

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 AUGUST 2018</b>
<b>TITLE OF REPORT:</b>	<b>181384 - PROPOSED RESIDENTIAL DEVELOPMENT OF 25 DWELLINGS ALONG WITH NEW ACCESS AND ASSOCIATED WORKS AT FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, HEREFORDSHIRE</b>  <b>For: Mr Brown per Miss Beth Hamblett, Matthews Warehouse, High Orchard Street, Gloucester Quays, Glos, GL2 5QY</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&amp;search=181384">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&amp;search=181384</a>
<b>Reason Application submitted to Committee – Contrary to policy</b>	

**Date Received: 12 April 2018**

**Ward: Leominster  
North & Rural**

**Grid Ref: 351783,261253**

**Expiry Date: 16 July 2018**

Local Member: Councillor J Stone

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

- 1.1 The application site lies between pre-existing residential development of The Chestnuts and Stockton Rock, on the northern side of the A4112. It is currently used as pasture land and is an irregularly shaped field that rises from the road.
- 1.2 Planning permission has been granted in outline with all matters apart from access reserved for future consideration (Ref: 151145/O) for the erection of up to 21 dwellings. Subsequently, approval of Reserved Matters pursuant to the outline planning permission was granted on 27<sup>th</sup> March 2018, but not before an earlier submission had been refused and dismissed on appeal. The main issues with the first RM submission revolved around layout and the mix of housing proposed.
- 1.3 The original outline planning permission was granted subject to a Section 106 Agreement. This included a contribution of £270,053.33 in lieu of on site affordable housing provision and was agreed on the basis that there was not a need for additional affordable housing provision in the village.
- 1.4 This application is for a revised residential development made in full as opposed to outline, now comprising 25 dwellings. The scheme has been developed principally to address concerns raised about the absence of affordable housing from the scheme as approved. As a result of detailed discussion and negotiation with the developer, an alternative scheme is now proposed that maintains the originally approved 21 open market dwellings, together with four affordable dwellings that will meet the definitions as set out in Annex 2 of the revised National Planning Policy Framework. For ease these definitions are set out below:

**Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

- a) *Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*
  - b) *Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*
  - c) *Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*
  - d) *Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*
- 1.5 As with the previously approved scheme, the current proposals maintain access from the A4112. A principal spine road cuts through the centre of the site with private drives off it. A surface water attenuation pond is located at the front of the site; this is the lowest lying area, and a landscaped area creates a buffer between the site and The Chestnuts. Field accesses are to be maintained on the eastern boundary and to the northern corner of the site. The site layout is shown on the following page:



- 1.8 The application is submitted with detailed plans and elevations of all of the dwellings and the following supporting documents:
- Design & Access Statement
  - Flood Risk Assessment and Preliminary Drainage Assessment
  - Ecological Assessment
  - Tree Report

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Distribution
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	-	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
ID1	-	Infrastructure Delivery

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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### Kimbolton Neighbourhood Development Plan

The NDP was made on 15<sup>th</sup> June 2018. It identifies the application site as a commitment. As such the Written Ministerial Statement from December 2016 is applicable. For the purposes of decision-making it can be given full weight and the relevant policies are as follows:

K1 - Promoting a Sustainable Community

Among other things, Policy K1 refers to the need to ensure housing meets the ongoing needs of the community with a suitable mix of size, style and tenure.

K2 - Development Strategy

Policy K2 defines the Kimbolton settlement boundary and identifies the application site as one of two where planning permission already exists for 3 or more dwellings.

K3 - The scale of new housing

Policy K3 identifies the need to make provision for proportionate growth, which in this case equates to a minimum of 40 dwellings (35 of which have been constructed or committed between 2011 – 2017; although this figure takes account of the 21 permitted via 151145, which this application seeks to supplant).

K4 - Housing development within the settlement boundary

Policy K4 is intended to guide new development within the settlement boundary and requires that it should be in keeping with the scale, form and character of its surroundings and not prejudicial to the amenity associated with neighbouring properties.

K7 - Design of new housing

Policy K7 is a criteria based policy dealing with the design of new housing developments. The specific criteria are referred to later in the officer's appraisal.

K8 - Ensuring an appropriate range of tenures, types and sizes of houses

Policy K8 has the clear intent of 'evening out' the scale of housing with the village by adding smaller market properties:-

All proposals for new housing development will have to demonstrate how they contribute to maintaining a mix of tenures, types and sizes of dwelling in the Parish. In order to even out the size range of dwellings available in the Parish and meet identified needs, proposals must be for smaller dwellings of two or three bedrooms, unless it can be demonstrated this is not appropriate.

