

# Planning Committee

Date: **Friday, 18th January, 2008**

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Time: **10.00 a.m.**

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Place: **The Council Chamber, Brockington,  
35 Hafod Road, Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

*For any further information please contact:*

*Pete Martens, Democratic Services,  
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**County of Herefordshire  
District Council**



# AGENDA

## for the Meeting of the Planning Committee

To: Councillor TW Hunt (Chairman)  
Councillor RV Stockton (Vice-Chairman)

Councillors ACR Chappell, PGH Cutter, H Davies, DW Greenow, JW Hope MBE, B Hunt, G Lucas, RI Matthews, R Mills, PM Morgan, JE Pemberton, AP Taylor, DC Taylor, WJ Walling, PJ Watts and JD Woodward

### 1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

### 2. NAMED SUBSTITUTES (IF ANY)

To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.

### 3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

#### GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

### 4. MINUTES

To approve and sign the Minutes of the meeting held on 14th December, 2007.

#### Pages

<b>5. CHAIRMAN'S ANNOUNCEMENTS</b>	
To receive any announcements from the Chairman.	
<b>6. NORTHERN AREA PLANNING SUB-COMMITTEE</b>	15 - 16
To receive the attached report of the Northern Area Planning Sub-Committee meeting held on 12th December, 2007	
<b>7. CENTRAL AREA PLANNING SUB-COMMITTEE</b>	17 - 18
To receive the attached report of the Central Area Planning Sub-Committee meeting held on 19th December, 2007.	
<b>8. SOUTHERN AREA PLANNING SUB-COMMITTEE</b>	19 - 20
To receive the attached report of the Southern Area Planning Sub-Committee meeting held on 9th January, 2008.	
<b>9. PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT</b>	21 - 78
To give views to Cabinet about the Supplementary Planning Document which sets out the Council's policy on the use of planning obligations.	
Cabinet deferred consideration of this item at its meeting on 13th December, 2007 so that it could receive the views of the Planning Committee.	
<b>10. DCNC2007/2869/F - PROPOSED 4 NEW HOUSES ON LAND ADJACENT TO 44 VICARAGE STREET, LEOMINSTER, HEREFORDSHIRE</b>	79 - 90
For: CNG Developments Ltd per Mr L F Hulse, 19 Friars Gardens, Ludlow, Shropshire SY8 1RX	
This application was deferred at the previous meeting for further information.	
<b>Ward: Leominster North</b>	
<b>11. DCNW2007/2653/F - PROPOSED ERECTION OF 6 DWELLING UNITS AND ANCILLARY GARAGES AND FORMATION OF NEW VEHICULAR ACCESS AT LAND ADJACENT TO METHODIST CHAPEL, HEREFORD ROAD, WEOBLEY, HEREFORDSHIRE</b>	91 - 100
For: Border Oak Design & Construction Ltd	
To consider an application that was deferred at the previous meeting for further information.	
<b>Ward: Golden Cross with Weobley</b>	
<b>12. DCSE2007/3140/O - OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF EMPLOYMENT USES INCLUDING B1, B2 AND B8. TOGETHER WITH CHANGE OF USE TO FORM LANDSCAPE BUFFER ZONE AT MODEL FARM, HILDERSLEY, ROSS-ON-WYE, HEREFORDSHIRE,</b>	101 - 112
For: Herefordshire Council per Hunter Page Planning Ltd, Thornbury House, 18 High Street, Cheltenham GL50 1DZ	
<b>Ward: Ross-on-Wye East</b>	

13. **DCNE2007/3731/F CONVERSION OF FORMER STABLES AND STORAGE TO FORM TWO SELF CONTAINED HOLIDAY UNITS, STANLEY HILL COURT, BOSBURY, LEDBURY HR8 1HE.** 113 - 118

To consider an application which has been referred to the Committee because it is from a Member of the Council.

**Ward: Hope End**

14. **DATES OF FORTHCOMING MEETINGS**

29th February, 2008

11th April, 2008



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## **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 14th December, 2007 at 10.00 a.m.**

**Present:** Councillor TW Hunt (Chairman)  
Councillor RV Stockton (Vice Chairman)

**Councillors:** PA Andrews, PGH Cutter, DW Greenow, JW Hope MBE, B Hunt, G Lucas, R Mills, PM Morgan, JE Pemberton, GA Powell, DC Taylor, WJ Walling, PJ Watts and JD Woodward

**In attendance:** Councillors H Bramer, GFM Dawe, MJ Fishley, JHR Goodwin and J Stone (ex-officio)

**54. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors ACR Chappell, H Davies, RI Matthews and AP Taylor.

**55. NAMED SUBSTITUTES (IF ANY)**

The following named substitutes were appointed:-

<b>MEMBER</b>	<b>SUBSTITUTE</b>
G Powell	RI Matthews
AP Taylor	Mr PA Andrews

**56. DECLARATIONS OF INTEREST**

Councillor	Item	Interest
JE Pemberton	Agenda item 11, Minute No. 64 <b>DCNC2007/2869/F - proposed 4 new houses on land adjacent to 44 Vicarage Street, Leominster</b>	Declared a prejudicial interest and left the meeting for the duration of the item
RV Stockton & PJ Watts	Agenda Item 13, Minute No. 66 <b>DCNC2007/3280/F - retrospective application for the erection of 3m high fence around nw boundary, Bromyard Leisure Centre</b>	Declared a prejudicial interest and left the meeting for the duration of the item

**57. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 28th September, 2007 be approved as a correct record and signed by the Chairman

**58. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman said that he would send a card on behalf of the Committee to Councillor RI Matthews and Mr P Yates wishing them a speedy recovery.

**Planning Obligations Supplementary Planning Document**

Cabinet considered this document on 13th December. It was resolved that the item be deferred in order to give Planning Committee an opportunity to debate and feedback views.

**Annual Monitoring Report and Local Development Scheme**

These documents were reported to Cabinet on 13th December and agreed. The Annual Monitoring Report provides progress in achieving the Council's planning policies. The Local Development Scheme sets out a three-year programme for the preparation of documents in the Local Development Framework. To meet statutory requirements for maintaining this rolling programme, and for submission of the Annual Monitoring report by the end of the year, the documents would be forwarded to Government Office for consideration.

**59. NORTHERN AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the report of the meeting held on 17th October and 14th November, 2007 be received and noted.

**60. CENTRAL AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the report of the meetings held on 26th September, 2007, 24th October, 2007 and 21st November, 2007 be received and noted.

**61. SOUTHERN AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the report of the meetings held on 10th October, 7th November, 2007 and 5th December, 2007 be received and noted.

**62. LOCAL GOVERNMENT OMBUDSMAN REPORT - COMPLAINT NO: 06/B/14891 – PUDDLESTON, LEOMINSTER**

The Head of Legal and Democratic Services presented a report about an investigation by the Local Government Ombudsman following a complaint he had received regarding the granting of permission by the Planning Committee on 20th January 2006 for application DCNC 2005/3689/0 for a smithy and stables at Puddleston. He said that the Ombudsman had found that the Council was at fault in failing to give adequate reasons for granting the application against officer advice and against significant local and national planning policies. Although the Ombudsman accepted that Committee was entitled to depart from officers advice, it needed to have good reasons to do so, based on clear and legitimate planning grounds. In this case the Ombudsman had found that the Committee had failed to provide such a justification for the decision and that there was maladministration which had caused injustice to the complainant.

The Ombudsman had recommended that the Council:

- (i) commissions independent valuations of the property affected both before and after the development;
- (ii) pays to the complainant the difference between the valuations, if any;

- (iii) pays to the complainant a further £250.00 in recognition of the time and trouble spent pursuing the complaint; and
- (iv) produces a good practice guide for Members of the Planning Committee on dealing with all aspects of the decision-making process, arranging appropriate training for all Members once it is introduced

Councillor B Hunt was disappointed at the report, feeling that the decision had been taken after carefully considering all the factors involved. He suggested that the Ombudsman's decision should be noted but that no further action should be taken, other than that outlined by the Head of Legal and Democratic Services about an advisory handbook for Members. The Head of Legal and Democratic Services said that advice obtained from Counsel was to accept the recommendations because it was unlikely that the Council could win a challenge in the High Courts. Councillor WJ Walling suggested that the Ombudsman should be informed that the Committee had only taken the decision after carefully and objectively weighing up all the information.

**RESOLVED**

**That the Head of Legal and Democratic Services be instructed to convey the views of the Committee to the Ombudsman about his findings.**

**63. DEVELOPMENT CONTROL: HALF ANNUAL REPORT**

The Committee noted the report of the Head of Planning Services about the Councils Development Control performance in the first six months of 2007/08 and thanked the Officers for their achievements.

**64. DCNC2007/2869/F - PROPOSED 4 NEW HOUSES ON LAND ADJACENT TO 44 VICARAGE STREET, LEOMINSTER, HEREFORDSHIRE**

The Northern Team leader said that the Northern Area Planning Sub-Committee was mindful to refuse planning permission contrary to recommendation. The Sub-Committee was of the view that the proposals for the site would constitute overdevelopment and the Head of Planning Services had decided to refer the matter to the Planning Committee for consideration. He presented the following updates:-

**ADDITIONAL REPRESENTATION**

There has been ongoing correspondence with Mr Hewitt of 64 Osborne Place, he raises a number of questions about contact with the Environment Agency, Natural England and the adequacy of condition 16 to deal with surface water drainage and water logging of the site and adjacent public footpath.

It is also understood that he has made a formal complaint to the Council in this regard.

Reference has also been made to some residents locally being advised that they could not get insurance due to their location within the flood plain.

He also asked upon what basis could it be claimed that 'the fact remains that the site was not flooded as a result of recent heavy rainfall' in para 6.4 of the original report to the northern area planning sub committee and also in the current report.

**OFFICER COMMENTS**

To respond to last comment first, the comment was made on the basis that we had not been informed by objectors that the site had flooded. It was agreed that in order that there was no misunderstanding that sentence would be amended to read 'there is no evidence that the site flooded as a result of the recent heavy rainfall'. Unfortunately the report was not so amended and I apologise

for that oversight.

Officers have spoken to the Environment Agency on a number of occasions and they are aware of the objections received. There comments appear in the body of the report and it will be noted that they recommend a condition requiring floor levels to be 600mm above the 1% floodplain plus climate change (20%) flood level of 71.59 AOD, this is condition 7 of your report.

Natural England's response in the main body of the report.

The policy of Insurance Companies to insure or otherwise is not a matter for the LPA.

If the application is permitted condition 16 requires details of the drainage to be submitted to and approved in writing by the LPA before development commences. This is not an unusual requirement and details will be checked with the necessary experts in this field before accepted as suitable.

In accordance with the criteria for public speaking, Mrs Thwaites of Leominster Town Council and Mr Hewitt an objector, spoke against the application.

Councillor Brig P Jones, a Local Ward Member, shared the concerns of the objectors about the potential flooding issues, notwithstanding the views of the Environment Agency that the site had a 1 in 1000-year probability of flooding. He was also concerned at the impact of the proposal on a valuable area of open space and wildlife and that there would be an overall adverse effect on the environment and setting. He also had reservations about the safety of pedestrians on a well-used thoroughfare because vehicular access would be over a public footpath with no provision for a separate footpath in the access road.

The Committee discussed the merits of the application and shared some of the concerns which had been raised by the objectors. The Northern Team Leader explained that the concerns could be met by appropriate conditions and informatives and that the application was in accordance with the Council's planning policies. A proposal that a site inspection should be held was not supported but it was felt that there was merit in deferring consideration of the application for further information about the proposed method of vehicular access to the site and its likely impact on the public footpath.

## **RESOLVED**

**That consideration of the application be deferred for further information about the vehicular access proposals.**

**65. DCNW2007/2653/F - PROPOSED ERECTION OF 6 DWELLING UNITS AND ANCILLARY GARAGES AND FORMATION OF NEW VEHICULAR ACCESS AT LAND ADJACENT TO METHODIST CHAPEL, HEREFORD ROAD, WEOBLEY, HEREFORDSHIRE**

The Northern Team Leader presented the report of the Head of Planning Services and said that the Northern Area Planning Sub-Committee was mindful to approve planning permission contrary to recommendation, on the basis that the scheme was acceptable on highways and design grounds. He also reported on the contents of late correspondence which had been received in support of the application.

In accordance with the criteria for public speaking, Mrs Parsons of Weobley Parish Council and Ms Jones, the agent acting on behalf of the applicants, spoke in favour of the application.

Councillor JHR Goodwin the Local Ward Member said that there was considerable local support for the scheme. He felt that although the proposal did not meet the requirements for affordable housing, there were a number of key factors that needed to be taken into consideration which could meet the requirements of planning policies DR1, H5 and HBA6. Following the rejection of the original application because its access was through Chapel Orchard, the applicants had gone to considerable lengths to prepare a scheme in keeping with the area and its setting opposite an ancient monument. He felt that the scheme would incorporate a welcome amount of open space and that the design of the houses and garages was in keeping with the historic village. The proposed access road was directly off the highway and thereby overcame the problem of a route through Chapel Orchard. The proposed dwellings would be comprised of one two-bed; one three-bed and four four-bed properties and reflected the character, appearance, mix and range of properties elsewhere in the village. He said that the village already had a good provision of affordable housing on other sites and questioned the need for more at this location.

The Northern Team Leader reiterated why the proposal did not fulfil the Council's planning policies and said that the scheme needed to be comprised of twelve dwellings which included four affordable ones. He reminded the Committee such provision had been allocated in the Herefordshire Unitary Development Plan for the land. This had been found to be acceptable in the Public Local Inquiry into the Unitary Development Plan, and the low density of the proposed scheme of 15 dwellings per hectare was in direct conflict with it. The application had also failed to take account the results of the housing needs survey of February 2007 which had identified a need for another 11 affordable houses to serve Weobley. The applicants had not provided any evidence to contradict this and had also failed to demonstrate why a scheme for twelve houses could not be achieved with access directly off Hereford Road. The Strategic Housing Manager expressed concern that the scheme did not make any provision for affordable housing and strongly objected to the application. The Head of planning services advised that the Committee needed to balance all the issues but also be mindful of the crucial planning policies which were at stake.

The Committee discussed the details of the application and considered all the views that had been put forward in support of it and against it. It was felt that there was a need for further information to be provided about the application and that the matter should be deferred.

#### **RESOLVED**

**That consideration of the application be deferred for further information about the need for affordable housing.**

**66. DCNC2007/3280/F - RETROSPECTIVE APPLICATION FOR THE ERECTION OF 3M HIGH FENCE AROUND NW BOUNDARY, BROMYARD LEISURE CENTRE, CRUXWELL STREET, BROMYARD, HEREFORDSHIRE, HR7 4EB**

The Northern Team Leader presented a report about an application in respect of Council property at Bromyard. The application was from Halo Leisure for the retention of a 3 metre high fence which had been erected along part of the north-west boundary of the site to give greater security by preventing unauthorised persons from climbing onto the roof of the Leisure Centre.

#### **RESOLVED**

**That planning permission be granted.**

**Informative(s):**

**1 - N15 - Reason(s) for the Grant of PP/LBC/CAC**

**2 - N03 - Adjoining property rights**

**3 - The applicant/owners should be aware that this planning permission does not over-ride any civil/legal rights enjoyed by adjacent property owners. If in doubt, the applicants/owners should seek legal advice on the matter.**

**4 - N14 - Party Wall Act 1996**

**5 - N19 - Avoidance of doubt**

**67. DCCW2007/2057/F - VARIATION OF CONDITION 2 OF PLANNING CONSENT DCCW2006/3153/F TO ALLOW SALE OF THE PROPERTY (IF NECESSARY) TO ANOTHER TRAVELLING FAMILY AT THE BIRCHES STABLES, BURGHILL, HEREFORD, HEREFORDSHIRE, HR4 7RU**

The Central Team Leader said that the application had been referred to the Committee because the Central Area Planning Sub-Committee was mindful to refuse planning permission contrary to recommendation. The Sub-Committee had given weight to the original permission in 1992 which was personal to the applicant at the time and once that family had vacated the site, it should revert to agricultural use. The Sub-Committee was opposed to a widening of the permission to allow any traveller family to occupy the site and had taken the view that if the applicants no longer required the site, it should revert to agricultural use. He advised that there had been no further enforcement activity on the site pending the outcome of the application. Concerns had been raised locally in respect of the possible sale of the site to a third party but these had not been substantiated and no evidence of any unauthorised occupation of the site had been established following further visits to it by the Officers.

In accordance with the criteria for public speaking, Mrs Reynolds spoke in objection on behalf of Burghill Parish Council, and Mr Baines spoke in support of the application.

Councillor SJ Robertson, the Local Ward Member, said that there was merit in the Parish Council's view that the consent should be personal to the applicants and that the land should return to agricultural use when it was vacated. There were considerable local concerns that the conditions attached to the existing permission had not been adhered to by the applicants. She felt that the Council had fulfilled its obligations regarding provision for travellers with the previous permissions and that the applicants in turn needed to fulfil their obligations regarding the conditions.

The Head of Planning Services said that the application was in compliance with Gypsies and other Travellers Policy H12 as it lay adjacent to the settlement boundary of a main village. He added that the proposal for two families was regarded as modest in scale; the site was well screened and there were adequate levels of amenity and play space for children. He felt that it would be unreasonable to retain a condition restricting the use of the site to a specific gypsy family because it was considered to be acceptable for any gypsy family subject to confirmation of their status.



The Committee discussed the details of the application and noted the points that had been raised about it, and its relation to Council and Government policies in respect of travellers. It was generally concluded however that the applicants should comply with the existing conditions.

**RESOLVED**

**That the application to vary condition No.2 regarding the planning permission be refused.**

**68. CCE2007/2467/RM AND [B] DCCE2007/2469/F - LAND AT VENNS LANE, ROYAL NATIONAL COLLEGE FOR THE BLIND, COLLEGE ROAD, HEREFORD, HEREFORDSHIRE, HR1 1EB**

The Principal Planning Officer said that the applications had been referred to the Committee because the Central Area Planning Sub-Committee was mindful to refuse them on the grounds of the intensity of the development, the impact on residential amenity and the impact on the character of the area. He presented the following updates to the Committee:-

**ADDITIONAL REPRESENTATIONS**

A further four letters of comment/objection in response to the second set of amended plans received from residents of 3, 4, 19 and 23 Loder Drive. They largely re-iterate comments already made regarding the impact of increased traffic during construction and once the houses are occupied and college facilities in use, that plot 16 is still too close to properties within Loder Drive and plot 21 and its garden creates a pinch point in the wildlife corridor

The letters also generally appreciate that further steps have been taken to address their concerns and recommend that further landscaping would help the sustainability of the wildlife corridor, the scale of the dwelling on plot 21 reduced by lowering the levels, the distance increased further between plot 16 and Loder Drive.

The City Council response to the amended plans is 'no further comment'.

A further letter has been received from the Blind College stating that they are prepared to change the design of the dwelling on plot 16 to a one and a half storey property with a total ridge height of 6.5 metres (current scheme is 8.3 metres) and no windows at first floor overlooking the properties within Loder Drive. Also, the boundary treatments are now to be a post and rail fence with a densely planted Hawthorn/Blackthorn hedge as opposed to weld mesh fencing.

**OFFICER COMMENTS**

The further revisions proposed will reduce the mass of the dwelling on plot 16 minimising the impact of this dwelling on residents of Loder Drive. No further changes are considered necessary in terms of the proximity, design and scale of the properties along the Loder Drive boundary.

**NO CHANGE TO RECOMMENDATION**

The consultation period on the amended plans has now expired but delegated authority is still requested to resolve the design of the dwelling on plot 16 and other minor design and layout changes.

The Principal Planning Officer explained the negotiations that had been undertaken with the applicants since the matter had been considered by the Sub-Committee and felt that a satisfactory scheme had been arrived at which met all the required criteria and overcame all the objections.

In accordance with the criteria for public speaking, Mr Adams spoke in support of the application. Mr. Rayner spoke on behalf of the local residents association and said that all their concerns had been resolved following further negotiations by the Officers, and he commended the proposals.

The Committee discussed the details of the application and expressed their appreciation for the hard work undertaken by the Officers in arriving at such a satisfactory outcome.

**RESOLVED THAT**

- 1. subject to no further objections raising new material planning considerations by the end of the consultation period on the amended plans and any other layout and design changes considered necessary by officers to address other matters raised in this report being satisfactorily addressed;**
- 2. the Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report and any additional matters and terms that he considers appropriate; and**
- 3. upon completion of the aforementioned planning obligation the officers named in the Scheme of Delegation to Officers be authorised to issue a Reserved Matters Approval and Planning Permission subject to the following conditions and any further conditions considered necessary by officers.**

**DCCE2007/2467/RM**

**INFORMATIVES:**

- 1 N02 - Section 106 Obligation**
- 2 N09 - Approval of Reserved Matters**
- 3 N15 - Reason(s) for the Grant of PP/LBC/CAC**
- 4 N19 - Avoidance of doubt**

**DCCE2007/2469/F**

- 1 A10 (Amendment to existing permission)**  
**Reason: For the avoidance of doubt.**
- 2 E09 (No conversion of garage to habitable accommodation )**

**Reason: To ensure adequate off street parking arrangements remain available at all times.**

**3 G40 (Bat/bird boxes )**

**Reason: In order not to disturb or deter the nesting or roosting of bats which are a species protected by the Wildlife and Countryside Act 1981.**

**4 The occupation of the dwellings on plots 13 and 14 identified on drawing number SL.01 Rev F shall be limited to students engaged in education at the Royal National College for the Blind unless otherwise agreed in writing by the Council.**

**Reason: In the interests of highway and pedestrian safety.**

**INFORMATIVES:**

**1 N15 - Reason(s) for the Grant of PP/LBC/CAC**

**2 N19 - Avoidance of doubt**

**69. DCCE2007/3194/F - SITING OF WOODEN CABIN TO ACCOMMODATE NEEDS OF DISABLED PERSON. LAND ADJACENT 'OLD VICARAGE', PRESTON WYNNE, HEREFORD, HEREFORDSHIRE, HR1 3PE**

The Head of Planning Services presented his report and said that he had referred the application to the Committee because the Central Area Planning Sub-Committee was mindful to grant planning permission contrary to recommendation. The Sub-Committee had given weight to the personal circumstances of the applicant who needed a specially adapted house. The applicant had responded to previous refusals of permission by proposing a wooden structure which would be capable of being removed from the site when it was no longer required. The particular needs of the applicant were such that the Sub-Committee was satisfied that adaptation of her parents house would not be a practical way of providing independent accommodation. There was considerable local support for the applicant and the Sub-Committee was of the view that in this case the Unitary Development Plan was too restrictive and that an exception should be made.

In accordance with the criteria for public speaking, Mrs. Fletcher of Preston Wynne Parish Council and Miss Davies the applicant, spoke in support of the application.

Councillor DW Greenow, the Local Ward Member, commented on a number of issues, including: the individual needs and wish of the applicant to achieve independence yet remain within the local community; that the temporary nature of the wooden cabin should overcome previous concerns about a permanent structure in this location; he considered the design and scale of the proposed development to be acceptable; no objections had been received from local residents and there was significant support from the parish council and villagers; no objections had been received from statutory consultees, the Traffic Manager or the Public Rights of Way Manager; and the applicant's doctor supported the proposal. Given these considerations, he felt that the exceptional circumstances of the applicant were such that they should override the planning policy objections, particularly if planning permission was restricted to the lifetime of the applicant and a spouse or dependents.

The Head of Planning Services explained why the application did not comply with the Council's planning policies and outlined the factors which needed to be taken into consideration when weighing all the issues regarding the application.

Having considered all the facts regarding the application, the Committee felt that permission could be granted because there were exceptional circumstances involved.

**RESOLVED:**

**That the application be approved subject to any appropriate conditions felt to be necessary by the Head of Planning.**

**70. DCSE2007/2435/F - PROPOSED SINGLE STOREY LINK BETWEEN DWELLING AND DOUBLE GARAGE TO ACCOMMODATE GROUND FLOOR STUDY/BEDROOM AND EN-SUITE FACILITY AND FORM REAR EXTENSION, LAND ADJACENT TO THE OAKS, BANNUTTREE LANE, BRIDSTOW, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6AJ**

The Southern Team Leader said that the application had been referred to the Committee because the Southern Area Planning Sub-Committee was mindful to refuse it, contrary to recommendation. The Sub-Committee was of the view that the application was unacceptable because of the location of the dwelling in open countryside and that it was too large for the site.

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Southern Team Leader reported on the following:-

**ADDITIONAL REPRESENTATIONS**

An amended plan has been submitted. This shows a revision to the design of the rear extension, in that for its sloping roof the inset window for the first floor bedroom has been deleted. This work has been completed.

In a separate letter the agent expresses concern as to the delay in determination of the application for which their expectation was that, as the scheme was in accord with policy, permission would be granted

**OFFICER COMMENTS**

The amendment to the design results in only a relatively minor change to the appearance of the development. There is no material change to its size and no effect on the adjoining dwellings.

Having considered all the facts regarding the application, the Committee did not share the view of the Sub-Committee and felt that there were insufficient grounds to warrant a refusal.

**RESOLVED**

**That planning permission be granted subject to the following conditions and any additional conditions considered to be necessary by the Officers:**

- 1. A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **B02 (Matching external materials (extension) )**

**Reason: To ensure the external materials harmonise with the existing building.**

**Informative(s):**

1. **N19 - Avoidance of doubt**

2. **N15 - Reason(s) for the Grant of Planning Permission**

**71. DCSE2007/2898/F - 3 DWELLINGS FOR RENT COMPRISING 2 NO. 2 BED & 1 NO. 3 BED HOUSES, ADJACENT TO NO. 4 MARTINS CLOSE, WOOLHOPE, HEREFORD, HEREFORDSHIRE, HR1 4QS**

The Southern Team Leader said that the application had been referred to the Committee because the Southern Area Planning Sub-Committee was mindful to refuse it, contrary to recommendation. The Sub-Committee was of the view that the application was unacceptable because there would be an unsatisfactory access, overlooking of adjoining properties and that the proposals would detract from the setting of the adjoining listed building. They also felt that there was no need for this type of development in Woolhope.

Having considered all the facts regarding the application, the Committee did not share the view of the Sub-Committee that it should be refused and decided that permission should be granted.

**RESOLVED THAT**

1. **The Head of Legal and Democratic Services be authorised to complete a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 to ensure:**

**The dwellings shall be retained available for rent in perpetuity for local people.**

2. **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:**

1. **A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **B01 (Samples of external materials )**

**Reason: To ensure that the materials harmonise with the surroundings.**

**Informative(s):**

1. **N19 - Avoidance of doubt**
2. **N15 - Reason(s) for the Grant of Planning Permission**

**72. DCSW2007/2978/O - OUTLINE PLANNING APPLICATION FOR TWO DWELLINGS, BROOKVIEW, CLEHONGER, HEREFORD, HR2 9TJ**

A report was presented by the Southern Team Leader who said that the application had been referred to the Committee because the Southern Area Planning Sub-Committee was mindful to approve it, contrary to recommendation. The Sub-Committee was of the view that the application was acceptable because two new houses there would assist with delivering the Council's house building requirements. There were already four houses on this lane and the Sub-Committee considered that two more would not have any adverse effect on the area.

In accordance with the criteria for public speaking, Mr Gardiner spoke in favour of his application.

Councillor MJ Fishley, the Local Ward Member noted that the Parish Council did not object to the application. She felt that there was sufficient local need for the dwellings and advised members that there were already 4 existing dwellings on the lane. She felt that the application was not contrary to policy H7 or H10 of the Unitary Development Plan and that it should be supported. Although the application site was outside of the settlement boundary, she felt that there was sufficient housing need in the area for this to outweigh the policy issues at stake. She also said that the applicant had offered to use part of his garden to improve the issues surrounding the access onto the road.

Councillor DW Greenow was of the view that the UDP no longer represented the housing needs of the County and that it should be revised accordingly. He felt that the proposed application should be an exception and should be approved. The Chairman pointed out that the UDP had been in preparation from 1998 and had gone through a lengthy public consultation and public inquiry process. It was a very important document which set out the Council's planning policies and should be adhered to.

Councillor PGH Cutter felt that the application was for infill development and should therefore be permitted. He also felt that the provision of two modest dwellings would benefit the village of Clehonger.

The Southern Team Leader advised that the Unitary Development Plan clearly stated that housing should only be permitted within the settlement boundary. He felt that the application was clearly contrary to the policies set out in the UDP which had only been adopted by the Council in March, 2007. No survey of housing need had been undertaken to demonstrate a local need for affordable housing. There was no involvement of a Registered Social Landlord or other mechanism for the houses to be considered as affordable for the purposes of planning or housing policies. The proposal amounted to speculative housing development in open countryside with no justification on planning grounds. The Head of Planning Services confirmed these issues and said that the proposal would be harmful to the local landscape and setting and be unsustainable. He felt that there was a very clear breach of policies and that the application should be refused.

The Committee discussed the merits of the application and noted the planning policies involved. A proposal that the application should be approved was lost and it

was decided that the views of the Sub-Committee could not be supported because the application was such a significant breach of policy.

