

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>150473 - PROPOSED RESIDENTIAL DEVELOPMENT OF 20 DWELLINGS INCLUDING 7 AFFORDABLE HOUSES AT LAND SOUTH OF THE WHEATSHEAF INN, FROMES HILL, LEDBURY,</b>  <b>For: Mr Howe per Mr Paul Lodge, 30 Eign Gate, Hereford, Herefordshire, HR4 0AB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150473&amp;search=150473">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150473&amp;search=150473</a>
<b>Reason Application submitted to Committee – Contrary to policy</b>	

**Date Received: 16 February 2015**      **Ward: Bishops Frome and Cradley**      **Grid Ref: 368128,246419**

**Expiry Date: 1 June 2015**  
Local Member: Councillor PM Morgan

**1. Site Description and Proposal**

- 1.1 The site is located off the A4103 on land to the rear of The Wheatsheaf Inn, Fromes Hill, occupying an elevated position on the southern edge of the village. Access onto the site is currently gained via a minor public highway, which runs past the site on its western boundary.
- 1.2 The site comprises an area of grassland, divided into two small fields, and is bound by fencing, short sections of hedgerow and lines of trees. The buildings, hardstanding and short-mown lawn of the Wheatsheaf Inn lie adjacent to the northern boundary while small fields of grassland border the site on its eastern, southern and south-western boundaries. The site is roughly rectangular, 120m long by 80m wide, and encompasses an area of approximately 0.9 hectares.
- 1.3 The application is made in full and proposes a residential development of 20 houses including 7 affordable dwellings accessed via a shared surface. The housing includes a mixture of 4 No. 2 bedroom houses, 12 No. 3 bedroom houses and 4 No. 4 bedroom houses. These include both detached and semi-detached houses and a short terrace of 3 units as part of the affordable provision.
- 1.4 The layout of the scheme has been amended since its original submission to take account of concerns raised about the means of access to the site. This was originally intended to be taken via the road running along the western boundary, but is now proposed to be taken directly off the A4103 at the north-eastern corner of the site.

1.5 The application is accompanied by the following documents:

- Detailed elevations and site layout plans
- Design & Access Statement
- Preliminary Ecological Appraisal
- Tree Survey & Arboricultural Impact Assessment
- Planting Schedule
- Transport Statement (including a seven day speed survey)

## 2. Policies

2.1 National Planning Policy Framework (NPPF):

The following sections are of particular relevance:

Introduction	-	Achieving sustainable development
Section 4	-	Promoting sustainable transport
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
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
H6	-	Housing in Smaller Settlements
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Parking
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

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
SS7	-	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
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

## 2.4 Neighbourhood Planning

A Neighbourhood Area for Bishops Frome and Fromes Hill was designated on 8<sup>th</sup> November 2013. 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 Other Relevant National and Local Guidance/Material Considerations:

National Planning Practice Guidance (2014)  
 Annual Monitoring Report  
 Five Year Housing Land Supply (2013-2018) Interim Position Statement  
 Planning for Growth – 2011  
 Laying the Foundations – 2011  
 Housing and Growth – 2012  
 Green Infrastructure Strategy – 2010

## 2.6 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 DCNE2004/1093/F – Four 3 bed houses, new access, parking for dwellings and formation of a new car park for public house – Refused and dismissed on appeal – 18<sup>th</sup> April 2005.

### 3.2 The appeal proposal sought to introduce a new access immediately to the east of the public house and the Inspector concluded that visibility would be significantly reduced due to the position of Jasmine Cottage immediately adjacent to the roadside and to the west of the site. He concluded that the restricted visibility from and to the proposed junction would unacceptably increase hazards on this part of the A4103

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Severn Trent Water – No objection subject to condition

#### 4.2 Welsh Water – No objection

## Internal Council Consultations

4.3 Transportation Manager – Comments awaited.

4.4 Conservation Manager

Archaeology – No objection

Landscapes – No objection subject to the imposition of conditions

Historic Buildings – No objection as the proposal will not harm the settings of listed buildings

4.5 Parks & Countryside Officer - It is noted that this development is for 20 dwellings which in accordance with UDP policies H19 and RST3 is required to provide public open space and a small children's play area for infants. It is noted that the site layout plan makes no on-site provision to meet this requirement. This is supported as it would be small, offer little in play value and be costly to maintain.

