

MEETING:	PLANNING COMMITTEE
DATE:	17 SEPTEMBER 2014
TITLE OF REPORT:	P141712/O - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR RESIDENTIAL DEVELOPMENT AT LAND OPPOSITE, ENGLAND'S GATE INN, THE MOOR, BODENHAM, HEREFORDSHIRE For: Mr Richards per Hughes Architects Limited, 29 Broad Street, Newtown, Powys, SY16 2BQ
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141712&search=141712

Date Received: 12 June 2014

Ward: Hampton Court Grid Ref: 354420,251205

Expiry Date: 16 September 2014

Local Member: Councillor JW Millar

1. Site Description and Proposal

- 1.1 Outline planning permission with all matters reserved is sought for residential development on a field opposite England's Gate Inn at the northern end of Bodenham Moor. The site lies in open countryside on the east side of the C1125 road at the northern end of Bodenham Moor, a village roughly equidistant between Hereford and Leominster. The Moor is a linear settlement lining both sides of the C1125, with later C20th development extending further away from the highway. Bodenham with its associated conservation area, primary school and church, lies approximately 1km to the north-west.
- 1.2 The application is made in outline with all matters reserved and seeks a determination as to the principle of residential development at this location. An illustrative layout is submitted. This suggests a point of vehicular access from the C1125 and a total of approximately 40 dwellings, with 35% affordable.
- 1.3 The site is bounded to the west by existing residential development on Brockington and Millcroft and England's Gate Public House, which with its converted stables and outbuilding is Grade II listed. The A417 road passes to the north and Brockington Hall Golf Club is to the east. Brockington Hall is to the immediate south.
- 1.4 The site is currently down to pasture and comprises a single parcel extending to just in excess of 1.5ha. Historic mapping suggests that the junction of the C1121 and C1125 was a cross-road until the construction of the A417. It appears that the site has existed as a single field since then. It is broadly rectangular in shape and generally flat, although levels fall slightly towards the southern end of the site. Its boundaries are mostly marked by tall, unmanaged, native-species hedges, including along the side of the A417 and C1125. There are no free-standing trees in the fields. There is currently access into the site off the C1125 and via a field gate in the north-east corner.

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- 1.5 The site is in open countryside, outside but adjacent the UDP defined settlement boundary. It has no landscape designation and is within Flood Zone 1 – land least liable to flooding. The site’s landscape character type is Principal Settled Farmlands. These are settled agricultural landscapes of dispersed scattered farms, relic commons, and small villages and hamlets, and the key primary characteristic is hedgerows used for field boundaries. The landscape of the site and surrounding area is typical of this description. The site was assessed as land with low/minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).
- 1.6 The application is accompanied by the following:
- Planning Statement
 - Design and Access Statement
 - Flood Risk Assessment
 - Heritage Statement
 - Ecology Survey
 - Utilities Statement
- 1.7 The application is also accompanied by a draft Heads of Terms outlining an agreement in principle to make contributions towards sustainable transport, education and other projects subject to CIL compliance. The agreed Heads of Terms is appended to the report.
- 1.8 The Council has adopted a Screening Opinion in relation to the development proposal which concludes that it is not development requiring the submission of an Environmental Statement.

2. Policies

- 2.1 National Planning Policy Framework. 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
Section 12	-	Conserving and Enhancing the Historic Environment

- 2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
E15	-	Protection of greenfield land
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
T6	-	Walking
T8	-	Road Hierarchy

- 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
- M5 - Safeguarding Mineral Reserves

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
- RA2 - Herefordshire's Villages
- 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 Bodenham Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. The plan must be in general conformity with the strategic content of the emerging Core Strategy, but is not sufficiently advanced to attract weight for the purpose of decision-taking.

2.5 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 880096/O - Erection of 5 dwellings on land adjoining Brockington, The Moor, Bodenham. Refused and dismissed on appeal on the basis that the settlement was not identified for growth at that time, having been subject to significant growth in the 1970s and 80s.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water: No objections subject to the imposition of conditions.