K9 - Affordable housing

Policy K9 describes how the need for affordable housing will be met i.e. via windfall sites of more than 10 dwellings or rural exception sites.

K10 - Protecting and Enhancing Local Character

All development proposals will be expected to respect, reinforce and promote the special qualities, historic character and local distinctiveness of the area in order to help maintain its cultural identity and strong sense of place.

K11 - Heritage Assets

All applications affecting heritage assets will be required to demonstrate consideration of the significance of any heritage asset affected including any contribution made by their setting.

K21 - Open spaces

This policy requires provision of open space in accordance with Core Strategy Policies OS1 and OS2.

[https://www.herefordshire.gov.uk/downloads/file/13542/neighbourhood\\_development\\_plan\\_-\\_february\\_2018](https://www.herefordshire.gov.uk/downloads/file/13542/neighbourhood_development_plan_-_february_2018)

National Planning Policy Framework

Section 2 - Achieving sustainable development

Section 4 - Decision-making

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

Section 5	-	Delivering a sufficient supply of homes
Section 9	-	Promoting sustainable transport
Section 11	-	Making effective use of land
Section 12	-	Achieving well-designed places
Section 14	-	Meeting the challenge of climate change, flooding and coastal change
Section 15	-	Conserving and enhancing the natural environment
Section 16	-	Conserving and enhancing the historic environment

The 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 3. Planning History

- 3.1 151145/O - Proposed residential development of up to 21 dwellings along with new access and associated works – Approved by planning committee. Decision notice issued 29/4/16. Planning permission was granted subject to the completion of a Section 106 Agreement.
- 3.2 163693/RM – RM submission pursuant to the outline above (151145/O): Refused and appeal dismissed.
- 3.3 180323/RM – RM submission pursuant to the outline above (151145/O): Further application for approval of Reserved Matters pursuant to 151145/O: Approved 27<sup>th</sup> March 2018.

### 4. Consultation Summary

#### Statutory Consultations

#### 4.1 **Natural England:** No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below.

#### European sites – River Wye Special Area of Conservation

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the River Wye Special Area of Conservation and has no objection to the proposed development.

We advise that surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753

To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- Application form stating that foul effluent will be disposed through sewer mains

#### River Wye/Lugg Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

#### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website. Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

#### 4.2 **Welsh Water:** No objection

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

Welsh Water does not provide sewerage services in his area. The nearby properties are served by a private sewer network and private sewerage treatment works. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

#### Internal Council Consultations

#### 4.3 **Service Manager Built and Natural Environment (Landscape Officer):** A permission upon the site for a scheme of 21 dwellings was granted as part of an outline application in 2015, at which time no landscape representation was made. Following on from this 2 proposed layouts were submitted as part of a reserved matters application (P163693/RM and P180323/RM) for which the following landscape comments were provided:

*I am aware that there are no previous landscape comments in respect of this application and I have no comments to make in respect of the internal layout of the proposal.*

*The one point I do wish to raise however is that the application site does protrude beyond the existing line of residential curtilage northwards into open countryside. Whilst I recognise the site boundary is agreed at outline stage. I would recommend that consideration be given to mitigating any adverse visual effects from the nearby PROW through the introduction of a landscape buffer running along the northern boundary, what is currently proposed is native hedgerow and I am not satisfied this is sufficient.*

*I would also like to see the boundary of the dwellings along the northern edge of the site demarcated independently of the hedgerow, as this would reduce the threat of it being removed in years to come.*

*I would recommend the introduction of a boundary marked by native hedgerow with a tree belt of a minimum of 10-20 metres beyond it.*

The current application is for an increase in units to 25 units, I have reviewed both plans and note that the community orchard has been removed from the scheme. As well as garages shifted northwards within the garden space. The loss of open space is unfortunate and the increase in built form beyond the existing residential curtilage conflicts with recommendations. I can therefore only reiterate my comments above.

4.4 **Service Manager Built & Natural Environment (Ecology):** Thank you for consulting me on this application. The ecological survey submitted with the application is now out of date having been carried out in 2015. However, discharge of reserved matters applying to this site were dealt with in 2018 with the development found to be of low impact on biodiversity. On this basis I would suggest including a condition for a site check prior to any development including site clearance. This, plus submission of the enhancement plan informed by the site check, should prove sufficient as follows:

*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 conduct an ecological inspection at an appropriate time of year and ensure there is no impact upon protected species by clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.*

Reasons:

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).

