greenfield*’ response of the site over a range of storm probabilities, accompanied by the *required On-site Storage* designed for the 1 in 100 year storm event.
 - For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of *run-off discharged from the site into a Viewed or ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.*
 - The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes.
 - All in compliance with The Institute of Hydrology Report 124 (IoH 124) - *Flood estimation for small catchments (1994)*
 - All to the satisfaction of the Engineer to the Board
- 4.3 English Heritage: The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Internal Consultees

- 4.4 The Transportation Manager makes the following comments:

The principle of the development is acceptable. It would be preferable to secure a continuous footway to the village, but I understand this has not been possible. The existing public footpath is to be diverted as part of the proposals, but it is unfortunate that this no longer continues to the south east to link to the village and I presume there is no chance of securing an alternative route for this to do so.

Whilst all matters are reserved I will provide comments on the indicative layout submitted.

The principle of serving the development from the development to the north is acceptable, but alterations will be required to the layout of that development to remove the exiting turning head and achieve a more compatible arrangement. As the development is not yet adopted, if permission is granted I would suggest that agreement be amended to suit the new road layout. The layby indicated on the plan, which appears to be left over from the previous layout for less houses, would not be required.

The overall design should be in accordance with our Highways Design Guide for New Developments.

Section 106 contributions should be sought in respect of the Open Market properties in accordance with our SPD.

4.5 The Conservation Manager (Historic Buildings) makes the following comments:

There are three listed buildings in the vicinity of the application site. Leystone Bridge is a grade II* listed structure that brings the local road over the River Lugg from the west. Despite the close proximity of the bridge to the proposed housing site it is considered that the natural landscape combined with the existing built environment would protect the setting of the listed bridge from harm.

The other two listed buildings are both grade II and are Upper Paradise Farmhouse and as associated barn to the west. The farmstead still retains its agricultural setting since it adjoins fields to the west; however the new developments to the north, south and east have encroached on its original rural setting. It would be difficult to argue that this housing application would cause further harm to the setting of the farmstead, given the level of 20th century development and the agricultural fields still to the west.

The indicative plan of the development shows that it would continue the roadside development's character of very small plots – some of the rear gardens are only about 6m deep which seems woefully inadequate. Most of the 20th century development in Marden has occurred in piecemeal fashion, taking one field at a time. This has resulted in a series of cul-de-sacs with no interconnectivity. The proposal for the Paradise Meadows site follows this example except that the cul-de-sac road has become narrower and longer.

4.6 The Conservation Manager (Ecology) makes the following comments:

I am afraid I would recommend refusal as there is no accompanying ecological survey or information on how foul drainage is to be managed. With regard to the former, I believe the applicant was required to complete one for an earlier application 130951/F for the same site which has not been submitted. In respect of any impacts on the River Lugg the applicant is required to show that disposal of surface water and foul drainage is properly managed. Surface water needs to be managed through a SUDs and foul drainage should be connected to the mains and confirmation obtained that Welsh Water's treatment works can accommodate the development.

Following the receipt of the Ecological Report the following comments were made:

Thank you for forwarding the ecological report which I have read and, although surveys were not carried out at an optimal time of year, I am content that it covers the salient aspects of site ecology. I note the low biodiversity of the site but also the potential for enhancements recommended in the report especially for bats (lighting) and birds (nest boxes). The proposals regarding hedgerow protection also need to be followed. In order to achieve this I would recommend the addition of a condition for habitat and species enhancements.

In respect of any impacts on the River Lugg the surface water will be managed through a SuDS and foul drainage will be connected to the mains. There should be no impact upon the R. Lugg part of the R. Wye Special Area of Conservation.

4.7 The Public Rights of Way Manager objects as the proposed development would be built over public footpath MR45A.

- 4.8 The Environmental Health Officer raises no objection but recommends a condition limiting hours of construction.
- 4.9 The Environmental Health Officer (Contaminated Land) has no adverse comments to make regarding this proposal.
- 4.10 The Housing Enabling Manager I am not in support of the application in its current form as the applicant has failed to provide 35% (6) of the site for affordable housing.

In order for me to support the application the developer would need to provide 6 units for affordable housing, 3 for social rent and 3 for intermediate tenure with the exact mix being agreed prior to the reserved matters application being submitted.

The units would need to be built to the Homes and Communities Design and Quality Standards, minimum level 3 for the Code of Sustainable Homes and Lifetime Homes. The units would need to have a minimum 10 year NHBC and local connection to Marden.