**RESOLVED**

**That planning permission be refused for the following reasons:**

- 1. The proposal would create two dwellings in the open countryside outside a designated village settlement, as defined in the Herefordshire Unitary Development Plan 2007 which seeks to restrict new residential development in the absence of any special justification in such areas. As such the development would be contrary to Planning Policy Statement 7 'Sustainable Development in Rural Areas' and Policies S1, S2, DR1, H7 and H10 of the Herefordshire Unitary Development Plan 2007.**
- 2. The site is in a relatively isolated location and would therefore likely to result in the increased need for travel by private car and as such is not a sustainable form of development thus being contrary to Government Guidance Planning Policy Guidance 13 'Transport' and Policies S6 and DR2 of the Herefordshire Unitary Development Plan 2007.**
- 3. Furthermore, the proposal would necessitate a significant amount of hedgerow to be removed at the entrance to the site and mature trees to the south-west boundary and as such would be detrimental to the visual amenities and character of this country lane thus being contrary to the Policies S1, S2, DR1, LA6 and LA6 of the Herefordshire Unitary Development Plan 2007.**

**73. DATES OF FUTURE MEETINGS**

18th January, 2008  
29th February, 2008  
11th April, 2008

The meeting ended at 2.50 p.m.

**CHAIRMAN**





PLANNING COMMITTEE

18TH JANUARY, 2008

**REPORT OF THE NORTHERN AREA PLANNING  
SUB-COMMITTEE**

Meeting held on 12th December, 2007

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**Membership:**

**Councillors:** Councillor J.W. Hope M.B.E (Chairman)  
Councillor P.M. Morgan (Vice-Chairman)  
LO Barnett, WLS Bowen, RBA Burke, ME Cooper, JP French,  
JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James,  
P Jones CBE, R Mills, RJ Phillips, A Seldon, RV Stockton, J Stone,  
JK Swinburne, PJ Watts

**PLANNING APPLICATIONS**

1. The Sub-Committee has dealt with the planning applications referred to it as follows:-
  - (a) applications approved as recommended – 6
  - (b) applications deferred for further information – 1
  - (c) number of public speakers – 1 objector and 1 supporter

**PLANNING APPEALS**

2. The Sub-Committee received an information report about 3 appeals received, 5 dismissed, 2 upheld and 1 withdrawn.

**J.W. HOPE M.B.E  
CHAIRMAN  
NORTHERN AREA PLANNING SUB-COMMITTEE**

- **BACKGROUND PAPERS – Agenda for meetings held on 12th December, 2007**



PLANNING COMMITTEE

18TH JANUARY, 2008

## REPORT OF THE CENTRAL AREA PLANNING SUB-COMMITTEE

Meeting held on 19th December, 2007

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### Membership

#### Councillors:

JE Pemberton (Chairman)  
GA Powell (Vice-Chairman)

PA Andrews, WU Attfield, DJ Benjamin, AJM Blackshaw, ACR Chappell, SPA Daniels, H Davies, GFM Dawe, PJ Edwards, DW Greenow, KS Guthrie, MAF Hubbard, TW Hunt (ex-officio), MD Lloyd-Hayes, RI Matthews, AT Oliver, SJ Robertson, RV Stockton (ex-officio), AP Taylor, AM Toon, NL Vaughan, WJ Walling, DB Wilcox and JD Woodward.

### PLANNING APPLICATIONS

1. The Sub-Committee has met once and dealt with the planning applications referred to it as follows:-
  - (a) applications approved as recommended - 3
  - (b) site inspections - 4 (1 in advance of Sub-Committee report)
  - (c) number of public speakers - 7 (objectors - 4, supporters - 3)

### PLANNING APPEALS

2. The Sub-Committee received information reports about two appeals that had been received and four appeals that had been determined (all dismissed).

**JE PEMBERTON**  
**CHAIRMAN**  
**CENTRAL AREA PLANNING SUB-COMMITTEE**

- **BACKGROUND PAPERS – Agenda for the meeting held on 19th December, 2007**



PLANNING COMMITTEE

18TH JANUARY, 2008

**REPORT OF THE SOUTHERN AREA PLANNING  
SUB-COMMITTEE**

Meetings held on 9th January, 2008.

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**Membership:**

**Councillors: Councillor G Lucas (Chairman)  
Councillors PD Price (Vice-Chairman)**

**CM Bartrum, H. Bramer, PGH Cutter, MJ Fishley, A.E. Gray,  
TW Hunt (Ex-officio), JA Hyde, JG Jarvis TMR McLean, RH Smith, RV  
Stockton (Ex-officio), D.C. Taylor and J.B. Williams**

**PLANNING APPLICATIONS**

1. The Sub-Committee has dealt with the planning applications referred to it as follows:-
  - (a) applications approved - 8
  - (b) applications minded to refuse - 2
  - (c) number of public speakers - 10 (1 objectors and 9 supporters)

**PLANNING APPEALS**

2. The Sub-Committee received information reports about 4 appeals received and 3 appeals determined (1 Dismissed, and 2 Upheld).

**G. Lucas  
CHAIRMAN  
SOUTHERN AREA PLANNING SUB-COMMITTEE**

- **BACKGROUND PAPERS – Agenda for the meetings held on 9th January, 2008.**



## **PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT**

**Report By: Forward Planning Manager**

### **1 Wards Affected**

All

### **2 Purpose**

- 2.1 To inform members of the comments received to the Draft Planning Obligations Supplementary Planning Document (SPD) published for consultation purposes in March 2007 and to consider appropriate changes. This document is included within the Council's Local Development Scheme and is being produced as part of Herefordshire's Local Development Framework. It will set out the Council's policy and approach to dealing with planning obligations and securing developer contributions.

### **3 Financial Implications**

- 3.1 The costs of preparing this document is being met from the Planning Delivery Grant. Once adopted, the SPD will result in financial contributions being received by the Council, towards infrastructure costs and other community needs resulting from development. Appointment of a monitoring officer with a corporate role will help to ensure that planning obligation agreements are implemented effectively and that the resources generated are allocated in accordance with corporate priorities, thereby improving value for money. It is anticipated that the 2% monitoring fee will generate enough income to pay for this post.

### **4 Background**

- 4.1 This Supplementary Planning Document is being produced to expand upon and provide additional information and guidance in support of policies and proposals in the Herefordshire Unitary Development Plan. In particular Plan policies S1 and DR5 of the UDP refer to Planning Obligations. It follows Government guidance on planning obligations provided in Circular 05/05.
- 4.2 The purpose of an SPD on Planning Obligations is to make clear to all interested parties the Council's policy stance on the subject. Once adopted, it will become a material consideration in the determination of planning applications where contributions are sought.
- 4.3 Initial consultation on the SPD took place during summer 2006 when views on developing a Code of Practice, the possible options to be followed, thresholds, topic areas for contributions and the scope of the SPD were sought. Comments received helped inform the draft document which was presented to Planning Committee (19<sup>th</sup> January 2007) and agreed for consultation by Cabinet (22<sup>nd</sup> February 2007) following previous debate at an all Members

workshop in November 2006. The draft SPD was accompanied by a Sustainability Appraisal and Consultation Statement. Consultation on the draft took place over a six week period 1<sup>st</sup> March to 12th April 2007 and was undertaken in accordance with the Council's Statement of Community Involvement.

## **5 Aims of the SPD**

5.1 The aims of the SPD are to:

- Provide as much certainty as possible to landowners, prospective developers and other interested parties;
- Ensure a uniform application of policy;
- Ensure the process is fair and transparent;
- Enable developers to have a 'one stop shop' approach to establishing likely contributions expected; and
- Facilitate a speedier response from the authority to development proposals.

5.2 The SPD will therefore assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development within the Council.

## **6 SPD Outline**

6.1 The SPD has been drafted to address the following areas:

- Part 1: Introduction and purpose of SPD; Definitions, types and purpose of Planning Obligations; Policy Context.
- Part 2: A Code of Practice; Council Priorities; Topic areas and thresholds for when planning obligations will be sought.
- Part 3: Procedure for Negotiating, Preparing and Completing Planning Obligations; Standard Agreements; Monitoring and Review

## **7 Comments Received and Suggested Amendments**

7.1 The comments received in relation to the specific questions raised in the consultation draft SPD are summarised in general terms in the table below, with an explanation as to how they have been addressed in the final SPD (Appendix 1). All written comments have been summarised, recorded and responded to in a full Consultation Statement. The Consultation Statement (copy available on request from the Committee Manager) will be published with the adopted SPD and accompanying Sustainability Appraisal.



<b>Councils Consultation Question</b>	<b>General response</b>	<b>How addressed in SPD</b>
1. Is our policy of publicising the types of contributions that will be sought and quantifying them as far as possible the right approach?	Support	No change
2. Does the SPD provide sufficiently clear guidance on what developer contributions we will seek?	Agreement. Some concern that summary table was confusing. "Scheme of Works" referred to needs explaining	Summary Table 2 revised. "Scheme of Works" explained further in Para 1.7.4. "Developer Guide" to be prepared once SPD adopted.
3. Are all the areas for which we are seeking developer contributions appropriate?	Appropriate, although concern expressed that contributions for education, waste and community services do not relate to policy DR5 of the UDP and therefore contrary to PPS12 Para 2.43.	Provision of community services, education, recycling etc. constitute "community benefits" referred to in Policy DR5. No changes to these. However changes made to delete contributions to Training and Employment.
4. Are there other areas for which we should seek contributions?	Other topics raised such as renewable energy, sewerage/water disposal and cemeteries/allotments.	No change to SPD regarding the issue of renewable energy. It was considered but determined that this issue would be best covered by new overarching policy in the forthcoming Core Strategy rather than in an SPD based on the existing UDP. Further text has been added regarding the issues of water/sewerage disposal, cemeteries and allotments.
5. Are the thresholds for contributions set at the right level?	Varying response that threshold levels could detrimentally affect viability of smaller scale housing and employment proposals and detrimentally affect the economy. Objections received that new provision of affordable housing either solely or as part of larger schemes (as opposed to rural exception sites) should not have to	Contributions towards training and development for business removed. Contributions from employment generating uses scaled down with more use specific thresholds introduced. Housing thresholds for contributions remain unchanged, but amendments made to calculations for transport, open space and education

Further information on the subject of this report is available from Chris Botwright on 01432 260133

	<p>contribute to other community facilities i.e. open space, education, community services etc</p> <p>Threshold for housing is too low – too onerous and will lead to delay in determining planning applications and significant impact on Council resources.</p>	<p>– see relevant sections.</p> <p>With regard to requiring further contributions from affordable housing, given commitment to providing additional affordable housing in the County and fact that those in local need occupy affordable housing, requirement for contributions have been</p>
		<p>waived in the SPD.</p> <p>However, most new market housing will impact on the community in some way and should therefore contribute towards making that development sustainable.</p>
<p>6. Are the formulae for determining contributions appropriate, fair and reasonable? (General – for specific areas, see below)</p>	<p>Varying response – some concern raised that formulae too rigid. A number of objections to 2% monitoring fee were received.</p>	<p>No change to fees but ceiling introduced. It is relevant and appropriate charge in relation to complying with the requirements of Circular 5/05 for accurate monitoring and review of the processing, spending and reporting of planning obligations in Herefordshire, for which a new member of staff will need to be appointed.</p>
<p>Transport</p>	<p>Objections that methodology used does not reflect rural nature of shire county</p>	<p>Transport section revised significantly to take on board rural-urban differences.</p>
<p>Affordable Housing</p>	<p>Various specific objections to wording</p>	<p>Addressed in Affordable Housing Section of the SPD</p>
<p>Community Services</p>	<p>Objections that requirements for contributions towards community services e.g. libraries is not specifically referred to in UDP policy and therefore does not comply with PPS12.</p>	<p>Provision of library services, community halls, health and emergency services etc are considered to constitute community benefits, which directly relate to Policy DR5 of the UDP. No change.</p>

Education	Objections that education section not transparent in assessing need for contributions. Should be reference in SPD to school capacity as basis for assessing need.	Education contributions reviewed to take on board Herefordshire-specific research. Reference to capacity of existing schools now made.
Employment and Training	Objections that asking for contributions from new proposals for employment generating uses will deter economic development in the County	Employment -generating use contributions scaled down to reduce any possible detrimental impact on economic performance and to encourage urban/rural regeneration.
Open Space	Objections to methodology in using land acquisition and provision costs in off-site open space contributions calculations where enhancement only of existing open space is proposed. Objections to 20-year cost of maintenance.	Methodology for calculation revised to refer to contributions per dwelling size using average persons per dwelling statistics. Maintenance costs reduced to 15 years in line with other local authorities.
Town Centres	Objections to 1% for Art. Need to recognise that some major ESG developments will already be providing significant infrastructure. Objections to commercial developments making contributions to community/recreational facilities. Objections to all housing making contributions to public realm improvements in town centre	No change to SPD in respect of contributions to Art as this is an example of policy DR5 requirement. Agree clarification of requirements to major ESG proposals. Amendments to make clear that only certain commercial developments are to make contributions to open space. Contributions from housing to public realm will need to satisfy tests of reasonableness.
Waste Reduction	Objections that requirements for contributions towards recycling and waste are not specifically referred to in UDP policy and therefore do not comply with PPS12.	Provision of recycling and waste facilities is considered to constitute community benefit, which directly relate to Policy DR5 of the UDP. No change.
7. Can we simplify and improve the presentation of this SPD, to make it more accessible to people not directly involved in the planning system?	Some concern that SPD too complicated and difficult for members of the public to interpret.	Executive summary redrafted. Separate developer/householder friendly leaflet to be produced for distribution to applicants.

## 8 Monitoring and review

- 8.1 Where formulae have been used to determine standard charges, the costs applied will need regular review to ensure that the cost price index is maintained. The document is also expected to need future change to reflect new and emerging documents from the Local Development Framework.
- 8.2 Reference is made in the table to the requirement arising for a Section 106 Monitoring Officer not only to ensure transparency of documentation and to help audit the Council's arrangements for planning obligations, but also to ensure demonstrable tracking of obligations so that they are secured with monies and benefits accrued, spent and delivered. A further role for the Officer will be to co-ordinate the Programme of Works - programmes and schemes over a five year rolling period for which developer contributions will be sought. It is envisaged that the Officer will most appropriately be based in Planning Services, reflecting the role of that Service in negotiating and co-ordinating service requirements in respect of individual development proposals. The post will need to work effectively across the Council and to that end should report direct to the Head of Service and have the ability to link in to corporate asset management and capital monitoring groups.
- 8.3 The Council will need to review its current procedures for agreeing obligations through the planning application process. The Planning Committee scheme of delegation to officers restricts the extent to which planning applications with an associated obligation are delegated. The numbers of applications subject to an obligation is expected to increase as a result of the thresholds in the SPD. Under the current scheme, this would lead to relatively modest proposals being brought to Committee which would otherwise be determined by officers. To avoid adverse impacts on application handling times, it is suggested that the scheme of delegation be amended to incorporate reference to the SPD. Planning applications with an obligation which in the opinion of the relevant officer accorded with the provisions of the SPD could then be determined under delegated powers in the ordinary way. There would be no other change to the provisions under which applications are reported to Committee. The SPD would not be brought into effect until these amendments had been made, being applied to planning applications received from that point.
- 8.4 Where applications subject to Section 106 agreements are dealt with under delegated powers it may be appropriate to include periodic reports for information to the Planning Committee or Area Sub-Committees in much the same way as is done with planning appeals.

## 9 Conclusion

- 9.1 All statutory procedures set out in Part 5 of the Town and Country Planning (Local Development) Regulations 2004, regarding the preparation and consultation arrangements for an SPD, have been complied with. The comments received on the initial consultation document and draft SPD have been considered in making the SPD on Planning Obligations a more informed and inclusive document.

- 9.2 The main changes, summarised in the table above, reflect the Council's commitment to the provision of affordable housing; urban and rural regeneration proposals, particularly employment generating proposals from B1 (Business), B2 (General industrial) and B8 (Storage or distribution) uses; and recognition of the commitment to sustainable development. Once adopted, the document will make clear the subject areas for planning obligations required from current UDP policies and in particular policy DR5 Development Requirements.
- 9.3 The SPD will assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development within the Council. When introduced, it will be a material consideration in the determination of planning applications where contributions are sought.

## **RECOMMENDATIONS**

1. **THAT** the Committee agree changes to the draft SPD on Planning Obligations and recommends to Cabinet that the amended document be adopted as part of the Council's Local Development Framework.
2. **THAT** appropriate amendments are made to the Planning Committee Scheme of Delegation to Officers, following which the Supplementary Planning Document be brought into effect.

### **Background papers**

Local Development Scheme (January 2007)  
Statement of Community Involvement (Adopted March 2007)  
Herefordshire Unitary Development Plan (Adopted March 2007)





# Herefordshire Local Development Framework

## **Planning Obligations Supplementary Planning Document**

January 2008





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# Summary

## 1 Introduction

The Supplementary Planning Document (SPD) on planning obligations provides advice to developers and applicants for planning permission on the use of planning obligations in the planning application process in Herefordshire. It specifically provides guidance on how the Council will implement Herefordshire Unitary Development Plan (UDP) Policy DR5 on Planning Obligations and identifies the types of community infrastructure where developer contributions will be sought as part of a proposed development. Appendix 1 of the document contains a list of other specific UDP policies, which also relate to planning obligations. The SPD will form the basis for pre-application discussions and negotiation when determining planning applications.

## 2 Planning Obligations

Planning obligations, sometimes called “Section 106 Agreements” are legally binding agreements entered into between a local authority and a developer and are an established and valuable way of bringing development in line with the objectives of sustainable development as articulated through relevant local, regional and national planning policies. Planning conditions may also be used to help deliver sustainable developments, for instance, which embrace enhanced energy and environmental standards. Part 1 of the SPD sets out the policy context of planning obligations and explains what they are and the purpose of this document. Part 2 explains the Council’s overall approach to dealing with planning obligations and securing developer contributions. Part 3 of this document sets out the different types of community infrastructure or policy areas that provide further clarity for negotiations on planning obligations, or in the preparation of development briefs and area action plans.

3 Any new development may require mitigation to make it acceptable. Such mitigation could be the subject of an obligation involving a contribution. The Council have deemed it necessary for contributions to be sought from all additional new residential units (unless exceptions apply) and industrial / commercial developments (including retail) above certain size thresholds and where a need is identified. Figure S1 below lists the types of development most commonly expected to make a contribution and the types of community infrastructure and facilities affected. The provision of affordable housing either through UDP Policy H9 or Policy H10 (rural exception sites) is excluded from developer contributions in this policy document.

**Figure S1 - Contributions for different types of development**

Development Type	Transport	Affordable Housing	Community Services	Education Facilities	Open Space/Sport	Town centres	Waste	Bio-diversity	Landscape
Residential (1 or more dwellings including flats)	√	√ <sup>2</sup>	√	√	√	√	√	√	√
Retail (A1)	√				√	√		√	√
Financial and professional Services (A2)	√				√	√		√	√
Offices (B1)	√				√	√		√	√
Industrial (B1, B2)	√							√	√
Warehousing/Storage (B8)	√							√	√

1.Note: this table is not comprehensive and other contributions may apply.

2.Applies to residential schemes of 6 or more dwellings in Kington and Main Villages and 15 or more units in Hereford & Market Towns (except Kington) as per UDP policy H9.

- 4 On site affordable housing, open space, community facilities and some transport infrastructure should normally be provided as part of any new, particularly larger, development and will be made a condition (or agreement) of any planning permission. In some cases, however, off-site provision or a financial contribution towards these facilities/infrastructure may be more appropriate and will form an agreement of the permission. However, for smaller developments, which will have a cumulative impact, it will be more cost effective to make a single improvement after a number of such developments have been carried out. Therefore, where appropriate, a fund will be created for the pooling of financial contributions. They will be ring-fenced to the programmes and schemes identified in the relevant planning agreements. In the unlikely event that financial contributions secured from developers cannot be spent within the timescale provided for in the agreement, the money will be refunded.
- 5 The Council will seek to ensure that where off-site provision of a facility is required there is a functional or geographical relationship with the development proposed. To assist in this process it is proposed to prepare a list of programmes and schemes – a “Programme of Works” for the County covering a five-year period for which developer contributions will be sought. The document will relate to the objectives set out in the Community Strategy and be reviewed annually to ensure it remains up to date.
- 6 Circular 05/2005 states that ‘local authorities are encouraged to employ formulae and standard charges where appropriate, as part of their framework for negotiating and securing planning obligations.’ The Circular recommends that the levels for such charges be published ‘in advance in a public document’. Figure S2 at the end of this summary provides a quick reference tool for applicants and developers of the contributions expected from particular types of development and the formulae and/or standard charges, which will apply to assess a contribution. More information on the policy justification, thresholds and, where appropriate, the formulae used to calculate the appropriate level of contribution for the various types of community infrastructure, are set out in Part 3 of the SPD. Not all types of contribution are included in this summary; others may apply on a site-by-site basis e.g. contributions towards biodiversity or landscaping. Where formulae have been used to determine standard charges, the costs applied in each formula will be kept under review and periodically adjusted to ensure that the cost price index is maintained.
- 7 The contributions described are those the Council would expect to seek from typical forms of development. Applicants are advised to discuss the potential for planning obligations with Council officers at the earliest possible stage in preparing their development proposals. Negotiations for the purchase of land should be undertaken on the basis that any developer contributions which may be sought can only be finally determined through the planning application process.
- 8 **Negotiating Planning Obligations**  
In determining planning applications, the Council will have regard to government guidance as well as to local planning policies. It will consider whether a planning obligation is necessary or whether the use of planning conditions, attached to the planning permission, are more appropriate. It will also consider, in accordance with Circular 5/05, whether a planning obligation is:
  - relevant to planning;
  - necessary to make the proposed development acceptable in planning terms;
  - directly related to the proposed development;
  - fairly and reasonably related in scale and kind to the proposed development; and
  - reasonable in all other respects.
- 9 The Council’s approach to seeking developer contributions is set out in a clear process, in Figure 1 in the main document below, which ensures that the negotiation of contributions is transparent and efficient for both the applicant, the authority and any other interested parties.
- 10 Drafting of planning obligations will be undertaken by the Council’s solicitors. In order to ensure that agreements are dealt with quickly and efficiently, the developer should provide, at the same time as the planning application is submitted, evidence of title to the land, a draft heads of terms for the agreement and a solicitor’s undertaking to pay the Council’s reasonable legal costs whether or not the matter proceeds to completion. Developers should also inform the Council immediately of any

change in ownership of the application site, as failure to do so can lead to delays in determining the application.

- 11 Later in the process, agreed heads of terms for the agreements (including when they will be triggered and a time frame for completion of the agreement) will be set out in the Planning Committee report and placed on Part 1 of the Statutory Register. This process helps to ensure a speedy completion of the agreement or undertaking following the Committee resolution.
- 12 If a developer considers that the level of obligations would render their proposal unviable, the Council will expect the detailed finances of the proposal to be shared with the Council in a financial appraisal. For the Council to consider such an argument, it will be essential that the developer shares information substantiating this on an “open book” basis. Any deviation from the standard obligations will need to be an unusual exception and the developer will be required to demonstrate the exceptional circumstances that give rise to the case made. If the Council agrees that a scheme cannot reasonably afford to meet all the normal requirements, these may be prioritised through negotiation with the developer and consultation with other parties, subject to the scheme being acceptable in all other respects. In determining the priority of contributions, the Council will have specific regard to the objectives of the Community Strategy and the various schemes/programmes to implement those objectives (see Para 5 above).
- 13 **Monitoring Planning Obligations**  
The Council (through the appointment of a monitoring officer) will track compliance with each provision contained in a legal agreement as a development proceeds to ensure that all service departments are spending financial contributions and completing non-financial obligations in accordance with the terms of agreements. In order to provide this service, the Council will levy an administration charge on each legal agreement equivalent to 2% of the value of the contribution, unless agreed otherwise with the applicant in circumstances where the level of financial contribution exceeds £100,000. This will be in addition to the normal costs and any external specialist advice costs required for processing and completing the legal agreement.

**Figure S2 – Summary of Developer Contributions for Residential (1 or more dwellings) and Business Development**

	<b>Community Infrastructure</b>	<b>Contribution (£)</b>	<b>Total Contribution</b>
<b>Dwellings</b>			
<b>1 bed dwelling</b>	Transport *	1465-2092	<b>£2,776 – 3,403</b>
	Affordable Housing**	Up to 35% on site	
	Education (where there is no capacity in local school)	-	
	Open space***	1071	
	Library Facilities	120	
	Recycling and Refuse	120	
<b>2 bed flat</b>	Transport *	1,465 – 2,092	<b>£6,677- 7,304</b>
	Affordable Housing**	Up to 35% on site	
	Education (where there is no capacity in local school)	2,005	
	Open space***	2,941	
	Library facilities	146	
	Recycling and Refuse	120	
<b>2/3 bed dwelling</b>	Transport*	1,750 – 3,686	<b>£9,578 – 11,566</b>
	Affordable Housing**	Up to 35% on site	
	Education (where there is no capacity in local school)	3,584	
	Open space***	3,978	
	Library Facilities	146-198	
	Recycling and Refuse	120	
<b>4+ bed dwelling</b>	Transport*	3,440 – 4,915	<b>£15,130 – 16,605</b>
	Affordable Housing**	Up to 35% on site	
	Education (where there is no capacity in local school)	6,485	
	Open space***	4,844	
	Library Facilities	241	
	Recycling and Refuse	120	
<b>Businesses</b>			
<b>Retail (A1-5) per 100sqm (except discount supermarkets)</b>	Transport >500sqm threshold*	5,052-39,671	<b>£6,582 – 41,201</b>
	Open space***	1,530	
	Town Centres/Public Realm	Direct improvements	
<b>Offices (B1) per 100sqm</b>	Transport*	6,087-11,178	<b>£7,362 – 12,453</b>
	Open space***(> 500sqm threshold)	1,275	
	Town Centres/Public Realm	Direct improvements	
<b>Industrial (B1/B2) per 100sqm</b>	Transport*	2,369-3,385	<b>£2,369- 3,385</b>
<b>Warehousing/Storage (B8) per 100sqm</b>	Transport*	1,310-1,871	<b>£1,310- 1,871</b>

**Notes**

\* Transport contributions vary according to accessibility zones - see section 3.1

\*\* Where 15 or more dwellings are proposed in Hereford and the Market Towns (except Kington) or 6 or more dwellings are proposed in the Main Villages (including Kington)

\*\*\* Open space contributions exclude any contribution towards sports facilities using the Sport England calculator

It should also be noted that the Council's actual legal costs of preparing agreements along with a cost for processing and monitoring them (2% of the total value of the contributions required) will also be expected.

Floor areas and numbers of dwellings are based on net additional amount created.

## Part 1 – Context

### 1.1 Purpose of Supplementary Planning Document

1.1.1 Supplementary Planning Documents (SPD) provide more detailed planning guidance to supplement the policies of the development plan and are a material consideration in the determination of planning applications.

1.1.2 The aim of this SPD is to:

- Provide as much certainty as possible to landowners, prospective developers and other interested parties;
- Ensure a uniform application of policy;
- Ensure the process is fair and transparent;
- Enable developers to have a ‘one stop shop’ approach to establishing likely contributions expected; and
- Facilitate a speedier response from the authority to development proposals.

1.1.3 The purpose of this document is to make clear to all interested parties the Council’s policy on planning obligations – it supports and amplifies Policies S1 and DR5 of the UDP. This part of the document sets out what planning obligations are and their policy context. Part 2 details the Council’s approach in using planning obligations and outlines the process for their negotiation, monitoring and review.

1.1.4 Part 3 of the document sets out different types of community infrastructure or policy areas that provide further clarity for negotiations on planning obligations, or in the preparation of development briefs and area action plans. “Community Infrastructure” is the term used for the purpose of this SPD to cover all the physical, environmental and social aspects required to support a community on a daily and long-term basis. Planning obligations are used when a proposal that would have an unacceptable impact on community infrastructure could be overcome by the use of a financial contribution or “in-kind” benefit. The types of community infrastructure include:

<b>Community Infrastructure</b>
Accessibility, Transport and Movement
Affordable Housing
Biodiversity
Community Services
Education Facilities
Flood Risk Management, Water Services and Pollution Control
Heritage and Archaeology
Landscape
Open Space, Sports and Recreation Facilities
Town Centres, Community Safety and Public Realm
Waste Reduction and Recycling

1.1.5 This document will therefore assist in pre-application discussions and will provide a transparent and accountable procedure by which planning obligations are negotiated and secured for development.

### 1.2 Consultation

1.2.1 This SPD has been the subject of extensive consultation in compliance with the Town and Country Planning (Local Development) (England) Regulations 2004. The processes undertaken and responses to this consultation are described in a separate “Consultation Statement” which can be found on the Council’s website. The responses received to the consultation have shaped the final version of this document, specifically a greater focus on the priority of facilitating more affordable, local need housing provision in the County and the need to promote Herefordshire’s business economy (with a consequent relaxation in contributions in both instances).

## 1.3 Definitions and Purpose of Planning Obligations

### 1.3.1 Definition

A planning obligation is a legally binding agreement between the local planning authority and a developer (and the landowner where the developer does not own the land) to use land in a specified way, or to restrict the development or use of the land, or to meet costs in connection with the development to enable it to become acceptable in planning terms. Planning obligations can be provided by developers “in kind” (where the developer builds or provides directly the matters necessary to fulfil the obligations), by means of a financial payment, or in some cases a combination of both. Planning obligations are enforceable by the local planning authority and are registered as local land charges.

1.3.2 Planning obligations are normally entered into under Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) and Section 299A of the Act where planning obligations relate to Crown or Duchy Land. Financial contributions towards the carrying out of highway improvements may also be secured under Section 278 of the Highways Act 1980.