AND

*The recommendations set out in Section 5 of the ecologist's report from Churton Ecology dated March 2015 and the pre-commencement site checks should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

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

Reasons:

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

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

4.5 **Archaeological Advisor:** No objection

4.6 **Service Manager Built and Natural Environment (Historic Buildings Officer):** We have no objections to the proposals on heritage grounds

4.7 **Parks & Countryside Officer:** No objection

Open Space Requirements.  
Core Strategy Policies



OS1: Requirement for open space, sport and recreation facilities  
OS2: Meeting open space and recreation needs

Kimbolton Neighbourhood Development Plan: referendum stage.  
Policy K21: Open Spaces

It is noted that this site has an existing approval for 21 houses (151145/O and 180323/RM). This included an off-site contribution towards POS in lieu of on-site provision as agreed in the heads of terms. This would still be applicable but with the addition that the off-site contribution could be used towards POS improvements in the village as described below.

Core Strategy Policies OS1 and OS2 apply. Open space requirements from all new development are to be considered on a site by site basis and in accordance with all applicable set standards which are set out below. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

Kimbolton Neighbourhood Development Plan Policy K21 although at referendum stage will carry some weight. This recommends that all new development proposals should include the provision of new open space and recreational facilities to meet the needs of those living/working within their developments in accordance with Herefordshire Core Strategy policies OS1 and OS2. Where provision cannot be met on site, developers should look to enhance or extend current provision, including assisting with obtaining land for such purposes. Measures that will increase accessibility to recreational facilities such as the public rights of way network may be advanced as an alternative. Where appropriate, any possible development proposals should ensure such space and the public rights of way network are as accessible as possible, including through a choice of sustainable means, such as cycleways and footways

The Neighbourhood Plan identifies two areas of Local Green Space which includes the land at Chestnut Avenue which is located in the heart of Kimbolton village and adjacent to this site.

Proposal: The proposed site plan for this application does not include any on-site POS and the orchard that was previously proposed is now no longer shown, given the need to accommodate additional housing. It is a shame as its provision could enhance the offer in this part of the village. It is near to the existing POS at Chestnut Avenue which is described in the Neighbourhood Plan as an important open space and the only area publically accessible within the heart of the village. The two areas could have potentially been linked via a footpath and in doing so provide well-connected open space offering a range of opportunities which is seen as good planning.

Off-Site contribution: With no on site provision for POS an off-site contribution is sought in lieu of this in accordance with both Core Strategy and Kimbolton Neighbourhood Development Plan Polices described above. It is calculated in accordance with the SPD on Planning Obligations on market housing only as follows:

1 bed: £193  
2 bed: £235  
3 bed: £317  
4+ bed: £386

The contribution would be used towards improving the public rights of way in and around the village in accordance with the Public Rights of Way Improvement Plan and POS in the village in accordance with the Kimbolton Neighbourhood Development Plan.

#### 4.8 Land Drainage Officer: Qualified comment

##### Overall Comment

The proposals are largely acceptable in principle, although we recommended that the following information is submitted for a review before a planning permission is granted:-

- Drawing showing the proposed surface water and foul water drainage strategy developed for the current proposal, supported by description of the strategy. The drawing should clearly show the location and type of the proposed SuDS, attenuation measures and package treatment plant.
- Revised calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and that there will be 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 (including calculations of proposed storage). Note that we recommend that these use FEH methods and 2013 rainfall data.
- Consideration of the risk of water backing up the foul/surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere.
- Confirmation that the proposed construction of c.400m of pipeline below the public highway and subsequent discharge to the watercourse is agreed in principle with the Council. A written agreement will be needed to facilitate the construction of a headwall on third party land.
- Confirmation that the adoption of the surface water drainage system by DCWW (including combined system downstream of the site) is acceptable in principle.
- Assessment of the suitability and sensitivity of the receiving watercourse to receive treated effluent.
- Provision of an Environmental Permit for the proposed Package Treatment Plant and Outfall
- Demonstration that appropriate access is available to maintain foul water drainage features.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information requested in suitably worded planning conditions:-

- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology.
- Detailed drawings of proposed drainage layout, attenuation features and outfall structures.
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to and including the 1 in 2 annual probability storm event.
- Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.
- Confirmation that the adoption and maintenance of the drainage systems has been agreed with the relevant authorities.
- Demonstration that appropriate access is available to maintain drainage features.
- Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company.
- Calculations to inform the assessment of the risk of water backing up the foul/surface water drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves.