In the more rural parishes such as this, where there is no formal provision, it is more appropriate to use a contribution towards improving access to the more natural open spaces and informal play opportunities which exist. Therefore, I would ask that a contribution is sought to be used towards improving the public rights of way network in and around the village in accordance with the Public Rights of Way Improvement Plan, on priorities at the time of receiving the contribution and in consultation with the Parish Council.

4.6 Housing Officer – The proposal meets the requirement to provide 35% affordable housing on site and the mix and tenure proposed meets the need for the area. The application is supported subject to the completion of a Section 106 Agreement.

4.7 Education – No objection to the proposal subject to a Section 106 Agreement in accordance with the Council's Planning Obligations Supplementary Planning Document.

4.8 Land Drainage Engineer - Prior to construction, we recommend that the following information is provided as part of planning conditions and submitted to the council prior to construction:

- A detailed drainage design, with supporting calculations, showing the location and sizes of any soakaways, demonstrating how discharges from the site are restricted to no greater than pre-developed rates between the 1 in 1 year and 1 in 100 year events (with climate change allowance), and demonstrating that no flooding from the drainage system will occur up to the 1 in 30 year event.
- Evidence of infiltration testing in accordance with BRE365 at locations of proposed soakaways to support the design. Groundwater levels should also be provided as Standing Advice recommends the invert levels of soakaways are a minimum of 1m above the groundwater level.
- A revised drainage layout demonstrating that the required separation distance between the package treatment plant and adjacent properties has been achieved.

If infiltration is not proven feasible, we would require evidence of an alternative drainage strategy and confirmation of agreement with the relevant sewerage provider (if necessary), with discharge rates restricted to pre-development Greenfield values where possible.

4.9 Public Rights of Way Officer – No objection

## 5. Representations

### 5.1 Bishops Frome Parish Council – Support the application and comment as follows:

The Parish Councillors discussed this application and the consensus of the Parish Councillors present at the meeting, and with those Parishioners asked in Fromes Hill, was in favour of the application but with conditions.

A large development was not a favourite option in our recent questionnaire for the Neighbourhood Plan and this site was not one of the suggested areas for development at Fromes Hill, due to its situation on the opposite side of the main Hereford to Worcester road A4103. The development will increase the population of Fromes Hill on the south side of the road. There have been numerous accidents and fatalities on this road.

Part of the conditions for granting approval of this scheme should be a number of traffic calming measures. A pedestrian crossing with traffic lights between the Wheatsheaf and Uplands side (School pick up, proposed play areas, Church, shops, cafe and hairdressers) would be a minimum. The Council should pursue a 30mph speed limit and other traffic calming measures. As part of the approval (106) the Parish Council request an amount towards the play area in the field next to the Church.

### 5.2 Two letters of objection have been received. The first, as summarised below, was received in response to the original application prior to the amendments to the access arrangements. The second is summarised separately and was received in response to the further consultation period following the submission of amended plans.

#### Objection 1

- The access is dangerous with limited visibility onto the A4103
- Vehicle speeds along the A4103 often exceed the 40 mph speed limit
- Concerned about the proposed footpath through the pub garden and the implications for the security of young children using the play area within.

#### Objection 2

- The primary concern relates to road safety. The proposed access is near the point where the two lanes of traffic merge into one and where the speed restriction drops from 60 to 40 mph.
- In the past 17 years there have been many road traffic accidents over this stretch of road including a fatality and believe that effectively adding a minor road at this point would add to the accident count.

### 5.3 Campaign to Protect Rural England – object to the application. In summary the points raised are as follows:

- Detrimental to the character and appearance of the landscape
- Contrary to UDP policy.
- Concerns about highway safety.
- Fromes Hill is a small village with few amenities. The proposal is not sustainable.
- No evidence of any specific community need.

### 5.4 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 Fromes Hill is identified within the adopted Unitary Development Plan as a smaller settlement where modest infill developments for single dwellings may be permitted. However, the significance of the settlement has been elevated by the emerging Core Strategy which has designated it as a main village within the Ledbury Housing Market Area with a 14% indicative growth target over the plan period.

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, the scale of the development proposed and its cumulative effects with other proposals in the locality, highway safety and the availability of services and employment opportunities locally 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 National Planning Policy Framework (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 maybe given)."

6.6 The practical 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 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 20 dwellings, including 35% affordable, on a deliverable and available 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.

