

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>2 August 2017</b>
<b>TITLE OF REPORT:</b>	<b>162261 - PROPOSED SITE FOR UP TO 80 DWELLINGS, GARAGES, PARKING, OPEN SPACE AND INDICATIVE ROAD LAYOUT AT LAND OFF ASHFIELD WAY, BROMYARD, HEREFORDSHIRE, HR7 4BF</b>  <b>For: NT &amp; R Eckley per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=162261&amp;search=162261">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=162261&amp;search=162261</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 19 July 2016**

**Ward: Bromyard West    Grid Ref: 364874,254047**

**Expiry Date: 7 April 2017**

Local Member: Councillor A. Seldon

## **1. Site Description and Proposal**

- 1.1 Outline planning permission is sought for the erection of up to 80 dwellings on land off Ashfield Way Bromyard. The site extends to cover approximately 3.83 hectares and comprises two parcels of land. The western parcel is predominantly a rectangular shape aligned in an east-west direction whilst the eastern parcel smaller is smaller and offset diagonally northeast. Both parcels are bordered to the north by a residential estate and by agricultural fields to the east and south. The western boundary is bordered by Hereford Road (A465), defined by a timber post & rail fence with Queen Elizabeth Humanities College opposite.
- 1.2 The western parcel of land is mostly semi-improved grassland. It is approximately 3.23 hectares and was once divided by hedgerows into three separate fields. Native hedgerows and mature hedgerow trees still dominate and define the southern and eastern boundaries. A number of mature former hedgerow trees are also still located in the centre of the site.
- 1.3 The eastern parcel of land is predominantly scrub. It is approximately 0.6 hectares bordered to the north, east and west by residential properties on Maple Close, Oak Close and Highwell Avenue. The southern boundary is defined by a mature hedgerow and trees.
- 1.4 The Agricultural Land Classification for the Site is Grade 3 cited as being 'Good to Moderate' agricultural land as noted by Natural England Agricultural Land Classification Maps for the West Midlands.
- 1.5 The topography of the site as a whole is gently sloping from its highest point of 168m AOD at the north-western corner, down to 148m AOD at the eastern edge.

- 1.6 The surrounding topography reflects the undulating topography of the site, with the landform to the south continuing to fall southeast and east towards the valley of the River Frome.
- 1.7 There are no national or local landscape or heritage designations either within the site or the local area. Bromyard Conservation Area, which includes a number of listed buildings, is located approximately 500m north. A number of Grade II listed buildings are located within 1 kilometre of the site and include:
- Little Frome located 440m to the southeast
  - Birchyfield located 675m to the southwest
  - Pool Hall located 1Km to the east-southeast
- 1.8 A Scheduled Ancient Monument (SAM) Ruins of Church of St. Mary is located 1.45Km south-east of the site. This is surrounded by a small wooded area.
- 1.9 The application is submitted in outline with all matters apart from access reserved for future consideration. The scheme has been amended since its original submission and the number of dwellings proposed reduced from 105. The plan below is the indicative masterplan submitted as part of the application. It shows that access is to be taken directly from Ashfield Way via an existing field gate. The plan simply serves to demonstrate that the quantum of development can be accommodated within the site. The detailed layout and design of the dwellings will be subject to a further reserved matters application should this outline application be approved. For the avoidance of doubt, dwellings in orange on a white background are existing.



- 1.10 The application is also supported by a number of technical documents:
- Design & Access Statement
  - Flood Risk Assessment
  - Heritage Impact Statement
  - Transport Statement
  - Desktop Archaeological Report
  - Protected Species Survey Report
  - Landscape Appraisal
  - Tree Survey
- 1.11 The applicant has also been provided with a Draft Heads of Terms Agreement. This is appended to the report.

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

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

The following policies are considered to be of relevance to this application:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivery New Homes
SS3	-	Ensuring Sufficient Housing Land Delivery
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
BY1	-	Development in Bromyard
RA1	-	Rural Housing Distribution
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sport and Recreation Facilities
OS2	-	Meeting Open Space, Sport and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Quality
ID1	-	Infrastructure Delivery

### 2.2 National Planning Policy Framework

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
Section 12	-	Conserving and Enhancing the Historic Environment

### 2.3 Historic England - The Setting of Heritage Assets

### 2.4 Supplementary Planning Guidance

Supplementary Planning Document: Planning Obligations

### 2.5 Bromyard Neighbourhood Development Plan

Bromyard and Winslow Town Council designated a neighbourhood area on 23 November 2015, however a decision was taken in their March 2017 meeting that they wish to withdraw from the neighbourhood planning process.

### 2.6 The Herefordshire Local Plan Core Strategy 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/core-strategy/adopted-core-strategy>

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### **3. Planning History**

- 3.1 There is no planning history specifically relevant to the site. However, planning permission was refused and an appeal dismissed for the installation of stand alone PV modules and their associated infrastructure on land bounding the site (application reference 151506/F).

### **4. Consultation Summary**

#### Statutory Consultations

#### 4.1 Welsh Water

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### SEWERAGE

##### Conditions

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located, marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

#### WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

#### Internal Council Consultations

#### 4.2 Transportation Manager

Further to our site visit we do not see any problems regarding intensified use of Ashfield Way or the Hereford road or site visibility issues. The Higher than posted (30mph) 85<sup>th</sup> percentile speeds given by the applicant on Hereford Road show there is an issue with speeding that we

would like to see addressed with possible traffic calming and improvements to the sites current connectivity for pedestrians and cyclists.