4.9 **Waste Officer:** Qualified comment

I have concerns that the turning head near plot 21 is not large enough to allow the refuse collection to turn. Turning heads need to meet highways specifications to allow the RCV to turn. Can tracking be provided to show principle whether the RCV can access and turn within the development?

4.10 **Housing Officer:** Comments awaited

4.11 Public Rights of Way Officer: No objection

4.12 Education Officer: Seeks a financial contribution towards adding capacity to the village primary school

4.13 Wye Valley Trust: Using impact assessment formulae, the WVT seeks a contribution of £13,212.21.

**5. Representations**

**5.1 Kimbolton Parish Council**

Kimbolton Parish Council are in favour of the second proposal option to incorporate an additional 4 affordable properties totalling 25 units. We believe that this would provide a vital opportunity to local first-time purchasers in conjunction with the wider development. The additional properties would also have minimum impact on the overall low density layout. We would ask that any "affordable status" legal conditions are applied to the selected properties in perpetuity enabling future purchasers to also benefit from the scheme. Please also see previous comments as below -The introduction of selected stone chimney breasts and traditional oak porches to a small number of the properties would further enhance the development. We would also encourage native planting along the northern boundaries. Treated sewage outflow and surface water management requires clarification to avoid potential flooding of existing low lying properties within the locality of the site.

5.2 One objection has been received from Mr John Read. The content is as follows:-

As you will be aware I objected to the original application for 21 dwellings on the grounds that the treated sewage and the storm water drains were proposed to discharge into the Cogwell Brook, this is also a registered floodplain. It was proposed to discharge on the North side of an already bottlenecked culvert. This culvert adjacent to Chapel House has caused flooding to property and land for many years this situation should not be made worse by directing even more water to this point.

This current application says that the sewage is dealt with by means of a pumping station and main drainage system. The storm water is to be directed to a pool/lake. In my opinion there is not enough information on the application to make a considered opinion at this time as there is no detail on the main drainage system including where it runs or discharges, this also applies to the overflow from the pool/lake.

I trust we will get a further opportunity to comment when the drainage details have been deposited with you.

5.3 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=181384&search=181384](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&search=181384)

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

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

### *Policy context and Principle of Development*

6.1 Section 38 (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."*

6.2 In this instance the adopted development plan consists of the Herefordshire Local Plan – Core Strategy (CS) and the Kimbolton NDP, which is made and on the basis of the Written Ministerial Statement (December 2016), attracts full weight. The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 A range of CS policies are relevant to development of this nature, and these are outlined in full at Section 2.1. Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the NPPF. Policy SS1 also confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

6.4 Core Strategy policy RA1 explains that the minimum requirement for 5,300 new homes will be distributed across seven Housing Market Areas (HMAs). Kimbolton is a main settlement within the Leominster HMA, which has an indicative growth target of 14% (equivalent to delivering 730 new homes across the plan period). For the parish of Kimbolton, this equates to a minimum of 35 new dwellings.

6.5 In this case the NDP recognises the existing planning permission as a commitment and the principle of new residential development on the site is thus supported.

6.6 It then falls to consider the detailed proposal against the relevant policies of the CS and other material considerations to establish whether there are any adverse impacts associated with the proposed scheme which would outweigh the benefits. This would be towards establishing if the scheme is representative of sustainable development, for which there is a positive presumption enshrined in the NPPF and CS. The key matters requiring consideration are set out below.

### **Housing mix and the supply of affordable housing**

6.7 Policy K8 of the NDP states:

*All proposals for new housing development will have to demonstrate how they contribute to maintaining a mix of tenures, types and sizes of dwelling in the Parish. In order to even out the size range of dwellings available in the Parish and meet identified needs, proposals must be for smaller dwellings of two or three bedrooms, unless it can be demonstrated this is not appropriate.*

6.8 Policy K9 of the NDP states:

*The need for affordable housing will be met by:*

- 1. Rural exception sites; or*
- 2. On windfall developments providing ten homes or more which have a combined floor space of more than 1,000sq metres, a minimum of 40% of properties are made available to meet local affordable housing needs. All affordable homes will be subject to Section 106 Agreements ensuring that priority for allocation, on the first and subsequent lettings, is first given to those with a local connection in accordance with the Herefordshire Council local connection criteria <https://www.herefordshire.gov.uk/housing/advice/definition-of-affordable-housing>*