4.2 Environment Agency: No objection.

Internal Council Advice

4.3 Transportation Manager: No objection subject to conditions.

The application site is within the 30mph restriction. It would be advisable for the visibility splay to be determined by a speed survey as a precursor to the Reserved Matters submission, but assuming the 85th percentile speed is 35mph i.e. 5mph in excess of the speed limit, the requisite visibility splay would be 2.4m x 60m to the nearside edge of the carriageway in each direction. Assessment on site indicates that this is achievable within the boundary of the application site.

As any access provided is off a minor access road, there is no defined junction spacing, but it should not form a crossroads with Millcroft. To allow a pedestrian crossing between the site and the western side of the C1125, a spacing of around 40m would appear necessary.

Pedestrian connectivity would be improved if a footway could be provided on the south side of Millcroft between Brockington Road and the C1125, but it may not be possible to provide it near Brockington Rd because of the position of the highway boundary. I think partial provision would improve pedestrian safety by comparison with the existing situation, where pedestrians have to share the carriageway. A short length of missing footway will be better than the existing situation without any footway at all.

A controlled pedestrian crossing over the C1125 south of the junction with Millcroft will enhance pedestrian provision for existing bus users in Millcroft Rd and Brockington Rd, as well as occupants of the proposed development. This, with the footway work, would form part of a S278 agreement.

4.4 Conservation Manager (Landscapes): No objection subject to appropriate detailed design at Reserved Matters stage:

The site comprises of agricultural land situated to the north east of Bodenham. The site falls gently to the south and to the north from a mid-point in the northern central part of the site. This land is located outside the village settlement boundary. To the north west of the site there is a Grade II listed building the England's Gate Inn, with associated outbuilding and stables.

The land is currently screened on the southern section of the western boundary with a mature native hedgerow which runs in a northerly direction parallel to the village road. A small section of the northern part of the western boundary is also screened by native trees and native hedgerow. On the western boundary directly across from the Grade II listed building there is an open gap view into the proposed site. Along this western boundary where there are open views into the site, there is a metal fence approximately 1m high. Along the northern boundary and the southern boundary there is native hedgerow planting again. The eastern boundary is screened with garden hedgerow planting in the north east and trees on the south eastern boundary.

There are gaps in the hedgerows, but generally the site is well screened from the north, south, west and east. On the northern and north eastern boundaries there are several large popular trees giving distinct local character and amenity value to this northern section of the site.

There are no landscape designations within the site, but to the west there is a Site of Special Scientific Interest and Special Area of Conservation. The village of Bodenham forms a physical barrier between the proposed site and this SSSI.

The Landscape Constraints to the site and its surroundings

The Principal Settled Farmlands landscape character for this area is that of rolling lowland. These are settled agricultural landscapes of dispersed, scattered farms, relic commons and small villages and hamlets. The mixed farming land use reflects the good soils on which they are typically found.

Networks of small winding lanes nestling within a matrix of hedged fields are characteristic. Tree cover is largely restricted to thinly scattered hedgerow trees, groups of trees around dwellings and trees along stream sides and other watercourse. The composition of the hedgerow tree covers differs from that of Timbered Farmlands in its lower density and lack of oak dominance.

This is a landscape with a notably domestic character, defined chiefly by the scale of its field pattern and nature and density of its settlement and its traditional land uses. Hop fields, orchards, grazed pastures and arable fields, together make up the rich patchwork which is typical of Principal Settled Farmlands.

The northern part of Bodenham when seen from the Grade II listed building 'England's Gate Inn' and the A417 has a rural character at present that of open fields, hedgerows and intermittent long distance rural views. Development on this northern section of the proposed site would destroy this rural character when seen from the Grade II listed building. A landscape buffer zone running in a east westerly direction from the northern limit of the village should be proposed on this section of the proposed site. This would then retain some rural character and visual amenity which would dilute the visual impact of the development when seen from the Grade II listed building.

Natural Landscape and Biodiversity

The hedgerow boundaries and trees both on site and in the adjacent areas are likely to provide good habitat for flora and fauna although the ecological interest of the field is limited due to its agricultural use. The Site Plan Option 2, prepared by Hughes architects, Drawing Planning Submission, Drawing No MO84.1.1.101 Rev B, shows on its western boundary that the existing mature hedgerow would be partially removed for proposed housing. This would deplete the natural landscape and biodiversity of this site. The proposed footpath on the western boundary also needs to show that it does not affect the existing hedgerow on this boundary. Applications for proposed development should enhance, restore and conserve the natural assets of sites.