The applicant refers to contributions as listed in the Design and Access statement:

*“Bromyard is one of the County's main market towns and, in the hierarchy of settlement pattern, is accordingly a main focus for population growth. It has a good range of shops, services, and employment opportunities and the site lies on the Southern side of the developed area of the town. It is considered that the site is sustainably located and in delivering 80 houses, 40% of which will be affordable for local people, **together with contributions for a range of community benefits including public open space, sustainable public transport and education infrastructure will fulfil the economic and social roles of sustainable development.** These are significant material considerations which weigh in favour of the proposal. At the same time the site is not subject to any special environmental designations.”*

We would welcome improvements to the routes to school and other amenities in the area and would encourage discussion with our safer routes to school team throughout the full application process.

We would also encourage cycle path connectivity to the wider network within the design of the scheme going forward.

#### 4.3 Conservation Manager

##### Landscape

The large scale development as proposed on the Concept Masterplan Drawing No 1438/1D has visual impacts associated with long distance views from Public Rights of Way in the South East. The Herefordshire Trail being a major long distance footpath to the South East also has winter hikers. There is therefore a need to provide additional native tree planting to enhance the existing site boundaries and tree planting within the site to help absorb the development into the wider landscape. Landscape proposals should relate to the Landscape Character of this area (Timbered Plateau Farmlands), but also include native evergreen trees to mitigate views in the winter months.

The proposed site has no specific environmental designations, but does have Tree Preservation Orders on several trees which require protection. Our Tree Officer can provide further information on these TPO trees.

The existing green infrastructure network of trees and hedgerow boundaries should be retained and enhanced to maintain the character of the site's setting in the wider landscape and increase the potential wildlife habitats within the site.

Connecting existing boundary hedges with the proposed native hedges will provide improved access for wildlife across the site to the wider landscape.

Fruiting trees will help improve biodiversity of the site. The introduction of planted swales will improve habitat opportunities for local wildlife providing shade and shelter. Wildflower corridors provide food and habitat for pollinating insects and are used as highways for the movement of bees, hoverflies and other pollinators.

The landscape design should use Sustainable Drainage Systems including permeable surfaces and swales to help ensure that the ground water run-off does not exceed the rate of the existing green field site.

Planting a wide variety of native trees and shrubs will help achieve a varied structure and will benefit prevent heavy losses if one species is hit by disease or effects of climate change.

The applicant is to provide the following information:

An Outline Landscape Plan, identifying existing and proposed green infrastructure for enhancement, conservation and restoration of the development site. The proposed green infrastructure plan should provide resilience to climate change while providing appropriate biodiversity and visual amenity value relating to local character and regional identity.

The plan also needs to indicate how the proposed rough grass areas for habitat enhancement are to be protected from the adjacent active recreation area.

It should also provide details of hard landscape surface areas showing footpath connectivity to the town.

Provide a conceptual SUDs Plan which shows the general layout and scale of the SUDs scheme.

### Ecology

I have had an input on the ecological advice for this application and as a result the revised design contains a better green infrastructure although we think there could be much better enhancement of the southern boundary to provide a buffered region between the countryside and the development. In this area we would expect to see more extensive planting with provision for hedgehog, bat flyways, bird nesting and a more substantial 'corridor' along the southern boundary of the development.

In addition, the protected species issue pertaining to great crested newts is to be addressed through Reasonable Avoidance Measures given the possibility of great crested newts in the area. Consequently, we think that a more detailed ecological plan which provides for these Reasonable Avoidance Measures, pre-development site checks and enhancement should be completed for submission to the Local Authority under condition as follows:

*The recommendations for species mitigation and habitat enhancements set out in the ecologist's reports for this application from Shropshire Wildlife Surveys be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and ensure there is no impact upon protected species by clearance of the area. A species mitigation and ecological enhancement plan should be submitted to the local authority for approval and the scheme implemented as approved.*

*Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).*

*To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).*

### Trees

In general, it appears that the design does take into account the existing trees on site and incorporates them into the scheme.

As there is no tree retention/loss plan it makes it difficult to understand the loss of trees and hedgerows across the site as part of the proposals.

I also have concerns regarding the positioning of the site attenuation ponds close to mature trees (T25 and T26). This will require excavations and level change within this area which will be unacceptable and will almost certainly impact the health of these trees.

The positioning of some of the plots in the north-eastern/eastern regions and southern boundary of the proposed site are shown close to existing trees. As well as the potential for light availability issues, there are potential impacts from construction activities and post development pressure to reduce/remove trees in close proximity to dwellings. I consider that any plots should be positioned to allow adequate space between them and the retained trees.

To be able to understand the potential impacts to the existing/retained trees on the site, the applicant is to provide the following information;

- An updated report to include missing detail as highlighted above.
- Tree Retention/Loss Plan which will indicate the tree/hedgerow loss as a result of the development. This should include an 'overlay' of the latest development design.

I consider that at this outline planning stage, it would be premature to request an arboricultural Impact assessment (AIA), tree protection plan (TPP) and 'heads of terms' for arboricultural method statement (AMS).

Going forward, if outline permission is gained and the applicant goes to detailed planning permission, then this information should be requested once a detailed design is finalised. This will also guide to whether a more detailed AMS is required.

#### Heritage Assets

The Historic Buildings Officer raises no objection to the proposal and comments that:

- Birchyfield House has no inter-visibility with the site and the development would not affect its setting.
- Little Frome Farm has limited inter-visibility with the site, however given the distance and limited significance of these views it is not felt that the proposals would affect its setting.
- The centre of Bromyard with its conservation area and cluster of listed buildings is sufficiently distant and separate from the site so as to not be affected.