*A 'cascade' arrangement will be in place to ensure that where nobody with a local connection is forthcoming then properties will be offered at a second stage to those from the neighbouring Herefordshire parishes of Middleton on the Hill and Leysters, Luston Group, Leominster and Hatfield & District Group.*

*Covenants will be required which ensure that all properties will be re-sold or let to occupiers who demonstrate a local housing need, and will be subject to the same cascade arrangements described above.*

6.9 The extant planning permission with reserved matters approval has a housing mix as follows:-

<b>Plot No.</b>	<b>House Type</b>	<b>Floor Area (m2)</b>
1 to 3	3 bed bungalow	120
5 to 8	2 bed house	84
10, 11, 12 & 13	3 bed house	94
4, 9, 16, 17, 19 & 20	3 bed house	109
14, 15 18 & 21	4 bed house	141

6.10 As referred to earlier in the report, the extant planning permission for the site does not include any on-site affordable housing provision. Should the extant permission be implemented a commuted sum of £270,053.33 would be received by the council to be used to deliver affordable housing elsewhere. In this case there are no other sites in Kimbolton that are likely to deliver affordable housing, nor are any proposals likely to come forward as exceptions sites. The reality is that the sum would be used in the wider Leominster Housing Market Area; most likely in Leominster itself where schemes are more likely to come forward, with little or no benefit to local people wishing to remain in the village. Whilst no submissions have been made in respect of this application, it was clear from the appealed reserved matters application that there is an appetite for affordable accommodation in the locality.

6.11 Whilst the current scheme is not policy compliant in as much that the four affordable units now proposed only equate to 16% of the overall scheme, as opposed to the 40% required by policy H1 of the Core Strategy and K9 of the NDP, I am of the view that there is a significant benefit to securing an on-site provision which weighs heavily in favour of the application. In reaching this conclusion I am mindful of the fact that the village is unlikely to be delivered of any affordable housing through the payment of a commuted sum and that the extant permission is a reasonable fall back position should this application be refused.

6.12 The scheme provides a good range of house types being comprised as follows:

- 8 two bed (32% of dwellings on site)
- 13 three bed (52% of dwellings on site)
- 4 four bed (16% of dwellings on site)

This compares to the needs identified for the rural area of the Leominster Housing Market Area as set out in the Herefordshire Local Housing Market Assessment (LHMA) which identifies needs by house type as follows:

- 25.8% two bed
- 59.1% three bed
- 9.2% four bed

6.13 Policy H3 of the Core Strategy and K8 of the NDP both require a range of house types and sizes to meet the needs of all households. The LHMA provides the evidence base for this and, on the basis of the above, I am content that the scheme provides an appropriate mix as the policies require. The scheme therefore accords with both policy H3 and K8.

### **Scale, design and appearance of dwellings**

6.14 Policy K7 of the NDP provides specific advice about the design approach to be taken for new development in the village. It is a criteria-based policy which advises that development proposals should:

1. *Incorporate locally distinctive features and materials*
2. *Utilise physical sustainability measures associated with buildings that include, in particular, orientation of buildings, cycle and recycling storage and broadband infrastructure.*
3. *Include adequate parking and ensure that movement to, within, around and through the development is acceptable.*
4. *Retain important features such as tree cover, ponds, orchards and hedgerows, adding to the natural assets of the Parish where opportunities are available.*
5. *Hard and soft landscape proposals should not result in a suburbanised appearance.*
6. *Seek on-site measures that support energy conservation, such as tree planting and other forms of green infrastructure to provide shade and shelter and include sustainable drainage systems, the maximum use of permeable surfaces and minimising the use of external lighting to that which is necessary.*

6.15 Policy RA2 is also relevant and says that housing proposals will be permitted where a series of criteria are met. The third of these reads as follows:

*“They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting;”*

6.16 Kimbolton is a modestly sized village based around a historic core. It contains approximately 75 properties, the parish hall, public house, village shop and primary school.

6.17 Chestnut Avenue and Stockton Rock constitute the most recent residential development in any significant number that has taken place in the village. Chestnut Avenue is the most visually prominent of the two. It takes a very linear form and is set back from the A4112 on higher ground and is clearly visible as one approaches the village from the south west from the A49. Stockton Rise is more discretely located and its presence is not evident from the A4112.