### **Assessment of the Scheme's Sustainability Having Regard to the NPPF and Housing Land Supply**

- 6.11 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.
- 6.12 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 movement towards a low-carbon economy.
- 6.13 Fromes Hill is identified as a main village in the Herefordshire Local Plan – Core Strategy and I therefore follows that the Council's position is that it is a sustainable settlement. The site is immediately adjacent to the main built elements of the village and it is your officers view that it is sustainably located. The delivery of 20 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.
- 6.14 The site is not subject to any environmental designations and the Council's Conservation Manager observes that the scheme has the potential to deliver ecological enhancement in accordance with saved UDP policy and NPPF objectives subject to an appropriately worded condition to achieve this objective.

### **Impact on Landscape Character and the Setting of the Village**

- 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 proposal for any development on or affecting protected wildlife or geo-diversity sites or landscape areas will be judged. It also 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), and LA3 (setting of settlements) are broadly consistent with chapter 11 of the NPPF.

- 6.16 The application site has no formal landscape designation. It lies in open countryside outside, but adjacent to the settlement boundary. The site is not immediately visible when approaching along the A4103 from the east (Worcester) due to a combination of existing roadside vegetation and the fact that the site is located to the rear of the pub car park and beer garden. The Wheatsheaf Inn is very much the prominent feature on this approach to the village and will remain so should the scheme be permitted.
- 6.17 The Council's Landscape Officer considers that the proposal is unlikely to cause undue landscape or visual impact and subject to conditions to require a detailed landscaping scheme, it is considered to be acceptable.
- 6.18 It is acknowledged that the proposal represents a significant addition to the housing stock in the village but the site represents an obvious opportunity to provide housing land. The proposal is quite low density but this reflects the overall character of the settlement and it is therefore concluded that the proposal will not adversely affect the landscape character of the area, nor will it detrimentally affect the setting of Fromes Hill and the proposal is consequently considered to accord with policies LA2 and LA3 of the UDP.

### Highway Matters

- 6.19 Saved UDP Policy DR3 and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where *'the residual cumulative impacts of development are severe.'*(NPPF para. 32).
- 6.20 The A4103 is the main link between Hereford and Worcester and carries a high volume of traffic. Its primary, if not only, function is to facilitate vehicular movement and speeds are currently limited to 40mph through the village. Officers were initially concerned that the proposal to create an access onto the lane to the west of the application site would result in severe cumulative impacts as visibility at its junction with the A4103 is severely curtailed in a westerly direction by the presence of Jasmine Cottage. The 'y' distance at the junction is well short of the requisite 110 metres to the nearside edge of the carriageway that would be applied to the creation of a new access and, without adequate visibility to the west, highway safety will be severely compromised to the detriment of road users due to the resulting intensification in the use of the A4103 / C1159 junction.
- 6.21 Officers were also mindful of the appeal decision in 2005 relating to a proposal for four dwellings on part of the land associated with the Wheatsheaf Inn. The scheme proposed to create a new access to serve the dwellings immediately to the east of the pub but was refused due to concerns about highway safety and the fact that Jasmine Cottage obscured visibility in a westerly direction.
- 6.22 Following discussions with the applicant's agent and further assessment of the site, it was decided to amend the application and to provide access directly onto the A4103 at the easterly edge. The applicant has commissioned further work including a seven day speed survey. This confirms that, notwithstanding the 40 mph speed limit, actual traffic speeds through the village are in excess of this, being an average of 46 mph in an easterly direction and 44 mph to the west at the 85 percentile. This translates to a requirement for visibility splays of 98 metres to



the east and 94 metres to the west. Officers have independently assessed the capability for these splays to be achieved and can confirm that they can.

- 6.23 It is therefore concluded that, in its amended form, the proposal will not be detrimental to highway safety and is compliant with Policies DR3 and T8 of the UDP and paragraphs 30 – 32 of the NPPF.

### **Summary and Conclusions**

- 6.24 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.
- 6.25 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 in the absence of significant and demonstrable adverse impacts, the application should be approved.
- 6.26 The site lies immediately adjacent to the village and is, having regard to the NPPF and saved and emerging local policies, a sustainable location.
- 6.27 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. In providing a greater supply of housing and breadth of choice, including the provision of affordable housing, and in offering an amount of open space in excess of policy requirements, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.28 Officers conclude that there are no landscape, highways, drainage, ecological or other environmental 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.
- 6.29 It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation in accordance with the Heads of Terms appended to this report and appropriate planning conditions. Accordingly the application is recommended for approval.