#### 4.4 Land Drainage Engineer

In principle we do not object to the proposed development on flood risk and drainage ground. We do, however, recommend that the Council considers if the use of best practice SuDS techniques should form part of the development proposals and, if so, that the Applicant demonstrates sufficient space within the development layout to accommodate these features. We also recommend that the Applicant is required to confirm the proposed foul water drainage arrangements.

Should the Council be minded to grant planning permission, we recommend that the following information is included within any reserved matters associated with the permission:

- Demonstration 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;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no

- increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with a 20% increase in rainfall intensity to allow for the effects of future climate change;
  - Results of infiltration testing undertaken in accordance with BRE365;
  - Confirmation of groundwater levels, where infiltration is proposed, to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
  - Details of the location, type and size of conveyance features designed to manage identified surface water flood risk, namely to route overland surface water flows from the north of the site around/through the site, up to the 100 year return period event and including a 20% allowance for climate change;
  - Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage, including consideration of the 100 year return period event, including a 40% allowance for climate change;
  - Demonstration that appropriate pollution control measures are in place prior to discharge;
  - Details of any proposed outfall structures;
  - A detailed foul water drainage strategy showing how foul water from the development will be disposed of;
  - Evidence that the Applicant has sought and agreed permissions to discharge foul water and surface water runoff from the site with the relevant authorities;
  - Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

If the results of infiltration testing indicate that infiltration will not provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

Any discharge of surface water or foul water to an ordinary watercourse will require Ordinary Watercourse Consent from Herefordshire Council prior to construction.

#### 4.5 Public Rights of Way Officer

No objection

#### 4.6 Waste Officer

The presentation point (location that residents have to put their bin ready for emptying by collection crews) should be at the boundary of the property closest to the public highway and not be more than 25 metres from the point on the highway that an RCV can safely access. In this area we operate a 26 tonne RCV.

Any premises located over 25m from where the vehicle can safely access would need to have a suitable collection point identified for refuse and recycling bins. Please refer to "Guidance Notes for storage and collection of domestic refuse and recycling



#### 4.7 Housing Development Officer

I refer to the above application for up to 80 dwellings. There is a requirement to provide affordable housing as stipulated. For the purpose of the Heads of Term's in relation to the affordable please see below:

- 40% affordable.
- Tenure split of 40% Intermediate and 60% Rented (to be agreed).
- Exact mix to be agreed prior to RM, but the greatest need for Bromyard for both open market and affordable housing is for 2 and 3 beds. So we would expect the majority to be 2 & 3s and to include bungalows.
- No more than 50% open market units to be available before the affordable.
- Local connection to Bromyard, then to the County of Herefordshire.

#### 4.8 Education Officer

The educational facilities provided for this development site are St Peters Primary School and Queen Elizabeth Humanities College.

St Peters Bromyard Primary School has a planned admission number of 30. As at the schools Summer census 2016 four year groups were at or over capacity - R=31, Y1=33, Y3=30, Y5=31

The school will require additional classroom space to accommodate the needs of the children created by this development and we would therefore be seeking the contribution to provide an extension to the classroom space at the school.

Queen Elizabeth Secondary School has a planned admission number of 80. As at the schools autumn census 2016 all year groups have spare capacity and no contribution is sought.

Approximately 1% of the population are affected by special educational needs and as such the Children's Wellbeing Directorate will allocate a proportion of the monies for Primary, Secondary and Post 16 education to schools within the special educational needs sector. Although there is currently surplus capacity with the catchment secondary school and therefore we are unable to ask for a full contribution as indicated in the SPD towards this element please note that 1% of the contribution will go towards Special Educational Needs provision within the Local Authority maintained Special Schools and therefore we would still be seeking this 1% contribution.

In accordance with the SPD the Children's Wellbeing Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children's Wellbeing contribution for this development would be as follows:

Contribution by No of Bedrooms	Primary	SEN	Total
2+bedroom apartment	£1,201	£89	£1,290
2/3 bedroom house or bungalow	£2,143	£138	£2,281
4+ bedroom house or bungalow	£3,471	£247	£3,718

## 5. Representations

5.1 Bromyard & Winslow Town Council - The Town Council's Planning & Economic Development Committee resolved to object to this application on the following grounds:-

- A significant lack of information accompanying the application (e.g. FRA, Transport Assessment, Heritage Statement, Ecology Report, Section 106 agreement).
- A lack of identification of 1.05ha of employment land to accompany the application and render it sustainable, as required by Policy BY1 of the Council's adopted Core Strategy.

Following the submission of additional information the Town Council commented as follows:

The Town Council continues to object to the above application on the following grounds:-

- High landscape sensitivity of the site.
- Lack of a Transport Assessment, Heritage Statement, Ecology Report and Section 106 agreement.
- Lack of identification of the 1.05ha of employment land to accompany the application, as required by the Core Strategy.

