

# AGENDA

## Planning Committee

Date: **Monday 16 March 2015**

---

Time: **10.00 am**

---

Place: **The Shire Hall, St Peter's Square, Hereford, HR1 2HX**

---

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

For any further information please contact:

**Tim Brown, Democratic Services Officer**

Tel: 01432 260239

Email: [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk)

---

If you would like help to understand this document, or would like it in another format, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Planning Committee

## Membership

**Chairman**  
**Vice-Chairman**

**Councillor PGH Cutter**  
**Councillor PA Andrews**

Councillor AJM Blackshaw  
Councillor AN Bridges  
Councillor EMK Chave  
Councillor BA Durkin  
Councillor PJ Edwards  
Councillor DW Greenow  
Councillor KS Guthrie  
Councillor J Hardwick  
Councillor JW Hope MBE  
Councillor MAF Hubbard  
Councillor JG Lester  
Councillor RI Matthews  
Councillor RL Mayo  
Councillor PJ McCaull  
Councillor FM Norman  
Councillor J Norris  
Councillor TL Widdows  
Councillor DB Wilcox

**AGENDA**

	<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
<b>3. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>4. CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
<b>5. 143252 - LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER</b> Proposed development of 12 nos. dwellings, consisting of 4 nos. affordable and 8 nos. open market. Works to include new road and landscaping. Amended plans.	7 - 14
<b>6. 143370 - LAND TO THE EAST OF BROOK LANE, NORTH OF B4220, BOSBURY, HEREFORD</b> Proposed residential development for up to 37 dwellings of which 13 (35%) will be affordable.	15 - 38
<b>7. 143720 - LAND SOUTH OF A438 FORMING PARCEL NO 0008 AND PART PARCEL NO 2308, BARTESTREE, HEREFORD</b> Proposed erection of 40 dwellings including 14 affordable houses and change of use of land to form community open space.	39 - 66
<b>8. P150067/O - LAND ADJACENT VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE</b> Proposed erection of up to 31 dwellings. Construction of new vehicular access and associated works. Demolition of No 5 Vine Tree Close.	67 - 90



## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

## **RECORDING OF THIS MEETING**

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

## **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<b>143252 - PROPOSED DEVELOPMENT OF 12 NOS. DWELLINGS, CONSISTING OF 4 NOS. AFFORDABLE AND 8 NOS. OPEN MARKET. WORKS TO INCLUDE NEW ROAD AND LANDSCAPING. AMENDED PLANS AT LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER</b>  <b>For: Mr &amp; Mrs Schenke per Mr Rob Mills, 9 Sweetlake Business Village, Shrewsbury, Shropshire, SY3 9EW</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143252&amp;search=143252">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143252&amp;search=143252</a>
<b>Reason Application Submitted to Committee - Clarification of Heads of Terms</b>	

Date Received: 28 October 2014

Ward: Bircher

Grid Ref: 344261,261306

Expiry Date: 30 January 2015

Local Members: Councillor WLS Bowen

## 1. Introduction

1.1 The above planning application was approved by Planning Committee on 21 January 2015 subject to completion of a S106 Planning Obligation. The draft Heads of Terms quoted within the report varied from the Draft Heads of Terms attached to the committee report which was for a previous application (140534).

1.2 This report is to clarify that the Draft Heads of Terms are those as attached to this report and quoted within the previous report (£86578). These have been published in conjunction with the application and should have been attached to the previous report.

1.3 For clarification the contributions are as follows

Education £47310  
Sustainable Transport £22360  
Parks and Countryside £14278  
Waste Reduction and Recycling £960  
Libraries £1670

Total £86578

## RECOMMENDATION

**That the report is noted.**

---

Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808

Decision: .....