5. Representations

5.1 Marden Parish Council:

The Parish Council opposes this application on the following grounds:

1. The proposed layout of the site results in 14, Orchard Green being overlooked, and properties in Paradise Gardens would also be overlooked. It is therefore suggested that the layout of properties should be changed. It is suggested that the larger houses at plots 1, 2 and 3 should be placed adjoining the boundary with Orchard Green and the houses on plots 8 to 14 should be placed on the area currently proposed for plots 1, 2 and 3. This would mean there would be larger gardens at the rear of the larger houses, reducing the impact on properties in Orchard Green. It is also suggested that the development should incorporate some semi-detached two bed roomed properties available for elderly and disabled occupation.
 2. It is noted that the Public Rights of Way Officer objects to the application because it involves the diversion of footpath MR 45A. It is not clear from the plans to what extent the footpath is being altered and where it is proposed to join it to its original route. Further clarification is requested.
 3. There appears to be no provision for pedestrian footways on the site, and the parish council believes they should be provided.
 4. There is no indication of how provision of services, particularly sewerage will be secured. It is noted that the village sewerage system is already under pressure. There is also concern that the development will increase flooding risk on the lower part of the development.
 5. The existing access to the whole site is considered to be inadequate for 33 houses and will need revision. For these reasons the parish council believes the application should be refused and a revised scheme that addresses these issues should be requested
- 5.2 5 letters of objection and a petition of 33 signatures of local objectors have been received along with the letter outlining their objections. These can be summarised as follows:
- Original plans for 5 detached dwellings was what local residents expected. Additional dwellings would impact on area, environment and quality of life.
 - *Localism* – concern over advertising of application.
 - *Surface Water Run Off*

- the proposed site is at a higher level than the existing development. The whole area has been saturated by heavy rains and the water drainage has proved inadequate with only one single main drain to take water away.
- Further development will exacerbate an already inadequate water drainage system and could create flooding issues, both from surface water and rising groundwater. Soakaways will not capture all the water.
- The proposal would potentially increase the flood risk to adjacent properties that lie just outside of flood zones 2 and 3.
- The proposal would need to meet the Lugg Drainage Boards requirements and because the site is so crowded there is nothing to suggest that this can be achieved.
- The original application required retention of the historic pond but this has been altered / filled in.
- Surface water flooding from this site onto the adjoining site already an issue.
- *Foul Water / Sewerage*
- There is no provision made for the disposal of Foul Sewerage and the line of the public sewer crosses the site.
- The pumping station has been blocked and flooded properties locally. This pumping station is not adequate.
- *Access to the site.*
- The only access point is inadequate for the potential traffic involved and the road surface would deteriorate.
- Additional traffic would cause noise and disturbance
- Could be problematic for emergency vehicles
- Given high volumes of localised traffic, these additional traffic movements would make the quality of life for residents so much worse.
- *Services*
- All residents have experienced long delays getting phone / internet services and making more connections could be disruptive / not enough capacity
- *Building work / Disruption*
- Impact upon residential amenity for lengthy period (already been three years)
- *Design*
- Impact upon amenity / loss of light and loss of privacy
- Insufficient car parking for dwellings meaning indiscriminate parking on the highways. No visitor parking. Parking already an issue on the adjoining site
- There is a preference for the five bungalows on the site for older / disabled people. There was no objection to this.
- Density of development – packed in.

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 The planning application is made in outline with all matters reserved for the erection of up to 16 dwellings on land to the rear (South) of Paradise Meadows, a recently constructed development of 17 dwellings. The site is outside but adjacent to the settlement boundary for the settlement of Marden as defined by the Unitary Development Plan.

6.2 The key issues are considered to be:-

- The principle of development
- Impact on the existing settlement in terms of landscape character and amenity;
- Drainage (Foul and Surface)
- Residential Amenity
- Ecology
- Highways

The principle of development

6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been ‘saved’ pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

“In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans 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 maybe given).”

6.6 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.

6.7 Paragraph 14 of the NPPF states that for decision making, the presumption in favour of sustainable development means:

- *“Approving development proposals that accord with the development plan without delay; &*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.”

It is the second bullet point that is relevant in this case.