Visual and Public Amenity

The Site Plan Option 2, prepared by Hughes architects, Drawing Planning Submission, Drawing No MO84.1.1.101 Rev B, shows on its western boundary that the existing mature hedgerow would be partially removed for proposed housing. This would deplete the visual and public amenity in the village that of the existing mature hedgerow in this area.

Conclusion

From a landscape related perspective the site has the potential to accommodate this proposed development. If the proposal is to be considered further, then the following information would be required with the Reserved Matters submission:

1. Proposals for a landscape/habitat buffer zone on the northern section of the site.
2. Proposals for the retention of the existing native hedgerow on the western boundary to include proposed visibility splays.

3. A sustainable urban drainage proposal plan to include permeable hard surfaces.
4. Hard and soft landscape details to include full planting plans, schedules and specifications for planting and protection of existing and proposed planting. Habitat enhancement proposals and vegetation to be removed clearly identified.
5. A landscape and ecological management plan. This management plan should show how the public open space and hedgerow boundaries maintenance is to be monitored and maintained.

4.5 Conservation Manager (Historic Buildings): No objection subject to appropriate detailed design at Reserved Matters stage.

I have reviewed the Heritage Statement and feel that it is a useful document that considers the wider setting of the group of listed buildings in a meaningful way. The report sets out an understanding of the buildings and their characteristics – which will need to be applied in the detailed design going forward – but there is an implicit undertaking in the report that the design will adhere to contextual characteristics and the local vernacular. We agree that there will inevitably be an impact on the wider setting of the listed building the issue is whether that impact is unacceptably harmful. It is considered that this impact can be mitigated through appropriate and sensitive detailed design and landscaping – the setting issues will therefore be a major consideration at the next stage of project development. The design of the housing closest to the listed buildings will need to be carefully considered. The findings of the revised heritage statement should be actively implemented.

4.6 Conservation Manager (Archaeology): No objection.

4.7 Parks and Countryside Manager:

UDP Policy H19 and Policy RST3: As this is an outline the final number of houses will be determined as Reserved Matters, but the applicant has indicated that the number will be around 40 as shown on the indicative plan.

In accordance with UPD Policy H19 and Policy RST3, schemes of 40 houses using the standard population rate of 2.3 which equates to 92 persons approximately, would require the following:

- 0.03ha POS
- 0.07ha provision for children (this can include formal and informal).

This could change slightly as final housing numbers are determined.

In accordance with the NPPF, provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need.

Although the applicant has shown an area of POS on the indicative plan, the planning statement confirms that as this is an outline application with all matters reserved discussions regarding the provision of public open space will form part of the on-going consultation process. The statement also notes that there is a play area close to the application site [approximately 400m distant]. Further consultation with the Parish Council and local community will establish whether an on-site and/or off-site contribution is preferred in meeting the deficiencies identified below and their neighbourhood planning needs.

The main village green play area, owned and maintained by the Parish Council is only a short distance from the development site and consists of a small play area for infants and juniors within a recreation area. For a village/parish the size of Bodenham (1000+) it is on the small size and as such the village is under-provided for in accordance with the Play Facilities Study. It is also an old site, offering little in play value and in need of replacement. Although it could

benefit from an off-site contribution to support the creation of a larger neighbourhood facility catering for all ages it would involve crossing the main road from the application site and its accessibility, particularly for younger children, would need to be considered as part of this application. Provision on site, however, would be small, offer little in play value and be costly to maintain.

Off-site contribution: SPD on Planning Obligations: If an off-site contribution is asked for, this would be in accordance with the SPD on Planning Obligations, based on market housing only as follows:

2 bed: £965 3 bed: £1,640 4+bed: £2,219

On-site Public Open Space: Future Maintenance:

If an on-site facility is required, suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be by adoption by Herefordshire Council with a 15 year commuted sum plus appropriate replacement costs; by the Parish Council or by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use. In this instance it is unlikely that Herefordshire Council will consider future adoption given the location and size of POS. Given that the Parish Council already maintain the existing village green and play area it may be sensible to enter a dialogue with them at an early stage in the process.