### 1.3.3 Purpose

Planning obligations are the means by which a local planning authority can secure contributions, improvements or mitigation works to offset any adverse impact of new development. Whilst most new development is necessary and provides direct benefits for the communities to which they relate i.e. new and improved housing, shops or employment provision, it can sometimes place additional burdens on existing services and infrastructure as well as have adverse impacts on the local natural environment. For example, residential development can increase demand for new school places and community facilities and add to the number of people using open space and recreation facilities. New commercial development will increase the number of people travelling in and around an area such as Hereford and will therefore add to congestion and pressure on public transport, car parking, air quality and public safety.

1.3.4 Therefore, it is the overriding objective of this SPD that, in the interests of sustainable development, it is reasonable to expect developers to contribute towards the financing of new or improved infrastructure directly related to new development proposals. These may include new build development as well as changes of use where planning permission is required. Each change of use case will be considered on its merits and against the Council’s priority of promoting regeneration. Contributions can often be secured on site by means of planning conditions attached to the planning permission, but where conditions cannot be used, improvements can be secured through planning obligations. In this way, the provision of new or additional infrastructure that is necessary to serve new development can be secured, so that planning permission can be granted for new development proposals which accord with the development plan.

## 1.4 Types and Use of Planning Obligations

1.4.1 Planning obligations comprise planning agreements and unilateral undertakings. A **planning agreement** is a legal agreement entered into by the planning authority and the applicant that sets out the form a planning obligation will take. For example, a planning agreement under s106 could set out in detail payments of a financial contribution towards local schools impacted by the development. Planning obligations run with the land and so bind successive landowners. If the applicant (developer) does not own the land then the landowner must also be involved in the planning agreement. Other parties with an interest in the land such as mortgagees must also join in the planning agreement. A standard form of planning agreement has been produced by the Department of Communities and Local Government (DCLG) in conjunction with the Law Society which can be found on their website at [www.communities.gov.uk](http://www.communities.gov.uk). This will also be made available on the Council’s web site.

1.4.2 A **unilateral undertaking** is an undertaking by the applicant offered to the authority to try to overcome obstacles to the grant of planning permission and may be offered at any point in the planning application process. They do not require any agreement by the authority, which therefore may have no involvement in the drafting of the planning obligations. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they overcome the objections to the granting of planning permission. At appeal against refusal they may

be offered by applicants to overcome the local authority's objections, when it is up to the Planning Inspector to decide its suitability or otherwise. Such obligations may require payment of financial sums for a specific purpose either in a single sum or periodically for an indefinite or specified period. A standard form of a unilateral undertaking is available from the Council's Legal and Democratic Services.

- 1.4.3 Planning obligations can either be negative (preventing or restricting development or the use of land) or positive (requiring specified operations or activities to be carried out on the land). Obligations can be used to **prescribe** the nature of a development (e.g. indicating that a proportion of housing is affordable); or to secure a contribution from a developer to **compensate** for a loss or damage created by a development's impact (e.g. loss of open space); or to **mitigate** a development's impact (e.g. through increased public transport provision). The outcome of all of these uses of planning obligations should be that the proposed development concerned is made to accord with local, regional or national planning policies.

## 1.5 Grampian Conditions

- 1.5.1 Herefordshire Council makes full use of Grampian style conditions in lieu of planning obligations where these are relevant and can speed up decision-making. A Grampian condition is usually applied to link on-site development to actions that lead to delivery of off-site infrastructure. Examples of Grampian conditions include the submission of schemes detailing how school places, transport improvements or health facilities necessitated by the development shall be secured.

## 1.6 Planning Policy Context

### 1.6.1 National context

Government guidance on planning obligations is provided in Circular 05/2005. The Circular gives guidance on the types of obligations that may be acceptable. Local planning authorities are also recommended to publish guidance themselves for potential developers in order that the Council's approach is clear and easy to understand. This information is provided in this document with the aim of providing a fast, predictable, transparent and accountable system. Central government encourages the use of formulae and standard charges where appropriate and the publishing of standard heads of terms, agreements/undertakings or model agreements wherever possible.

- 1.6.2 Circular 05/05 emphasises the need for contributions that are required from a development to meet five stringent tests set. They must be:

- relevant to planning;
- necessary to make the proposed development acceptable in planning terms i.e. required to bring a development in line with the objectives of sustainable development as set out in the UDP. These are the matters which, following consultation with potential developers, the public and other bodies, are agreed to be essential in order for the development to go ahead;
- directly related to the proposed development (there should be a functional or geographical link between the development and the item being provided as part of the developer's contribution);
- fairly and reasonably related in scale and kind to the proposed development (planning obligations should not be used solely to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievement of wider planning objectives that are not necessary to allow consent to be given for a particular development); and
- reasonable in all other respects (unreasonable requirements may be open to awards of costs).

- 1.6.3 These tests are to prevent developers being over-burdened by requests from local authorities as well as preventing a perception that developers may be "buying" planning permissions.



1.6.4 Additionally, there is further guidance on the issue of planning obligations in national policy statements (PPG's and PPS's). These set the context for including appropriate policies in development plans and for negotiating on planning applications. The Department for Communities and Local Government (DCLG) issued Planning Obligations Practice Guidance in July 2006 which can be viewed on their website [www.communities.gov.uk](http://www.communities.gov.uk).

1.6.5 At the time of writing, the government is considering the introduction of a **Community Infrastructure Levy** whereby a proportion of the increase in the land values of a particular site is used to manage the impact of growth in local communities and fund improvements in local infrastructure. If the Community Infrastructure Levy approach is implemented, then this SPD will need to be reviewed.

### 1.6.6 Regional Context

The Regional Spatial Strategy for the West Midlands (RSS) was adopted in 2004 and has Development Plan status. It sets the land use policy direction for the County up to 2021. Policy UR4 (Social Infrastructure) stresses the importance of the role of local authorities in facilitating the co-ordination of land use and investment decisions with improved service delivery. The RSS is currently being reviewed and can be viewed on the website ([www.wmra.gov.uk](http://www.wmra.gov.uk)).

### 1.6.7 Local Context

The Herefordshire Unitary Development Plan strategic policy S2 (Development Requirements) and development criteria policy DR5 (Planning Obligations) set out the circumstances where obligations will be used and the benefits that will be sought in furtherance of the Plan's strategy.

#### ***DR5 Planning obligations***

***To further the strategy of the Plan planning obligations will be sought to achieve community, transport and environmental benefits where these benefits are reasonable, necessary, relevant, and directly, fairly and reasonably related to the proposed development. The circumstances in which such benefits will be sought will be identified in relevant Plan policies and may be further detailed in supplementary planning guidance.***

1.6.8 A number of other UDP policies refer specifically to the use of planning obligations in considering development proposals. These are listed in Appendix 1. The UDP was formally adopted in March 2007. Following changes to the planning system, the Council is now preparing a new spatial plan called a Local Development Framework comprising a Core Strategy document as well as other development plan documents. This SPD will be reviewed accordingly, when the Core Strategy is finalised.

## 1.7 Council Priorities

1.7.1 The government suggests a transparent process for developer contributions based on achieving the policy priorities for a particular area. The Herefordshire Community Strategy (June 2006) is the result of extensive consultation with local communities, local businesses, the cultural community, public sector providers and the voluntary and community sector. The strategy sets out how a range of partnerships can work together to help ensure the overall economic, social and environmental well being of the County.

1.7.2 The Council's Corporate Plan (2006 to 2009) translates the outcomes contained in the Community Strategy into Council "priorities" with targets, indicators and actions. Together, these documents articulate the needs of the community and consideration of the weight to be given to the provision of infrastructure or use of contributions should be linked closely to the Council's top priorities. The Corporate Plan can be seen on the Council's web-site at [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk) and the Community Strategy can be seen on the Herefordshire Partnership web-site at [www.herefordshirepartnership.com](http://www.herefordshirepartnership.com).

1.7.3 The top priorities that specifically relate to land-use planning issues link to the following outcomes in the Herefordshire Community Strategy. Those that are most relevant to this SPD on Planning Obligations are:

- more and better paid employment;
- more adaptable and higher skilled workforce;
- reduced traffic congestion through access to better integrated transport provision;
- reduced health inequalities and promotion of healthy lifestyles;
- children and young people have healthy lifestyles and engage in positive behaviour;
- reduced levels of, and fear of, crime, drugs and anti-social behaviour;
- fewer accidents;
- cleaner, greener communities; and
- people are active in their communities and fewer are disadvantaged.

1.7.4 Although developments will have a wide-ranging impact on a local community, the Council will need to consider whether the degree of impact is so great that permission would not be granted. The Council will identify those matters, which will require prioritisation in a particular location, given the extent and context of a development proposal and the needs of the local community. This will be balanced against the benefits of a proposal e.g. environmental enhancement, conservation or provision of facilities with an overall view taken on the merits of the proposal. A “Programme of Works “ highlighting priority needs in specific areas will be prepared and updated annually by the Council. This will establish the context for the negotiation of benefits. However, contributions towards education, transport, employment, community facilities and affordable housing are almost always necessary in Herefordshire at present.

## 1.8 **Community Involvement in Pre-Application Consultation**

1.8.1 The aim of the Herefordshire Statement of Community Involvement (SCI) (March 2007), is to set out details for greater community involvement in the plan making and development control process. It states that if development proposals fall within certain definitions of significant development and are therefore more likely to require developer contributions, the Council will expect applicants and developers to have engaged the local community at an early stage.

1.8.2 These consultations should include details of prospective developer contributions. This reflects national advice which states that the process of negotiating planning obligations should be conducted as openly as possible and members of the public should be given every reasonable assistance in locating and examining planning obligations which are of interest to them. The SCI can be viewed at [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk).

1.8.3 Where Parish Plans or Village Design Statements are adopted by the Council as further Planning Guidance, they can also be used to inform the Council’s position regarding developer contributions associated with development proposals within the area. This would make contributions in line with the European Union Landscape Convention i.e. “an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors”.

## 1.9 **Sustainability Appraisal**

1.9.1 In accordance with government guidance, this SPD has been subject to a Sustainability Appraisal, which can be found at [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk). The Sustainability Appraisal tests the performance of this SPD against a series of environmental, social and economic objectives. These were devised as part of the General Scoping Report of the Sustainability Appraisal of the Herefordshire Local Development Framework which can also be found on the Council’s website.

## Part 2 – A Code of Practice

### 2.1 The Council's Approach

2.2.1 In the context of legislation, government guidance and the UDP, the Council's approach to the negotiation of planning obligations is based on the following **key principles**:

- i. The procedures will be operated in accordance with the fundamental principle that planning permission may not be bought or sold.
- ii. A planning obligation will only be sought when it is material to the planning decision on a proposal and, where a particular planning obligation is required to make a development proposal acceptable, planning permission will not be granted without it.
- iii. A planning obligation will not be sought when a planning condition may be more appropriately used. It is likely that each application will have to be considered on an individual basis. In the following cases however, conditions are generally insufficient and a planning obligation may be used:
  - 1 Where action is required beyond the normal scope of a condition;
  - 2 Where there is a need to facilitate the transfer of land through the use of appropriately worded negative covenants;
  - 3 Where the obligation relates to off-site works and a Grampian style condition is not appropriate; and
  - 4 Where there is a requirement to pay financial contributions.
- iv. A planning obligation will not be sought to redress existing deficiencies or lack of capacity in existing facilities, services or infrastructures (except in respect of open space deficiencies in accordance with Para 33 of PPG17).
- v. The nature of a planning obligation likely to be required will be made known as early as possible in the planning process.
- vi. The overall extent of the planning obligation sought will have regard to what is reasonable in terms of the scale of the development and its impact.
- vii. The acceptability of the development proposal will be decided on the balance of its planning merits, taking into account the planning application and whether the planning obligation, which has been negotiated as a whole, is sufficient to overcome and satisfactorily address any impact arising from that proposal.
- viii. As referred to above, a vital test of proposed planning obligations is that they must be necessary to make a proposal acceptable in land-use planning terms. They should not be sought where the connection does not exist or is too remote.

### 2.2 Procedure for Negotiating a Planning Obligation (See Figure 1)

#### 2.2.1 Pre Application Stage

The planning case officer assigned to the application will direct the applicant during any pre-application discussions to the UDP policies relevant to the proposal and to any relevant supplementary planning guidance/documents, including this SPD on Planning Obligations. Having regard to the guidance contained in this SPD, applicants will also be encouraged to come forward with proposals for planning obligations (agreements/undertakings or conditions) that are relevant and related to their development proposals before submitting a formal proposal in order to speed up the application process.

2.2.2 From 1<sup>st</sup> April 2008 developers will be required to submit draft Heads of Terms of any necessary agreement with their planning application when they first submit it in order for it to be validated. Heads of Terms will include:

- The sums of money, where required for off-site expenditure to meet planning policy objectives;
- A period (usually 10 years) within which the expenditure must take place and/or the essential infrastructure is provided;
- Provisions for repayment of any sums not used within the set time periods;
- Details for the provision of affordable housing (where relevant) including phasing requirements (see Affordable Housing section in Part 3 of this document);
- A commitment to cover the Council's reasonable legal and planning costs in preparing the agreement; and
- The timetable for completing the agreement (which must be done before the permission can be issued).

### 2.2.3 **Application Appraisal Stage**

Once an application is submitted, the negotiation on any potentially appropriate obligations will proceed at the same time as consideration of the planning application, and will include an assessment of whether or not planning conditions will suffice instead of an obligation. This process is without prejudice to the determination of the application. Where there have been no pre-application discussions, the case officer will also direct the applicant to the UDP policies and supplementary planning documents, including this SPD on planning obligations.

2.2.4 Where the need for an agreement or undertaking has been identified, the Heads of Terms must be agreed before the application can be reported to Committee. (Where the Council's constitution allows for agreements to be varied or entered into under delegated powers then the agreements must be finalized before the permission can be issued). Where applications are reported to Committee for determination the Heads of Terms will be included as an appendix to the Committee report. Any negotiations over the Heads of Terms are without prejudice to the final determination of the application by the relevant committee. The key element of the negotiation will be to confirm that the applicant agrees with the matters to be included in the obligation. The case officer will ensure that the nature and scale of matters for inclusion as obligations are identified and will notify Members, Parish Councils and other interested consultees after validation.

### 2.2.5 **Committee**

By the time the proposal is considered by the relevant Committee, the Heads of Terms must be agreed. This process helps ensure a speedy completion of the agreement or undertaking following the Committee resolution. Any recommendation to grant planning permission will be made subject to the completion of a satisfactory legal agreement or undertaking within a specified time period, and will authorise Legal Services to complete the legal agreement or accept the undertaking. The relevant Committee will decide whether to approve the application as set out in the report and whether the proposed obligations are appropriate. If an agreement is required in order to meet planning policy objectives, and or other material planning considerations, but is not signed within the agreed timetable, then the planning application will be regarded as "Deemed Refused" and no further action will be taken on it.

### 2.2.6 **Completing the Legal Agreement or Undertaking**

A legal agreement or undertaking may be drafted prior to the relevant Committee resolution in the above circumstances or following the Committee resolution. The draft obligation will be sent to the applicant's solicitor for comment and any negotiations will be progressed through each party's legal team. The agreement or undertaking will have a unique planning application reference number that will be used on all correspondence and monitoring arrangements for the planning obligations.

2.2.7 Prior to completion of the obligation, the Council's legal team will ensure that all financial and title and other matters are in order. The legal agreement or undertaking will need to be signed by all parties with an interest in the land – as well as the owner this will include mortgagees, tenants and developers with options to purchase, conditional contracts etc. When the legal agreement is completed, the planning case officer will issue the planning permission.

## 2.2.8 **Post Completion**

The Council will register the agreement or undertaking and consents as a local land charge and the applicant may be required to register the agreement or undertaking as a charge against the title to the property at HM Land Registry through his/her solicitor in accordance with the terms of the agreement or undertaking. The Council will also update the statutory registers.

## 2.3 **Monitoring of Planning Obligations**

2.3.1 The S106 monitoring officer, case officer and the legal officer will hold a copy of the completed obligation. The monitoring officer will be the first point of contact for an applicant when making payments or serving notices as required by an agreement. The monitoring officer will then ensure that payments are allocated to the appropriate funds or supplied to the service provider as appropriate and will issue receipts and acknowledgements of compliance where necessary.

2.3.2 The monitoring officer will track compliance with each obligation in the agreement as the development proceeds. All agreements/undertakings will be monitored through the use of a Planning Obligations database.

2.3.3 An Annual Report on planning obligations will be produced detailing the status and use of planning agreements, monies received and spent, works carried out and future priorities. This will form part of the Corporate Plan process within the Council and the Scrutiny Committee will also consider the Report.

2.3.4 The planning obligation database will also refer to the UDP policies used in determining the application. This can then be used for monitoring the policies of the UDP in appraising their effectiveness in working towards sustainable development and referred to in the Annual Monitoring Report.

## 2.4 **Development Viability**

The Council recognises that the impacts of a development that may need to be accompanied by a planning obligation must be weighed together with all other material considerations including any positive benefits of the development, in determining whether planning permission should be granted. Therefore, in exceptional circumstances, the Council may consider that the benefits from a development outweigh the need for mitigation and may waive or reduce contributions. However, it will be for the developer to provide robust evidence, possibly in the form of a financial appraisal, to support their case.

## 2.5 **Management**

### 2.5.1 **Pooled Benefits**

Where appropriate and particularly on small residential schemes, contributions from several developers will be pooled to enable the necessary benefits to be secured. The pooled benefits will still relate to the development from which they were raised. This is consistent with Circular 5/05 paragraph B22. The pooled benefits approach facilitates the realisation of benefits from smaller, cumulative developments as well as being able to effectively manage larger developments on a case-by-case basis. This approach will be particularly relevant to the regeneration of the Edgar Street Grid area in Hereford, Green Infrastructure Strategy and rural communities.

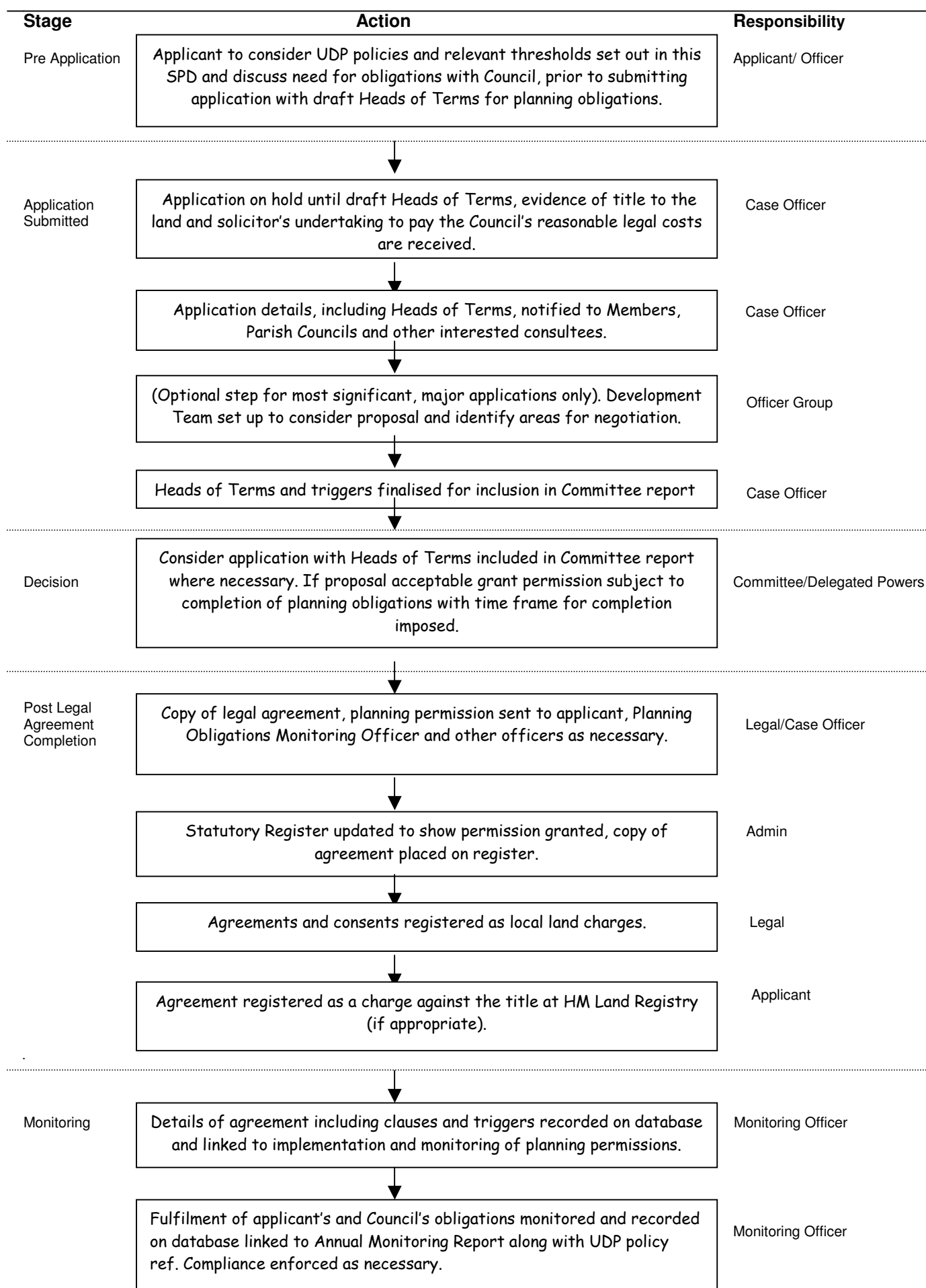
### 2.5.2 **Ring Fenced Funds**

For smaller schemes and where a cash sum is required as part of an obligation, this will be placed in a fund controlled by the organisation responsible for the provision of the service or facility, and reserved for that purpose. This will ensure transparency in the planning obligations process.

### 2.5.3 **Unspent Funds**

In the unlikely event that financial contributions secured from developers cannot be spent within 10 years of the completion of the development or as negotiated to suit the circumstances of the development, the contributions or such unexpended parts will be refunded. Developer's financial contributions will be adjusted for inflation in accordance with Building Costs Information Service (RICS) all in tender price index or such other indices as the Council consider appropriate, calculated from the date of the planning agreement or unilateral undertaking, to the date of payment.

**Figure 1 – Procedure for Negotiating, Preparing and Completing a Planning Obligation**



## Part 3 – Community Infrastructure

### 3.1 Accessibility, Transport and Movement

#### Introduction

3.1.1 On-site provision of sustainable transport infrastructure and appropriate provision for disabled access should be incorporated into overall scheme design for most new development proposals. The quality and effectiveness of this provision will be a consideration in the determination of the planning application. Typically, sustainable transport infrastructure will include provision for cycle parking, pedestrian and cycle routes through the site and public transport waiting facilities. Dependent on the development, specific parking provision may be required for disabled users or residents.

3.1.2 Specific off-site works and contributions to sustainable transport services may also be required to mitigate the direct impact of the development scheme on the transport network. Contributions might be required for:

- Improvements to public transport services;
- passenger waiting facilities;
- improvements to junctions and the provision of traffic lights;
- road widening/passing bays;
- pedestrian and cyclists facilities;
- pedestrian crossings;
- pedestrian and cycle routes and links to existing routes;
- traffic calming schemes; and
- the introduction of street parking restrictions.

Where a travel plan is required, the Council will seek contributions to cover the provision of sustainable travel information to site users and to support the ongoing development of the plan.

3.1.3 In addition to the above, new developments may also have cumulative impacts on the transport infrastructure of the County. This is particularly the case for developments that generate trips into and within Hereford City area, where traffic congestion, severance and poor air quality are significant issues. Where development impacts on these types of issue, the Council will seek contributions towards schemes such as park and ride, general traffic management improvements, public car park improvements and also towards sustainable travel infrastructure, promotional campaigns and literature. Contributions from development towards these schemes will be pooled to secure the future provision of the scheme or promotion activity, in accordance with Circular 05/2005.

#### Policy Justification

3.1.4 Planning Policy Guidance 13 (Transport, March 2001) states that “planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would likely influence travel patterns to the site involved, either on their own or as part of a package of measures...” New development should therefore contribute to the improvement and development of a more sustainable and integrated transport system. This may include support for travel plans required as a result of a development proposal, or contributions to conventional public transport services.

3.1.5 Within the Regional Spatial Strategy, Hereford is identified as the key location in the County for future housing and employment growth. Outside of the city, almost the entire County is identified as a Rural Regeneration Zone where sustaining rural communities, tackling rural problems and addressing local needs are the main priorities.

3.1.6 The Council, as Highway Authority, seeks financial contributions where appropriate to promote specific schemes and types of schemes identified in the Local Transport Plan 2 (LTP2). The LTP2, which covers the period up to 2011, sets out as its objectives - delivering accessibility, tackling congestion, making roads safer, and improving air quality. Delivery is by implementation of a

number of measures set out in investment strategies. LTP2 can be viewed on the Council's website. The Herefordshire UDP has been prepared alongside LTP2 and wherever appropriate, obligations will be sought to bring forward proposals and to implement policies in these plans. The UDP policies considered particularly relevant to the development of a S.106 Strategy on transport are detailed in Appendix 1.

### **Assessment of need**

3.1.7 The LTP2 provides a comprehensive assessment of the transport needs of the County over the period 2006/7 to 2010/11 and sets out a longer term strategy for Hereford City and its immediate surrounding rural hinterland. The LTP sets out the following transport strategies to help address the needs of:

- Countywide accessibility strategy;
- Integrated transport strategies for Hereford and for the market towns and rural areas;
- Road safety strategy; and
- Asset management strategy for maintaining the transport network.

3.1.8 Whilst Herefordshire is a mainly rural area and is sparsely populated, it has significant transport issues. These range from severe congestion within Hereford City itself to access to transport for remoter rural communities. Accessibility planning software (Accession) has been used to identify specific areas of need particularly in respect of rural access.

### Transport Issues in Hereford

3.1.9 Transport limitations in Hereford have restricted its growth. Key issues include:

- Regular congestion through the central area and poor air quality;
- Traffic intrusion in residential areas;
- Poor reliability and quality of public transport;
- Poor pedestrian facilities and a limited cycle network reducing the attractiveness of sustainable modes of transport; and
- Impact of the school run.

3.1.10 The LTP2 sets out a package of measures required to release travel capacity needed to accommodate development and regeneration and to allow Hereford to fulfil its role as a sub-regional centre. However, substantial additional funding is required to support these measures and bring forward key initiatives, which will help address these issues.

3.1.11 A further set of major development proposals with significant implications for transport, focus on the Edgar Street Grid in Hereford. The master plan scheme for this area includes improved facilities for walking, cycling and public transport. This is in addition to new road infrastructure and the downgrading of existing roads to reduce severance between the city centre and the grid area.

### Rural Transport Issues

3.1.12 The key transport issues affecting the rural area and market towns focus on providing for access to services, maintaining an extensive road network, reducing road traffic accidents and provision of sustainable transport infrastructure in the market towns. Support for public and community transport is an important element of helping address these needs and reducing the impact of longer distance traffic movements within the County. Consistent cost increases associated with supported public transport services (which cover the majority of services outside Hereford City) have been experienced during recent years and are anticipated to continue to put pressure on the Council's ability to maintain the extent and frequency of the public transport network over the LTP2 period. A greater reliance on community transport may help with more specific provision that addresses social exclusion but will not help address modal shift (i.e. moving away from the use of the private car to more sustainable forms of transport e.g. cycling and walking). Planning contributions will be sought to support the public transport network and community transport and also to provide sustainable transport infrastructure in the market towns. Where appropriate, contributions will also be sought to achieve road safety improvements.



### Transport Assessment

3.1.13 In 2007 the Department for Transport published its updated Guidance on Transport Assessments (TA). The Guidance along with other planning documents such as PPS1 and PPG13 emphasise the value of early discussions between developers and the local authority in relation to TA's. This ensures all parties have a better understanding of, and reach consensus on, the key issues to be addressed in respect of a particular development including the likely range and scale of any mitigation measures required. The Council will require TAs (or Transport Statements) to be provided, in accordance with the guidance, and it is likely that the TA will further inform the level of contributions required for transport measures.

#### **Developments for which Contributions will be sought**

3.1.14 All developments that cause increased trips and have a wider transport impact can be expected to be the subject of an obligation. The main sources of development funding towards transport will come from housing and retail developments whilst employment and other developments will also need to contribute at a level commensurate with the level of movements generated by the development. However, affordable housing provided as part of larger market housing schemes and rural exception sites will be exempt from contributions towards transport. In addition, to assist and promote the rural economy, contributions from developments in accordance with UDP policies E11, E12 and E13 will be excluded.

3.1.15 Many planning applications will be accompanied by a transport assessment, which will be used to assess the application and decide if specific on-site and off-site measures are required to make it acceptable. Where the impacts of a proposed development are not so easily identifiable by on-site or off-site mitigation measures but clearly impact upon the wider transport network, contributions to identified LTP measures and/or UDP policies will be required. The Council will judge each development site on its merits and will seek contributions from any development proposals where transport impacts would require mitigation through the provision of off-site transport infrastructure.

3.1.16 For significant developments sufficient contributions will be required to fully fund complete transport-related schemes. For smaller developments, contributions will generally be pooled in ring-fenced accounts until such time as they can be spent on agreed measures in the LTP2 or other local transport strategies. In accordance with Circular 05/2005, contributions will be spent on schemes that support the contributing development.

#### **Contributions**

##### Formula and Standard Charges

3.1.17 Circular 05/2005 states that 'local authorities are encouraged to employ formulae and standard charges where appropriate, as part of their framework for negotiating and securing planning obligations.' The Circular recommends that the levels for such charges be published 'in advance in a public document'. Figure 2 below provides an example of standard charges for certain types of development including residential, retail and employment. The table is provided as an illustration of the formula, which could be applied to any land use proposed in the County.