6.8 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 6.9 The Council's published position is that it cannot demonstrate a five year supply of housing land. *This was the published position in April 2012 and again in July 2012 and has been reaffirmed* by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.10 The application site lies adjacent to a main settlement that has access to community facilities and services such as the shop, public house and primary school. This settlement has good public transport links to the wider service centres with their shops, services and employment opportunities and transport links to further afield. The proposed erection of up to 16 dwellings, including 35% affordable, on a deliverable and available site in a sustainable location is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.11 The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3 July. At the time of writing the Core Strategy Policies, which have not been examined in public, attract only very limited weight for the purposes of decision making. It is the case, however, that within the draft Local Plan the village of Marden has been identified as one that would be a main focus of proportionate housing development (RA1).
- 6.12 The presumption in favour of the approval of sustainable development may only be engaged if a development proposal demonstrates that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions and these roles must be considered as part of the assessment of this application.
- 6.13 There also remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between any adverse impacts and benefits should be assessed against the policies in the NPPF as a whole. However, in terms of principle, if the development is acceptable in all other respects, officers consider that the conflict with UDP policy H7 is not a reason for refusal that could be sustained if subject to appeal.
- 6.14 It is also noted that this site has been assessed via the Strategic Housing Land Availability Assessment 2012 as having low / minor constraints (HLAA/334/001) and would therefore comply with the interim policy Statement agreed by Cabinet on the 12th July 2012.

Affordable Housing provision

- 6.15 Policy H9 of the Unitary Development Plan requires the provision of 35% affordable housing on sites of more than 0.2 ha (H4 identified settlements and Kington). The application submission made provision for 3 dwellings, but the full provision has since been agreed as detailed within the Heads of Terms attached to this report. As such the requirements of policy H9 have been met. The provision of affordable housing is an important social role of sustainability to which weight can be attributed.

Impact on the existing settlement in terms of landscape character and amenity;

- 6.16 The application is a well contained site that has very limited impact on the wider landscape context of settlement. Existing boundary hedges would be retained to ensure that this natural distinction and protect the landscape character of the area and would be a natural 'rounding off' of this part of the settlement. The proposal would comply with the requirements in terms of policy LA2 and LA3 of the Unitary Development Plan. Detailed layout, density and design issues would be considered at Reserved Matters stage having reference to policies DR1 and H13 of the Unitary Development Plan.

- 6.17 Representations raise concerns about density and potential impact upon the amenities and living conditions enjoyed by those properties located adjacent to the proposed development. These comments have been made in response to the indicative plan submitted and it is acknowledged by officers that there are elements of this plan that may cause concern in respect of amenity and character. The comments made as part of this application are noted and future submissions would need to address concerns raised, provide topographical surveys, site levels and design details that would further enable more informed consideration of these issues so ensure compliance with the relevant Local Plan policies at that time. A careful review of the relationship between these neighbouring properties at detail stage could satisfactorily address these concerns and this, on its own, should not be regarded as justification for rejecting the proposed scheme. The NPPF also places significant weight on good design and this is again an issue that can be fully addressed at the reserved matters stage.

Drainage (Foul and Surface)

- 6.18 The development proposes connection to the mains drainage system for foul drainage. Welsh Water have confirmed that they have no objections to the proposal and the applicant will be made aware of the siting of the main drain within the site and will need to accommodate this in any subsequent applications that seek to agree layout of the development.
- 6.19 One of the key concerns relates to the lack of detail in respect of surface water drainage and the potential for additional surface water from the development giving rise to an increased risk of flooding or localised surface water flooding in the area. The site lies to the south of the flood zones that are associated with the River Lugg and as such the disposal of surface water is a matter that requires careful consideration. The application, being in outline form has not included detailed technical details for surface water mitigation within the site. These would be required as part of the reserved matters submission, wherein the technical solutions would have been fully explored once the extent of hard surfacing, road layouts etc have been established. The comments and requirements of the Lugg Drainage Board would need to be accommodated in the design of the SUDs system. Officers are satisfied that the requirements of policy DR4 can be met with a technical solution and will be fully considered as part of any subsequent Reserved Matters application.

Ecology

- 6.20 The application site lies in close proximity to the River Lugg. The river and part of its corridor are designated as Special Area Conservation (SAC) and Sites Special Scientific Interest (SSSI). A Phase 1 habitat survey has been undertaken for the site and the Council's ecologist has confirmed that subject to undertaking and incorporating the recommendations of the report the proposal would comply with the requirements of policies NC1, NC6 and NC7 of the Unitary Development Plan.