4.8 Housing Development Officer: No objection.

In principle I support this application although the mix, type and tenure of affordable housing would need to be agreed prior to the submission of a Reserved Matters application.

4.9 Land Drainage Manager: No objection in principle on flood risk and drainage grounds.

As the site is reasonably large and the layout and number of units is not fixed it is anticipated there is sufficient space to accommodate appropriate SUDS drainage measures and attenuation storage. However, all new drainage systems for new developments must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council). Therefore, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water run-off from the development is included within any Reserved Matters following the grant of outline permission.

The detailed drainage proposals should include:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water and surface water runoff from the site with the relevant authorities;
- Evidence that the Applicant has sought and agreed allowable discharge rates for the disposal of foul water and surface water runoff from the site with the relevant authorities;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Demonstration that appropriate pollution control measures are in place prior to discharge.

- 4.10 River Lugg Internal Drainage Board: No objection, but confirm that no additional surface water run-off to adjacent watercourse or any outfall structure is permitted without written Land Drainage Consent, which would have to be obtained from the Board under the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010.
- 4.11 Minerals and Waste Officer: An area of identified potential sand/gravel resource adjoins this site on the southern side. There are no particular objections on minerals grounds, as this site is close to existing residential properties and commercial gravel extraction is unlikely to come forward.

5. Representations

- 5.1 Bodenham Parish Council: No objection.

Parish Councillors are aware that the rural housing growth 'targets' outlined in the Core Strategy have been confirmed at the conclusion of the public consultation phase. However, in discussion of the present application they articulated local community concerns that the resulting level of new-build housing envisaged for Bodenham is inappropriate and does not have the support of many residents. There is a particular fear that the increased number of households will put further pressure on existing hard pressed services and facilities in the village.

The Bodenham Neighbourhood Plan Steering Group have long recognised that, if the housing 'target' for Bodenham Moor up to 2031 is to be met, they needed to elicit the views of the community on what would be the 'least worst' location to accommodate the projected growth. The subject site had already been identified through the SHLAA process as one of only two in Bodenham Moor having low or minor constraints. After due consideration of all the factors and wide consultation, it has emerged as the preferred site in the Village for any future development.

Accordingly Parish Councillors resolved to offer **no objection** to this outline application, but, should consent be given to it, wish to reserve their position in respect of all outstanding matters for later decision at the full application stage.

- 5.2 237 letters of support in principle for the outline proposal have been received. The vast majority are in a standardised format reproduced below:-

"I am writing to express my support in principle for the above outline planning application for residential development in this Village.

Bodenham has received a great deal of housing development over the past few decades and, although I do not particularly welcome any further expansion and the changes this will inevitably make to the character of the Village, I fully accept that it is necessary. However, I believe that this must be limited to no more than the requirement set by Herefordshire Council in its Core Strategy (Policy RA2) for the period up to 2031 (some 40 houses so far as Bodenham Moor is concerned), it must be properly phased, and it must be carefully sited.

As you may be aware, Bodenham is preparing a Neighbourhood Plan and over the last 18 months a great deal of thought has gone into deciding where any future development should be located. After wide consultation conducted by the Neighbourhood Plan Steering Group, the preferred location incorporated in the emerging Neighbourhood Plan by an extension of the existing settlement boundary is the one which is the subject of the above planning application. It has a number of advantages over any alternative site in the Village, being a contained area of the appropriate size and reasonable good access, and one that is not likely to affect the amenity of nearby residents, increase the risk of flooding, or add to local sewerage problems.

Most importantly, discussion at public meetings conducted by the Steering Group has clearly shown that it enjoys the support of the great majority of the local community.

I would strongly ask that you give this application your most favourable consideration.”

5.3 The individually written letters of support make the following, additional points:-

- The site is close to the A417 junction and would result in less traffic passing through the village than alternative sites;
- The site is well-related to village facilities, including the bus-stop and enhancements could be made to footways locally for both existing and future residents;
- The development would support existing local services;
- The development would have comparatively little impact on the local heritage assets;
- The site is not liable to flooding and unlikely to increase drainage problems elsewhere within the village;
- New families are needed within the village.