3.1.18 The standard charges have been based on a formula which takes into account:

- future development set out in the Unitary Development Plan (equating to around an additional 26,500 daily trips derived from TRICS – Trip Rate Information Computer System);
- shortfall in funding for transport improvements outlined in the LTP2 (amounting to around £12.3M);
- typical trip generation for specific land uses with a weighting to focus on trips generated in the peak hour (derived from TRICS); and
- a weighting to take into account the accessibility of a site (derived from the Accession model for the County). Sites with a better accessibility rating will pay a reduced contribution.

### Location and Accessibility

3.2.19 The Transport Contribution table incorporates an accessibility factor, which reduces the level of contributions sought from developments located in more accessible locations, acknowledging the increased likelihood that these developments have greater potential to encourage sustainable transport. The assessment was carried out using the Council's Accession model for the County. The model maps accessibility in terms of journey times via sustainable modes of walking, cycling and public transport to destinations, which sustain a basic level of services. Three accessibility zones have been identified ranging from high to low accessibility. These are shown on Figure 3 at the end of this section and this will form the basis for applying the standard charges. The public transport factors influencing the level of accessibility experience throughout the County will be reviewed on a regular basis to take into account public transport timetable updates.

### Worked example

The following worked example helps illustrate how the standard charges have been developed and how they will be applied based on the development of 50x 3-bedroom houses in central Hereford.

Cost/trip (LTP2 shortfall/UDP development trip generation) x 24hr trip generation for 3-bedroom house x peak hour weighting x accessibility weighting (for highly accessible site) x number of units

$$£468 \times 7.73 \times 1.02 \times 0.7 \times 50 = £129,000$$

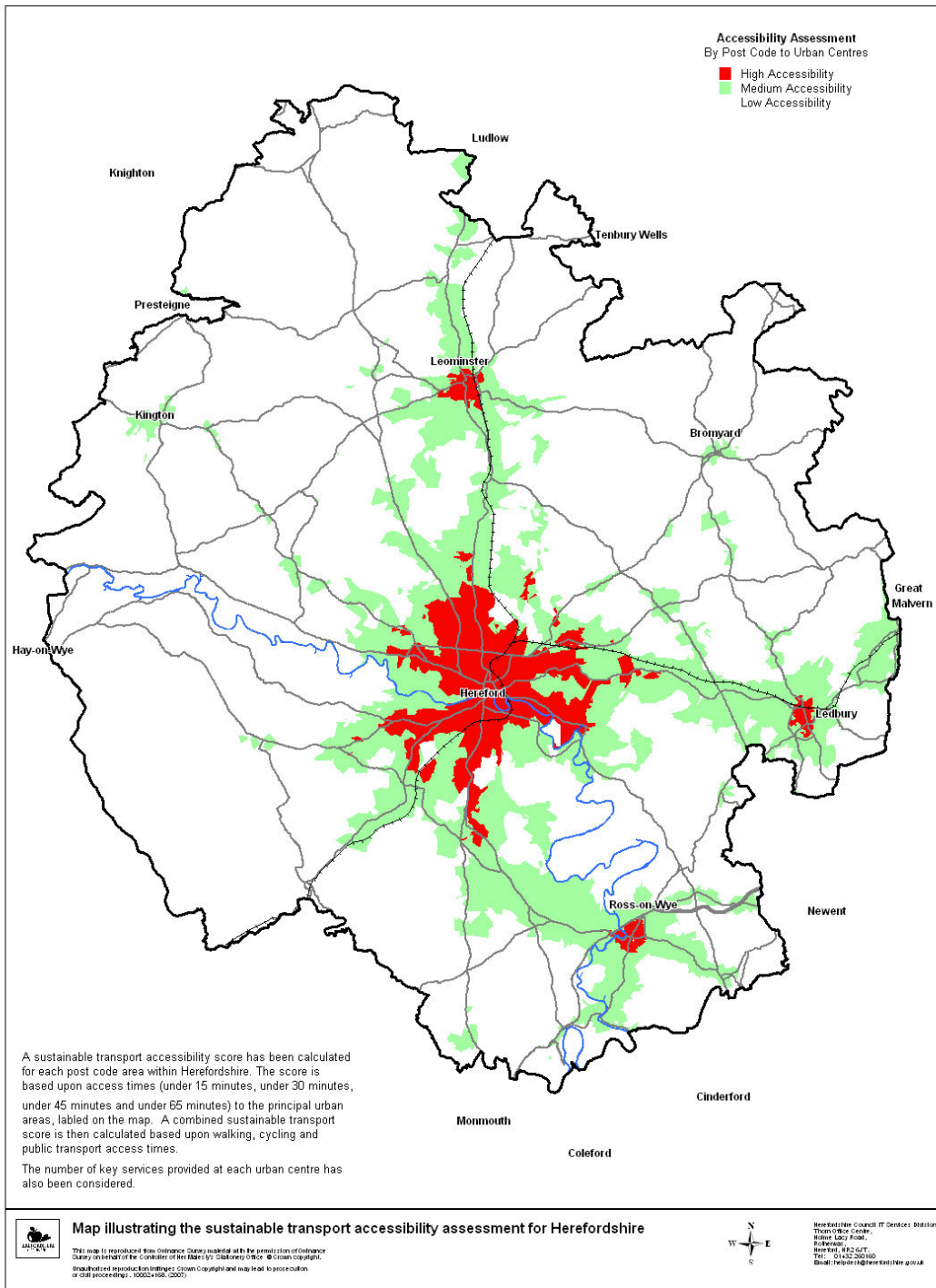
### Negotiation on Standard Charges

3.2.20 In line with Government guidance, the charges indicated in the Table will not be applied rigidly in all circumstances without regard to the context of an individual application and site. Unique aspects of each application will help form further consideration of these charges. Matters which may influence the use of the standard charges include:

- A travel plan which sets clear targets for reducing car trips with associated contributions if targets are not achieved
- The amount of parking to be provided with a development having regard to the maximum standards set out in the Council's Highways Design Guide for New Developments
- The level of trip generation with the development ascertained through a Transport Assessment

**Figure 2 – Transport Contributions**

Development Type	24-hour weekday total vehicle trip	Accessibility		
		High	Medium	Low
Residential - 4 bed house	10.30	£3,440	£3,932	£4,915
Residential - 3 bed house	7.73	£2,580	£2,949	£3,686
Residential - 2 bed house	5.15	£1,720	£1,966	£2,457
Flat	3.01	£1,465	£1,674	£2,092
B1 (office) per 100m <sup>2</sup>	14.09	£7,825	£8,943	£11,178
B1 (Business Park) per 100m <sup>2</sup>	10.56	£6,087	£6,956	£8,695
B2 per 100m <sup>2</sup>	6.73	£2,369	£2,708	£3,385
B8 per 100m <sup>2</sup>	3.54	£1,310	£1,497	£1,871
Retail >500sqm - Non food superstore per 100m <sup>2</sup>	40.86	£5,052	£5,774	£7,217
Retail >500sqm - Food superstore per 100m <sup>2</sup>	138.15	£27,770	£31,737	£39,671
Retail - Discount Supermarket per 100m <sup>2</sup>	102.33	£8,561	£9,784	£12,229



**Figure 3 – Transport Accessibility Zones**

## **3.2 Affordable Housing**

3.2.1 The Council is strongly committed to the delivery of affordable housing within Herefordshire and will make effective use of its planning powers to secure affordable housing to satisfy local housing requirements.

### **3.2.2 Policy justification**

National government advice on affordable housing has been issued in the form of Planning Policy Statement 3 on Housing (PPS3) and its sister document "Delivering Affordable Housing" (November 2006).

3.2.3 In regional policy terms, Herefordshire falls within the Rural Regeneration Zone identified in Policy RR2 of the West Midlands Regional Spatial Strategy, June 2004, where emphasis will be given ... *"to providing affordable housing to meet local needs, in existing settlements, wherever possible, and making full use of the existing housing stock."* (Policy RR2, part C (iv)).

3.2.4 Locally, policy guidance is set out in the Council's adopted UDP policies H2, H5, H6, H9 and H10, although the whole issue of the provision of affordable housing will be reviewed as part of the preparation of the new Local Development Framework.

### **3.2.5 Assessment of need**

In addition to regional research to support the provision of affordable housing throughout Herefordshire, Planning Services and Strategic Housing Services within the council have worked together to establish need for affordable housing and identify opportunities for provision. The Herefordshire Housing Needs Assessment 2005 and a rolling programme of local research supports the view that there is a significant need to provide affordable housing throughout the County and that the main tenure of housing that appreciably meets housing needs in Herefordshire is the social rented sector delivered through a Registered Social Landlord (RSL). This local need is generated through the situation that average wages in the County are significantly below both the regional and national averages, but average house prices are high compared with elsewhere in the region. Many households will therefore find it difficult to purchase on the open market in Herefordshire.

3.2.6 Supply and demand data, collated by Home Point, a choice based lettings scheme for across Herefordshire, will also be taken into account when determining the types, sizes and tenure mixes for each individual proposed development. Key housing issues and priorities for Herefordshire (set out in the Herefordshire Housing Strategy 2005-2008 which is regularly reviewed and updated) will be reflected in the mix of types, sizes and tenures being requested.

### **3.2.7 Thresholds for contributions**

The proportion of affordable housing will be based on the net developable site area and the total number of units. The net developable site area includes access roads, within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. It excludes any major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffer strips.

3.2.8 Policy H9 of the UDP requires affordable housing at an indicative target of 35% of new housing proposals. As this is an indicative target and in view of the evidence outlined in the Housing Needs Assessment 2005, requests for a percentage affordable housing provision of more than 35% may be made in particular situations. The 35% target figure will be reviewed as part of the preparation of the Local Development Framework (LDF) and in the light of Planning Policy Statement 3. Currently, however, UDP Policy H9 and this guidance will apply:

- Where 15 or more houses are proposed in Hereford and the market towns (except Kington) or 6 or more houses are proposed in the main villages (including Kington); or
- To all sites of more than 0.5 hectare in Hereford and the market towns and of more than 0.2 hectare in the main villages and also where the Council reasonably considers that development of a site has been phased, or a site sub-divided or parcelled in order to avoid the application of the affordable housing policy, whether in terms of number of units or site size. In these circumstances the whole site will be assessed; or

- Where the Council reasonably considers that a development scheme has been specifically designed to fall under the threshold or a site's potential is not being fully realised; or
- If having had a scheme approved, a subsequent proposal for additional housing units brings the cumulative total over the threshold.

3.2.9 With outline planning permission, it is appreciated that full details on units etc. may not be known. The Council will, in these cases, seek to secure the percentage of affordable housing as outlined in the appropriate policy with detailed negotiations to be contained in a S106 Agreement and Heads of Terms.

### **3.2.10 Tenure and dwelling type/size/mix**

The Council requires affordable housing to be provided on sites that are large enough to accommodate a reasonable mix of types, sizes and tenure of housing. Discussion with Strategic Housing Services is essential from the earliest stage of pre-application negotiations. The size, type and tenure of affordable units that are provided should reflect the mix that is necessary to support the Council in meeting its highest priority housing needs and provide a balanced variety of housing. In general this means a demand for primarily two and three bedroom units as well as one and four bedroom units. However, site location and scheme design may indicate that a different mix may be appropriate e.g. a town centre site may be more appropriate for predominantly one or two bedroom flats. The local authority will ultimately determine this.

3.2.11 Where an alternative form of tenure other than rented is to be provided the developer must prove to the local authority that such housing will meet the needs of those who cannot afford market housing prevailing in the locality. The properties must be made available to local people in housing need in perpetuity in line with occupancy criteria as used for rural exception sites. The Council will also need to be satisfied that a legal mechanism is in place to ensure an objective assessment has been undertaken justifying that the prospective purchaser is in local need.

### **3.2.12 Involving a Registered Social Landlord (RSL)**

The Council will seek to ensure that any affordable housing produced through the implementation of policy H9 or H10 be offered for ownership and management to registered social landlords that are the Council's preferred partners. This will ensure that the properties will be managed effectively due to a local presence. Nomination rights to the Council will be sought in any negotiations between the developers and the RSL by asking that all affordable housing secured will need to be advertised through the local lettings agency, "Home Point."

3.2.13 The Council would wish to satisfy itself before granting planning permission, that secure arrangements are made to ensure that the benefit of affordable housing for local people will be enjoyed by successive as well as initial occupiers of the property i.e. in perpetuity. This will normally be secured through a planning obligation. Planning obligations will be used to set out a cascade mechanism to ensure that occupiers are always found for affordable housing. An appropriate planning obligation will also normally require that a specified proportion of market housing on a site cannot be occupied until the affordable element has been built, transferred to an RSL on the specified terms and is suitable for occupation.

### **3.2.14 Affordability**

This SPD uses the definition of affordable housing as set out in Planning Policy Statement 3, which excludes low cost market housing. To assess affordability relevant to Herefordshire, both house prices and incomes have been taken into account and certain assumptions, following research with mortgage lenders, have been used to ensure that local households have the ability to access the properties being delivered. House Price data is taken from the Quarterly Economic Report published by the Herefordshire Partnership in conjunction with the Council and this data is derived from statistics received from HM Land Registry, which relates to the term 'market price' as being the average house prices. Figures on Herefordshire earnings are given by ASHE, (Annual Survey of Hours and Earnings), published by the Office of National Statistics annually in November. This provides information on the median gross annual earnings of a full time worker on adult rates in Herefordshire. The assumption is that first-time buyers will obtain a 95% mortgage – this is the assumption used in the report "Affordability and the Intermediate Housing Market" by Steve Wilcox, published by the Joseph Rowntree Foundation in October 2005.

3.2.15 Multipliers for borrowing purposes are taken from the same, above-mentioned report, which reflect current practice. Other assumptions are that:

- For dual earners, the second earner will work part time, earning  $\frac{1}{2}$  full time amount. Census figures for Herefordshire show that for Herefordshire families with dependant children where there are 2 earners, in nearly  $\frac{3}{4}$  of cases the second earner works part time; and
- through natural progression applicants are better able to secure a larger deposit (10%). Also occupancy conditions are assumed as follows:
  - 1 bed dwelling occupancy = single earner with 5% deposit
  - 2 bed dwelling occupancy = dual earner with 5% deposit
  - 3 bed dwelling occupancy = dual earner with 10% deposit

3.2.16 Therefore based on the above assumptions, an affordable purchase price would be calculated as follows:

- 1 bed dwelling = single earner with 5% deposit: median earnings x 3.75/0.95
- 2 bed dwelling = dual earner with 5% deposit: 1.5 x median earnings x 3.25/0.95
- 3 bed dwelling = dual earner with 10% deposit: 1.5 x median earnings x 3.25/0.9

3.2.17 Where properties are provided for rent by an RSL, these rents should not exceed the Housing Corporation Target rents. Where properties are provided for Shared Ownership or New Build Homebuy (to which S/O is now referred), housing costs should not exceed 30% of the gross earnings using the above assumptions. This assumption has derived from research in practices used by other authorities and reference to the Family Expenditure Survey 2000 – 2001 from the Office of National Statistics. Should this figure be exceeded or information is not provided, then housing for rent will be requested. Where house prices continue to rise, the Council will be seeking confirmation of housing costs prior to accepting this form of tenure. "Intermediate housing for rent" is a subject currently being researched by the Council and up to date information should be sought from Strategic Housing Services.

### 3.2.18 **Design considerations**

The design of developments that incorporate affordable housing should be tenure neutral and well integrated with the market housing. This may involve the distribution of small groups of affordable housing across a site, rather than it all being concentrated in one location. The marginalisation of the affordable housing from the remainder of the development should be avoided. All affordable rented, shared ownership and home buy units are to be built to the current Housing Corporation Scheme Development Standards (SDS) and the code of sustainability that apply at the time of the full planning application. In addition, it is expected that the units be developed to Lifetime Homes standards unless there are constraints upon the overall proposed development. Developers will be required to provide full information as to these constraints and each application will be considered on its own merit prior to the discharge of this requirement.

### 3.2.19 **Off-Site Provision and Commuted Payments**

The Council will always seek the provision of affordable housing on site except in very exceptional circumstances. This assists in providing affordable housing on sites in line with national and local policies. In **exceptional** cases, however, the Council may be prepared to enter into agreements to accept affordable housing on alternative sites provided by the developer or through contributions of commuted payments towards provision of land and affordable units elsewhere. This will be where both parties agree that on-site provision of affordable housing will not be viable or practical and it will be difficult to meet the requirements for affordable housing because of special market or site considerations.

- 3.2.20 Where, in exceptional circumstances, the affordable housing units are to be provided by the developer on an alternative identified site, the local planning authority will require details of the scheme as part of the application for the proposal site in the same way as if it were provided on site. Alternative sites should generally be within the vicinity of the development site and equally well located in terms of amenities and facilities. The number of units to be provided off site should equate to the number to be provided had the site been suitable on the application site. It should not be provided on an alternative site that would also require the provision of affordable housing under planning policy.
- 3.2.21 The payment in lieu calculated for off-site provision of affordable housing covers the basic costs associated with construction of the commensurate number of units. In addition the associated costs of site acquisition, servicing project management and professional and legal fees involved in delivering the affordable housing elsewhere will have to be taken into account in calculating the appropriate level of contribution. This is justified as the need to incur these costs has arisen directly through a failure to provide affordable housing on site in the first instance. Applicants will also have to bear the costs of any financial evaluation and development appraisal work required to ascertain the veracity of submitted material in support of payments in lieu. See Figure 3 below.
- 3.2.22 Any commuted sums will normally be required prior to the occupation of the first dwelling on the site and will be ring-fenced to ensure that they are used to provide affordable housing within the County. If the sums have not been used within a period of 10 years, then they will be repaid.

**Figure 4: Commuted Payments for Off-site Provision of Affordable Housing**

**From residential development**

Cost of constructing affordable element of proposed scheme \* + cost of serviced land in the area of the application site + professional/legal fees

\* to SDS and Lifetime Homes standards

**3.2.23 General Information for Applicants**

Applicants for planning permission should be aware that the provision of affordable housing will have an impact on the value of land, as well as implications for housing mix and layout. It is therefore essential that an approach be made to the local authority to establish the affordable housing policies and requirements pertaining to the development; a development brief will be provided by the Strategic Housing Services department outlining the need, requirements and other considerations for each individual proposal.

- 3.2.24 Applicants should also be aware that affordable housing schemes brought forward through planning policies will not be supported by grant funding. Therefore, land that is likely to be subject to such affordable housing should be valued accordingly, as the land upon which the affordable housing is to be sited will effectively reduce the overall value. Only in exceptional circumstances will grant funding be considered and this will be in negotiation with the developer and the council, for e.g. where above level 3 of the code of sustainable homes is exceeded and can be demonstrated prior to approval.

### 3.3 Biodiversity

#### 3.3.1 Policy Justification

The justification for requiring obligations in respect of the natural environment is set out in Circular 05/2005 (Para B16). Planning Policy Statement 9 (PPS9) "Biodiversity and Geological Conservation" sets out the government's objectives for biodiversity conservation.

#### 3.3.2 The key principles established in PPS9 include:

- Enhancing existing features of biodiversity importance;
- Protecting and restoring existing features of value to biodiversity;
- Identifying and delivering an expansion of range of existing habitats and species; and
- Ensuring connectivity of habitats to provide for migration, dispersal and genetic exchange of species.

#### 3.3.3 Policies in the UDP relating to biodiversity are listed in Appendix 1. The Councils Biodiversity SPD provides further in-depth guidance to these policies (see Chapter 6 "Creating new wildlife habitats and enhancing biodiversity on development sites"). The Herefordshire Biodiversity Action Plan (published by the Herefordshire Biodiversity Partnership) is a proven mechanism for focusing resources by means of local partnerships to conserve and enhance national and local biodiversity. The functions of Local BAPs are:-

- To translate national targets for species and habitats into effective action at the local level
- To identify targets for species and habitats important to the local area and reflecting the values of local people
- To stimulate effective local partnerships to ensure programmes for biodiversity conservation are developed and maintained in the long term
- To raise awareness of the need for biodiversity conservation and enhancement in the local context
- To ensure opportunities for conservation and enhancement of biodiversity are promoted, understood and rooted in policies and decisions at the local level
- To provide a basis for monitoring and evaluating local action for biodiversity priorities, at both national and local levels.

#### 3.3.4 Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. PPS9 states that when considering proposals, local planning authorities should maximise such opportunities in and around developments using planning obligations where appropriate. The type of measures introduced may be guided by priorities established in the local Herefordshire BAP or the regional biodiversity strategy – "Restoring the Region's Wildlife" 2005.

#### 3.3.5 Thresholds for contributions:

Planning obligations may be required for any development, which would affect a site, area or feature of biodiversity interest and where required works cannot be secured as part of the application or via planning condition. Obligations will also be sought to help create or restore habitat networks. On larger developments, the provision of additional habitat protection works beyond the application site may be secured via a Section 106 Agreement.



**3.3.6 How contributions will be calculated and used:**

Each case will be unique and it is therefore inappropriate to provide standard formula for contributions towards biodiversity. However, the Council will ring fence any sums received and ensure that contributions are used to enhance existing sites, create new ones or to offset any adverse impacts of development on biodiversity. Possible contributions may be required for:

- Implementing conservation agreements with management plans to secure the appropriate management of sites of importance for biodiversity;
- Implementing and/or maintaining landscaping schemes beyond the application site area; and/or
- Enhancing existing or creating new sites to benefit amenity.

3.3.7 Herefordshire Biodiversity Partnership and parties other than the Council, such as the Herefordshire Nature Trust or Parish Councils, may carry out the spending of developer contributions arising from planning obligations on biodiversity, landscaping or enhancement schemes.

### **3.4 Community Services**

#### **3.4.1 Policy justification**

The provision of community services such as healthcare, libraries, community centres, halls and youth centres, heritage facilities, and facilities for emergency services contributes to quality of life and is a vital part of a sustainable community. The justification for seeking obligations in respect of community services is set out in Circular 05/2005 (Para B15). In addition, it is a guiding principle of the Community Strategy for Herefordshire (June 2006) that people and businesses in all areas of the County should have access to services and opportunities. Additional population arising from new developments, even from small residential schemes, may increase demand on existing community services in the County. This increase in demand may require refurbishment, redevelopment or even the provision of new facilities to support and extend existing services and, therefore, new developments will be expected to contribute to any necessary facilities or services. Finally, the Council has adopted a number of Parish Plans, which have examined the particular needs of their areas. Where identified, the community needs/requirements will be used to inform any necessary contributions.

#### **3.4.2 Assessment of need**

Community services are provided by a wide variety of organisations and it is inevitable that no single methodology is applicable to identifying the needs generated by new development. However, the following assessment can be made:

- are any community services being lost as a result of a development?
- are any adequate compensatory community services being (re) provided within the development proposal?
- are adequate alternative services available in the vicinity of the site to compensate for any loss?
- are any deficiencies in specific community services in the area compounded by the new development?
- are existing services adequate to cope with increased usage or demand e.g. do local doctor surgeries have spare capacity to take on extra patients?
- are existing services conveniently located and accessible to additional users e.g. new residents, employees or shoppers?
- are there any specific identified community needs in the local area that will be exacerbated by a new development?
- does the scale and nature of development justify the need for completely new or additional services?
- is existing funding inadequate to provide the requisite services generated by increased demands?
- has any community facility been identified within any Parish Plan?

3.4.3 Planning permission will only be granted for development involving the loss of community services if it can be shown that there is no longer a need for the site or building in any form of community use, or that there is an acceptable alternative means of meeting the need. A planning condition or obligation may be sought where replacement services are to be provided to ensure that the new services are completed and made available prior to the occupation of the rest of the development. In addition, provision or improvement of community services should be on site in the case of large-scale development or where there is already a community use on site, unless an alternative off-site location relates better to other services in the area and is easily accessible using sustainable methods of transport.

3.4.4 As a Public Library Authority, Herefordshire Council has a statutory duty to provide a comprehensive, efficient and modern library service to those who live, work or study within its boundaries. The nature of public libraries and their services has evolved substantially in recent years and modern libraries now provide not only traditional book stock but also multimedia and the space and technology for public access to computers, the Internet and associated training. The Disability Discrimination Act has set new standards for physical access and adaptive technology has become a standard requirement. The Department of Culture, Media and Sport sets Public Library Standards, which all authorities are required to meet. The Council currently fails to meet a

number of the standards, and the development of new housing within the County increases the resource strain on the Council's Library Services.

#### 3.4.5 **Thresholds for contributions**

A form of needs assessment on the basis outlined above should normally be undertaken for any proposal that results in the loss of a community service and/or involves a proposal of additional residential units. Contributions will be sought from private residential all development as well as residential homes, student accommodation and sheltered housing, the residents of which may also make use of community services. Affordable housing and rural exception sites will normally be exempt from S106 contributions for community services on the basis that the provision of such housing is a priority for the Council.

3.4.6 In cases (particularly small residential schemes) where developments are too small to provide part or all of the facility/service required, contributions will be pooled with others in a specific ring-fenced community services fund until such time as the required works can be carried out. If the sums have not been used within a period of 10 years, then they will be repaid.

#### 3.4.7 **How contributions will be calculated and used**

The level of contributions sought for local community services will be based on need as well as on the costs of providing such buildings, including equipment and initial maintenance, in accordance with the guidance set out below.

#### 3.4.8 **Community centres, youth centres, halls**

New residential development may be required to contribute towards the provision, enlargement or improvement of community centres, youth centres and halls. However, without a countywide assessment of existing community facilities or evidence of a committed/progressing project, it is difficult to formulate a standard charge for provision. Therefore, until such time as an assessment of need is available, developer contributions towards community halls etc will be made on a case-by-case basis in consultation with Cultural Services.

3.4.9 Where new provision or improvements to local community services are required, particularly for development proposals of more than 200 dwellings, the Council will generally encourage multi-purpose buildings which can provide accommodation for many different community groups and locations for learning (with crèche and computer facilities on site). In certain circumstances, contributions may be channelled to partner organisations in the voluntary or community sectors that have the capacity and capability to manage such resources.

#### 3.4.10 **Calculation for contributions to *Library Services***

The calculation for library contributions will be based on the following information:

- Average number of persons per dwelling (taken from the 2001 Census) –2.32.
- The Herefordshire requirement for net library floorspace per 1000 population is currently 30 sq.m, whilst the International Federation of Library Associations recommends a standard of 42 sq.m.
- The provision cost per m<sup>2</sup> of library floor space taken from comparative costs from other local authorities and weighted for Herefordshire.

3.4.11 Any contributions would be subject to index linking as set out elsewhere in this guidance. Contributions secured through planning agreements will be spent on the provision of new library books and/or improvement works to the nearest public library to the development.

#### **Library Services**

For residential development, provision is based on 30sq.m of library space per 1,000 population. Where a financial contribution is made, it is calculated on the basis of construction and equipment cost of £2880 per sq.m. The contribution required is therefore:

Number of persons generated x £86 per person (£2880 x 30/1000)

3.4.12 Using the average occupancy information derived from the 2001 Census detailed in Appendix 2, the above calculation equates to the following contributions in Figure 5 per dwelling size:

**Figure 5: Calculation for Provision of Library Services**

Contribution by Dwelling Size (bedrooms)	Average Occupancy	Total (£)
1	1.4	120
2	1.7	146
2 bed flat	1.7	146
3	2.3	198
4+ beds	2.8	241
All dwellings	2.3	198

**3.4.13 Health and emergency services**

The Council recognises the social benefits of the provision of excellent medical and health facilities to the community. There is a logical link between increases in the population and a corresponding increase in health demands. Where there is an identified need for further medical and health facilities, the Council will seek to ensure that planning permission for new housing is granted only where such services can be provided. In considering whether contributions will be sought towards the provision of health services, the Council will liaise with their NHS Primary Care Trust and other relevant agencies; they will give consideration to relevant health documents such as the Local Delivery Plan.

3.4.14 The needs of children and their carers should be catered for in publicly accessible facilities such as shopping or leisure centres. Crèches, baby changing facilities and feeding places, and supervised play areas can assist carers' access to jobs, training and other facilities. The Council will therefore encourage the provision of childcare facilities in all significant development schemes that are likely to be visited by children and their carers. If facilities cannot be incorporated within a scheme the Council may require contributions to fund alternative facilities elsewhere.

## **3.5 Education Facilities**

### **3.5.1 Policy justification**

The advice in Circular 05/05 is clear that developer contributions should only be sought where the need for additional facilities arises as a consequence of the new development. Moreover, they should be fairly and reasonably related in scale to the proposed development. Therefore developers would be expected to make an appropriate contribution towards enhancing existing education facilities or new provision where there is insufficient school places to support the development.

3.5.2 The UDP seeks to retain existing educational land and buildings unless there is no longer a requirement for the facilities and that alternative, locally based school provision within reasonable walking distance, is available (Policy CF5).

### **3.5.3 Assessment of need**

Herefordshire has an unusually high number of schools (103) in relation to the overall size of the school population (23,000). There are a significant number of small schools, both primary (ages 4-10) and secondary (ages 11-15), many of which are affected by rural isolation and long journey times for pupils attending school. Thirty-five primary schools have fewer than 100 pupils, and five high schools have numbers below 600. The cost of school transport amounts to more than 6% of the education budget. The issue of small schools is a significant factor in the determination of local authority policy and strategy.

3.5.4 It is also the Council's responsibility to develop and support provision of early years education (pre-school) and nursery places. There is a continuing need for additional capacity arising from demographic changes as well as continuing changes in education. Where development falls within an area identified by the Children and Young People's Directorate as being full in terms of early years provision, a contribution towards provision will be sought.