6.18 Notwithstanding these more recent developments, the village has more typically developed in a sporadic and organic fashion over time and the overriding pattern of development is more linear with wayside development along the A4112. Properties have been constructed using a wide palette of materials including brick, stone and render as can be seen from the photographs on the following page:



- 6.19 The proposals have taken a lead from the surrounding area in terms of design and appearance. Elevations are well detailed. The plans indicate a mix of brick and render finishes with tiled roofs, although precise details are to be agreed. The variation of materials, combined with the gaps between buildings and the low density layout creates a visual break and adds interest to the development. The overall appearance of the proposal is considered to be acceptable and in accordance with the requirements of Policy K7 of the NDP and Policies LD1 and SD1 of the Core Strategy.
- 6.20 The dwellings comprise single and two-storey dwellings at a scale consistent with the surrounding context. The scale, in terms of dwelling numbers, is also considered to be acceptable, albeit that they have increased from 21 to 25. Notwithstanding, the density of development remains low at approximately 14 dwellings per hectare.
- 6.21 Unsurprisingly, dwellings are well spaced and are set within large curtilages. An area immediately adjacent to The Chestnuts is set aside as a community orchard and an attenuation pond is located in an area closest to the A4112. This is the lowest lying area in the site and most logical location for it.
- 6.22 For the purposes of this assessment, I am content that the scale of development in terms of the proportions of the dwellings themselves and the quantum of development is acceptable in accordance with K4 of the NDP and LD1 and SD1 of the Core Strategy.

## **Drainage**

- 6.23 Policies SD3 and SD4 of the Core Strategy deal with issues relating to sustainable water management, waste water treatment and river quality. The application is substantively the same as the permission granted by the outline and reserved matters applications referred to previously. At that time the Council's Land Drainage Engineer originally commented in detail on the outline application and accordingly a condition was imposed to require the submission of a detailed scheme for foul and surface drainage works, including surface water attenuation.
- 6.24 The proposals in respect of drainage are the same as before. The scheme will see foul sewage discharged via a pumping station with surface water attenuated in a proposed pond and discharged at an appropriate rate.
- 6.25 Comments have been submitted again by the Land Drainage Engineer. No objection is raised in principle to the scheme but the comments do suggest that additional information should be sought prior to determination. However, mindful of the fact that permission has previously been approved for a slightly lesser scheme, it is also suggested that planning permission could be granted subject to the imposition of conditions requiring details to be submitted. Given the history to the site, and that a similar approach was taken previously, this does not appear to be unreasonable.

## **Impact on Heritage Assets**

- 6.26 The Stockton Cross Inn is a Grade II listed building and lies approximately 50 metres from the north eastern boundary of the site. However, it is visually separate, the public house and the application site separated by a belt of mature native-species trees and an intervening property (Steps Cottage). Consequently there is no inter-visibility between the two. Furthermore, the site and public house do not have any acknowledged historic context to one another that would suggest that the proposed development would cause harm to the significance of the heritage asset.
- 6.27 It is noted that the council's Historic Buildings Officer does not object to the application. Considering the scheme in the context of paragraph 196 of the NPPF I am of the view that there will be no harm caused to the significance of Stockton Cross Inn. The public benefits of providing a mix of house types; including bungalows, are significant, and therefore I weight attribute weight to this over any marginal impact to the setting of the designated heritage asset.

## **Impacts on Residential Amenity**

- 6.28 In order to ensure that the residential amenity of Steps Cottage is ensured, and to ensure that all three bungalows continue to provide single storey accommodation to maintain the housing mix that is acknowledged to represent a significant benefit of this scheme, it is proposed to include a condition to remove permitted development rights from all three bungalows to insert windows; including rooflights, into their roofs, thus ensuring that accommodation is not provided in the roof area. On this basis the proposals will comply with SD1 of the Core Strategy and K4 of the NDP.

## **Other Issues**

- 6.29 The applicant and their agent have liaised closely with the parish council and local residents. It is noted that the application has only attracted a single objection as opposed to the thirty five received to the original outline application. Whilst this should not necessarily be a barometer of acceptability, it does clearly show the benefit of community consultation.