5.4 Several letters of qualified support have been received. These make the following observations:

- The affordable housing must be genuinely affordable to local people in need;
- The mature, native hedgerows should be retained, whereas the illustrative layout plan shows removal of the hedge opposite the pub;
- Opportunities for the enhancement of pedestrian crossings and footways should be sought;
- The development must complement the village vernacular;
- The access proposals must safeguard the bus stop and phone box.

5.5 20 letters of objection have been received. The content is summarised as follows:-

- The site for the development is outside the UDP defined settlement boundary;
- The site is a green field directly opposite a Grade II listed complex around the England's Gate Inn. Development here will disrupt the rural outlook and setting of the listed buildings;
- Although many in support cite an absence of flood risk for supporting this site over and above alternatives, it should be noted that run-off from this field can cause surface water flooding on Millcroft. This needs to be rectified;
- The site is comparatively close to the village amenities but is not well-served by footways. There is insufficient room to construct a footway in a southerly direction along the main village road (C1125). Taking the route via Brockington will necessitate crossing the C1125 outside the site in close proximity to the junction with Millcroft with the additional hazard of traffic joining from the A417 near a bend in the road;
- Visibility when exiting Millcroft onto the C1125 is poor. Adding an estate junction opposite will cause confusion and the potential for accidents, particularly when factoring in traffic leaving the pub;
- Village infrastructure cannot cope. Sewerage issues are common. Broadband speeds are slow and will get slower with additional demand;
- The proposed site would meet the Core Strategy growth requirement in one go. Surely a more measured approach involving infilling would be a more sustainable form of development, more readily assimilated into the existing village?
- The social issues with enlarging the village so quickly are not properly understood;
- The demand for these houses is questionable. Several houses on the market in the village have remained unsold for lengthy periods;
- There is no employment within the village, meaning additional commuter traffic on narrow country roads;

- Although illustrative, the layout supplied indicates hedgerow removal opposite the pub. The hedgerow should remain as a characteristic landscape feature. Likewise the on-site play area is too small and not enough parking is indicated;
- The proposal has the potential to overshadow and overlook the dwellings opposite;
- An outline proposal gives no certainty as regards the detail of the proposal;
- There is no demonstration that the pre-application consultation events have informed the illustrative layout;
- The site is no closer to some key village facilities than alternative sites.

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

<https://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 Bodenham Moor is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Bromyard Housing Market Area within the emerging Local Plan – Core Strategy with a 15% indicative growth target over the plan period. This equates to 41 dwellings at Bodenham Moor and 10 dwellings at Bodenham. The application is made, within the context of the housing land supply deficit.

6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

The Principle of Development in the context of 'saved' UDP policies the NPPF and other material guidance

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 may be 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 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 preferably years 11-15 too. 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.
- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This 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.
- 6.9 In this context, therefore, the proposed erection of approximately 40 dwellings, including 35% affordable, on a deliverable and available SHLAA low/minor constraints site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.
- 6.11 On this issue, officers conclude that in the light of the housing land supply issue and NPPF policies, the principle of development at this location outside but adjoining the UDP defined settlement boundary, is acceptable.

Assessment of the scheme's sustainability having regard to the NPPF and Housing Land Supply

- 6.12 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.13 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and move towards a low-carbon economy.
- 6.14 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located whereas the delivery of 40 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