### **3.5.5 Thresholds for contributions**

Education contributions will only be sought from residential developments providing additional units and where the implementation of the development will result in the generation of additional numbers of children in excess of that which local educational facilities on permanent buildings can accommodate in terms of capacity or when measured against qualitative standards set out in the Education Building Bulletins.

### **3.5.6 School capacity**

The threshold for contributions will depend on the size of the development and the number of surplus places at schools serving the development. The Council will refer to data in its School Organisation Plan, which is updated annually. This will indicate the extent to which additional capacity will be required to cater for the additional demand. The size of the development is determined by the net gain in dwellings.

3.5.7 Developments have been divided into bands based on the size of the development. A contribution will be requested if the number of spare places meets the trigger point for that band in at least one-year group at each of the catchment schools.

- For a development of 30 or fewer dwellings, contributions will be sought for schools that have no spare places in at least 1-year group.
- For a development of 31-60 dwellings, contributions will be sought for schools that have 1 or no spare places in at least 1-year group.
- For a development of 61-99 dwellings, contributions will be sought for schools which have 2 or fewer spare places in at least 1-year group
- For developments of 100 or more dwellings, the Council will seek to negotiate with the developer.

### 3.5.8 Pre-school capacity

Section 11 of the Childcare Act 2006 places a duty on Local Authorities to carry out a *Childcare Sufficiency Assessment* leading towards the duty to secure sufficient childcare from April 2008. This puts the onus on Local Authorities to take into account any planned residential development, which may increase population in an area annually. Should this capacity be affected by any proposed developments then the developer would be expected to make Pre-school contributions.

### 3.5.9 Exemptions from educational contributions

Not all residential developments will create a need for school places. Therefore, the following types of residential accommodation will not be subject to education contributions: sheltered housing, rest homes, nursing homes, hostels, student accommodation, holiday homes, one bedroom units or from other specialist housing where it can be demonstrated that the nature of the accommodation will not lead it to being occupied by children. Rural exception sites and affordable housing generally will normally be exempt from S106 contributions for contributions on the basis that they are fulfilling a need for housing for people already in the local community.

### 3.5.10 How contributions will be calculated and used

The additional pressure new developments will place on educational facilities is assessed on a case-by-case basis. Where developer contributions are required, they will be calculated from the number of children likely to be generated by the development and the costs of providing additional facilities/services needed. These components are now explained in turn.

### 3.5.11 Pupil Yield

Where developer contributions are required, they will be calculated from the number of children likely to be generated by the development – the pupil yield. From an analysis of 2001 Census for Herefordshire, the following is an estimate of the pupil yield for each dwelling size:

Size of dwelling>	2+bed flat/maisonette/apartment	2/3 bed house/bungalow	4+ bedroom house/bungalow
Pupil yield per school			
Pre-school	0.011	0.023	0.034
Primary pupil yield	0.093	0.163	0.267
Secondary pupil yield	0.059	0.111	0.228
Post 16 pupil yield	0.005	0.005	0.005

These pupil yield estimates will be calculated alongside the building cost multiplier (see below).

### 3.5.12 Size of dwelling

The contribution will vary according to the number, size and type of dwellings proposed. An analysis based on 2001 Census figures shows that actual number of pupils living in 2+bedroom flats/apartments for example is lower than that in a standard 2+bedroom house. Therefore, the contribution from flats/apartments will be lower. Similarly, a 4+bedroom dwelling is assumed to have a higher number of child occupants and the contribution will be higher.

### 3.5.13 Building Cost Multiplier

This is essentially a cost per pupil for building new accommodation. It is set annually by the Department for Education and Skills (DfES) in August/September, ahead of the financial year and can be found on the DfES website<sup>1</sup>. The figures are based on the weighted average of two separate multipliers, one for totally new schools and one for extensions to existing schools. The figure includes an area adjustment to reflect the actual costs involved in the local area. According to the DfES Building Bulletin 99 (Briefing Framework for Primary School Projects 2<sup>nd</sup> Edition) the overall total net area recommended for nursery places is the same as that for primary school places and hence the reason the same building cost multiplier is applied. In the case of Herefordshire, the

<sup>1</sup> can be found at:

<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/designguidance/costinformation/>

cost multipliers for the 2006/07 financial year has an area adjustment factor of 0.95 and works out currently as follows\*

DfES Basic building cost multiplier	Herefordshire 2006/7
Primary/nursery £ 10, 372	£ 9,853
Secondary £ 15, 848	£15, 055
Post 16 £ 17, 013	£16,162

\*The figures above will be reviewed and amended according to DfES building cost multiplier rates on an annual basis.

3.5.14 Developer contributions for education will normally be sought for:

- Pre-school places/nursery places
- 5 – 11 years (primary schools)
- 11 - 16 years (compulsory secondary school age)
- 16 + (post statutory school-age, in schools)
- Children with special educational needs beyond the capacity of existing schools in the area. These children have been included in the population figures and represent 1% of the population. The Children's and Young People's Directorate will decide what proportion of the final calculated contribution should be dedicated to this category.

3.5.15 For larger developments of 100 or more dwellings, the Council will negotiate a contribution either in cash or land, or both. More detailed analysis will be undertaken on the current and future availability of school places based on the timing and size of the development and other knowledge about education provision in the area e.g. school reviews.

### 3.5.16 Calculation for Provision of Education Services

Cost per dwelling = Pupil Yield per school category x Building Cost Multiplier

**Figure 6 - Education contributions per house type 2006/7\***

Contribution by No of bedrooms	Pre - school	Primary	Secondary	Post 16	Total
2+bedroom flat/apartment	£113	£919	£892	£81	£2,005
2/3 bedroom house/bungalow	£228	£1,610	£1,665	£81	£3,584
4+bedroom	£333	£2,633	£3,438	£81	£6,485

\*The figures above will need to be reviewed and amended according to the DfES latest calculations.

## **3.6 Flood Risk Management, Water Services and Pollution Control**

### **3.6.1 Policy Justification**

Planning Policy Statement 25 'Development and Flood Risk' (2006) sets out the Government's policy on the role of land use planning in reducing the risk of flooding. Planning obligations may be used to restrict the use of sites, or to ensure that developers carry out the necessary works and any future maintenance requirements in relation to flood risk. Guidance on pollution issues can be found in Planning Policy Statement 23 'Planning and Pollution Control (2004)' which states that any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use. The Environment Agency promotes the use of obligations to promote justifiable environmental outcomes, where the scope of improvement lies outside the scope of planning conditions.

### **3.6.2 Thresholds for Contributions**

For any development where conditions are inadequate, the Council will seek to negotiate a s.106 obligation in relation to development affecting flood risk or air quality.

### **3.6.3 How contributions will be calculated and used**

#### ***Flood Risk Management***

Where a flood risk assessment has been undertaken which identifies the mitigation measures necessary for a development to proceed, developers will be expected to enter into an obligation to deliver these measures and secure a proper maintenance regime. It is considered appropriate in certain circumstances in the management of residual risk to seek a developer contribution for major applications proportionate to the increased burden on the flood warning system and emergency services for the lifetime of the development. Financial contributions will be calculated on a site-by-site basis.

### **3.6.4 Water Services**

In addition, where developments increase demand for water services developers may be required to support off-site infrastructure costs including the facilitation of new sewer capacity. Equally, the disposal of surface water is a material planning consideration in the determination of planning applications, and in some circumstances, is properly the subject of a planning obligation, for example, in the use of sustainable drainage systems (SUDS). Applicants may be required to enter into a planning obligation to secure the adoption and maintenance of any proposed systems.

### **3.6.5 Air Quality, Groundwater and Contaminated Land**

The Council will expect appropriate air quality amelioration measures to accompany any major planning application and this matter should be discussed with the Council at an early stage of the planning process. In certain instances a contribution from the developer towards additional monitoring, especially in town centre locations, may be appropriate. This may follow the pattern of the provision of additional diffusion tubes, a real-time survey before the submission of proposals, or an ongoing programme of either type. The purchase, installation, operation and maintenance of air quality monitoring equipment or provision of other assistance or support to enable the implementation or monitoring of actions in pursuit of an Air Quality Action Plan can legitimately be sought as a planning obligation, in accordance with Planning Policy Statement 23. There will be a special interest in the impact on air quality arising from developments within or adjacent to an Air Quality Management Area (AQMA), of which there are two existing (Hereford and Leominster) and one proposed (A40 Ross) in Herefordshire.

3.6.6 In certain circumstances there will be a need for the developer to provide continued groundwater and surface water monitoring and any further remediation measures required after planning conditions have been discharged as part of a planning obligation.



### **3.7 Heritage and Archaeology**

3.7.1 PPG's 15 (Planning and the Historic Environment) and 16 (Archaeology) provide advice on controls for the protection of historic buildings, conservation areas and archaeological remains. Herefordshire contains a wealth of listed buildings, numerous conservation areas and a variety of archaeological remains, including scheduled ancient monuments and sites of archaeological importance. These sites and buildings constitute unique resources that require protection and enhancement.

#### **3.7.2 Thresholds for contributions:**

Where conditions are inadequate, the Council will seek to negotiate a s.106 obligation in relation to development within or affecting conservation areas, listed buildings, archaeological and other heritage features or historic parks and gardens.

#### **3.7.3 How contributions will be calculated and used**

The type of agreements and level of contribution will be assessed on a case-by-case basis. Examples of types of development where planning agreements may be negotiated include:

- Enhancing conservation areas - development where works outside the application site are required to offset the impact of the development, for example tree planting within a conservation area;
- Cases where permission would not usually be granted, but enabling works (for example residential development) are required to secure the restoration of a listed building or building in a conservation area. In such cases the developer will be required to ensure the restoration works are completed prior to the completion or occupation of the enabling works;
- In some cases undertaking excavation and recording of important archaeological remains and other archaeological work may be necessary prior to new development. Normally, required investigations and necessary works will be secured via planning condition, however in certain circumstances it may be necessary to secure these works via a planning obligation; or
- In exceptional circumstances, to control the timing of demolition of a listed building or building in a conservation area. In cases where the demolition of a listed building is required to facilitate a new development a s.106 obligation may be required to control the timing of the demolition works, so that demolition cannot take place prior to the contract being let for the new development.

## **3.8 Landscape**

### **3.8.1 Policy Justification**

The justification for requiring obligations in respect of the natural environment is set out in Circular 05/2005 (Para B16). Planning Policy Statement 7 (PPS7) "Sustainable Development in Rural Areas" sets out the government's objectives for the rural environment. The key principles established in PPS9 are:

- To promote good quality, sustainable development that respects, and where possible, enhances local distinctiveness and the intrinsic qualities of the countryside; and
- Continued protection of the open countryside for the benefit of all, with the highest level of protection for our most valued landscapes and environmental resources.

3.8.2 UDP policies LA5, LA6 and NC9 relate to landscape issues and planning obligations and are listed in Appendix 1. The Council has also produced Supplementary Planning Guidance on "Landscape Character Assessment" to complement and provide further detail for policy LA2. The assessment itself provides a detailed account of the natural, cultural and visual dimensions of landscape, classifying, describing and evaluating its character as well as promoting opportunities for conservation, restoration, enhancement and mitigation.

### **3.8.3 Thresholds for contributions:**

This will be assessed on a site-by-site basis where development affects a landscape, element in the landscape or feature in the landscape that could not be protected, enhanced or mitigated through the use of planning conditions or secured as part of a planning application. This may include additional landscape works beyond the application site.

### **3.8.4 How contributions will be calculate and used:**

Contributions will be calculated on a site-by-site basis and relate directly to the conservation and enhancement measures recommended in the Landscape Character Assessment SPG and may include:

- Hedge planting;
- Tree and orchard planting;
- Re-instating features that would restore the scale and pattern of enclosure and settlement;
- Reinforcing distinctive elements in the landscape through appropriate management; and/or
- Restoration of elements within Historic Parks and Gardens and cultural landscapes.

3.8.5 In Areas of Outstanding Natural Beauty (AONB's), contributions from development may be pooled to enable delivery of AONB Management Plans.

### **3.9 Open Space, Sports and Recreation Facilities**

#### **3.9.1 Policy justification**

The justification for requiring obligations in respect of open space and sports facilities is set out in Circular 05/2005 (Para B15). Planning Policy Guidance Note 17 (PPG17) states in Para 33 that 'planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreation provision' and that 'local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local need'. It goes on to say, this will be justified where local authorities have undertaken detailed assessments of needs and facilities and set local standards. The Herefordshire Unitary Development Plan also contains policies concerning the provision, protection and enhancement of open space, sports and recreation facilities across the County. These are listed in Appendix 1. Planning obligations will, therefore, be sought to improve the quality and/or quantity of open space provision in a local area; this is in addition to private amenity space provided as part of a scheme (UDP Policy H19).

#### **3.9.2 Assessment of need**

In line with PPG17, an audit of open space has been carried out in Herefordshire, and this takes the form of an assessment of not only the existing levels, standards and quality of open space in the County, but also future needs as well as under and over supply at the local level. This audit is currently in draft form, but when finalised, the information will be used to update UDP policy requirements, which are based on the existing National Playing Fields Association (NPFA) standards. Although the audit of open space took place after the drafting of the UDP, provision was made within the plan for the findings of the audit to inform the requirements placed upon developers with regards to open space and sports provision. The UDP Inquiry Inspector supported this approach – see Para 10.5.3. When approved, the audit will be made available on the Council's web-site and will be used not only to update existing UDP policies but also to develop new policies for the forthcoming Local Development Framework.

#### **3.9.3 A preliminary report of the audit indicates that:**

- there are issues of quality and quantity in the existing open spaces and deficiencies in these areas need to be redressed; and
- there are also issues concerning accessibility of existing open space and recreation provision by local residents.

#### **3.9.4 Sports contribution for Sport and Leisure Facilities (Public and Private)**

Sport England has provided guidance through their Good Practice Guide "Providing for Sport and Recreation Through New Housing Development" 2001, for securing sport and recreation at the local level. Therefore, in addition to seeking planning obligations towards open space provision/enhancement, Herefordshire Council use the "facilities calculator model" developed by **Sport England** to determine contributions resulting from increased demand for community sports facilities created by new development and any increased population. Currently, the model focuses on indoor facilities but once research has been completed this will be rolled out to include outdoor sports as well. For outdoor facilities the assessment of need will be carried out using the PPG17 audit of open space – see 3.9.2.

**3.9.5** This contribution is required on all new residential developments and commercial developments above the thresholds in Figure 8 in order to meet the government's national strategy for improving sport and physical activity. (In cases where they are too small to provide part or all of the facility required, they will be pooled with other contributions until such time as the required works can be carried out). For developments of over 60 dwellings which are required through UDP policy H19 to provide either on site and/or off site contributions towards outdoor formal sports facilities, the Sport England requirement will be used for determining the value of the contribution and where necessary form the basis for negotiations around the total on/off site package of facilities to be provided. In some instances a contribution for both indoor and outdoor facilities may be required. This will be done on a case-by-case basis. For commercial developments (Fig 8) the Sports contribution will be assessed for both indoor and outdoor facilities using the Sports Facilities Calculator model and PPG17 open space audit methodology. Off site contributions will normally be directed to the key facilities within the locality in which the development is proposed. See [www.sportengland.org.uk](http://www.sportengland.org.uk)

and UDP Para 10.5.3. The calculation for the contributions towards sports facilities is based on the following: -

**Figure 7 – Calculation for contribution towards Sports Facilities**

**Average occupancy per dwelling or Number of employees/3 x cost of provision of facilities/County population**

### 3.9.6 Open space and Outdoor Recreation

#### Thresholds for contributions towards open space

The Council will generally seek contributions for off-site open space provision or enhancement in respect of all residential developments where the required amount of open space to meet our standards (in accordance with current UDP policies H19 and RST3) cannot practically or desirably be provided on site. However, the emerging open spaces assessment recommends that the provision of LAPs on all new development sites should be minimised, particularly on larger developments. (A LAP is a small area of open space specifically designed and laid out for young children to play, close to where they live). LAP's are now considered to offer little in terms of play value but are very costly to maintain. Therefore, unless specifically agreed, and until such time as new local standards are developed in accordance with PPG17, LAPs will not be sought on all new developments but rather, a financial contribution may be sought instead.

3.9.7 For many developments, the financial contributions arising from the scheme are unlikely in themselves to be sufficient to provide new recreation space or carry out necessary improvements to recreation space in the locality. In these cases the Council will hold the money in a ring-fenced account until such time as sufficient funding can be secured to provide new recreation space or carry out improvements to recreation space conveniently located for occupiers of the development. Exceptions relating to contributions towards open space will be made for affordable housing, sheltered housing, rest homes and nursing homes.

3.9.8 Certain commercial sites will be expected to provide areas of landscaped amenity open space of an appropriate size, scale and character within or adjacent to the development. In most instances, the Council is unlikely to adopt these areas. Therefore, if it is not feasible or desirable to make on-site provision, developers may be required to contribute to the improvement of conveniently located green spaces or recreation facilities likely to be used by their staff.

**Figure 8 - Thresholds for contributions towards open space for residential and commercial developments**

Contributions towards on-site or off-site provision/enhancement, equivalent to:	Dwellings	Retail (A1)	Financial and professional Services (A2)	Office (B1)
Appropriate levels of open space on a pro rata basis	1-10	-	-	-
Small children's play area (LAP)	10 – 30	-	-	-
+ Informal play space for older children. (LEAP)	30-60	-	-	-
+ Outdoor play space for youth and adult and POS to at least the min standard (NEAP and outdoor sports facilities)	60+	Above 300 sq m (Off site contribution)	Above 100sq m (Off site contribution)	Above 500sq m (Off site contribution)
Sports Facilities Contribution for Sport and Leisure facilities (public and private)	All dwellings	Above 300 sq m (Off site contribution)	Above 100sq m (Off site contribution)	Above 500sq m (Off site contribution)

### 3.9.9 How contributions for open space will be calculated and used

#### ***On-site provision***

In areas identified in the open space audit as having quantity deficiencies, open space provision will normally be required to be made on site as described in Figure 8 and in UDP policies H19, RST3 and E8. **This will offset the need for off-site provision.** However, a maintenance payment will be required if the site is being offered for Council adoption – see Para 3.9.21 below. The provision should always relate to the development it serves in scale and nature and should be capable of use for a range of uses across a range of ages. Until the open space audit's assessment of open space standards is approved, the Council will use the National Playing Fields Association (NPFA) standards for calculating the open space provision i.e. a minimum amount of open space of 2.4 hectares of outdoor playing space per 1000 population to be provided. In addition, the Council require 0.4 hectares of public amenity open space per 1000 population – these requirements are set out in UDP Policy RST3.

Provision for children and young people	0.8 ha
Outdoor formal sports space	1.6 ha
Public open space	0.4 ha
<b>Total</b>	<b>2.8ha per 1000 population</b>

3.9.10 The population arising from new residential development will be assessed by assuming average persons per dwelling from the 2001 Census, currently an average of 2.3 persons per dwelling. From this, the area of open space that a particular development (according to the thresholds in Figure 8) should provide according to NPFA standards will be calculated (in cases involving redevelopment or conversion of existing residential properties, the population from dwellings lost will be discounted).

3.9.11 Guidance and requirements concerning the location and layout of on-site provision and types of equipment expected can be obtained from the Council's Parks, Countryside and Leisure Development Services. On-site playing fields may be sought on sites of 60 dwellings and over and the developer will be required to lay out the pitches and where appropriate provide pavilions with changing rooms, parking and all appropriate support infrastructure. In certain circumstances developers may be required to make provision of open space above that required by the adopted standards to provide for structural or shelter planting in order to reduce noise, to incorporate measures to control ground water, prevent flooding or promote sustainable urban drainage or to include measures to protect biodiversity and/or promote nature conservation. These areas will not count towards open space requirements unless a compelling case can be made.

#### 3.9.12 ***Off-site provision for residential schemes***

In some circumstances, (especially for small developments where it is not practical for open space or recreation facilities to be provided on site, since it would be too small to be of any practical use) it is likely to be more appropriate to seek financial contributions towards off-site provision of open space or recreation facilities. For residential development this will be based on the size of development proposed and the cost of acquiring and laying out a typical public park, sports area, children's play area or informal/natural green space, which would meet the requirements of NPFA standards. These contributions will be used for the enhancement of existing open space provision within the locality of the development to bring them up to standard and/or the enhancement/upgrading of key strategic facilities in the locality. Once the audit of open spaces is approved it will help determine key priorities for improvements based on local deficiencies, quality and thresholds. The emerging open space audit points to a need for substantial qualitative improvements to many open space areas to meet the needs of both the existing population and those occupying new developments. The Council will have regard to the findings of this audit in seeking contributions to off-site provision. Finally, there may be other forms of recreational provision, often in the form of projects such as skate parks or allotment gardens which may arise in response to a specific need where the contribution will be negotiated on a case by case basis.

3.9.13 The calculation for residential development will be based on the following information:

**Figure 9 – Calculation for residential contributions towards off-site open space provision/enhancement**

- Average number of persons per dwelling – based on Appendix 3
- The NPFA standard for the provision of outdoor playing space of 28m<sup>2</sup> per person
- The provision cost and maintenance per m<sup>2</sup> of a typical public open space

3.9.14 The composition of the NPFA standard and the cost of provision and maintenance per dwelling are set out in the following table – the annual costs of provision will be index-linked.

**Figure 10 – Contributions per dwelling size**

Recreation Type	Provision cost and maintenance cost per person	1 bed	2bed	3bed	4 bed
Provision for children and young people	£965	-	£1640	£2219	£2702
Outdoor formal sports space	£627	£878	£1066	£1442	£1756
Public open space	£138	£193	£235	£317	£386
<b>Total</b>		<b>£1071</b>	<b>£2941</b>	<b>£3978</b>	<b>£4844</b>

3.9.15 The above recreation types are defined as follows: -

- Provision for children and young people (LAPs (where appropriate)/ LEAPs, NEAPs)
- Outdoor formal sports provision including pitches
- Public Open Space (including Parks and Gardens, amenity green spaces, natural and semi natural green space and recreational rights of way).

3.9.16 The land acquisition costs (see 3.9.12) are based on the cost of land purchase in Herefordshire (Herefordshire Council’s Property Services). If the development does not provide any open space on site, an equivalent should be sought off site, which would require the purchase of land. If land cannot be found and the contribution is going to be more beneficially used to improve the quality of an existing site, the land acquisition cost is still required as there is no net increase in supply. This is supported by Sport England. Most developments will increase local population, thereby increasing the amount of space required under NPFA standards. In exceptional circumstances where a surplus of facilities can be proven this element would not be required.

3.9.17 The provision costs are based on comparable costs from recently developed facilities in Herefordshire, which are compatible with estimates published by NPFA and Sport England and other local authorities. Such contributions will be put towards the extension or enhancement of existing open space in the locality. If any public open space is provided on site, the amount of the contribution will be correspondingly reduced in accordance with the proportion of open space provided. The maintenance costs are based on 15 years.

**3.9.18 Off-site provision for business schemes**

For retail and business development, the Council consider it appropriate to base the level of contribution in line with that established for residential development, however, it is recognised that the demand will be less than that of residents and therefore the NPFA standards should be met for

every 1 in 3 employees. Likewise, the use of open space by employees and visitors to commercial developments will be unlikely to involve the use of equipped play space and this will therefore be excluded from the calculation.

3.9.19 The calculation for contributions to open space for the types of business development detailed in Figure 8 will be based on the following:

**Figure 11: Calculation for contributions towards open space provision/enhancement from business development**

The number of employees expected to be working in the proposed development divided by 3 x the provision cost and maintenance per person of outdoor open space less provision cost for young people (Figure 9).

N.B Employee/Floorspace Ratios explaining typical amounts of floorspaces per employee for different types of development are set out in Appendix 3.

**3.9.20 Maintenance**

In addition to the actual provision of open space where it is required on-site, a payment by the developer of a commuted sum to cover a 15-year cost of maintenance is also required. This would cover the life of the facility and is supported by RoSPA (Royal Society for the Prevention of Accidents). The tariff for calculation of commuted sums is index linked, and can be obtained from the Council's Parks, Countryside and Leisure Development Services. On payment of the commuted sum and when all liabilities for construction, equipment and maintenance have been met to the satisfaction of the Council, the open space will be transferred to the Council. If developers do not intend to offer these areas for adoption, the Council will need to be satisfied that alternative arrangements have been made for their long-term maintenance, usually through some form of private management agreement.

**3.9.21 Public Rights of Way**

Public rights of way are:

- used by local communities to gain access to the countryside;
- provide facilities for car free transportation around the local area;
- a vital component of the transportation network and have been incorporated into the Local Transport Plan; and
- used extensively for recreation activities such as dog walking, rambling, cycling, horse riding and running.

3.9.22 Key routes such as the Wye Valley Walk and the Mortimer Trail contribute towards the income generated by tourism every year. Contributions by developers where the use of public rights of way is likely to increase as a result of the development, may be required towards:

- the replacement of old footbridges, which are often too narrow for modern usage,
- replacement of stiles with gates to improve accessibility by all members of the public;
- the provision of surfaces that enable paths to be used all year round, rather than seasonally;
- upgrading the status of rights of way (e.g. footpath to bridleway); and
- future maintenance.

3.9.23 Contribution requests will include an assessment of needs created by the development; the Rights of Way Improvement Plan and Local Transport Plan should be consulted. There may be a degree of overlap with regards contributions towards transportation improvements, particularly in urban areas, see Transport section. The status, location and priority of public rights of way can be identified by contacting the Public Rights of Way team who will be able to advise on matters such as diversions and temporary closures. Path diversion to enable a development to be carried out would need to be paid for by the developer and would be separate to any contributions sought under s.106.

### 3.10 Town Centres, Community Safety and Public Realm

#### 3.10.1 Policy Justification

The justification for requiring obligations in respect of town centres, community safety and the provision of areas of public realm, is set out in Circular 05/2005 (Para's B15- B19). Government Guidance (PPS6 Planning for Town Centres) states that 'it is essential that town centres provide a high-quality and safe environment if they are to remain attractive and competitive.' Well-designed public spaces and buildings, which are fit for purpose, comfortable, safe, attractive, accessible and durable, are all key elements which can improve the health, vitality and economic potential of a town centre. Circular 5/94 "Planning Out Crime", states that crime prevention can be a material consideration when planning applications are considered. Financial contributions from developers are highlighted in the Circular as a potential way that businesses can support town centre schemes to increase the feeling of community safety and benefit those businesses in the process.

3.10.2 The Council expects, in accordance with UDP policy DR1, that public art should be incorporated as an integral part of development, in order to offset the loss of, or impact on, any amenity and to contribute to the quality of the development and of the public space in the surrounding area. In appropriate circumstances a planning obligation may be required to achieve the above benefits.

#### 3.10.3 Assessment of Need

Policy TCR2 of the UDP states that: 'the vitality and viability of Hereford city centre and the market towns will be maintained and enhanced by the following means.... (5). Seeking planning obligations to secure improvements to the public realm including public art, contributions to traffic management and environmental enhancement schemes, helping to make town centres more attractive places to visit.' Section 7.7.1R – 7.7.49R of the Herefordshire UDP sets out the background and objectives for the Council's approach to the regeneration of Hereford City - on the area of land known as the Edgar Street Grid (ESG). The Council are producing a separate Supplementary Planning Document (SPD) setting out an urban design framework for the regeneration of the ESG area. UDP policies TCR20R, 21R, 22R and 23R specifically refer to developer contributions: 'A financial contribution to the planning obligations identified will be sought, ensuring the overall aims of the Edgar Street Grid proposals are met.'

#### 3.10.4 Thresholds for Contributions

All residential developments and other schemes in Hereford or the Market Towns fulfilling the following thresholds will be expected to contribute to art in the public realm, community safety or town centre regeneration. The thresholds are:

<b>Residential</b>	<b>Retail (A1, A3,A4,A5)</b>	<b>Financial and professional Services (A2)</b>	<b>Office (B1)</b>	<b>D2 Leisure</b>
All new dwellings	Above 300 sq m (Off site contribution)	Above 100sq m (Off site contribution)	Above 500sq m (Off site contribution)	Above 100sq m (Off site contribution)

3.10.5 For major developments, regarded as those where the gross floor space to be created is 1000 square metres or above, or the site area covers 1 hectare or more, it is preferable for developers to make direct improvements to the public realm (subject to agreement as to the specific nature of the works), to a standard satisfactory to the Council, in lieu of making contributions. Contributions may also be required from developments below the above thresholds where they affect regeneration projects in prominent town or village locations or abut public open space.

#### 3.10.6 How contributions will be calculated and used

##### **General Town Centre Improvements and Community Safety Measures**

Development requirements and contributions will be directly related in scale and kind, and the type and level of contribution will ultimately be based on the location, nature and scale of the proposal. It will also depend upon a scheme's potential impact and the estimated cost of providing the requisite measure(s) identified in connection with the development to be implemented.