At its meeting on Monday 9th January 2017 the Town Council's Planning & Economic Development Committee resolved to continue to object to this application on the following grounds:-

- Visual harm to the wider landscape
- Adverse effect on the setting of the Grade 2 listed building Little Froome Farmhouse
- Failure to protect and enhance the intrinsic character and beauty of the area
- The proposed development is in conflict with the Core Strategy 2011-31. Approval would lead to overdevelopment of a locally valued site and conflicts with the strategic site to north of the A44.
- The proposed development is incompatible with and detrimental to views across the Froome Valley and Bromyard Downs
- The proposed play area is wrongly sited and there is no scheme of management for it
- The proposed access would require parking restrictions on Ashfield Way which may not be feasible
- The proposed development would have an adverse effect on the nearby Herefordshire Trail
- There are already commitments and live applications for more than 700 dwellings in Bromyard

5.2 Twenty six letters of objection from sixteen local residents have been received in response to the initial consultation and subsequent re-advertisement following the receipt of amended plans and information. In summary the points raised are as follows:

### Amenity Issues

- The scheme will be detrimental to the residential amenity of existing properties
- Detrimental effects on existing residents in terms of noise and air pollution

### Infrastructure

- Residents on Ashfield ay already suffer from low water pressure and the proposed development would only make this worse

- The existing sewage system is already at capacity and the combined foul and surface water system overloads during periods of heavy rainfall
- There are limited public transport facilities in Bromyard and development will simply increase dependency upon private modes of transport
- Development would result in increased pressure on local services including the doctors surgery, hospital and sewage system
- There are insufficient employment opportunities in Bromyard

#### Highway Matters

- The proposed access is inappropriate for the number of dwellings proposed
- Increased traffic movements would require some sort of traffic control or traffic calming system along the A465. This will lead to congestion
- The proposal is contrary to the preferred option of the town council for new development to be located to the north of the Leominster Road (A44), around Hardwick Bank
- Concerns about highway safety and in particular that children would have to cross the A465 to get to school (QE Humanities Academy) and also the A44 (St Peters Primary)

#### Landscape and Ecology

- The proposal will have a detrimental impact upon the landscape. Attention is particularly drawn to the fact that an appeal against the refusal of planning permission for a solar farm on an adjacent field was dismissed on landscape impact grounds
- All of the trees on the site have been uprooted in recent months in advance of the submission of the application
- Detrimental impacts upon ecology through the loss of trees and hedgerows
- The proposals make no provision for a community orchard or allotments
- The ecology survey does not take proper account of the presence of Great Crested Newts and plays down the diverse range of birds and mammals in the locality.

#### Other Matters

- The site is immediately adjacent to a historic road
- The site is outside of the current settlement boundary
- The proposed housing mix is disappointing given the ageing population trend
- There has been a lack of community consultation prior to the submission of the application
- If approved, the proposal would set a precedent for the development of other areas of agricultural land.

### 5.3 Nunwell Doctors Surgery

These are comments in relationship to this planning application, but also take into consideration planning applications no 163932 and no 163001. *(for clarity these are the applications for the strategic housing site at Hardwick Bank for up to 500 dwellings and land of Pencombe Lane for up to 120 dwellings)*

We presently have 9600 patients registered with the Practice. Our present Surgery building is fully utilised Monday to Friday by the Practice clinical team and attached staff of District Nurses, Health Visitors and Community Midwife. As well as visiting clinicians from the Mental Health Trust.

Our expectation, taken into consideration the appointments offered at the moment and the recent historical increase in need for more appointments to meet the need of the present population, is that we will need more capacity to meet future needs, without any increase in the

towns population. The combined planning application would increase our practice population by approx. 15%

We therefore feel it is essential that the consideration of this planning application recognises the need for support for infrastructure changes in primary health care services in the town as well as other essential services such as education, social care and employment. We support planning for more housing in the area, but this has to be balanced by increased resources for health infrastructure.

We want to continue to offer first class primary health care services to our patients and to do this we need Herefordshire Council to take into consideration these comments.

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=162261&search=162261](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=162261&search=162261)

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

### The Principle of Development

- 6.1 In accordance with the National Planning Policy Framework (the NPPF), the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."
- 6.2 Policy SS2 of the Core Strategy makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns. With specific regard to Bromyard Policy BY1 says that the town will accommodate a minimum of 500 new homes over the plan period.
- 6.3 It has been well rehearsed in many previous reports to Planning Committee that a failure to maintain a supply of housing land will render the housing supply policies of the Core Strategy as being non compliant with the NPPF and therefore out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completion rates fall below the trajectory set out in Appendix 4 of the Core Strategy.
- 6.4 Despite the adoption of the Core Strategy, a housing land supply deficit persists. The Council's most recently published position in the Interim Position Statement (July 2016) advises of a supply of 4.49 years.
- 6.5 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 49 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in the recent Richborough Estates Supreme Court ruling.

- 6.6 Policy BY1 is most relevant in this regard. While it identifies a minimum proportionate growth target of 500 dwellings and is clearly a housing supply policy, it also sets out a number of criteria against which new development proposals will be assessed. These are material to the determination of the application and, in your officer's view, can be attributed weight in the planning balance.
- 6.7 The site is located on the southern boundary of Bromyard and is immediately adjacent to the built environs of the town. Access is gained via Ashfield Way and in turn onto the A465. The playing fields of the Queen Elizabeth Secondary School are immediately opposite and the site is also within walking distance of the town centre where there are a range of local services, including a doctor's surgery. In terms of its location, the site is considered to be sustainable and one that is appropriate for development.