Impact on landscape character, visual amenity and heritage assets

- 6.15 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.16 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary on a SHLAA low/minor constraints site. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB). It is also accepted that the site has a limited visual envelope, being reasonably well screened from most vantage points; the obvious exceptions being close up views from private properties, public rights of way and adopted highway. The Conservation Manager (Landscape) considers that the site can accommodate development, although this is contingent on the Reserved Matters submission reflecting the need to retain, insofar as possible, the hedgerow features for which the Principal Settled Farmlands landscape typology is known. On the basis that conditions will be imposed requiring the protection of hedgerows, and in the context of the SHLAA low/minor constraints designation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.
- 6.17 The application site is located immediately opposite three Grade II listed buildings in the form of the England's Gate public house, outbuilding and stables.
- 6.18 Although accepting that the site has a limited visual influence and benefits from a degree of screening, it is also accepted that the proposal would exert some influence on the setting of the adjoining listed buildings. In this regard the Conservation Manager (Historic Buildings) considers that although there will inevitably be an impact on the wider setting of the listed buildings, the issue is whether that impact is unacceptably harmful when conducting the planning balance.
- 6.19 In this case it is considered that the impact can be mitigated through appropriate and sensitive detailed design and landscaping and that as a consequence the harm to the significance of the designated heritage assets will be less than significant. Accordingly, as per NPPF paragraph 134, the harm should be weighed against the public benefits of the proposal, which in this case can be taken as the scheme's contribution towards boosting housing supply, the associated economic and social benefits and absence of any other significant adverse impacts. As such, and having regard to housing land supply, the harm to the setting of listed buildings is considered less than substantial.

Transport

- 6.20 The Traffic Manager has provided revised comments in the light of additional information provided during the course of the application. He is now satisfied with the proposals to the extent that a conditional approval is recommended.
- 6.21 The issue of pedestrian connectivity with the village facilities can be addressed via the provision of a 2.0m footway for the majority of the length of Millcroft Road up to the junction with Brockington Road. Although a continuous provision into Brockington Road cannot be

provided due to lack of highway width, the Transportation Manager considers that partial provision would improve pedestrian safety, and in any case, pedestrians have an existing right to share the carriageway. A short length of missing footway will be better than the existing situation without any footway at all.

- 6.22 A controlled pedestrian crossing over the C1125 south of the junction with Millcroft will enhance pedestrian provision for existing bus users in Millcroft and Brockington Road, as well as future occupants of the proposed development.
- 6.23 The Traffic Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

S106 contributions

- 6.24 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:

‘Education Contribution’ – £1,873/2-bed £3,106/3-bed £5,273/4-bed

‘Sustainable Transport Contribution’ - £88,470 based on current housing mix. This money would be directed towards sustainable transport projects, including pedestrian crossing facilities and other off-site footway improvements.

‘Off site play’ - £49,588 based on current housing mix. This contribution would be directed towards the improvement and extension of the existing play facilities in the heart of the village, which are comparatively small for a village of this size.

‘Waste & Recycling’ – £3,120 based on current housing mix.

‘Library’ - £5,664 towards enhanced library facilities based on current housing mix.

The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

A restriction is also imposed requiring the provision of 0.03ha of on-site public open space. A maintenance contribution towards the management of on-site public open space and any necessary SUDs system, which will be adopted by the Council, will also be required.

Impact on adjoining residential amenity

- 6.25 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without undue impact on adjoining property, particularly those dwellings lining Brockington Road. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

Ecology

- 6.26 The Council’s Ecologist concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests. Subject to the imposition of conditions as set out below, which include tree and hedgerow protection measures, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

Foul drainage and water supply

- 6.27 The Water Authority has no objection to the development and confirms that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. No problem is anticipated with the supply of potable water.

Sustainable Design

- 6.28 The applicant has confirmed that all dwellings shall follow a fabric first approach to energy efficiency. It is envisaged that energy consumption and carbon emissions will be reduced by building to a minimum of code 4 of the code for sustainable homes. Where possible houses will be orientated to ensure optimum exposure to passive solar gain and for solar thermal and PV panels.

The Neighbourhood Plan

- 6.29 Bodenham Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan for a considerable period. Paragraph 17 of the NPPF, states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.
- 6.30 The Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan. In this instance, however, the Parish Council confirms that of the two large-scale sites within the parish, it is this site that has their support and is earmarked for inclusion as a housing allocation.