3.10.7 Depending on the scheme, the type of enhancement projects and measures will generally fall within the following broad areas:

- Landscape works including the provision and maintenance of public space
- Street furniture and lighting
- Litter management and recycling
- Crime prevention and safety e.g. CCTV
- Improved public transport
- Accessibility measures and/or associated highway works
- Signage
- Public facilities i.e. toilets and crèches
- Promotion and marketing
- Car parking improvements/park and ride facilities and management

3.10.8 In-terms of community safety, measures may include the design and layout of the scheme, lighting, CCTV cameras and works to existing pathways or other routes. In most cases, safety and security measures will be provided as an integral part of the development, or will be required by planning condition. In exceptional cases, a planning obligation may be sought towards strategic safety and security measures in order to create a safer environment within the area of the proposed development. In particular, contributions towards strategic safety and security measures will be sought from the following developments:

- All new major development proposals for leisure, entertainment and hotel developments, which are likely to attract clientele beyond 8.00pm at night;
- All late night cafes/restaurants, public houses and nightclubs which seek to attract clientele beyond 8.00pm at night; or
- Major town centre developments that will generate significant visitor numbers and trip movements, assessed on a case-by-case basis.

3.10.9 The costs of providing the necessary safety and security measures will be negotiated on a case-by-case basis pursuant to the location, nature and scale of the development and the type of safety and security measures which are identified as being necessary. In the case of CCTV schemes, where it is considered necessary to improve or provide a public CCTV scheme (which will be limited to town, district or local centres, public space and industrial estates), the Council may seek contributions towards the full or partial costs of a CCTV scheme and its running costs. The cost of providing a CCTV camera, linked to the central control room, is in the vicinity of £25,000 - £30,000. A full breakdown of the costs of providing a CCTV scheme in Herefordshire is outlined in Appendix 4. A contribution from developments towards the cost of provision would need to be commensurate with the location, scale and nature of the proposal.

#### 3.10.10 ***Edgar Street Grid***

Regarding the ESG proposals, paragraph 7.7.15R of the UDP stipulates that the Plan policies for the grid area include a number of requirements to support regeneration. Developers will be expected to make financial contributions to these in compliance with policy DR5 of the Plan. Contributions may be expected from schemes outside of the Grid where appropriate, including those arising elsewhere in the city centre. The main requirements are:

- Provision of new and improved pedestrian/cycle routes to ensure good linkages through the site connecting the Grid developments to the existing fabric of the city, including the Courtyard theatre and the railway station;
- Contribution to the provision of park and ride facilities to serve Hereford and improve access to the area;
- Public realm improvements including enhancements to the railway station providing improved access for pedestrians, cyclists and drop-off facilities, and to the historic area around the Coningsby Hospital and the Blackfriars Friary;

- Provision of enhanced public transport facilities;
- The road link between Edgar Street and Commercial Road and extension of Canal Road;
- Provision of canal basin, wharfage, and visitor centre;
- A surface water and drainage management scheme utilising the Widemarsh Brook and the Canal where appropriate, in conjunction with other strategic flood mitigation measures undertaken elsewhere upstream;
- Relocation of the Hereford Livestock Market; and
- Provision of public offices and library.

3.10.11 It is recognised that the proposals for comprehensive regeneration of the Edgar Street Grid are likely to involve significant elements of “inherent self mitigation” in the form of major infrastructure provision. The Council will thus have due regard to this in the extent and level of any planning obligations and contributions sought by the Council in connection with such development proposals. The cost and provision of major infrastructure works as part of the Edgar Street Grid development proposals (for example highways improvements and contributions to flood alleviation schemes) may thus be off-set against obligations and contributions which may otherwise have been sought pursuant to this SPD. Where ESG development proposals provide off-site works which have an enabling benefit to non-ESG development sites, the Council shall seek a planning obligation from developers of such sites to contribute a fair and reasonable amount proportionate to the enabling benefit such off-site works have given to the relevant non-ESG development site.

#### 3.10.12 **Public Art**

Public art comprises permanent or temporary works of art visible to the general public, whether part of the building or free-standing, and can include sculpture, fine art, water features, lighting effects, street furniture, new paving schemes, clocks, murals and signage, live art (exhibitions and performances), stained glass windows, textiles such as tapestries and flags, and metalwork such as gates and fences. In whatever form, public art has one consistent quality – it is site-specific and relates to the context of a particular site or location. Public art can improve the quality of the public realm and add to the process of local regeneration. Installing works of art in public places is a permanent means of improving the quality of the environment, which can contribute to the creation of a sense of place and local identity in public buildings, commercial developments, streets and parks. In improving the quality of a public space, public art can contribute to the overall value of a new development and hence increase its marketability. A successful scheme can make good commercial sense in that it helps set a building or development apart.

3.10.13 The Council will seek to ensure that the cost of public art provided in association with new developments equates to approximately 1% of gross development cost (excluding land values) of a development project. This approach follows the “Percent for Art” campaign sponsored by the Arts Council, which aims to improve the built environment by employing the talents of artists and craftspeople. The Council prefers that the artwork be incorporated into the development, or that the developer commission’s specific work to be part of the public space surrounding the building. Where it is shown that the artwork cannot be incorporated within the development, the Council will expect a financial contribution equivalent to 1% of the gross development cost. The financial contribution will be utilised to provide public art within the vicinity of the development, and may be pooled with other contributions. The Council will require an estimate of the building costs in order to assess the “percent for art” contributions. Developers will be encouraged to consult with artists, craftspeople, as well as the local community, at an early stage in the design process (preferably prior to the submission of a planning application) to promote social cohesion and the proper integration of the public art feature. The obligation should clarify the procurement and management process, location of the works, timetable for works, ownership, insurance and maintenance issues.

### **3.11 Waste Reduction and Recycling**

#### **3.11.1 Policy Justification**

Planning Policy Guidance Note 10 'Planning and Waste Management' (1999) sets a policy framework for sustainable waste management. The Council is promoting a strategy of waste minimization through the development of recycling services and the reduction and reuse of materials currently going to landfill. The Council has made recycling one of its top priorities in its Corporate Plan 2006-9. In addition the Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004-2034 sets out the strategic context for waste management and disposal across the County as well as laying down recycling targets. The Council is looking to achieve a recycling rate of 30% by 2010.

#### **3.11.2 Thresholds for Contributions**

Developer contributions will be required from all residential developments towards recycling initiatives depending on the development and particular site characteristics.

3.11.3 As part of the objective to encourage the recycling of waste and to ensure that all development is of a high standard of design and layout, the Council will normally expect all development to:

- ensure adequate facilities for storage and collection of waste/recyclable materials are provided per dwelling (for developments involving flats, a recycling storage area with drop fronted bins will need to be provided on site); and
- kitchen sink waste disposal units are provided per dwelling/unit where home composting is unsuitable e.g. flats; and
- depending on the scale of development, either require the provision of a local, public recycling facility within a development site or secure a financial contribution towards the provision of, or improvements to, such a facility off-site, but in the locality.

#### **3.11.4 How contributions will be calculated and used**

On all new dwelling sites the Council will normally expect a financial contribution towards the cost/improvement of a local recycling facility. On residential developments of 50 or more dwellings the Council will normally require the provision of a local recycling facility on site. Where this cannot genuinely be provided, a financial contribution equivalent to the cost of providing and equipping a local recycling facility shall be paid to the Council. The inclusion of a neighbourhood recycling centre may be justified in larger developments (i.e. more than 200 units).

3.11.5 Recycling facilities provided as part of a new development shall be provided at an early stage in the development and shall normally be open for public use prior to any of the dwellings for that part of the estate having been completed and occupied. Prospective developers are encouraged to ensure that the occupants of new dwellings are able to minimise the amount of waste they produce. A storage space should always be provided for recoverable materials and, wherever practicable, facilities should be provided for home composting.

3.11.6 The day-to-day revenue costs of collection and recycling will be covered through householder's Council Tax.

#### **3.11.7 Figure 12: Calculation for Off-site Provision of Recycling and Refuse Facilities<sup>1</sup>**

Contributions towards recycling and household waste facilities will be sought in accordance with the guidelines outlined above. The financial contribution, in lieu of on-site provision, is £120 per dwelling.

<sup>1</sup> This amount will be index-linked.

## Appendix 1 – UDP Policies

Topic	UDP Policy	Associated Obligations
Strategic Policies	S1 S2	Sustainable Development Development Requirements
Development Requirements	DR1 DR3 DR4 DR5 DR7 DR10 DR13	Design and Public art Sustainable transport Environmental improvements Planning Obligations - general Flood Risk Contaminated Land Noise
Housing	H1/H2/H4/H5 H7/8 H9/10 H19	Housing land allocations/Affordable housing Occupancy Limitations/Agricultural dwellings Affordable Housing Open Space
Employment	E7 E16	Intensification of Use /Landscaping/Residential Amenity/ Intensive livestock units
Town Centre and Retail	TCR2 TCR19 to TCR23	Improvements to the public realm ESG - Traffic management contributions/Environmental enhancement scheme/Pedestrian and cycle links/Community safety/CCTV/Affordable housing/Infrastructure
Transport	T11 T12 T14	Parking provision Existing parking areas Safer routes to school
Natural and Historic Heritage	LA1 - LA5 LA6 NC5 NC7 NC9 HBA12 ARCH8	Protection of Trees and Woodland Landscape schemes including enhancement European and nationally protected species Compensation for loss of biodiversity Management of features of landscape importance Re-use of Rural Buildings Management strategies including access
Recreation, Sport and Tourism	RST1 RST4 RST5	Establishment of new facilities Safeguarding existing facilities New open space
Waste	W11	Waste implications of development

## Appendix 2 – Average occupancy per dwelling

Dwelling Size (bedrooms)	Average Occupancy
1	1.4
2	1.7
2 bed flat	1.7
3	2.3
4+ beds	2.8
All dwellings	2.3

Source: Average Occupancy per Dwelling Source: Census 2001

### Appendix 3 - Employee/Floorspace ratios

Description	Use Class	Net Floorspace per Employee (sqm)*	Gross Floorspace per Employee (sqm)**
Offices	B1 (a)	18.3	20.3
R&D/High Tech	B1 (b)	27.2	30.2
Financial and Professional Services	A2	19.9	22.1
Industrial	B1 (c)/B2	38.2	42.4
Warehousing	B8	78.2	86.9
Retail	A1	15.9	17.7

Source: Derived from Table 4.2, Use of Business Space and Changing Working Practices in the South East, DTZ/SEERA, 2004

\* Net floorspace is the internal area including entrance halls, kitchens and built-in units but excluding toilets, stairways, lifts, corridors and common areas.

\*\*Gross floorspace is calculated from the external dimensions of the building. The ratio is based on an assumption that net floorspace = 90% of gross.

## Appendix 4: Costs of Providing CCTV

### HEREFORDSHIRE CCTV

#### BUDGETARY COSTS FOR THE INSTALLATION OF CCTV

Please note the following price information is for guidance only and is subject to detail site survey and clarification of individual requirements. Additional camera sites may or may not involve additional monitors, display devices and recording systems, dependant on usage of spare capacity of the existing system or requirement to maintain spare capacity. Prices exclude additional control protocol driver equipment or data distribution equipment, as this will depend on system size at time of camera addition.

		£
1	20" Colour Photo-Scanner Camera on Building	3,840
2	20" Colour Photo-Scanner on 6m TC Pole	6,105
3	20" Colour Photo-Scanner on 8m TC Pole*	6,860
4	20" Colour Photo-Scanner on 10m TC Pole*	7,208
5	Adjustment for "Heritage" style top cowl on dome	+170
6	Adjustment for pole base by other	-700
7	General Control Room works and Project Management	1,620
8	Additional Quad Display Unit	694
9	8 x Channel Multiscope III System DVR	13,750
10	16 x Channel Multiscope III System DVR	16,290

\*Combination camera / lamp poles

In addition to the above one off capital costs a contribution towards annual running costs would be levied. As a budgetary guide this figure would be in the region of £3,000 per annum.

#### Pricing Notes

1. Pricing within the above schedule has been provided as BUDGETARY GUIDANCE ONLY, SUBJECT TO CONFIRMATION OF DETAIL AND DOES NOT FORM A FORMAL QUOTATION.
2. Please note that Fibre Optic links are supplied under direct contract with BT RedCare Vision and are excluded from the above prices.
3. It is assumed that all wayleaves, permissions and searches would be undertaken by others, where necessary.
4. Price excludes any costs for Street Licences, if applicable
5. Prices exclude new electricity supplies, where required.





**DCNC2007/2869/F - PROPOSED 4 NEW HOUSES ON  
LAND ADJACENT TO 44 VICARAGE STREET,  
LEOMINSTER, HEREFORDSHIRE**

**For: CNG Developments Ltd per Mr L F Hulse, 19  
Friars Gardens, Ludlow, Shropshire SY8 1RX**

**Date Received:**

7th September 2007

**Ward:**

Leominster North

**Grid Ref:**

49431, 59369

**Expiry Date:**

2nd November 2007

Local Member: Councillor Mrs J French &amp; Councillor Brig P Jones

**Introduction**

This application was deferred by the Main Committee on 14<sup>th</sup> December 2007.

During the debate the Members expressed some concern about the requirement for vehicles to pass across a well used public footpath and questioned who would be responsible for its maintenance in the event of planning permission being granted.

As part of the submission, the applicants have submitted a detailed schedule of works for the treatment of the public footpath, information which the Rights of Way Officer was originally in receipt of. This reads as follows:

- a. Road make up will not be to an adoptable standard, but will have a suitable stone and tarmac sub base, which will be specified by the architect and dictated by the existing ground conditions.
- b. Drainage will be installed along one edge of the road and discharge into a soak away system, this is also to be designed by the architect if planning permission is granted.
- c. The road will have an edging set flush with the top of the tarmac to allow the gravel to finish against the grass verges to give a natural edge appearance.
- d. As noted above the topping will be tar bound gravel.
- e. A demarcation kerb will be set at the edge of the adopted Vicarage Street road and the new track.

CNG Developments will request their solicitors to include in the deeds of the new properties, that it will be shared responsibility of the house owners to maintain the track, the actual wording of this requirement will be advised by the solicitors, prior to completion of the proposed project.

With regard to the issue of parking on the public footpath, the applicants suggest that a metal sign could be erected to advise that parking is not permitted on the footpath, and also suggest that a letter could be included in the house information packs to notify the owners that it is an offence to park on a public right of way.

With the exception of a letter in an information pack, these are otherwise matters that can be addressed by condition and are reflected in the recommendation.

This application was considered originally by the Northern Area Planning Sub-Committee at its meeting on 17<sup>th</sup> October 2007 when Members resolved to refuse planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

In the debate Members of the Area Sub-Committee were concerned that the proposals for the site would be overdevelopment but were unable to give any specific indication of what aspect of this damaged any material planning interests.

The following factors are relevant to this case:

1. There have been material planning objections to this scheme, in particular with regard to flooding and wildlife issues. However these have been resolved as explained below and the site is therefore an urban site capable of being redeveloped for residential purposes. In these circumstances the proposals are acceptable in principle.
2. A refusal on grounds of "overdevelopment" would need to be supported of evidence of some harm to material planning interests. In the absence of such specific adverse effects a refusal in these circumstances would be very difficult to defend on appeal.

Overall it has not been shown that the proposal causes demonstrable harm to any matter of public interest and therefore an appeal against a refusal would be very difficult to defend. For these two reasons the application is referred to this Committee for further consideration.

The original report to the Northern Area Planning Sub-Committee follows, updated as appropriate with details of correspondence which has been received since the first report was compiled and further correspondence received since the meeting of the Area Sub-Committee.

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

- 1.1 The application relates to a strip of land associated to 44 Vicarage Street in Leominster. Part of it forms the residential curtilage of the dwelling, whilst a second part is a vacant and overgrown area. The site is triangulated to the western end and is sandwiched between the Kenwater to the north-east and a public footpath to the south.
- 1.2 The proposal is for the erection of four two bed dwellings arranged as two pairs of semis. The plans show that each dwelling will be provided with two parking spaces to their side with gardens to the rear onto the Kenwater. In this respect the plans indicate a seven metre exclusion zone within which no building should be placed. This is to ensure that the Kenwater can be maintained by the Environment Agency without obstruction.
- 1.3 The design of the dwellings is basic, but not dissimilar to other developments along Vicarage Street. Access to each of the properties is via the public footpath. The ownership of this area has not been determined and accordingly the proposals have been advertised by the applicant in accordance with Article 6 of the Town and Country Planning (General Development Procedure) Order 1995.

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan

S1 - Sustainable development

S2 - Development requirements

DR1 - Design

DR7 - Flood risk

H1 - Hereford and the market towns - settlement boundaries and established residential areas

H13 - Sustainable residential design

NC1 - Biodiversity and development

NC3 - Sites of national importance

CF2 - Foul drainage

T6 - Walking

## 3. Planning History

3.1 DCNC07/1263/F - Erection of five dwellings - Withdrawn

3.2 DCNC07/2258/F - Erection of four dwellings - Refused 29th August 2007. For the following reason:

- In the absence of an ecological survey of the site the local planning authority is unable to assess the impact of the proposal on the adjacent Site of Special Scientific Interest and the acknowledged habitat for protected species. The proposal is therefore contrary to Policies DR1, NC1 and NC3 of the Herefordshire Unitary Development Plan.

## 4. Consultation Summary

### Statutory Consultations

4.1 None required.

### Internal Council Advice

4.2 **Transportation Manager** raises no objection.

4.3 **Archaeological Advisor** - No objection subject to condition

4.4 **PROW Officer**

“The proposed erection of 4 new houses will affect public footpath ZC5, which as the applicant acknowledges, passes along the extension of Vicarage Street, and would provide the vehicular access to the site.

We will require full details of any proposed surface treatments so that they can be considered for approval by the PROW Manager, acting as highway authority. This is to ensure that the footpath surface is well drained and of a construction standard so as to minimise future maintenance. I would be grateful for a condition that details of surface treatments need written approval from the planning authority, and to be advised when they are submitted.

The applicant should note that because the right of way has footpath status it will only be maintained by the highway authority as such. I would be grateful for an informative note to this effect.

Although two parking bays are provided for each dwelling, I am concerned that because of their layout, residents or their visitors may be tempted to park their vehicles on the public footpath. This would constitute an obstruction of the public's right of way, which extends across the full width of the land comprising the existing track and its verges and would be viewed as an offence under the Highways Act 1980. I request an informative note to this effect so that future residents are aware of this situation.

The applicant should ensure that the residents of any new dwelling will have lawful authority to drive over the public footpath and he is strongly advised to seek independent legal advice on this matter.

I would be grateful if you include standard informative note HN03 if permission is granted so that future purchasers of properties are aware of this."

#### 4.5 **Ecologist:-**

"I have received the ecological report for this application by Will Watson and Nigel Hand dated August 2007 and note that they found grass snake and slow worm on the site. These species are protected from intentional killing, sale and injury under the Wildlife and Countryside Act 1981; their habitat is not protected. Whilst I cannot condone the unnecessary removal of these animals from the site prior to the determination of planning permission, it appears that the consultants had thought that outline permission had already been granted and that translocation was therefore necessary and appropriate. The receptor site is ideally suited for these species.

I welcome the retention of an area for nature conservation to the northwest of the car parking area for house 1. This needs to be identified upon the site plan; I would suggest this to be all the land to the north west of the car parking. This area can include the refugia for reptiles as detailed in the ecological report.

The Kenwater is a SSSI and the riverbank must remain undeveloped and uncultivated. A buffer strip of 7 metres along the river shall be maintained during development works.

I have no objection to approval of this application subject to the inclusion of conditions.

### 5. **Representations**

5.1 **Leominster Town Council** - object to the application as they have concerns about the small green habitat area. The Council was also shocked to discover that wildlife had been removed from the area. This application has not shown a true mitigation on the wildlife situation.

5.2 **Environment Agency** - comment as follows:

"The development site lies within Flood Zone 2 (1 in 1000 year annual probability flooding) of the Kenwater (Main River). According to our Section 105 (detailed flood study) flood outlines for this area, the site is defended against flooding from the

Kenwater during the 1 in 100 year flood event by the Leominster Flood Alleviation Scheme (FAS).

As part of the planning application the applicant submitted a site levels survey as part of the required Flood Risk Assessment (FRA) comparative to relevant flood levels. This demonstrated that both the site and access route were flood free during the 1 in 100 year, plus 20% allowance for climate change, flood event, in line with PPS25. Finished floor levels were also proposed at an appropriate level to ensure a safe development for the lifetime of the use. A copy of our formal response dated 24 July 2007 to the planning application confirms our position, which stated that we had no objection subject to the LPA being satisfied on the sequential test.

In response to potential concerns regarding machinery along the riverbanks, the Environment Agency requires a Flood Defence Consent (FDC) to be applied for prior to the commencement of any works in, under or over a Main River (such as the Kenwater) or within 7 metres of the top of the Main riverbank (or from the landward toe of a flood defence). This is to ensure that there is no adverse effect on access for maintenance, flood risk (including flow) and the biodiversity of the river system.

As part of the application for planning permission on the site in question, the applicant incorporated within the layout of the development, a 7 metre grassed buffer strip along the top of the riverbank, which we recommend be secured through a condition of any planning permission that may be granted. This would ensure that there will be no adverse effects to the riverbanks concerned and we were satisfied with this aspect of the proposal.

Bridge Street sports field is part of the Leominster FAS and is designed to flood during an extreme flood event.”

In response to comments relating to the accuracy of current data, the Environment Agency comments as follows:

“The comments in point 1 of the letter dated 12th May 2007 have been noted. However, our Section 105 flood model shows the 1 in 100 year flood (flood zone 3) to be contained within the river channel with the development site, in question, lying outside this boundary. This is the best available information at the present time.

In support of the development there was no proposed flood alleviation scheme because the topographical survey submitted in support of the planning application demonstrated that the site lay in excess of 400mm above the 1 in 100 year, plus 20% (climate change) flood level. We recommended that finished floor levels be set at least 600mm above the 1 in 100 year, plus 20% flood level, to ensure a safe development for the lifetime of the use, as detailed within the planning application.

- 5.3 **Welsh Water** – raise no objection to the application. They advise that if the Council is minded to approve the application that a condition is attached to ensure that none of the dwellings are occupied before the completion of the improvement works.
- 5.4 **Natural England** – this proposal has no meaningful impact on the features of the Site of Special Scientific Interest. The seven metre buffer, insisted upon by the Environment Agency, provides a useful safeguard to water quality.

- 5.5 **The Ramblers Association** – comment that the lane should not be in any way affected, either during building works or after completion, and that its width must be retained.
- 5.6 Seven letters of objection from local residents and one petition in objection with a total of 29 signatories have been received. In summary the points raised are as follows:
1. Concerns about flooding and obstruction of land used to maintain the Kenwater.
  2. The proposal will add to the burden of an already stretched sewage system.
  3. Would be more appropriate for an area of land adjacent to the SSSI to be used for community purposes.
  4. The proposal constitutes over-development.
  5. Not appropriate to allow vehicular traffic to use a public footpath.
  6. Access from Vicarage Street onto Broad Street is inadequate.
  7. The proposal will impact on the privacy of the bungalow (Elba) to the rear of the site.
  8. The Council should review the flood zones allocated by the Environment Agency as they are outdated.
- 5.7 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officers Appraisal

- 6.1 The application has generated significant public opposition, the reasons for which seem to focus primarily on the flood risk associated with the site and the requirement for vehicles to pass along a public footpath to gain access to the site. Detailed responses have been included in this report from both the PROW Officer and the Environment Agency and both conclude that there is no objection to the scheme.
- 6.2 The site falls within a flood risk zone 2 and the Environment Agency are satisfied that sufficient information has been submitted with the application by way of the topographical survey showing it to be 400mm above the 1% plus climate change flood plain of 71.59 metres AOD. Finished floor levels must be set no lower than 600mm above this level ie at 72.19 metres AOD. The proposed floor levels of 72.4 metres AOD are above the minimum requirement as outlined by PPS25. A flood alleviation scheme is not required and the proposal accords with policy DR7 as a result.
- 6.3 Similarly the Environment Agency has commented in some detail on their need for access to the river bank for maintenance purposes. Pre-application discussions did take place between the Agency and the applicant and as a result a 7 metre maintenance strip is shown on the submitted block plan. Concerns raised about the erosion of the river bank are also covered in their response and consequently the objections raised in this respect do not provide sufficient justification to refuse the application.
- 6.4 The comments made by the Environment Agency have been made in full knowledge of the recent flood events and the comments made by objectors to the proposal. The Council does not have any scientific basis i.e. its own flood risk assessment, upon which to question the advice given by the Environment Agency and there is no evidence that the site was flooded as a result of the recent heavy rainfall.

- 6.5 Improvement works for Leominster's main sewage system are set for completion in April 2008. Although Welsh Water consider the application to be premature, they do advise that if the local planning authority were minded to approve the application a condition should be imposed to require that none of the dwellings be occupied before improvement works are complete. A condition of this nature would completely satisfy the objection raised by them.
- 6.6 The number of dwellings has been reduced on the site from the original submission from five to four. Principally the reason for this was to remove a concern regarding overlooking and overshadowing of the bungalow to the rear known as Elba. The current proposal is well spaced from the bungalow with the side elevation of the dwelling on plot four corresponding with its north-western boundary, with approximate distance between buildings of 14 metres measured from corner to corner. The distance and relationship between the two is sufficient to ensure that there will be no demonstrable overlooking or overshadowing of Elba and therefore the scheme is acceptable in this respect and accords with policy H13.
- 6.7 Objections raised in respect of overdevelopment cannot be substantiated. Each dwelling is afforded two parking spaces and has well sized gardens. In light of the reduction in numbers the relationship with surrounding properties is acceptable.
- 6.8 Similarly the increases in traffic movements onto Broad Street from the Vicarage Street junction will be negligible in terms of the existing residential context of the area. Whilst it is accepted that the junction is not ideal and does not afford the level of visibility that would be expected from a new development, traffic speeds are slow due to the 90 degree bend to the south-east and the addition of traffic movements associated with a development of four 2 bed dwellings is not sufficient to refuse the application on highway safety grounds.
- 6.9 The only outstanding issue from the previous application, which was refused, is the proximity of the site to the SSSI. The application is accompanied by an ecological report that was previously missing. It has been acknowledged that the site provides a habitat for grass snakes and slow worms and the comments from the Council's Ecologist deal with this in detail, concluding that the proposal is acceptable, subject to conditions. On this basis the previous refusal reason has been addressed.
- 6.10 In conclusion the proposal accords with the Unitary Development Plan. The previous reason for refusal has been addressed and therefore the application is recommended for approval.

## RECOMMENDATION

**That the planning permission be granted subject to the following conditions:**

**1. A01 - Time limit for commencement (full permission)**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

**2. B01 - Samples of external materials**

**Reason: To ensure that the materials harmonise with the surroundings.**

3. C04 - Details of window sections, eaves, verges and barge boards

Reason: To safeguard the character and appearance of the area.

4. C05 - Details of external joinery finishes

Reason: To safeguard the character and appearance of the area.

5. E16 - Removal of permitted development rights

Reason: To maintain access to the watercourse for maintenance or improvements of the Flood Alleviation Scheme and as a buffer to protect and enhance the water environment.

6. F16 - Restriction of hours during construction

Reason: To protect the amenity of local residents.

7. F49 - Finished floor levels (area at risk from flooding)

Reason: To protect the development from flooding.

8. G01 - Details of boundary treatments

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

9. H13 – Access, turning area and parking

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

10. None of the dwellings hereby approved shall be occupied before the 1st April 2008 or until such time that essential improvements to the public sewerage have been completed by Welsh Water.

Reason: To mitigate the existing hydraulic overloading of the public sewerage system and to ensure that the local community and environment are not unduly compromised.

11. W01 - Foul/surface water drainage

Reason: To protect the integrity of the public sewerage system.

12. W02 - No surface water to connect to public system

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

13. W03 - No drainage run-off to public system

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.



14. The recommendations set out in the ecologists' report dated August 2007 should be followed unless otherwise agreed in writing with the Local Planning Authority. Details of the agreement for habitat management and reptile monitoring as well as a site plan detailing the area to be retained undisturbed for nature conservation shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure the law is not breached with regard to protected species and nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within the UDP.

15. No development shall take place until a Wildlife Protection Plan for Construction has been submitted to and approved in writing by the local planning authority. The plan shall include an appropriate scale drawing showing "Wildlife Protection Zones" where construction activities are restricted and where protective measures will be installed or implemented and details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction. Development shall proceed in accordance with the approved plan.

Reason: To comply with Herefordshire Council's UDP Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

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

Reason: To conserve and enhance protected habitat and designated sites in compliance with UDP Policies NC3, NC6, NC7, NC8 & NC9, and PPS9

17. The development hereby approved shall not be commenced until a scheme for the provision and implementation of a surface water regulation system including the use of Sustainable Urban Drainages Systems has been submitted to and approved in writing by the local planning authority. Surface water generated from the site shall be limited to the equivalent Greenfield runoff rate for the site. The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

18. Prior to the commencement of development details of the wording and location of a sign to advise that it is an offence to park motorised vehicles on the public footpath shall be submitted to and approved in writing by the local planning authority. The sign shall be erected in accordance with the approved details before the dwellings are occupied and shall be retained in perpetuity.

Reason: In the interests of pedestrian safety and to avoid indiscriminate parking on the public footpath.