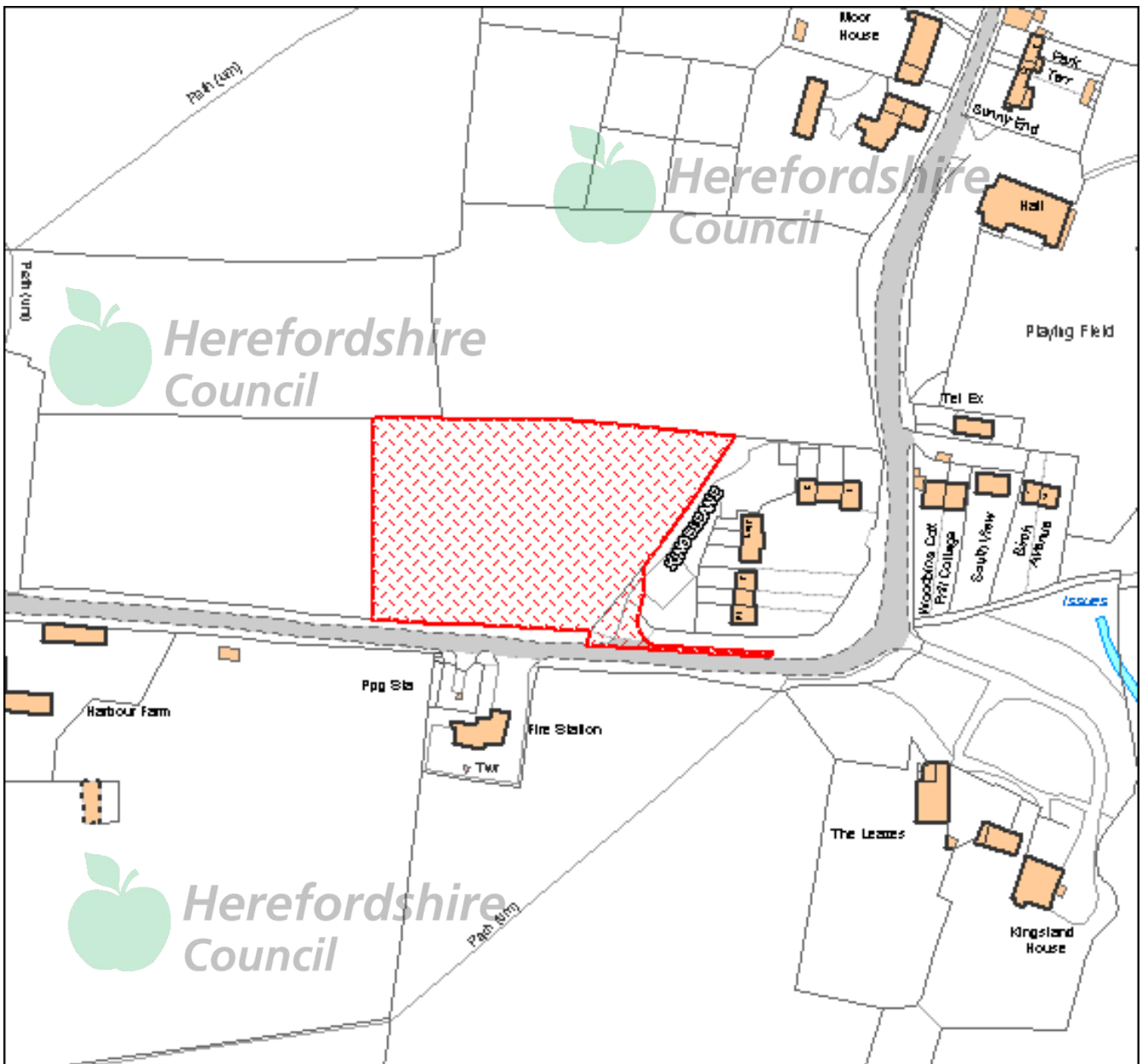
Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.  
Previous report to Planning Committee, 21 January 2015.





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

**APPLICATION NO:** 143252

**SITE ADDRESS :** LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER, HEREFORDSHIRE

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

# DRAFT HEADS OF TERMS

## PROPOSED PLANNING OBLIGATION AGREEMENT

### Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only.

Proposed erection of 12 dwellings comprising 6 x 3 bed open market dwellings, 2 x 4 bed open market dwellings and 4 x 2 bed affordable dwellings on land adjoining Kingsleane, Kingsland, Leominster, HR6 9SE

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£47,310.00** (index linked) for enhanced educational infrastructure at Coningsby Early Years, Kingsland Primary School, Wigmore High School, St Mary's Roman Catholic School (8% of education contribution), Teme Valley Youth and the Special Education Needs Schools (1% of total contribution). The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£22,360.00** (index linked) for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. The sustainable transport infrastructure will include improvements to the public right of way network within the vicinity of the development and improved crossing facilities between the application site and village facilities within the vicinity of the development.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£14,278.00** (index linked) for off-site play facilities. The contribution will be used in accordance with the Play Facilities Study and Investment Plan 2012. The Millennium Green offers a small infants play area which although has recently been improved requires more investment for older children to make it a larger play facility. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£1,670.00** (index linked) for enhanced Library facilities in Leominster. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£960.00** (index linked). The contribution will provide for waste reduction and recycling in Leominster. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
7. Of those Affordable Housing units, at least 2 (two) shall be made available for social rent with the remaining 2 (two) being available for intermediate tenure occupation.
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 9.2 satisfy the requirements of paragraph 12 of this schedule

10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-

- 10.1 a local connection with the parish of Kingsland;
- 10.2 in the event there being no person having a local connection to the parish of Kingsland a person with a connection to Aymstrey, Shobdon, Eyeton, Yarpole, Eardisland and Monkland & Stretford;
- 10.3 in the event there being no person with a local connection to any of the above parish or wards any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 11.1 and 11.2 above

11. For the purposes of sub-paragraph 10.1 and 10.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

- 11.1 is or in the past was normally resident there; or
- 11.2 is employed there; or
- 11.3 has a family association there; or
- 11.4 a proven need to give support to or receive support from family members; or
- 11.5 because of special circumstances