Summary and Conclusions

- 6.31 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.32 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA low/minor constraints site in what is, having regard to the NPPF, a sustainable location with good access to the village facilities, including the doctor's surgery and shop. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.33 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

- 6.34 The Conservation Manager (Landscapes) confirms the application site has the ability to accommodate residential development subject to the retention of landscape features and a margin against the A417 corridor. The Conservation Manager (Historic Buildings) accepts that the development would exert some influence on the setting of the Grade II listed complex opposite, but concludes that the impact is likely to result in less than substantial harm to the significance of the heritage assets. This is in the context of the safeguard provided by detailed assessment of the layout, landscaping, scale and appearance at the Reserved Matters stage.
- 6.35 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 40 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission. Whilst it is clear there is a large measure of support in principle for the proposal, this support is dependent on the detail of the scheme being appropriate to the context and further consultation will help inform the process.

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. C01 Samples of external materials**
- 5. The development shall include no more than 40 dwellings and no dwelling shall be more than two and a half storeys high.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

- 6. H06 Vehicular access construction**
- 7. H09 Driveway gradient**
- 8. H11 Parking - estate development (more than one house)**
- 9. H17 Junction improvement/off site works**
- 10. H18 On site roads - submission of details**
- 11. H19 On site roads - phasing**
- 12. H20 Road completion in 2 years**

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

13. H21 Wheel washing
14. H27 Parking for site operatives
15. H29 Secure covered cycle parking provision
16. H30 Travel plans
17. E01 Site investigation - archaeology
18. L01 Foul/surface water drainage
19. L02 No surface water to connect to public system
20. L03 No land drainage to connect to public system
21. L04 Comprehensive & Integrated draining of site
22. G10 Landscaping scheme
23. G11 Landscaping scheme - implementation
24. The recommendations set out in Section 5.1.2 of the ecologist's report from Turnstone Ecology dated March 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement plan should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: 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.

25. Prior to commencement of the development a 'Tree Protection Plan' to include hedgerow protection following BS 5837:2012 *Trees in relation to design, demolition and construction* should be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: 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.

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 outline planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details

4. **HN07 Section 278 Agreement**
5. **HN04 Private apparatus within highway**
6. **HN28 Highways Design Guide and Specification**
7. **HN27 Annual travel Plan Reviews**
8. **HN25 Travel Plans**
9. **HN13 Protection of visibility splays on private land**
10. **N02 - S106 Obligation**

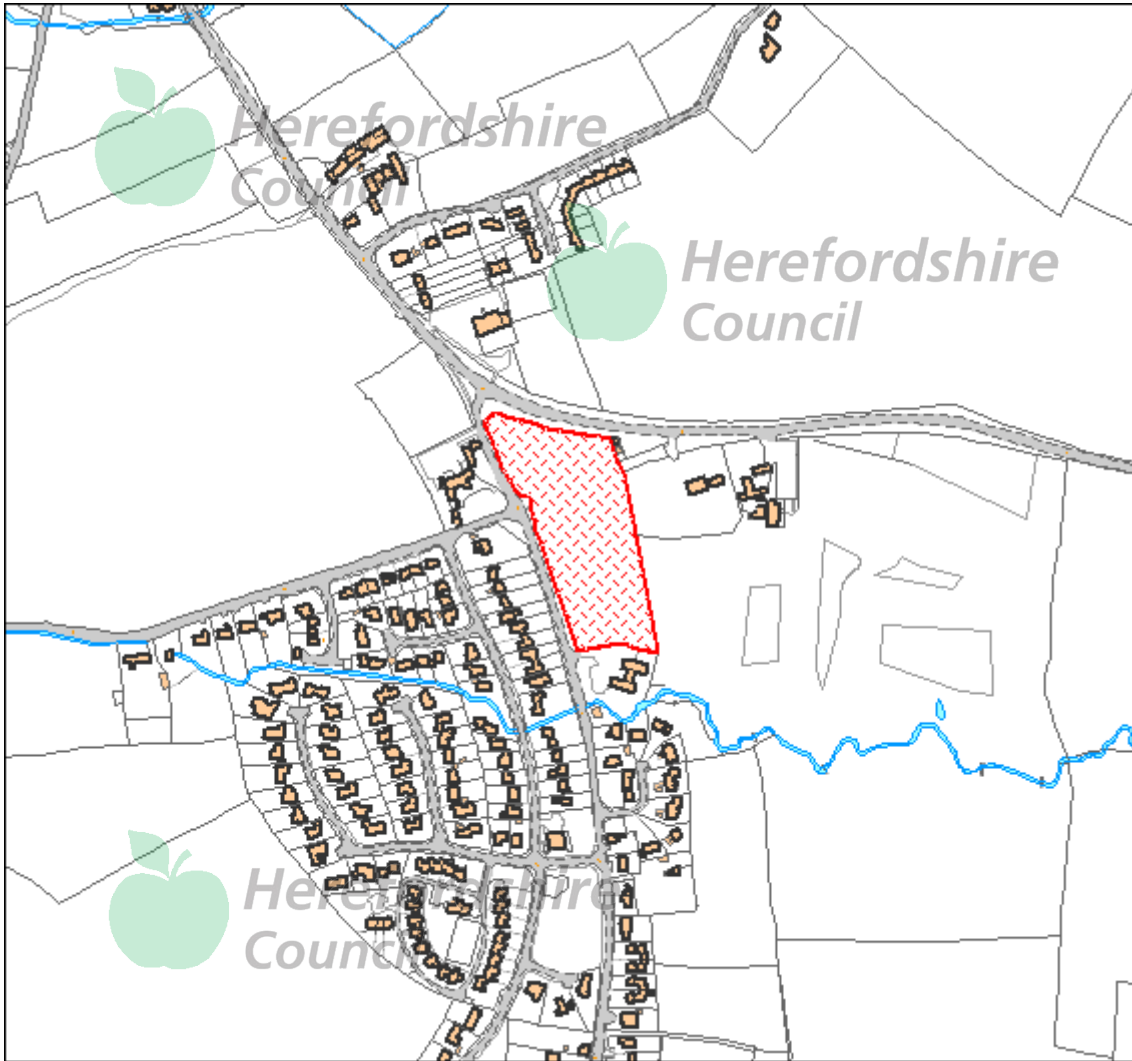
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141712/O