Highways and Public Right of Way

- 6.21 Despite this application being in outline form only, the proposed development will inevitably be accessed via the existing development of Paradise Meadows. Local residents raise concern about additional traffic movements in terms of noise, disturbance and fumes and additional traffic on the highway network. The Council's Transportation Manager is satisfied that the proposal can be accommodated on the highway network. The additional traffic movements, associated with residential use, through a short stretch of Paradise Meadows would not represent an intensification of use that would cause any significant impact on residential amenity or highway safety and as such this element of the proposal would comply with policy DR2 of the Unitary Development Plan.
- 6.22 The application has attracted an objection from the Public Rights of Way Manager. The Public Right of Way at present is not evident on the site with no access to the west. The Public Right of

Way extends from the Public Right of Way that runs alongside the River Lugg to the west and concludes at the C1120 to the east. However, the line of this Public Right of Way crosses through four gardens and through the dwelling known as 1 Orchard Green. Whilst the objection is a material consideration, a separate application made to the Public Rights of Way team (Balfour Beatty) would be required to extinguish or divert this route once the layout has been considered and agreed. This process would involve a separate consultation with the Parish Council.

Section 106 agreement

- 6.23 In accordance with the requirements of Policy DR5 of the Unitary Development Plan and the Supplementary Planning Document – Planning Obligations, a Heads of Terms has been prepared and agreed with the applicant.

Conclusion

- 6.24 The consultation process has identified a number of concerns and these matters have been considered above. The application sites location is considered to be sustainable, and the development has been considered having regard to the roles of sustainable development that are identified in the NPPF. Acknowledging that the Council does not have a five year Housing Land Supply, paragraph 49 of the NPPF and in particular the requirements of paragraph 14 of the NPPF are an important and critical consideration that attract significant weight within the planning balance.
- 6.25 The proposals would assist in addressing the shortfall in housing supply within Herefordshire and contribute towards achieving a five year supply of housing. It would also increase choice of housing and accord with the Government's objective to boost significantly the supply of housing. These are important matters which should also be given considerable weight in the determination of this application. The development would assist in supporting local services and facilities, as well as the construction industry. These economic considerations should also be given significant weight in determining this application.
- 6.26 These significant benefits must be weighed in respect of any identified harm arising from the development. In this instance, officers would consider that any impact of the development would be negligible and that all potential impacts can be successfully mitigated, resolved and solutions secured through conditions or through a carefully considered Reserved Matters application. As such, there is a clear and overriding weight of evidence supporting approval of this application which is considered to comply with the requirements of the relevant saved Unitary Development Plan Policies and the National Planning Policy Framework.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**

5. C01 Samples of external materials
6. L01 Foul/surface water drainage
7. L02 No surface water to connect to public system
8. L03 No drainage run-off to public system
9. I20 Scheme of surface water drainage
10. The recommendations set out in Section 6 the ecologist's report from Focus Ecology dated December 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

11. CAZ Parking for Site Operatives
12. CBK Restriction of hours during construction
13. C88 Retention of trees and hedgerows
14. C90 Protection of trees / hedgerows
15. C97 Landscaping Scheme – implementation
16. CAL Access, turning area and parking
17. CB1 – Public rights of way
CB2 Covered and secure cycle parking provision

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2. **I08 Section 278 Agreement**
- 3. **I07 Section 38 Agreement and Drainage Details**
- 4. **I06 Public rights of way affected**
- 5. **I45 Works within the highway**