**Photograph showing the site and its relationship to existing built-up areas**



- 6.8 Given that the site is considered to be acceptable in terms of its general location, the following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Impact on designated and non-designated heritage assets

- 6.9 The proposed development site is located 500 metres north of the Bromyard Conservation Area. At least three Grade II listed buildings are located within one kilometre of the site, the closest being Birchyfields and Little Froome Farmhouse.
- 6.10 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:

*“to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

- 6.11 With particular regard to Conservation Areas, Section 72 of the Act goes on to say:

*“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*

- 6.12 Appeal decisions have subsequently informed the precise meaning of “preserving” in that it means doing no harm.
- 6.13 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.
- 6.14 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.15 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 129 to 134 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 131 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.16 Paragraph 132 reiterates the presumption of great weight being afforded to the preservation of heritage assets and is clear that; ‘The more important the asset, the greater the weight should be.’
- 6.17 It is also clear that significance can be harmed or lost through alteration or destruction of a heritage asset, and that proposals that require this should be fully justified and wholly exceptional.
- 6.18 Paragraph 133 is clear that;
- ‘Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...’*
- 6.19 Paragraph 134 has been confirmed through case law to be a restrictive policy and deals with development that would lead to less than substantial harm. It has two limbs, stating that harm should be weighed against the public benefits of the proposal. The same case law confirms that the second limb; the public benefits, should go first, and that the test is effectively different to paragraph 133 – the identification of harm does not immediately direct one to refuse planning permission.
- 6.20 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.

- 6.21 The application is supported by a Heritage Impact Assessment which concludes that the setting of the Conservation Area will not be affected by the proposed development by virtue of the intervening modern residential development and by-pass that has taken place throughout the 20<sup>th</sup> Century. In respect of the Conservation Area the report concludes that; “... *the proposed development will have no impact on the character, setting or significance of any of the listed buildings or other designated heritage assets in the medieval town.*”
- 6.22 With regard to Birchyfields, the impact assessment concludes that the site plays no part in the setting of the listed building and the lack of any reciprocal views between the two means that the proposed development will have no impact on the character, setting or significance of the listed building.
- 6.23 Little Froome Farmhouse is the other listed building potentially impacted by the proposed development. The assessment considers that the distances between the listed building and the application site, coupled with the buildings and hedgerows in between and the fact that the new built element of the proposed development is set back from the distinct break slope at the top of the valley side, means that there will be little or no impact on the character, setting or significance of the listed building.
- 6.24 The Council's Historic Buildings Officer has assessed the proposals and confirms that it will not demonstrably impact upon the setting of any heritage assets. It is therefore concluded that the impacts identified above in relation to the two listed buildings and the setting of the Conservation Area fall towards the lower end of the less than substantial spectrum identified at paragraph 134 of the NPPF – to which recourse must be had in the context that Policy LD4 of the Core Strategy does not address how harm should be factored into the planning balance. There are no non-designated heritage assets affected by the proposal and in this case the harm to heritage assets is marginal. Your officers' opinion is that this does not give rise to a reason to refuse the application. On this basis weight will be attributed accordingly.

#### Highway Safety

- 6.25 Policy MT1 of the Core Strategy 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).
- 6.26 Access to the site is to be taken directly from a residential estate road; Ashfield Way, and in turn from the A465. The speed limit on Ashfield Way is 30mph and the A465 is also covered by the same 30mph limit immediately either side of the junction. Ashfield Way is built to modern highway standards and includes footway provision constructed to adoptable standards on both sides, which link to Hereford Road, where a pedestrian refuge and dropped kerb crossing points are provided. The Hereford Road/Ashfield Way junction is also built to a high standard in terms of vehicular access and safety. This includes appropriate radii and visibility splays, as well as a dedicated right turn lane to facilitate safe manoeuvres into Ashfield Way as shown by the photograph below:





- 6.27 The application is accompanied by a speed survey and weekday forecast of traffic movements associated with the proposed development at the Ashfield Way / A465 junction. It projects that at peak periods the development will generate:
- 42 movements – Left turn from Ashfield Way (0700 – 0800)
  - 51 movements – Left turn from Ashfield Way (0800 – 0900)
  - 41 movements – Right turn into Ashfield Way (1700 – 1800)
- 6.28 The Department for Transport 'Manual for Streets', NPPF and Policy MT1 of the Core Strategy recognise the importance of walking and cycling as modes of transport which offer a more sustainable alternative to car travel and can make a positive contribution towards the overall character of a place, improved public health and in helping to tackle climate change.
- 6.29 There are a range of local amenities within a 10 minute walk of the site. The town benefits from a good network of footpath provision and this includes a footpath along the A465 and A44. These are the most obvious and direct walking routes to the town centre from the site.
- 6.30 Bromyard is served by a number of bus services to nearby towns and cities, including Worcester, Hereford, Leominster and Ledbury.
- 6.31 The Transport Statement concludes that the additional traffic movements likely to be generated by the proposal could be accommodated without significant impact on the safety or capacity of the transport network. The site is also ideally located to promote alternative transport movements.
- 6.32 The comments received from the Council's Transportation Manager endorse this view and, subject to some improvements to local infrastructure and implementation of traffic calming, raise no objection to the scheme. These are improvements that can either be secured on-site through a further reserved matters application, while off site improvements that are directly related to the proposal can be provided through condition and Section 106 contributions. On this basis the scheme accords with Policy MT1 of the Core Strategy and the NPPF.

#### Impact of the development on the landscape

- 6.33 The site is not located within an area where there is either national or local landscape designation. It is part of an attractive rural setting to the southern fringe of Bromyard and is typical of much of Herefordshire's landscape, as can be seen from the photograph below.



- 6.34 The application is supported by a Landscape Appraisal. It concludes that the site is not considered to be significantly prominent in the landscape as views from the south and on approach from Hereford are diminished by commercial and residential properties on the western side of the road, together with background views of the existing residential properties.