**Informatives:**

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N19 - Avoidance of doubt
- 3 - HN03 - Access via public right of way
- 4 - HN23 - Vehicular use of public rights of way

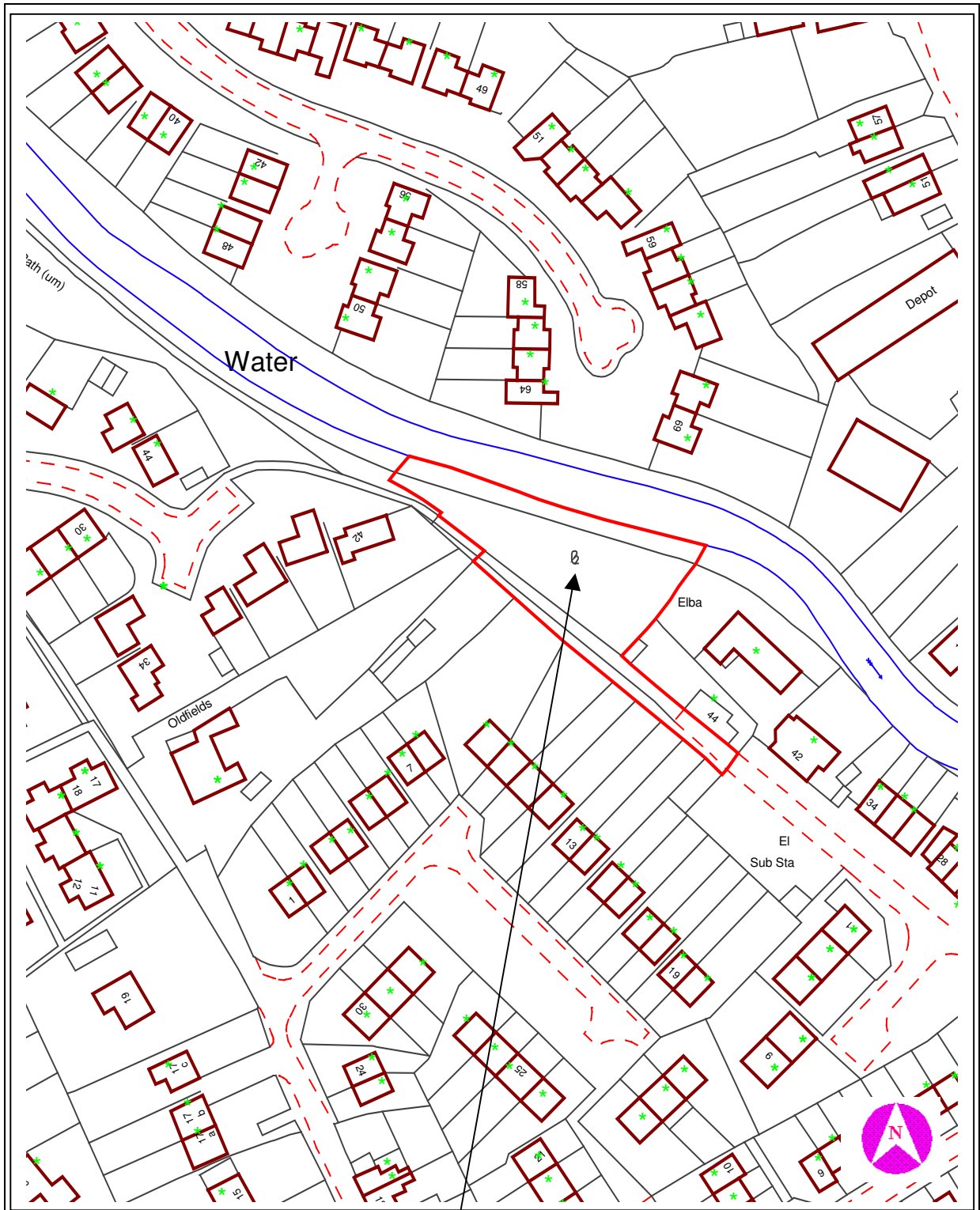
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Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNC2007/2869/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Adjacent to 44 Vicarage Street, Leominster, Herefordshire

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**DCNW2007/2653/F - PROPOSED ERECTION OF 6 DWELLING UNITS AND ANCILLARY GARAGES AND FORMATION OF NEW VEHICULAR ACCESS AT LAND ADJACENT TO METHODIST CHAPEL, HEREFORD ROAD, WEOBLEY, HEREFORDSHIRE**

**For: Border Oak Design & Construction Ltd**

**Date Received:**  
14th August 2007

**Ward:**  
Golden Cross with  
Weobley

**Grid Ref:**  
40466, 51366

**Expiry Date:**  
9th October 2007

Local Member: Councillor J Goodwin

### **Introduction**

This application was considered by the Planning Committee at its meeting on 14<sup>th</sup> December 2007 when Members decided to defer the application requesting further information on affordable housing in Weobley. This information is provided in paragraph 4.9 of this report entitled 'Affordable housing in Weobley'.

The site is allocated in the Unitary Development Plan for 12 houses, with 35% being affordable houses. A recent planning application for such a scheme was refused by the Northern Area Sub-Committee (contrary to recommendation) for the reasons that the access through the cul-de-sac of Chapel Orchard was not considered to be satisfactory, and the impact on amenities of Chapel Orchard residents and character of the area were considered to be unacceptable. No appeal has been lodged against that refusal of permission. Instead the applicants have submitted a revised scheme taking access directly off Hereford Road. The new scheme is for only six houses with none of them affordable.

In the debate Members of the Northern Area Sub-Committee considered that the new scheme was more acceptable on highways and design grounds and resolved to grant permission. They were not unduly concerned by the lack of any affordable housing, or by the very low density of the development. In particular Members considered that the applicants had gone to considerable lengths to prepare a scheme in keeping with the area and its setting opposite an ancient monument. They felt that the design incorporated a welcome amount of open space and the houses and garages were of a style in keeping with an historic village. The proposed access road was directly off Hereford Road and thereby overcame the problem of a route through Chapel Orchard. The proposed dwellings would be comprised of one two-bed; one three-bed and four four-bed properties and reflected the character, appearance, mix and range of properties elsewhere in the village. They felt that the village already had a good provision of affordable housing on other sites and questioned the need for more at this location

Notwithstanding the views of the Area Sub-Committee the following factors are relevant to this case:

1. The allocation of the site for twelve dwellings was tested in the public local inquiry into the Unitary Development Plan and found to be acceptable. That allocation is now the adopted planning policy of Herefordshire Council for this site. There is nothing intrinsically inappropriate about the target figure of twelve dwellings. Not to use the site to its reasonable potential is contrary to a number of policy objectives and in conflict with the conclusions of the Inspector and the Council following the public local inquiry into the Unitary Development Plan. The allocation is important in order to meet housebuilding targets.
2. The density of the scheme for 6 dwellings, at 15 per hectare, is so low that it is in direct conflict with Unitary Development Plan policy and amounts to an inefficient use of development land.
3. The absence of affordable housing is likewise in direct conflict with the Unitary Development Plan policy and also fails to take account of the housing needs survey of February 2007 which identified a need for another 11 affordable houses to serve Weobley.

Overall it has not been shown why a scheme for twelve houses could not be achieved with access directly off Hereford Road. The low density now proposed remains in conflict with the Council's own planning policies especially with regard to affordable housing and housebuilding needs generally. For these reasons the application is referred to this Committee for further consideration.

The original report to this Committee and the Northern Area Planning Sub-Committee follows.

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

- 1.1 The site for the proposed development is on land allocated in the Herefordshire Unitary Development Plan for an estimated capacity of 12 dwellings to the rear of the Methodist Chapel, Hereford Road, Weobley.
- 1.2 To the south of the application site is the residential area known as 'Chapel Orchard'. This housing estate consists of two-storey dwellings constructed of brick under tiled roofs.
- 1.3 There are also residential areas to the northern and eastern boundaries, these are a mixture of house types. The external facing materials are predominantly brick. To the west of the site, on the opposite side of the adjacent C1095 Hereford Road, is the site of Weobley Castle, a Scheduled Ancient Monument. This survives as large earthworks.
- 1.4 The application site itself occupies an area of 0.41 hectares and is relatively flat grassland. The boundaries consist of various native and evergreen vegetation.
- 1.5 The application proposes the construction of 6 timber-framed dwellings and ancillary garages under natural slate/plain clay tiled roofs, with access into the site directly off the adjacent Hereford Road.

## 2. Policies

- 2.1 National Planning Policy Statement 3: Housing
- 2.2 Herefordshire Unitary Development Plan
  - S1 - Sustainable Development
  - S2 - Development Requirements
  - S7 - Natural and Historic Heritage
  - DR1 - Design
  - DR2 - Land Use and Activity
  - DR3 - Movement
  - DR4 - Environment
  - H4 - Main Villages: Settlement Boundaries
  - H5 - Main Village - Housing Land Allocations
  - H9 - Affordable Housing
  - H13 - Sustainable Residential Design
  - H15 - Density
  - H16 - Car Parking
  - LA2 - Landscape Character and Areas Least Resilient to Change
  - HBA6 - New Development within Conservation Areas
  - ARCH1 - Archaeological Assessments and Field Evaluations
  - CF2 - Foul Drainage
- 2.3 Weobley Parish Plan Supplementary Planning Guidance
- 2.4 Housing Needs Study for Weobley - February 2007

## 3. Planning History

- 3.1 NW07/0603/F - Proposed erection of 12 dwelling units and ancillary garages at land adjacent to Weobley Methodist Chapel, Weobley - Refused 27th June 2007.
- 3.2 NW06/3549/F - Proposed erection of 13 dwelling units and ancillary garages - Withdrawn 4th January 2007.
- 3.3 NW03/2057/F - Construction of 9 houses with garages - Withdrawn 8th December 2003.
- 3.4 N98/0827/O - Erection of four dwellings served by a private drive - Refused 17th February 1999. Later dismissed on appeal 16th September 1999.
- 3.5 N98/0014/O - Site for erection of four dwellings served by private drive - Refused 10th March 1998.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 English Heritage have responded to the application with no comment. Their response stating that the application should be determined in accordance with national and local planning guidance and on the basis of your specialist conservation advice.
- 4.2 Welsh Water raise no objections subject to inclusion of conditions relating to foul and surface water drainage.

Internal Council Advice

- 4.3 The Archaeology Manager raises no objection to the proposed development.
- 4.4 The Forward Planning Manager has responded to the application stating that the application site is an allocated site in the Herefordshire Unitary Development Plan with an estimated capacity of 12 dwellings. The proposal is for 6 dwellings on an area of 0.41 hectares which would provide a density of 14 dwellings per hectare. Given that the indicative capacity has been provided for within the Herefordshire Unitary Development Plan at a density of 30 dwellings per hectare as the indicative minimum, then the proposal is not in keeping with policy.

The response further states concerns about the proposed dwellings scale and footprint in that the proposed dwellings are larger than the identified need for housing types in the area and therefore not in keeping with the Herefordshire Unitary Development Plan and identified need.

- 4.5 The Landscape Manager comments that the overall character of the proposed development does not reflect the organically developed settlement pattern of the wider village. A condition with regards a scheme of landscaping is recommended for any subsequently approval notice issued.
- 4.6 The Transportation Manager raises no objections subject to inclusion of conditions with regards to access, parking and turning within the site.
- 4.7 The Parks Development Manager requests the sum of £7000 towards improvements to the Hopelands Village Hall play area in Weobley and £3780 towards local sport and leisure provision.
- 4.8 Strategic Housing Enabling Manager objects to the proposed development, due to no provision for affordable housing. Comment is made that the site is allocated for 12 units which would have resulted in 5 affordable units.

**4.9 Affordable Housing in Weobley****4.9.1 Local housing need****Housing Needs Study 2007**

In February 2007 Herefordshire Council published the results of a Housing Needs Survey which was undertaken confidentially among the people of Weobley.

The survey identified that 10 households require affordable rented housing within the village, and a further 3 would like shared ownership accommodation.

**Home Point Data**

In addition to the Housing Needs Survey findings above, Home Point (Herefordshire's affordable housing waiting list) has 29 households currently living in Weobley, who require affordable housing within Weobley. Of these 29 households, 19 have an identified need to move to more suitable accommodation which is affordable, 7 of whom are in **urgent** housing need.



#### **4.9.2 Existing Affordable Housing Stock**

In Weobley there are currently 143 affordable housing units. Only 8% of these (12 units) are reserved for local people by a Section 106 Agreement. The other 131 units can be occupied by anyone meeting the housing association's lettings criteria.

Of the 143 units 68 are sheltered and/or for the over 55s, thereby excluding families with children who are in housing need.

#### **Turnover of stock**

Home Point started advertising properties in 2002, and since that time 74 affordable homes have been let in Weobley. Of the 74 properties let, 41 were for over 55s.

Therefore since 2002 only 33 lettings were of properties suitable for young families, and of these, 18 went to families not from Weobley or its surrounding parishes.

#### **4.9.3 UDP Site in Weobley**

The UDP site adjacent to the Methodist Chapel in Weobley has the capacity to hold 12 properties. However, the recent application from Border Oak was for just 6 units – none of which were to be affordable housing for local people.

According to the UDP, any rural site with a capacity to hold 6 or more units should provide 35% affordable housing. Therefore, if the application is allowed for 6 units, despite the site's obvious capacity, then Strategic Housing requests that 2 of the units on the site be designated as affordable housing (representing 35%).

However, as a compromise it has been suggested that plans be considered for 9 units, providing 3 affordable homes for local people.

#### **4.9.4 Conclusions**

There is an identified need for more affordable housing in Weobley. This is shown in the Housing Needs Study of 2007 which showed that 10 households in the village require affordable housing, and also in Home Point's data which shows that 19 people in the village require more suitable, affordable accommodation. Indeed, according to Home Point's records, 7 households in Weobley are in urgent housing need.

The current stock in the village has a reasonable turnover, but over 50% of turnover in the last 5 years has been for over 55s accommodation. Of the remaining lettings, only 15 homes were let to local families.

The UDP site in Weobley is already identified by the inspector as a location that should provide affordable housing. It is acknowledged that providing 12 units may not be possible with the altered access arrangements, but to reduce to 6 units is not justified. It is clear from the size of the piece of land that it can hold more than 6 reasonable sized dwellings.

Any affordable units built in Weobley would be prioritised for local families and this would be secured through a robust S106 Agreement forming part of the Planning Permission. Such an agreement would ensure that the properties remained affordable and for local people in perpetuity.

One final point to remember is that by allowing a developer to undermine the UDP by halving the number of units to be provided, and failing to provide any affordable housing, a precedent will be set. It will send out a message to other developers that they may do likewise, and then we, as a local authority will fail to meet one of our highest priorities – to provide affordable homes for our county.

- 4.10 Children and Young People's Directorate requests a contribution of £2000 per dwelling. In accordance with the latest draft Supplementary Planning Document on planning obligations. This amount will rise to £6000 per dwelling on its adoption by the Council.
- 4.11 The Conservation Manager states the interior of the site is dominated visually by the surrounding estate development and its shape dictates the road layout. This gives flexibility in terms of form and limited flexibility in terms of layout, but given the context there should be a strong sense of rural informality. The common orientation and rhythmic placing of plots 3-6 are, on the contrary, too formal. It would be better in views into the site from the road to see roofs with ridges of various orientations.

## 5. Representations

- 5.1 Weobley Parish Council raise no objections to the proposed development. However, comment is made about surface water drainage from the site.
- 5.2 Letters of comment/support have been received from the following:-

Pamela Jenkins, 7 Chapel Orchard, Weobley  
Pamela McGill, 9 Chapel Orchard, Weobley  
S & D J Eady, 5 Chapel Orchard, Weobley  
K Metcalfe, 13 Chapel Orchard, Weobley  
D R Smith, 4 Chapel Orchard, Weobley  
L Tilbury, 12 Chapel Orchard, Weobley  
E M King, 1 Chapel Orchard, Weobley  
Mrs N Bishop, 11 Chapel Orchard, Weobley  
C F Faulkner, Oak View, Hereford Road, Weobley  
G & R Norman, Orchard Garden, Hereford Road, Weobley  
James Smith (Secretary), The Methodist Church  
C B Havard, Bell Meadow, Weobley

Basically most of the letters received support the proposed access into the site directly off Hereford Road rather than through Chapel Orchard as proposed in the previous application refused planning permission by this Committee.

Some of the responses received raise concerns about the size and scale of the proposed dwelling units, in comparison to the surrounding houses, in that the proposed dwellings appear excessively large in relationship to surrounding houses.

- 5.3 A further letter has also been received from the applicants, in response to Officer concerns about the proposed development.

The letter states that the latest proposal is intended to address the concerns of the residents at Chapel Orchard, to improve the immediate environment of the Methodist Chapel and to provide the best possible option for access from Hereford Road.

The letter also confirms acceptance to enter into an appropriate Section 106 Agreement with regard to public highway infrastructure improvements, amenity space improvements, sport and education provision. Comment is also made about appreciation, that the proposal does require a degree of compromise, which they hope on balance will be deemed to be acceptable.

- 5.4 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## **6. Officer's Appraisal**

- 6.1 This application is presented to Committee, at the local member's request, due to local residents concerns about public highway access to a previous application for 12 houses on the site, refused planning permission by this Committee at its meeting on 27<sup>th</sup> June 2007.

- 6.2 The main issues with regards to this application are:-

- Density of the proposed development
- Affordable housing provision
- Design

### **6.3 Density of the proposed development**

The site is allocated in the Herefordshire Unitary Development Plan for housing development, with an estimated capacity of 12 dwellings. Paragraph 3.4.55 on the site states '*The site is suitable for medium density development of around 12 units, incorporating an element of affordable housing.*'

- 6.4 The application proposes 6 units, which represents a density of 14 dwellings per hectare (the site covers an area of 0.41 hectares). The site density required in accordance with Herefordshire Unitary Development Policy is 30 dwellings per hectare. PPS3: Housing; advises using 30 dwellings per hectare as the indicative minimum. The Herefordshire Unitary Development Plan recommended a density for the site at the lower end of the range, but the development as proposed does not comply with local or national policy on dwelling unit density.

### **6.5 Affordable Housing Provision**

The application site covers an area of 0.41 hectares and therefore in accordance with Herefordshire Unitary Development Plan policy on affordable housing, 35% of the total amount of housing on site must be affordable housing.

- 6.6 The applicants have not provided for any affordable housing provision, which normally would be subject to a Section 106 Agreement, under the Town and Country Planning Act 1990. However, they have agreed to requests for contributing through a Section 106 Agreement for financial provision towards local education, public highway

infrastructure improvements amenity/play area and sports provision contributions in accordance with the individual Council relevant sections on these

- 6.7 The Council's Strategic Housing Manager has also raised concerns, that the site subject to this application, is an allocated housing site, in accordance with Herefordshire Unitary Development Plan policy, for an estimated capacity of 12 units, which equates to 5 affordable units. The substantial drop in the number of proposed units and under development of the site adversely affects strategic housing target delivery figures.
- 6.8 The Weobley Housing Needs survey of February 2007, identified a need for a further 11 affordable dwellings in the village. This proposal singularly fails to address possibly the most pressing issue for the Council in not providing any affordable dwellings as required by the site allocation in the Herefordshire Unitary Development Plan, Council policy generally, Regional Policy and National Policy. There is no doubt that in any potential appeal against refusal the Planning Inspectorate would support the Local Planning Authority in seeking to achieve these objectives. Such a fundamental failure to comply with policy must be rebuffed to deter similar attempts to side step the provision of affordable housing.
- 6.9 Comment has been made within the application's Design and Access Statement that two of the proposed units are to be allocated to members of the site owner's extended family, in order to enable them to return to live in the village. This is not considered to constitute affordable housing provision in accordance with Herefordshire Unitary Development Plan Policy, on affordable housing.

#### 6.9 Design

The application proposes 6 large detached dwellings of a scale and design that is not typical of the immediate surrounding area, being overly dominant in relationship to other dwellings within the immediate vicinity of the application site. The dwelling unit proposed for plot no 6, in particular having an overwhelming effect on the adjacent dwelling know as 5 Chapel Orchard.

- 6.10 Policy DR1: Design in the Herefordshire Unitary Development Plan states all development will be required to promote or reinforce the distinctive character and appearance of the locality in terms of layout, density, means of access and enclosure, scale, mass, height design and materials.

The development subject to this application is for 6 detached dwellings that are large in scale and mass and therefore not typical of surrounding dwellings scale and mass or external construction materials. The surrounding built environment is one of predominantly brick, rather than timber framed dwellings, with timber cladding and mainly lime rich render.

#### 6.11 Conclusion

The application proposes a development density that is not in accordance with Herefordshire Unitary Development Plan Policy for this UDP allocated site. The proposal also fails to comply with PPS3: Housing in respect of both density and the delivery of affordable housing.

- 6.12 No provision has been made for affordable housing. The site measures 0.41 hectares and therefore provision must be made for 35% affordable housing provision.

Furthermore this site is earmarked in the Herefordshire Unitary Development Plan for approximately 12 dwelling units. Targeted affordable housing provision, on other allocated housing sites, may be jeopardised by acceptance of this proposal.

6.13 The overall design of the proposed development is such that it will overly dominate the surrounding built environment and its immediate built character. It will not, thereby, comply with Herefordshire Unitary Development Plan Policy on design.

**RECOMMENDATION**

**That planning permission be refused for the following reasons:-**

- 1 The proposed development is of a density of individual housing units that fails to comply with Policies H5 and H15 in the Herefordshire Unitary Development Plan 2007 and guidance as stated in Planning Policy Statement 3: Housing.**
- 2 The complete absence to make provision for affordable housing is contrary to Policies H5 and H9 of the Herefordshire Unitary Development Plan 2007, Regional Planning and Policy Planning Policy Statement 3: Housing.**
- 3 The overall layout, design and scale of the development is such that it does not reinforce the local built character and appearance of the locality, particularly by reason of the scale, mass, materials and design of the proposed new houses. in which the application site is located. Therefore the proposal is contrary to Policies DR1, H15 and HBA6 of the Herefordshire Unitary Development Plan 2007.**

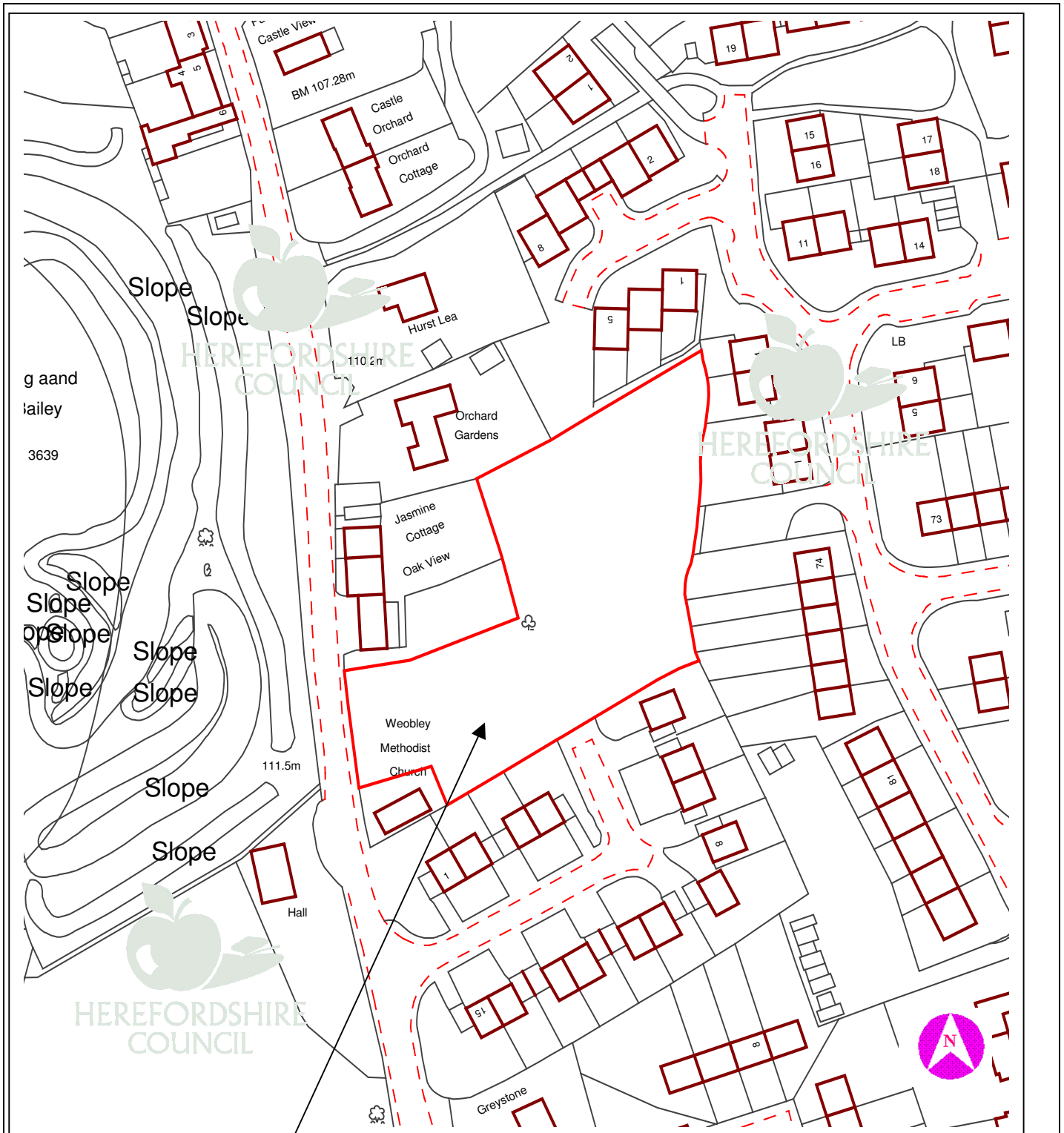
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW2007/2653/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land adjacent to Methodist Chapel, Hereford Road, Weobley, Herefordshire

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**DCSE2007/3140/O - OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF EMPLOYMENT USES INCLUDING B1, B2 AND B8. TOGETHER WITH CHANGE OF USE TO FORM LANDSCAPE BUFFER ZONE AT MODEL FARM, HILDERSLEY, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7NN**

**For: Herefordshire Council per Hunter Page Planning Ltd, Thornbury House, 18 High Street, Cheltenham GL50 1DZ**

**Date Received: 9th October 2007 Ward: Ross-on-Wye East Grid Ref: 61387, 24164  
Expiry Date: 8th January 2008**

Local Members: Councillor H Bramer, Councillor Mrs A Gray and Councillor P Cutter

**1. Site Description and Proposal**

- 1.1 Model Farm is located in the Hildersley area of Ross-on-Wye, approximately one mile to the east of the town centre. The site which in total is some 15 hectares is within the settlement boundary of Ross-on-Wye and is identified in the Herefordshire Unitary Development Plan 2007 as allocated employment land protected open area and green spaces.
- 1.2 The site currently comprises part of two farms, Model Farm and Spring Farm. It consists of a farmyard including farmhouse and a number of agricultural buildings of varying architectural merit, along with the surrounding agricultural land. To the south, the site is bounded by the A40(T) where vehicular access will be achieved. To the north and east is agricultural land and to the west is a residential area, which is located beyond an identified green buffer zone. There are a number of hedgerows, mature and semi mature trees located across the area. A series of small ponds are located to the south east of the farm yard and is also located within the source protection zone of the Alton Court Aquifer.
- 1.3 The application seeks outline planning permission for the principle of developing the site for employment purposes including B1 (business), B2 (general industrial) and B8 (Storage and distribution) land uses. The layout, scale, appearance and landscaping of the development are reserved for future consideration. A new vehicular access will be formed onto the A40(T) to the south east corner of the site.
- 1.4 In addition, the proposal includes the change of use of agricultural land to the west of the site to provide a landscape buffer area. This is to ensure that an area of open space is maintained between the development site and the adjacent residential properties.

## 2. Policies

### 2.1 Planning Policy Guidance

- PPS.1 - Delivering Sustainable Development
- PPG.4 - Industrial and Commercial Development
- PPG.13 - Transport
- PPS.25 - Development and Flood Risk

### 2.2 Herefordshire Unitary Development Plan

- Policy S.1 - Sustainable Development
- Policy S.2 - Development Requirements
- Policy S.4 - Employment
- Policy S.6 - Transport
- Policy DR.2 - Land Use and Activity
- Policy DR.3 - Movement
- Policy DR.4 - Environment
- Policy DR.7 - Flood Risk
- Policy DR.13 - Noise
- Policy E.3 - Other employment land allocations
- Policy E.8 - Design Standards for Employment Sites
- Policy LA.2 - Landscape Character and Areas Least Resilient to Change
- Policy LA.5 - Protection of Trees, Woodlands and Hedgerows
- Policy LA.6 - Landscaping Schemes
- Policy NC.1 - Biodiversity and Development
- Policy HBA.9 - Protection of open areas and green spaces

## 3. Planning History

- |     |                 |  |   |                        |
|-----|-----------------|--|---|------------------------|
| 3.1 | DCSE2004/0093/F | Lean-to extensions to existing agricultural barn         | - | Approved<br>08.02.2004 |
|     | DCSE2000/1592/F | Change of use of field to temporary maze and car parking | - | Approved<br>12.06.2001 |

## 4. Consultation Summary

### Statutory Consultations

- 4.1 The Environment Agency has no objection to the proposal subject to conditions regarding foul water, surface water and land drainage.
- 4.2 The Welsh Water has no objection subject to conditions regarding foul water, surface water and land drainage.
- 4.3 The Highways Agency have indicated that they have no objection to the proposal subject to conditions regarding the creation of the new access and the preparation of full travel plans.

### Internal Council Advice

- 4.4 The Traffic Manager has no objection subject to conditions regarding creation of the access and the preparation of full travel plans.



4.5 The Conservation Manager has no objection subject to conditions to retain existing hedgerows and the submission of a habitat management and enhancement scheme for the site and landscape and biodiversity enhancement scheme for the landscape buffer zone. In addition, if development does not take place before March 2009 an updated survey for protected species shall be undertaken.

4.6 The Forward Planning Manager has no objection to the proposal.

## 5. Representations

5.1 A Design and Access Statement has been submitted by the applicant in support of the application which provides the necessary justification for the principle of employment use on the site. In addition, a transportation assessment, flood risk assessment and ecological assessment have been completed and submitted in conjunction with the planning application.