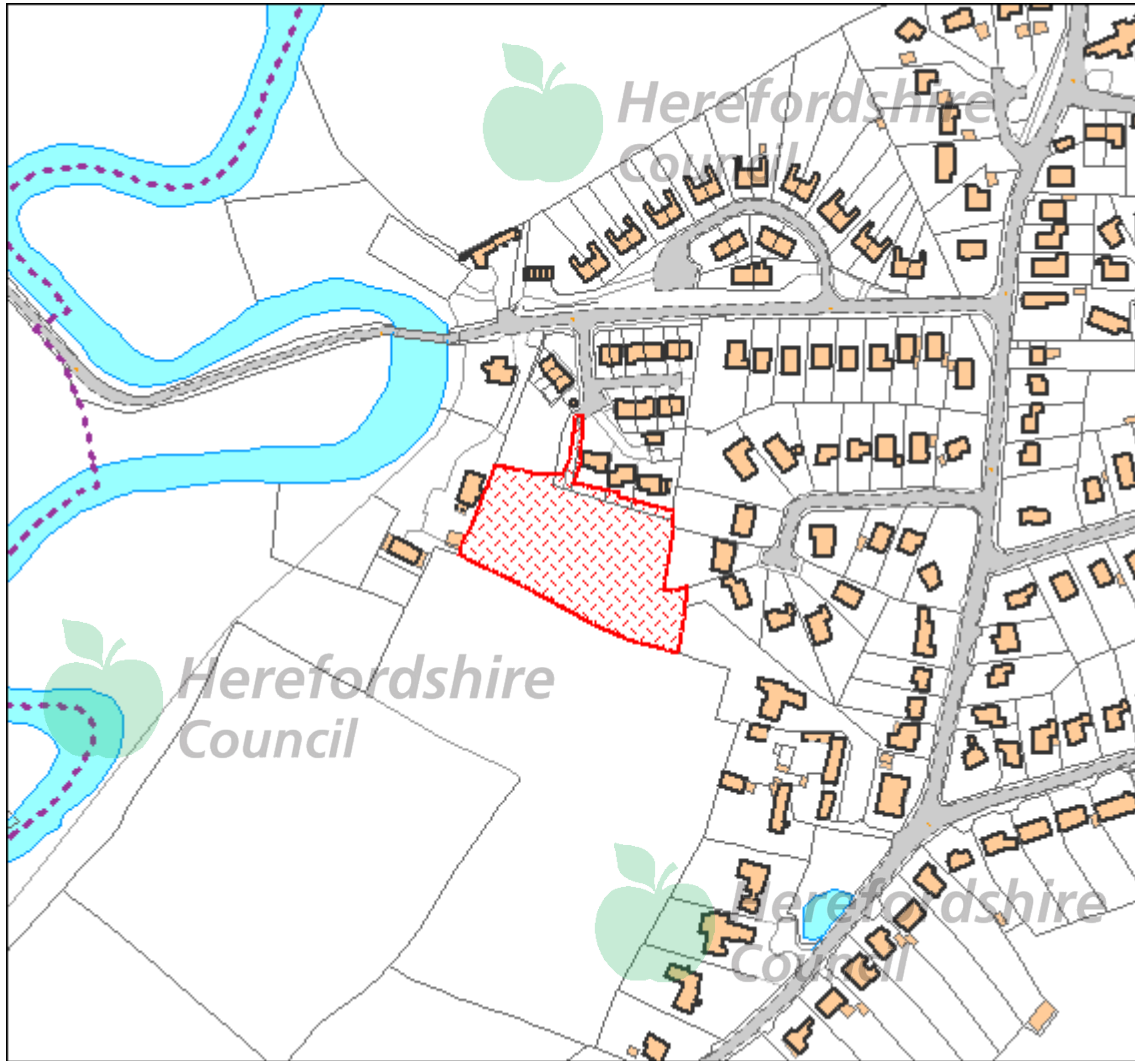
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 140164/O

SITE ADDRESS : LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

HEADS OF TERMS
PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application reference: P140164/O

Site for the erection of 16 dwellings on land to the rear of Paradise Meadows, Marden, Herefordshire, HR1 3EN

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:
 - £1,891.00** (index linked) for a 2 bedroom open market dwelling
 - £3,106.00** (index linked) for a 3 bedroom open market dwelling
 - £5,273.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford Early Years, St Francis Xavier Primary School, St Mary's Roman Catholic (8% of contribution) Hereford Youth and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwellinghouse, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum:
 - £1,966.00** (index linked) for a 2 bedroom open market dwelling
 - £2,949.00** (index linked) for a 3 bedroom open market dwelling
 - £3,932.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate.

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum:
 - £965.00** (index linked) for a 2 bedroom open market dwelling
 - £1,640.00** (index linked) for a 3 bedroom open market dwelling
 - £2,219.00** (index linked) for a 4 bedroom open market dwelling

The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is one existing play facility in Marden at the recreation ground which is owned and maintained by the Parish Council. It is a medium size facility and serves the whole village. It has room to expand and is an elderly facility mostly in need of refurbishment, therefore investment is required. The sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of

£120.00	(index linked) for a 1 bedroom open market dwelling
£146.00	(index linked) for a 2 bedroom open market dwelling
£198.00	(index linked) for a 3 bedroom open market dwelling
£241.00	(index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per dwelling. The contribution will provide for waste reduction and recycling in Leominster. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 35% (6 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
7. Of those 6 Affordable Housing units, at least 3 shall be made available for social rent with the remaining 3 being available for intermediate tenure occupation.
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
 - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 9.2 satisfy the requirements of paragraph 12 of this schedule
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
 - 10.1 a local connection with the parish of Marden;
 - 10.2 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.2 above
11. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 11.1 is or in the past was normally resident there; or
 - 11.2 is employed there; or
 - 11.3 has a family association there; or
 - 11.4 a proven need to give support to or receive support from family members; or
 - 11.5 because of special circumstances

12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman

Planning Obligations Manager