## **Planning Balance & Conclusion**

- 6.30 As outlined at the beginning of the officer's appraisal, the determination of the application, *"...must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.31 In this case the proposal is not compliant with the development plan as it does not deliver the requisite amount of affordable housing as required by Policy H1 of the Core Strategy; the four dwellings proposed amounting to 16% as opposed to a 40% policy requirement. However, this should be balanced against the fact that the extant permission for 21 dwellings does not make an on-site provision at all, rather it makes a financial contribution of £270,053.33 in lieu of on-site delivery. Officers are also mindful of the advice contained in the recently revised NPPF, which at paragraph 62 confirms the expectation that affordable housing should be delivered on site unless an appropriate financial contribution in lieu can be robustly justified.
- 6.32 Officers are also firmly of the opinion that it is unlikely that schemes will come forward within Kimbolton on which the contribution might be spent. The reality is that it would be spent in the wider Leominster Housing Market Area; most likely Leominster itself, with very little appreciable benefit to the residents of Kimbolton. Therefore greater weight is attached to the fact that this scheme will provide some affordable housing on site as opposed to the fall back position of the extant permission, which would deliver none. For this reason the requirements of Policy H1 are given less weight in the planning balance.
- 6.33 The scheme represents a sustainable form of development and is acceptable in all other respects, and is otherwise compliant with the development plan. The application is therefore recommended for approval subject to the completion of a Section 106 Agreement in accordance with the Draft heads of Terms appended to this report.

## **RECOMMENDATION**

**The officers named in the Scheme of Delegation to Officers be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 with regard to the obligations in the draft heads of terms and any additional matters and terms as considered appropriate. Upon completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any further conditions considered necessary by officer named in the scheme of delegation:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. G03 Retention of existing trees/hedgerows**
- 5. G04 Protection of trees/hedgerows that are to be retained**
- 6. G10 Landscaping scheme**
- 7. G11 Landscaping scheme - implementation**

8. **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 conduct an ecological inspection at an appropriate time of year and ensure there is no impact upon protected species by clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.**

**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).**

9. **The recommendations set out in Section 5 of the ecologist's report from Churton Ecology dated March 2015 and the pre-commencement site checks should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

**Reason: 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).**

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

10. **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 plan to show the location of site offices and rest areas for staff**
- d. **A noise management plan including a scheme for the monitoring of construction noise.**
- e. **Details of working hours and hours for deliveries**
- f. **A scheme for the control of dust arising from building and site works**
- g. **A scheme for the management of all waste arising from the site**
- h. **A travel plan for employees**

**Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

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

11. **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows; including rooflights, shall be constructed in any of the elevations of the bungalows shown on Plots 1 to 3 of the approved plan 5776/P/10.**

**Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

12. **H06 Vehicular access construction**
13. **H11 Parking - estate development (more than one house)**
14. **H17 Junction improvement/off site works**
15. **H18 On site roads - submission of details**
16. **H29 Secure covered cycle parking provision**
17. **I51 Details of slab levels**