### **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 planning permission, subject to the conditions below and any other further conditions considered necessary**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with approved plans**
3. **C01 Samples of external materials**
4. **H02 Single access – footway**

5. **H03 Visibility splays**
6. **H06 Vehicular access construction**
7. **H11 Parking – estate development (more than one house)**
8. **H18 On site roads – submission of details**
9. **H20 Road completion**
10. **H21 Wheel washing**
11. **H27 Parking for site operatives**
12. **H29 Covered and secure cycle parking provision**
13. **G04 Protection of trees/hedgerows that are to be retained**
14. **G09 Details of boundary treatments**
15. **G10 Landscaping scheme**
16. **G11 Landscaping scheme - implementation**
17. **The recommendations set out in Section 5 of the ecologist’s report from Swift Ecology dated January 2015 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement for the protected species present together with a habitat enhancement plan integrated with the landscape proposals should be submitted to, and be approved in writing by, the local planning authority, and the work 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 and site clearance.**

**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 the Herefordshire Unitary Development Plan and to comply with Policies NC8 and NC9 of Herefordshire’s Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

18. **The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The submitted details should include the following information:**
  - **A detailed drainage design, with supporting calculations, showing the location and sizes of any soakaways, demonstrating how discharges from the site are restricted to no greater than pre-developed rates between the 1 in 1 year and 1 in 100 year events (with climate change allowance), and demonstrating that no flooding from the drainage system will occur up to the 1 in 30 year event.**

- Evidence of infiltration testing in accordance with BRE365 at locations of proposed soakaways to support the design. Groundwater levels should also be provided as Standing Advice recommends the invert levels of soakaways are a minimum of 1m above the groundwater level.
- A revised drainage layout demonstrating that the required separation distance between the package treatment plant and adjacent properties has been achieved.

The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

**INFORMATIVES:**

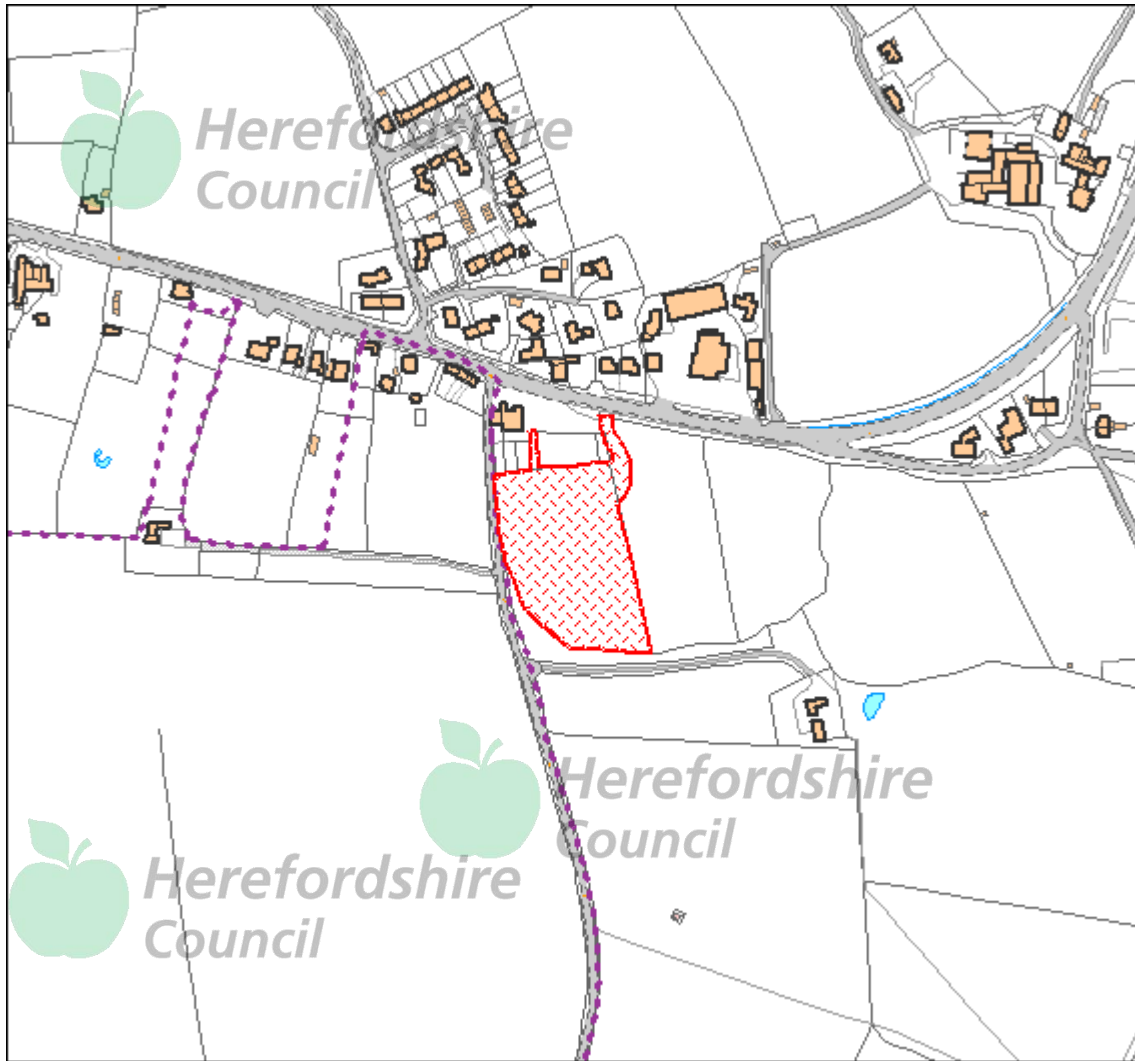
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. 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. HN01 Mud on highway
7. HN24 Drainage other than via highway system
8. HN05 Works within the highway
9. HN28 Highway Design Guide and Specification
10. HN05 Works within the highway