5.2 Ross-on-Wye Rural Parish Council has made the following comments:

- We welcome the use of more 'high tech' land rather than warehousing.
- It will be essential to retain the buffer zone as a public open space and should not be used for building.

5.3 Ross-on-Wye Town Council has made the following comment:

This has the potential to be a flagship development and consideration should be given to high standards of energy efficiency and the use of sustainable drainage systems.

5.4 A letter of objection has been received Virginia Morgan, Secretary for Herefordshire Branch of Campaign for the Protection of Rural England in which the following main points are raised:

- Potential threat to the source protection zone of the Alton Court aquifer in the Old Red Sandstone at Model Farm.
- Endorse the comments of the UDP Inspector that the site is unsuitable for the proposed use. The proposal would damage the landscape character, the visual amenity, the environment and possibly the tourist industry in lessening the attractiveness of the eastern entrance to Ross.

5.5 3 letters of objection have been received from:

Mr J.P. Lines, Bearsfield, 7 Parsons Croft, Hildersley, Ross-on-Wye, HR9 5BN  
Neil B Pascoe, 17 Parsons Croft, Hildersley, Ross-on-Wye, HR9 5BN  
Richard D Brogden, Bruton Knowles Property Consultants, Bisley House, Green Farm Business Park, Bristol Road, Gloucester, GL2 4LY

In which the following main points are raised:

- Has a screening exercise been undertaken as to whether an Environmental Impact Assessment is required for the scale of development?
- Flood risk assessment does not consider effects of flood alleviation scheme currently under construction - need to demonstrate that there is no risk of increased flooding to Model Farm or adjoining land as a result of the combined effects of the flood alleviation scheme and the proposed development at Model Farm

- Ecological assessment does not appear to have been undertaken on landscape buffer zone
- Transportation Assessment does not take account of change in ground levels when assessing the visibility splay - would result in removal and complete loss of hedgerow for 215m stretch
- Stated visibility splay does not meet statutory requirements for a 60 mile an hour road in either direction
- Transportation Assessment does not appear to consider impact of proposed works and whether they will create a highway hazard. In order to prevent highway hazards, necessary to reduce the speed limit either by way of a national speed limit or construction of a roundabout at the junction with Model Farm
- Surprised that no archaeological survey has been undertaken and that landscape protection has been made a reserved matter
- What guarantees are there that the buffer zone will remain in perpetuity?
- Basic warehousing functions should be avoided
- Site should be adequately screened in most natural way possible
- Movement of heavy vehicles during night should be avoided
- Concerned about noise and light pollution
- Concerned about impact of volume of traffic at Hildersley, in addition to the issue of pedestrian crossing the roads to access the bus stops

5.6 The applicants have provided a detailed response to these representations that reiterate the details included in the Design and Access statement and the supporting documentation.

The full text of these letters can be inspected at Southern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officer's Appraisal

6.1 The main considerations in determining this application are:

- The principle of developing the site
- The impact of the development on the highway network
- The flood risk implications of the proposal
- The ecological and landscape implications of the proposal

### The Principle of Development

6.2 Ross-on-Wye is designated as one of the 5 market towns suitable for additional growth required to meet the County's strategic and local development objectives. Policy E3 of the Herefordshire Unitary Development Plan allocates Model Farm for employment use.

Policy E3 states:

The need for additional employment land at Ross-on-Wye was initially considered and discounted during the preparation of the South Herefordshire District Local Plan. The Inspector recommended that the need for additional land be reviewed through Plan formulation. Accordingly, a study has been undertaken as part of the process of preparing the UDP. This compares employment land supply with the land and premises requirements of indigenous firms, inward investment and start ups, and concludes that a site of 10 to 13 hectares capable of accommodating a range of requirements for Part B uses will be required within the Plan period.

- 6.3 The allocation of the site for employment uses establishes that the site is considered, in principle, to be suitable for such a use in order to meet the future employment needs of Ross-on-Wye.
- 6.4 A screening opinion has been carried out regarding whether there is a requirement for an environmental assessment in this instance. It concluded that there is no requirement. In summary it states that the proposal will not have unusually complex or potentially hazardous environmental effects.
- 6.5 Notwithstanding the site allocation, any application must be consistent with any other relevant policies contained within the UDP. These are considered in detail below.
- 6.6 Policy S.1 sets out the general sustainability considerations to be applied in determining planning applications. It provides a number of criteria that should be used to assist in the promotion of sustainable development. In essence, the proposed use of the site for employment purposes is consistent with the principles of sustainable development. It is a sustainable location in relation to Ross-on-Wye and the surrounding highway network, will promote sustainable economic development and will assist in reducing the need to travel further from Ross in order to access suitable levels of employment.

*Impact of the Development on the Highway Network*

- 6.7 Policy DR.3 seeks to ensure that a safe, convenient and attractive pattern of movement into, out of and across a site are achieved and that proposals do not have a detrimental impact on highway safety. The application is accompanied by a Transport Assessment which addresses the potential impact of the proposal on the highway network and proposes a new ghost island priority junction arrangement to access the site from the A40(T). In addition, a draft Framework Travel Plan has been prepared to reduce the overall amount of car travel, to increase the use of sustainable transport and promote a healthier lifestyle for employees, visitors and the wider community.
- 6.8 On the information provided, it is considered that the proposal will not have an unacceptable impact on the highway network including Hildersley roundabout, Overross roundabout and the junction of the Gloucester and Alton Road. Members will note that the Highways Agency (responsible for trunk roads) has no objection to the proposal, subject to the imposition of appropriate conditions. The proposed new access arrangements are considered acceptable. It is recognised that a section of hedgerow will be removed in order to provide adequate visibility. The land is within the applicants' ownership and therefore a condition can be imposed to require a comprehensive landscaping scheme that includes the replacement of the hedge with an appropriate mixed native species. The Framework Travel Plan provides the scope and objectives for Full Travel Plans. These can only be developed once details of each of the end-occupiers are known. As the application is in outline, a condition will be imposed to ensure that full travel plans are adopted at the reserved matters stage.

*Flood Risk Implications*

- 6.9 Policy DR4, DR6 and DR7 requires all proposals to safeguard the availability and quality of surface and groundwater supplies and avoid creating or exacerbating problems of flooding and pollution. The application is supported by a flood risk assessment which takes into account the flood alleviation scheme for Ross-on-Wye that includes a 1.7m high flood bund to the east of the A40 and a new 350m long culvert under parts of the town.

6.10 The site is within flood risk zone 1 and therefore at low risk to flooding. It lies in the Source Protection Zone II for the Alton Court Public Water Supply abstraction in Ross-on-Wye. It is recognised that the development would increase the amount of impermeable area and therefore increase surface water runoff rates from the site. This could, if not controlled, increase the flood risk to the development or other properties in the catchment. The assessment identifies that the land is to be divided into two catchments; the northern adjacent to the former railway line and the southern adjacent to the A40. Runoff from these catchments will be directed to two large dry detention basins that would be grassed lined and planted. The outlet to the basins will go to two treatment ponds that will allow for the clarification and oxygenation of the surface water. The outlet to these ponds will be directed to the existing watercourse. The flood risk assessment demonstrates that the proposed development can be undertaken in a sustainable way. Conditions will be attached to ensure that at the reserved matters stage a detailed scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage including the protection of the Alton Court Public Water Supply is submitted for approval by the Local Planning Authority in consultation with Welsh Water and the Environment Agency.

#### Ecological and Landscape Implications

6.11 Policy NC1 requires that the effects upon biodiversity are taken fully into consideration when determining development proposals. The application is supported by an ecological assessment. There are no overwhelming ecological constraints to the development of the site but there is excellent opportunity for biodiversity enhancement, including within the landscape buffer zone that will be subject to conditions.

6.12 Policy HBA9 refers to the protection of open areas and green areas of value. It identifies buffer zones between two incompatible land uses as worthy protection against future development. The proposal seeks to preserve the open buffer area between the development site and the residential area to the west. The proposal includes the change of use of this area from agricultural land to a protected open space to ensure its long-term preservation.

6.13 The topography of the site undulates slightly, although not significantly. From the A40 the land slopes gently down to the existing farmyard and then elevates slightly to the north towards Highfield Farm. The site is reasonably visible from the surrounding area and particularly when approached from the east. A comprehensive landscaping scheme will be subject to a condition.

#### Summary

6.14 The application brings forward a key allocated employment site from the adopted Unitary Development Plan. The scheme has been sensitively designed, and will represent a significant contribution to the ongoing regeneration of Ross on Wye.

### **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 2 Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 3 Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development.**

- 4 Plans and particulars of the reserved matters referred to above relating to the layout, scale, appearance and landscaping, shall be submitted in writing to the local planning authority and shall be carried out as approved.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 5 Prior to the commencement of the hereby permitted development, full landscape details, including the treatment of the landscape buffer zone, (annotated with a cross hatch on the approved plans), shall be submitted in writing with appropriate scaled plans, to the Local Planning Authority, for written approval. Works shall be carried out in accordance with the approved landscaping plans in the first planting season following the completion of the development or prior to the occupation of the first dwelling, whichever is the sooner, and thereafter maintained as such.**

**Reason: To ensure a satisfactory appearance to the development within the landscape, and safeguard the amenity of future occupiers of the residential development, in accordance with Herefordshire Unitary Development Plan policies S1, S2, DR1, DR2 and DR13.**

- 6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year defects period.**

**Reason: In order to protect the visual amenities of the area.**

- 7 None of the existing trees and/or hedgerows on the site shall be felled or wilfully damaged or destroyed. The detailed plans to be submitted with the matters reserved in this permission shall show accurately the position, spread and species of each existing tree/hedgerow on the site, how these are to be incorporated into the layout of the development and measures for their protection during the construction period.

Reason: To safeguard the amenity of the area.

- 8 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

- 9 H08 (Access closure )

Reason: To ensure the safe and free flow of traffic using the adjoining County highway.

- 10 H30 (Travel plans )

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.

- 11 D03 (Site observation - archaeology )

Reason: To allow the potential archaeological interest of the site to be investigated and recorded.

- 12 No development shall take place until a Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of the Herefordshire Unitary Development Plan 2007.

- 13 Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the Public Sewerage System.

- 14 No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

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

- 15 Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.**

**Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.**

- 16 No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority in liaison with Dwr Cymru Welsh Water's Network Development Consultant.**

**Reason: To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.**

- 17 No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system including the use of Sustainable drainage systems, as detailed within the Flood Risk Assessment dated October 2007, including plan 30802/PDL\_01 Rev A dated October 2007, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, in consultation with the Environment Agency.**

**Reason: To prevent the increased risk of flooding and provide water quality benefits and biodiversity enhancements by ensuring the satisfactory means of surface water disposal.**

- 18 Soakaways and other infiltration systems shall only be used in areas on site where they would not present a risk to groundwater, demonstrated through a ground investigation including maximum seasonal height of the water table and the ground permeability. If permitted their location must be approved in writing by the Local Planning Authority. No soakaways shall be constructed such that they penetrate the water table and they shall not in any event exceed 3 metres in depth below existing ground level.**

**Reason: To prevent pollution of controlled waters.**

- 19 Prior to the commencement of development a scheme for the collection and disposal of highway run-off shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall be carried out and implemented in accordance with the approved plans.**

**Reason: To prevent pollution of controlled waters.**

- 20 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

- 21 All facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

- 22 No development shall commence on site until a habitat management and enhancement scheme based upon the recommendations in section 5 of the ecologist's report dated September 2007 has been submitted to the Local Planning Authority, in order to protect and enhance the habitats on site for wildlife and biodiversity. The scheme shall include a mitigation strategy for badgers, and be implemented as approved unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure all species of bat and their roosts are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within the Unitary Development Plan.

- 23 Prior to commencement of development a biodiversity enhancement scheme for the landscape buffer zone shall be submitted to the Local Planning Authority and shall include an extended Phase 1 survey of the existing habitats and a future management plan. This shall be implemented as approved.

Reason: To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation(Natural Habitats, &c) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within the Unitary Development Plan.

- 24 If development does not take place before March 2009 update surveys for protected species shall be undertaken prior to development and a report submitted to the Local Planning Authority. A mitigation and compensation strategy should also be submitted if found to be present.

Reason: To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.



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

Reason: To conserve and enhance protected habitat and to maintain the foraging area for protected species in compliance with UDP policies NC6, NC7, NC8 and NC9 and Planning Policy Statement 9.

**INFORMATIVES:**

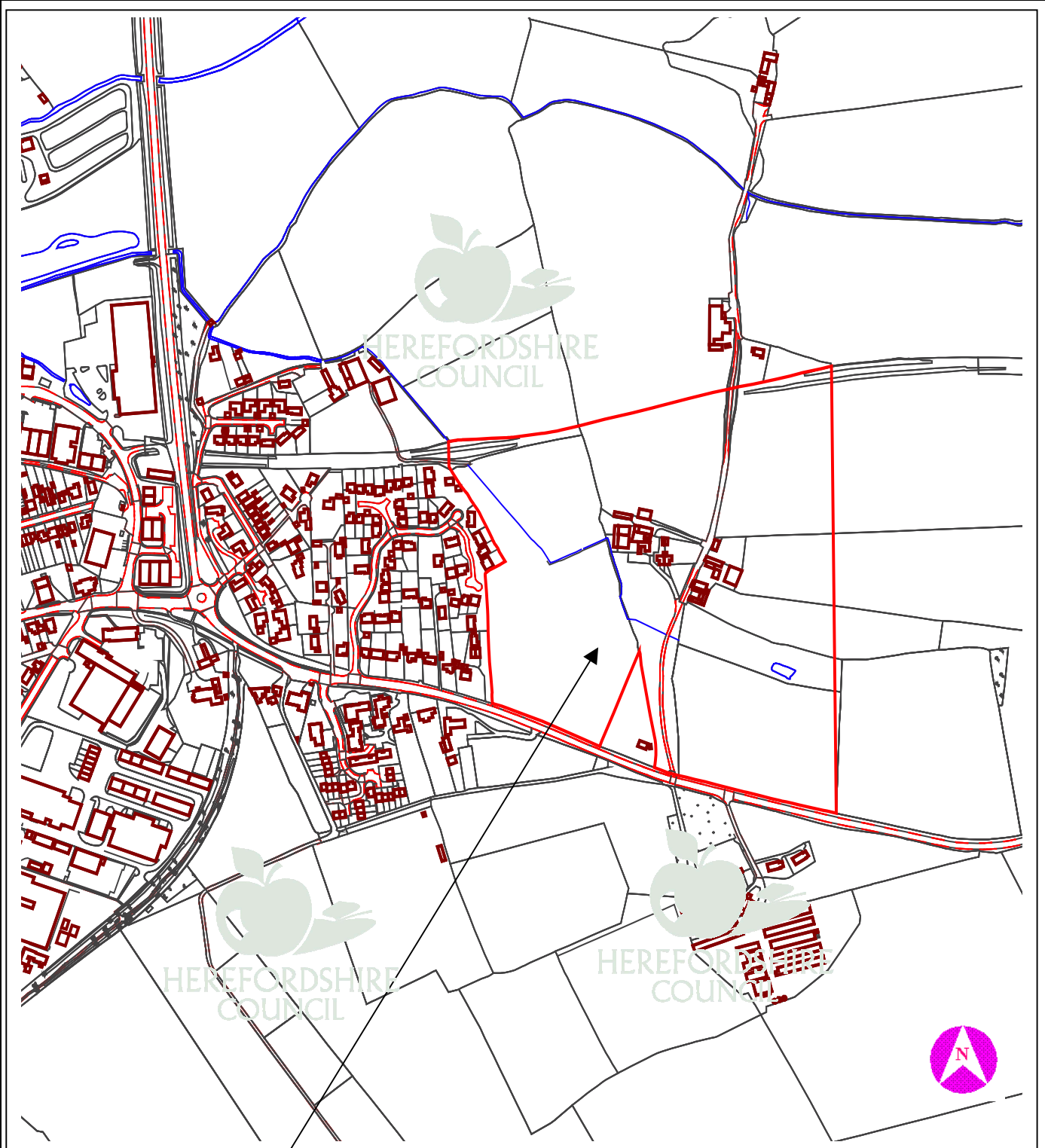
- 1 The applicant should be aware that pursuant to section 23 of the Land Drainage Act 1991, the prior consent of the Agency is required for the erection of any mill, dam, weir or other like obstruction to the flow of an ordinary watercourse or raise or otherwise alter such an obstruction; or erect any culvert that would be likely to affect the flow of any ordinary water course or alter any culvert in a manner that would be likely to affect any such flow. Any culverting of a watercourse also requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936. The Agency resists culverting on conservation and other grounds and consents for such work will not normally be granted except for access crossings.
- 2 There must be no discharge of foul or contaminated drainage from the site into either groundwater or surface waters, whether direct or via soakaways.
- 3 Roofwater drainpipes should be connected to the drainage system either directly, or by means of back inlet gullies provided with sealing plates instead of open gratings.
- 4 HN25 - Travel plans
- 5 In connection with Condition 10, the applicant is advised that the annual Travel Plan Review must include a survey of staff/resident travel patterns and attitudes to travel. (For businesses employing less than 50 people and for residential developments of less than 50 units, a travel survey will only be required every two years). For residential developments, the review should also include traffic counts and an assessment of trips by mode. Applicants are encouraged to conduct their own monitoring and review process. However, they may choose to engage outside consultants to manage the process on their behalf. Council officers can also provide monitoring services for Travel Plan reviews and for this a request should be made to the Sustainable Transport Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford, HR4 0WZ
- 6 N19 - Avoidance of doubt
- 7 N15 - Reason(s) for the Grant of Planning Permission.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCSE2007/3140/O

**SCALE :** 1 : 6201

**SITE ADDRESS :** Model Farm, Hildersley, Ross-on-Wye, Herefordshire, HR9 7NN

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**DCNE2007/3731/F - CONVERSION OF FORMER STABLES AND STORAGE BUILDING TO FORM TWO SELF CONTAINED HOLIDAY UNITS AT STANLEY HILL COURT, BOSBURY, LEDBURY, HEREFORDSHIRE, HR8 1HE**

**For: Dr. G. & Dr. K. Swinburne per Gibson Associates  
Bank House Bank Crescent Ledbury Herefordshire  
HR8 1AA**

**Date Received:**  
4th December 2007

**Ward:**  
Hope End

**Grid Ref:**  
67611, 43960

**Expiry Date:**  
29th January 2008

Local Member: Councillor R Mills and Councillor RV Stockton

### **1. Introduction**

- 1.1 The applicant is a Member of the Council hence the requirement to report this proposal to this Committee.

### **2. Site Description and Proposal**

- 2.1 The proposal is for the conversion and extension of the former stable building to provide 2 self contained holiday units at Stanley Hill Court. The site lies on the south side of the junction of the B4214 Bosbury Road and C1152 to Canon Frome. The site lies adjacent to a development scheme currently being undertaken to convert the former residence to 3 dwellings.
- 2.2 The proposal involves the rebuilding of the northern most bay of the building, that adjacent to the road, and re-roofing to replace the existing mono-pitch corrugated iron roof. Each unit includes a kitchen and living area at ground floor, with 2 bedrooms and bathroom within the roof space. Parking spaces are provided within an existing hard surfaced area to the west of the building. Vehicular access would be via the new access currently being constructed under the previously approved scheme.
- 2.3 In addition to the Design and Access Statement, an Historic Report on the Farmstead Structure and a Bat Survey have been submitted.

### **3. Policies**

- 3.1 National Policy  
PPS1 - Delivering Sustainable Development  
PPS7 - Sustainable Development in Rural Areas
- 3.2 Herefordshire Unitary Development Plan  
HBA12 - Re-use of Rural Buildings  
RST12 - Visitor Accommodation  
NC1 – Biodiversity and Development

NC6 – Biodiversity Action Plan Priority Habitats and Species  
NC7 – Compensation for Loss of Biodiversity

#### 4. Planning History

- 4.1 DCNE2005/1719/F - Conversion of house and buildings to form 6 dwellings. Refused 6th July 2005.
- 4.2 DCNE2006/3998/F - Reconfiguration of existing dwelling into 3 units. Approved 26th July 2007.

#### 5. Consultation Summary

##### Statutory Consultations

- 5.1 Herefordshire Nature - no comment received.

##### Internal Council Advice

- 5.2 Transportation Manager - recommends condition H13, relating to the parking area.
- 5.3 Conservation Manager advises that the rebuilding element must be weighed against the benefit to the character of the complex as a whole to be completed. Additional information would be needed of the rebuild element. The number of roof lights is questioned as are the openings to the west elevation.
- 5.4 Ecologist – “I am satisfied with the level of information regarding the usage of the site by bats, and am pleased to see that the bats have taken up use of the bat receptor facility. I am, however, concerned that the new development proposals will directly affect the flight line of the bats out of this facility when they emerge at night to forage. There is currently unimpeded access from the bat roost to the hedgerows along the side road, and a two storey building in this location has serious implications. The applicants should discuss this issue with the ecological consultants, as they may need to alter the design proposals at the northern end of the building.

The Applicants will also need to submit a mitigation strategy to compensate for the loss of a bat roost site in Building 1, and that is in proportion to the level of bat use in the building. The ecological consultants have indicated that this could be in the form of bat boxes to be installed on the southern and western walls of the building. The mitigation strategy will need to be agreed between the applicants and the consultants.

If the above issues can be resolved, I shall have no objection to approval of this application, subject to the inclusion of appropriate non-standard conditions for implementation of the mitigation strategy.”

#### 6. Representations

- 6.1 Bosbury Parish Council state "We recommend approval but we have reservations about the piecemeal development on this site. Will there be a further application for garages for this extra accommodation and have all the previous planning issues been resolved? This proposal has a much safer access and it is a pity that it could not have been used for the original conversion scheme which has a very dangerous access on Stanley Hill. However, the proposal will save the old building and provide more holiday accommodation in the area."

- 6.2 CPRE - "We note that the buildings in question would need considerable construction work to make them usable. We also note that under the UDP (HBA12) re-use and adaptation of rural buildings will only be permitted where they are capable of conversion without major reconstruction.

Approval was recently given (Application No DCNE2006/3998/F) to the conversion of the existing dwelling into three residential units. Holiday lets can give rise to considerable traffic movement, noise and other disturbance which would be detrimental to the peaceful enjoyment of their property by the residents of the site.

For these reasons we ask the Council to refuse this application."

- 6.3 One letter of objection has been received from B C W Clutterbuck, Clissets, Stanely Hill, Bosbury, Ledbury HR8 1HE. It states:

"I wish to object to the above application as it does not accord with policies RST1 and RST12 in the following respects:

1. It would harm the amenity of nearby residents. (There are three residential units in close proximity).
2. The proposed units are in open country and not accessible by a choice of modes of transport.

Additionally there are questions relating to highway accessibility and possible over development of the site. Planning consent has already been refused for more than three units on this site. Though this application is for holiday units those reasons for refusal are still relevant.

Should this application be accepted, by some stretching of the planning law, then there must be a level access provided.

The structure for conversion has been partially demolished and the majority has been altered to a single pitched roof. It has no architectural value and the changes proposed effectively constitute a new build."

- 6.4 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## **7. Officers Appraisal**

- 7.1 Policy HBA12 sets out the criteria for consideration of such proposals. There is an element of new building required to replace the end bay of the building, together with a new roof. This could be considered to be either major or substantial construction. The setting of the historic farmyard is a material consideration to take into account alongside the policy. This is set out in the accompanying documents. The stable blocks were constructed between 1839 and 1884, with a number of alterations as would be expected along the way; including at some stage in the 20<sup>th</sup> Century a swimming pool being inserted in two of the bays. The building was previously considerably bigger than now exists and would have dominated the group of buildings.
- 7.2 Notwithstanding the historical consideration, the rebuilding of the end of the buildings and provision of a proper roof enhances the site and ensures a secure future for the

building. Consequently it is considered that the benefits to undertaking the work outweigh policy concern with this element of the proposal.

- 7.3 At the suggestion of the Council's Ecologist conditions are proposed to deal with the mitigation strategy for bats. It is not considered, however, that it is reasonable to require what would amount to a mono-pitch style roof at the work end of the building. The building is not a full two storey building.
- 7.4 Policy RST12 sets of criteria for consideration when providing self catering accommodation for visitors outside of settlements. It is considered that the proposal complies with these criteria.
- 7.5 It is considered that the new openings and roof light are necessary and do not significantly detract from the appearance of the building.
- 7.6 The orientation of the units and positioning of the parking area are such that the coming and going associated herewith are not considered to be detrimental to the amenity of future occupiers of the adjacent dwellings.
- 7.7 It is considered that the benefits associated with the proposal outweigh the elements of policy HBA12 with which it could be said to be at odds. The proposal is considered to comply into policy RST12 and it is therefore recommended for approval.

#### **RECOMMENDATION**

**That planning permission be approved subject to the following conditions:**

- 1 - A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

- 2 - B01 (Samples of external materials )**

**Reason: To ensure that the materials harmonise with the surroundings.**

- 3 - H13 (Access, turning area and parking )**

**Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.**

- 4 - E31 (Use as holiday accommodation )**

**Reason: The local planning authority are not prepared to allow the introduction of a separate unit of residential accommodation, [due to the relationship and close proximity of the building to the property known as [..] [in this rural location].**

- 5 - Prior to commencement of development a bat mitigation strategy shall have been submitted to and approved in writing by the Local Planning Authority. The strategy shall have been implemented prior to use of the building.**

**Reason: To ensure compliance into policies NC1, NC6 and NC7 of the Unitary Development Plan.**

**Informatives:**

1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

2 - N19 - Avoidance of doubt

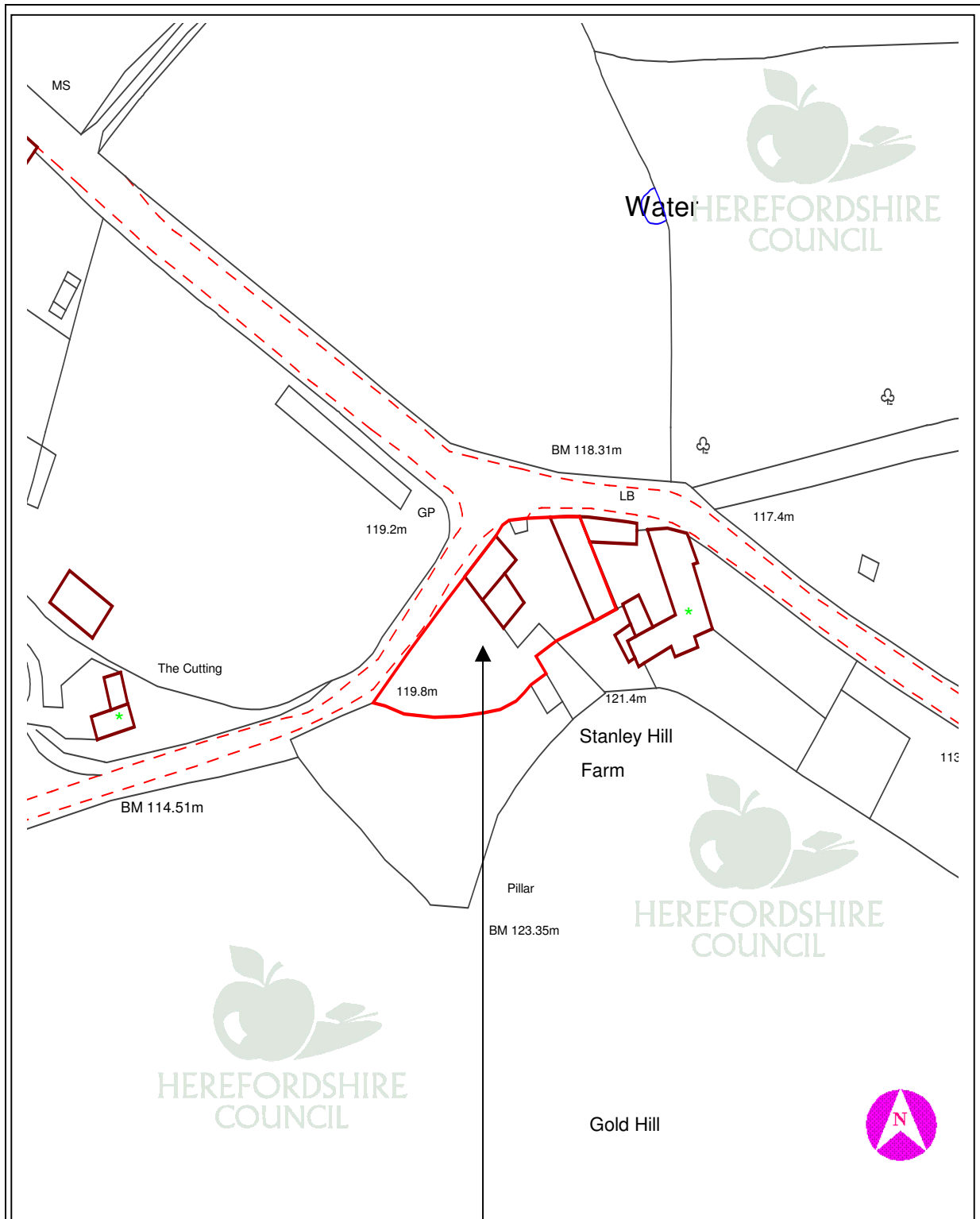
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNE2007/3731/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Stanley Hill Court, Bosbury, Ledbury, Herefordshire, HR8 1HE

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