**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. 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.**

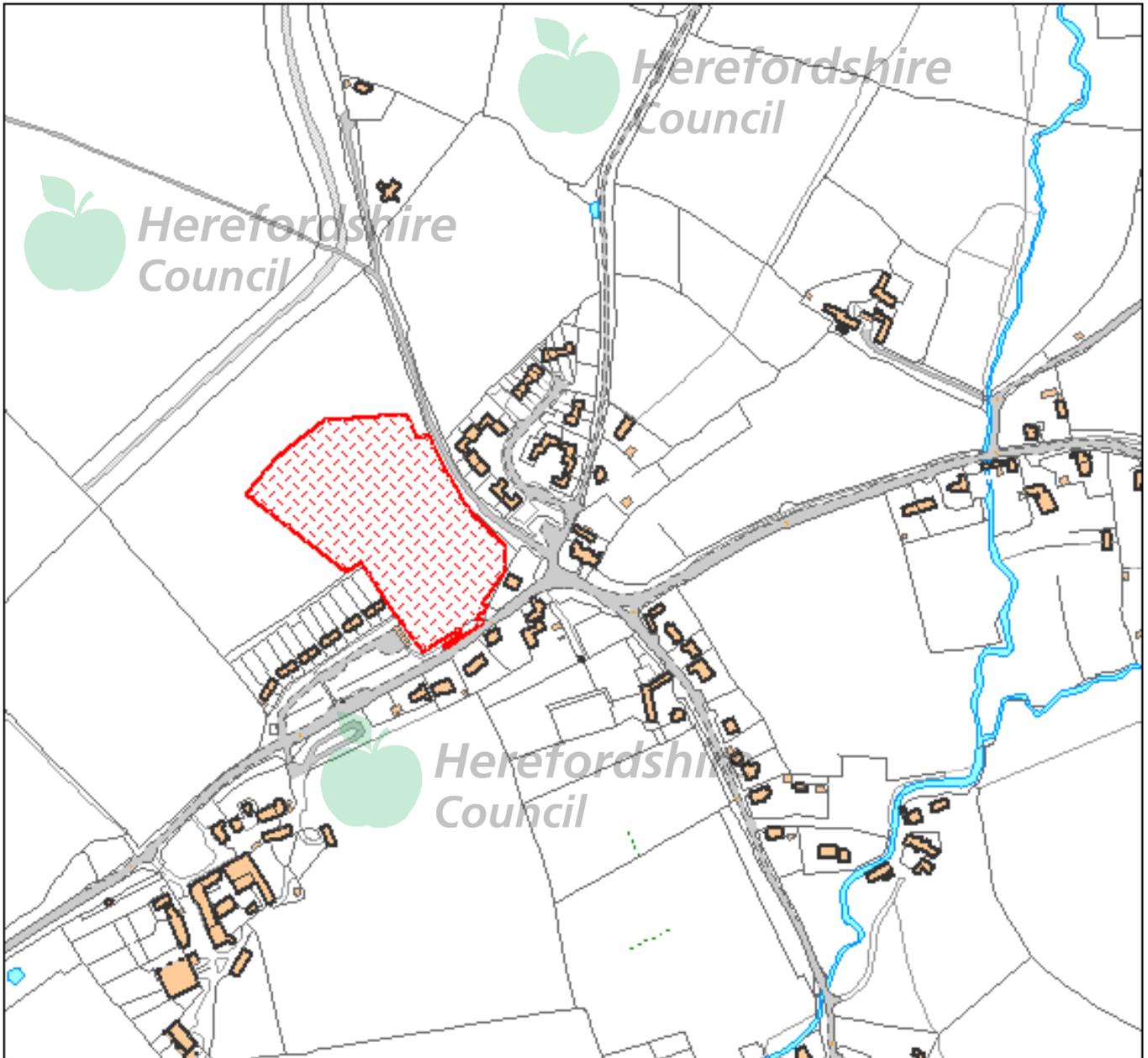
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 181384

**SITE ADDRESS :** FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, LEOMINSTER

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# DRAFT HEADS OF TERMS

## Proposed Planning Obligation Agreement

### Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008.

Planning application: P181384/F

Proposed residential development of 25 dwellings along with new access and associated works on field adjoining A4112 and Chestnut Avenue, Kimbolton.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£55,476.00** (index linked). The contributions will provide for enhanced educational infrastructure at St James Primary School, Kimbolton, Post 16 and Special Education Needs provision. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£77,470.00** (index linked). The contributions will provide for sustainable transport infrastructure to serve the development. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

The sustainable transport infrastructure will include:

- Improving footpaths in the village including the footpath to the village hall
- Installation of gateway features to reduce road traffic speeds
- Improved 30mph road signage
- Cycle way link along A49

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£6,605.00** (index linked). The contributions will be used towards improving the Public Right of Way network in and around the village and the public open space in the village in accordance with the Kimbolton Neighbourhood Development Plan. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2,000.00** (index linked). The contributions will provide for 1 x waste bin and 1 x recycling bin. The sum shall be paid on or before first occupation of any dwellinghouse, and may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£13,212.21** (index linked). The contributions will provide for the development of infrastructure for the provision of health services at Hereford Hospital. The sum shall be paid on or before occupation of the 10th open market dwellinghouse, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 4 units 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 and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations 2008.
7. The developer covenants with Herefordshire Council that the affordable units will be Low Cost Market Housing which means housing sold to people in need of Affordable Housing at a discounted price.
8. The developer covenants with Herefordshire Council that all the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the open market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons in affordable housing need one of who has:-
  - 9.1 a local connection with the parish of Kimbolton;
  - 9.2 in the event there being no person with a local connection to the parish of Kimbolton to the adjoining parishes;
  - 9.3 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies and have found no suitable candidate under sub-paragraph 9.1 & 9.2 above

10. For the purposes of sub-paragraph 9.1 and 9.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

- 10.1 is or in the past was normally resident there; or
- 10.2 is employed there; or
- 10.3 has a family association there; or
- 10.4 a proven need to give support to or receive support from family members; or
- 10.5 because of special circumstances

11. In the event that the Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 above for the purposes specified in the agreement within 5 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

12. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index of indices selected by the Council with the intention that such sums will be adjusted according to any percentage in prices occurring between the date of the Section 106 Agreements and the date the sums are paid to the Council.

13. 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.

14. 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.