Decision: .....

Notes: .....  
 .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 150473

**SITE ADDRESS :** LAND SOUTH OF THE WHEATSHEAF INN, FROMES HILL, LEDBURY,  
HEREFORDSHIRE

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

# DRAFT HEADS OF TERMS

## Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Application Reference No – 150473

Site address:

**Land South of the Wheatsheaf Inn, Fromes Hill, Ledbury**

Planning application for:

**Proposed residential development of 20 dwellings including 7 affordable houses**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). All contributions in respect of the residential development are assessed against general market units only except for item 3 which applies to all new dwellings.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£29535** (index linked) to provide enhanced educational infrastructure at Burley Gate Primary School. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of **£52,878.00** (index linked) to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

- a) Traffic calming and traffic management measures in the locality
  - b) New pedestrian crossing facilities
  - c) Creation of new and/or enhancement in the usability of existing footpaths and cycleways connecting the site to the wider locality
  - d) Public initiatives to promote sustainable modes of transport
  - e) Safer routes to school
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£80** (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid on or before the commencement of the development
  4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£4,397** to be used towards improving off-site children's play facilities in the locality and/or for more informal recreation opportunities which exist in and around Fromes Hill as per the priorities identified in the Council's Public Right of Way Improvement Plans at the time of receiving the contribution and in consultation with the local parish council

**NOTE: Any attenuation basin and/or SUDS which may be transferred to the Council will**

*require a commuted sum calculated in accordance with the Council's tariffs over a 60 year period*

5. The developer covenants with Herefordshire Council that 35% (7 on basis of a gross development of up to 20 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

*For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.*

*The mix will comprise;*

*2 and 3 Bed units*

6. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
7. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any 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:-:
  - 7.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 7.2 satisfy the requirements of paragraphs 7 & 8 of this schedule
8. 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 whom has:-
  - 8.1 a local connection with the parish of Bishops Frome and Castle Frome
  - 8.2 in the event of there being no person with a local connection to Bishops Frome and Castle Frome any other person ordinarily resident within the administrative area of the 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 9.1 above.
9. For the purposes of sub-paragraph 8.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 9.1 is or in the past was normally resident there; or
  - 9.2 is employed there; or
  - 9.3 has a family association there; or
  - 9.4 a proven need to give support to or receive support from family members; or
  - 9.5 because of special circumstances;

10. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3 and 4 above, for the purposes specified in the agreement within 10 years of the date of payment, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
11. The sums referred to in paragraphs 1, 2, 3 and 4 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.
12. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
13. 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.