- 6.35 The wider rural landscape setting to the south and southeast of the site can be seen in the photograph. The trees and remnants of a hedgerow form the site's southern boundary. With conservation and enhancement your officer's view is that they have the potential to provide the basis for a landscape buffer that would serve to filter views of any eventual development.
- 6.36 The landscape setting of the town is a valuable resource but it is considered that impacts of the proposed development could be mitigated without undue effect on the landscape character of the surrounding area and without significant visual intrusion from publicly accessible places. It is considered that the site sits well on the southern edge of Bromyard and the proposal would form a cohesive, logical extension and visual link to the existing residential area. It is therefore concluded that the proposal conforms to policy LD1 of the Core Strategy.
- 6.37 The comments made by the Council's Arboricultural Advisor regarding the proximity of retained trees to development are noted. However, the application is made in outline with all matters apart from access reserved for future consideration. Matters relating to the precise layout of the development can be addressed at the reserved matters stage should planning permission be forthcoming. The trees that are covered by Tree Preservation Orders are located along the shared boundary with Ashfield Way. Some are out-with the application site. Appropriate survey work prior to the design stage must ensure that the layout of the scheme does not unacceptably impact upon them. This is an issue that can be appropriately addressed through a Reserved Matters submission.
- 6.38 While it is acknowledged that planning permission has been refused and dismissed on appeal on adjacent sites for the installation of solar PV panels and associated infrastructure, it should be understood that each application must be treated on its own merits and that the landscape impacts of these different types of development will be inherently different.

### Ecology

- 6.39 The original public consultation revealed the possible presence of Great Crested Newts (GCN) within the curtilage of a property bounding the application site. The original ecology survey had not considered their potential presence and therefore some further survey work was undertaken. It advises that there are no natural ponds within the vicinity of the application site and no GCNs were found during the visit. The report concludes that any GCNs that may have been present are likely to have been as a result of accidental transportation through eggs on plants when the pond was originally constructed.

- 6.40 The report does acknowledge that there may be potential for an isolated population of GCNs to be found within the vicinity of Ashfield Way and accordingly recommends mitigation to include:
- An attenuation pond as part of the SuDs along with land set aside with rough grassland and specifically designed hibernacula.
  - Access to the wider landscape and the attenuation pond would be beneath the road between the new and old housing estates via not less than two 250mm concrete pipes.
  - The attenuation pond will be designed to hold water most years up until high summer, when it would be expected to dry out, thereby removing any build up of predators such as fish, Dragonfly or Great Diving Beetle larvae etc.
- 6.41 If no evidence of Great Crested Newts is discovered, then the proposed mitigation would still be an important asset for local wildlife and would remain as part of the overall landscaping plan.
- 6.42 The site is presently rough grazing land. The field boundaries have become degraded through a lack of management and, while existing trees and hedge plants do provide a natural habitat for nesting birds and mammals, the overall biodiversity value could be improved. Policy LD2 of the Core Strategy requires development proposals to conserve, restore and enhance biodiversity. It is considered that the measures outlined above will improve the site's value as a potential habitat for Great Crested Newts and the reinforcement of existing site boundaries through additional planting will improve nesting and foraging habitat for birds, provide shelter for small mammals and encourage insects. Subject to the imposition of appropriately worded landscaping and ecological mitigation conditions the proposal is considered to accord with Policy LD2 of the Core Strategy.

#### Impacts of the development on local infrastructure

- 6.43 Concerns raised by some local residents regarding the capacity of the sewage treatment works and the availability of water supply are not substantiated by the comments received from Welsh Water and on this basis it would be unreasonable to refuse the application on such grounds.
- 6.44 The lack of public transport facilities is also cited as a reason that means that further development would be unsustainable. Bromyard is served by a number of local bus routes between the town and Hereford, Leominster and Worcester. The frequency of services may be limited – most likely from a commercial perspective due to a lack of demand – and it might reasonably be contended that further development is more likely to see services maintained, or even improved.
- 6.45 Bromyard Town Council have pointed to the fact that the proposal does not provide a proportionate amount of employment land in relation to the number of new dwellings that have been proposed. Policy BY1 sets out the requirements for the town and reads as follows:
- “Bromyard will accommodate a minimum of 500 new homes together with around 5 hectares of new employment land during the plan period.”*
- 6.46 The policy sets out the requirements for the town both in terms of new housing and employment land over the plan period. What it does not do is to link the delivery of the two to each other. There is no policy requirement for applications for new housing sites to deliver a proportionate amount of employment land and therefore no grounds to refuse this, or any other scheme for housing in Bromyard, on such a basis.
- 6.47 Correspondence has been received from Nunwell Doctors Surgery regarding this and other development proposals in the town, and the likely increase in pressure on their service that would result if planning permission were to be granted for all of them. Members will recall that planning permission has been granted for 76 dwellings on the Porthouse Farm site. This

development is currently underway. Further applications for the strategic housing site at Hardwick Bank (up to 500 dwellings) and land off Pencombe Lane (up to 120 dwellings) are valid but as yet to be determined. With this in mind your officers have sought the views of the Herefordshire Clinical Commissioning Group to ascertain what additional provision might be required to support the projected growth of the town. Despite several requests your officers have not received a response and it is their view that it is unreasonable to continue to delay the determination of this application indefinitely until such time as a formal response is received.