SITE ADDRESS : LAND OPPOSITE, ENGLAND'S GATE INN, THE MOOR, BODENHAM, HEREFORD

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

DRAFT 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.

Outline application with all matters reserved for residential development on land opposite England's Gate Inn, The Moor, Bodenham, Herefordshire.

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 Early Years, Primary School, Secondary School and the Special Education Needs Schools at the catchment primary school St. Michaels, Bodenham, with a proportionate contribution towards St Francis Xavier RC Primary School and St Mary's RC Secondary School. 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. ***Based on the indicative housing scheme the contribution would be £88,470.00.***

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 contributions will provide for off-site play facilities at Bodenham village green and play area. The contribution will be sought in consultation with the local parish council. The sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate. **Based on the indicative housing scheme the contribution would be £49,588.00.**

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 Leominster. 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. **Based on the indicative housing scheme the contribution would be £5,664.00.**

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. **Based on the indicative housing scheme the contribution would be £3,120.00.**
6. Based on a scheme of up to 40 dwellings the developer covenants with Herefordshire Council to provide 0.03 hectares of on-site public open space.
7. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Note: The attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of a land transfer.

8. The developer covenants with Herefordshire Council that 35% (14 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).
9. Of those 12 Affordable Housing units, at least 53% shall be made available for social rent with the remaining 47% being available for intermediate tenure occupation (shared ownership, intermediate rent, or low cost market).

Note: The affordable housing could be secured by an off-site commuted sum. This will mean that the section 106 contributions will increase if the number of open market units were increased.

10. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

11. 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:-
 - 11.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 11.2 satisfy the requirements of paragraph 11 of this schedule.

12. 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:-
 - 12.1 a local connection with the parish of Bodenham Moor;
 - 12.2 in the event there being no person with a local connection to the parish of Bodenham Moor the adjoining parishes
 - 12.3 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 10.3 above

13. For the purposes of sub-paragraph 12.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 13.1 is or in the past was normally resident there; or
 - 13.2 is employed there; or
 - 13.3 has a family association there; or
 - 13.4 a proven need to give support to or receive support from family members; or
 - 13.5 because of special circumstances

14. 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.

15. 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.
16. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 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.
17. The sums referred to in paragraphs 1, 2, 3, 4 and 5 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.
18. 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.
19. 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