### Other issues

- 6.48 Some local residents have expressed concerns about the impact of the proposed development on residential amenity. Some refer to potential loss of privacy whilst others are concerned about noise and air pollution. The issue of privacy is a matter to be determined at the reserved matters stage. The proposal simply seeks to agree the principle of development with precise layout and orientation of dwellings to be agreed should outline planning permission be granted. It will be at this stage that the relationship between existing and proposed dwellings will be assessed.
- 6.49 Matters relating to potential nuisance arising during the course of construction can be addressed through the imposition of a condition requiring the submission of a Construction Management Plan and this is reflected in the conditions recommended below.
- 6.50 In the absence of a Neighbourhood Development Plan Bromyard does not have a defined settlement boundary. As has been discussed earlier in this report, the site is immediately adjacent to the built environs of the town and is considered to be sustainable in terms of its location.
- 6.51 One letter of objection has referred to the presence of a historic road adjacent to the site. The implications of this are not clear and it is not considered that this represents a reason to refuse the application.

### Summary and conclusions

- 6.52 Both Policy SS1 of the Core Strategy and paragraph 14 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The site is adjacent to the built area of Bromyard, is close to local services, employment opportunities and local bus stops. Policies for the supply of housing must be considered out of date absent a 5 year supply plus buffer; albeit the weight to be attributed such policies remains a judgement for the decision-maker.
- 6.53 The principle of development is considered to be acceptable, with the detailed design, layout and landscaping to be considered at the reserved matters stage. It is at this stage that it would be appropriate to consider detailed design and amenity aspects of the scheme and ensure compliance with Policy RA2, SD1 and LD1 of the Core Strategy.
- 6.54 Whilst local residents concerns have been considered, the proposed development complies with the requirements of policy MT1 of the Core Strategy and with the guidance contained within the National Planning Policy Framework. Matters of impact upon biodiversity have been resolved satisfactorily and the council's Ecologist is content that the mitigation measures proposed in the ecology report that accompanies the application are sufficient to ensure that the requirements of policy LD2 are met. The area does not have either national or local landscape designation and matters of landscape impact can also be addressed through the imposition of appropriately worded conditions.

- 6.55 In assessing the three indivisible dimensions of sustainable development as set out in the Core Strategy and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. 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 and social roles. Likewise S106 contributions as outlined in the draft heads of terms agreement appended to this report should also be regarded as a material consideration when making any decision.
- 6.56 Officers are content that there are no other matters of such material weight that would justify withholding planning permission. On this basis the proposal is compliant with the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and the application is accordingly 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 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. B01 Development in accordance with approved plans**
- 5. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
  - a. Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
  - b. Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
  - c. A noise management plan including a scheme for the monitoring of construction noise.**
  - d. Details of working hours and hours for deliveries**
  - e. A scheme for the control of dust arising from building and site works**
  - f. A scheme for the management of all waste arising from the site**
  - g. A travel plan for employees.**

**The agreed details of the CMP shall be implemented throughout the construction period.**

**Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

6. **Prior to the first occupation of any of the dwellings hereby approved a Travel Plan which contains measures and targets to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the Local Planning Authority upon reasonable request.**

**Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

7. **No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

**Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.**

8. **The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located, marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.**

**Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment**

9. **The recommendations for species mitigation and habitat enhancements set out in the ecologist's reports for this application from Shropshire Wildlife Surveys be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and ensure there is no impact upon protected species by clearance of the area. A species mitigation and ecological enhancement plan should be submitted to the local authority for approval and the scheme implemented as approved.**

**Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).**

**To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3**

**Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).**

- 10. G03 Retention of existing trees/hedgerows**
- 11. G10 Landscaping scheme**
- 12. G11 Landscaping scheme – implementation**
- 13. H06 Vehicular access construction**
- 14. I44 No burning of materials/substances during construction phase**
- 15. I55 Site Waste Management**
- 16. M17 Efficient use of water**

**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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.**
- 3. I 09 Private apparatus within the highway**
- 4. I 11 Mud on the highway**
- 5. I 35 Highways Design Guide**
- 6. I 41 Travel Plans**
- 7. I 45 Works within the highway**
- 8. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)**

9. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

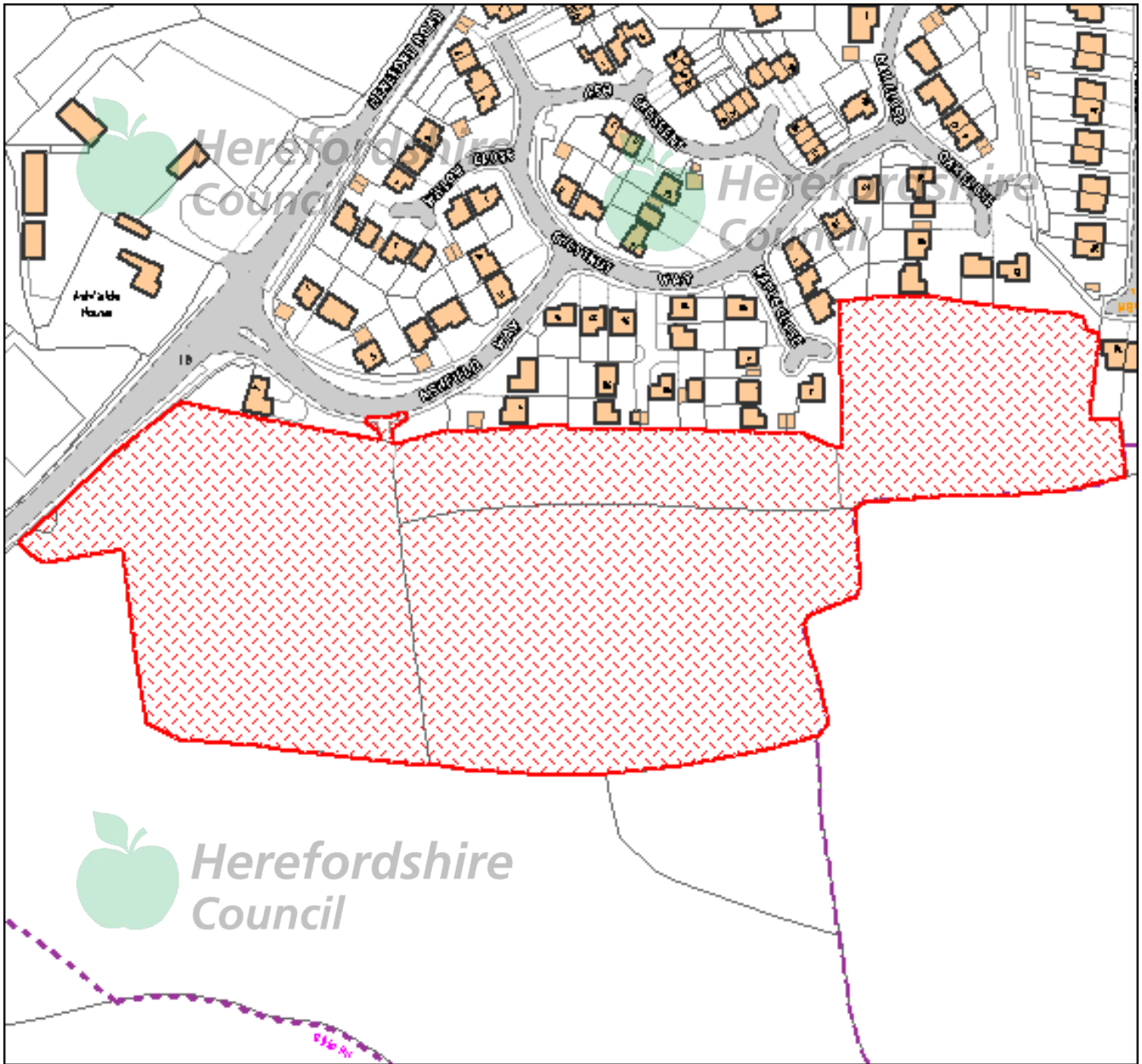
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 162261

**SITE ADDRESS :** LAND OFF ASHFIELD WAY, BROMYARD, HEREFORDSHIRE, HR7 4BF

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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

Planning Application – P162261/O

Site address:

**Land off Ashfield Way, Bromyard, Herefordshire, HR7 4BF**

Planning application for:

**Site for up to 80 no. dwellings, garages, parking and open space, access and roads**

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 open 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 (per open market unit):

£ 1,290.00 (index linked) for a 2 bedroom apartment open market unit

£ 2,281.00 (index linked) for a 2/3 bedroom open market unit

£ 3,718.00 (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at St Peters 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 (per open market unit):

£ 1,966.00 (index linked) for a 2 bedroom open market unit

£ 2,949.00 (index linked) for a 3 bedroom open market unit

£ 3,932.00 (index linked) for a 4+ bedroom open market unit

to provide sustainable transport infrastructure to serve the development. The 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, in consultation with the Parish Council, at its option for any or all of the following purposes:

- a) Traffic Regulation Order to extend the 40mph speed limit beyond Panniers Lane
- b) Provision of dropped crossings and pedestrian refuge to facilitate access to the school on the A465
- c) Extension of footway towards Panniers Lane with dropped crossings and pedestrian refuge to facilitate access to local facilities including the Hope Family Centre

**NOTE: A Sec278 agreement may also be required depending on the advice of the local Highways Authority**

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80.00 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each open market property. 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 £1,218.00 (index linked). The contributions will be used for football, cricket and rugby sports facilities and would be identified as per the priorities identified in the Playing Pitch Assessment for the Bromyard Area 2012 and the Outdoor Sports Investment Plan 2016 in the Sports Partnership Investment Plan at the time of receiving the contribution and in consultation with the local parish council.  

The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
  
5. The developer covenants with Herefordshire Council to provide a minimum green infrastructure provision of 0.21 hectares to include;
  - Public Open Space:0.073ha (960sq m) and
  - Children’s Play: 0.14ha (1900sq m) to include a kick-about area and formal play space catering for children of all ages: infants, juniors and teenagers.
  
6. The maintenance of any 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 and/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: 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**
  
7. The developer covenants with Herefordshire Council that 40% of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H1 of the Herefordshire Local Plan Core Strategy 2011 – 2031 or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.  

**NOTE: the mix of tenure and unit size of the affordable units shall be agreed with Herefordshire Council:**

**NOTE: For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.**
  
8. 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.
  
9. 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:-:
  - 9.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 9.2. satisfy the requirements of paragraphs 10 & 11 of this schedule
  
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-

- 10.1. a local connection with the parish of Bromyard & Winslow
  - 10.2. in the event of there being no person with a local connection to Bromyard & Winslow 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.
11. For the purposes of sub-paragraph 10.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
    - 11.1. is or in the past was normally resident there; or
    - 11.2. is employed there; or
    - 11.3. has a family association there; or
    - 11.4. a proven need to give support to or receive support from family members; or
    - 11.5. because of special circumstances;
  12. 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.
  13. 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.
  14. 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.
  15. 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**  
**12 April 2017**