12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<b>143370 - PROPOSED RESIDENTIAL DEVELOPMENT FOR UP TO 37 DWELLINGS OF WHICH 13 (35%) WILL BE AFFORDABLE AT LAND TO THE EAST OF BROOK LANE, NORTH OF B4220, BOSBURY, HEREFORD</b>  <b>For: Mr Watkins &amp; Mr P Bennett per RCA Regeneration Ltd, Unit 6 De Salis Court, Hampton Lovett, Droitwich Spa, Worcestershire, WR9 0QE</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143370&amp;search=143370">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143370&amp;search=143370</a>
<b>Reason Application Submitted to Committee - Contrary to Policy</b>	

**Date Received: 11 November 2014    Ward: Hope End    Grid Ref: 370034,243579**

**Expiry Date: 16 February 2015**

Local Members: Councillors CHN Attwood and AW Johnson

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

- 1.1 The application site lies on the north eastern edge of Bosbury and is a roughly triangular parcel of agricultural land approximately 400 metres from the village centre. It is bounded on all sides by mature hedgerows, with the B4220 running along the south eastern boundary and Brook Lane to the west. The site area is approximately 1.6 hectares.
- 1.2 The land slopes from a highpoint in the south east to a low point in the north western corner, with a change across the site of approximately 8 metres. The site is on the fringe of the village and there is a clear transition from built form to countryside. Dwellings are more sporadically located in small groups along the B4220 and Brook Lane.
- 1.3 The historic core of the village is of a linear form and the historic pattern of development would suggest that it has developed in a westerly direction, with the most recent addition being the Forge Bank estate in the late 20th century.
- 1.4 Bosbury is a main village as defined by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). Local amenities in the village include a pub, church, village hall and primary school. It is identified in the emerging Core Strategy as a village that is appropriate for proportionate growth.
- 1.5 The application is made in outline with all matters apart from access reserved for future consideration and is for the erection of up to 37 dwellings, 13 of which are to be affordable. The application includes an indicative layout plan showing that the dwellings can be accommodated on the site at a density of 23 dwellings per hectare. The plan also includes the

---

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

provision of a surface water attenuation pond in the north western corner of the site and the inclusion of areas of open space described as landscaped buffers.

1.6 A detailed access plan shows a single point of vehicular access onto the B4220, opposite the entrance to a property known as Great Gables. The access and its visibility splays are contained within the 30 mph zone, which continues in a north easterly direction along the B4220 to the boundary of the application site. The provision of visibility splays will require part of the hedgerow to be removed, with the plan indicating that a replacement will be planted behind the line of the splay. The plan also indicates the provision of pedestrian footways within the site and a link to the remainder of the village in the southern corner.

1.7 The application is also supported by the following documents:

- Supporting Planning Statement
- Design & Access Statement
- Phase 1 Habitat Survey
- Flood Risk Assessment
- Transport Statement
- Draft Heads of Terms Agreement

## 2. Policies

2.1 National Planning Policy Framework. The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Transport
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

2.2 National Planning Policy Guidance

2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
E15	-	Protection of Greenfield Land
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car parking
H19	-	Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements

---

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



LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

## 2.4 Herefordshire Local Plan – Draft Core Strategy

The Examination in Public into the Draft Local Plan – Core Strategy has taken place and was closed on 25 February. The majority of the Core Strategy policies were subject to objection and will be subject to modification and therefore can be afforded only limited weight for the purposes of decision making.

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 Bosbury Parish Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 1 August 2014. The Parish Council will have the responsibility of preparing a Neighbourhood Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. In view of this no material weight can be given to this emerging Plan.

2.6 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

## 3. Planning History

3.1 None identified for this site. However, planning permission was recently refused for the erection of up to 46 dwellings on land to the west of Upper Court Road, Bosbury (application reference P141550/O), and this application is currently the subject of an appeal.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Welsh Water – No objection to the proposed development but draw attention to the fact that the site is crossed by a distribution water main. No development should take place within four metres of its centre line and precautions should be taken to ensure its protection during the course of development.
- 4.2 Severn Trent – No objection subject to the imposition of a condition requiring the submission of a plan to demonstrate how foul and surface water will be dealt with.

### Internal Council Consultations

- 4.3 Transportation Manager – Raises no objection subject to a condition requiring the vehicular access to be constructed in accordance with the submitted plans.
- 4.4 Conservation Manager (Ecology)

No objection subject to the imposition of a condition requiring ecological enhancements to be carried out in accordance with the recommendations set out in the ecology report submitted with the application.

Conservation Manager (Landscape)

Objects to the application and comments as follows:

The site is a triangular parcel of land located approximately 350m north east of the main village of Bosbury. Historic maps indicate that built form in Bosbury has developed in a linear pattern extending from the B4220 and C1152 road junction where a number of significant buildings including the Church of Holy Trinity are situated. Larger scale 20th century development is confined to the south of the B4220. The site itself forms part of a gap in conjunction with an adjacent orchard which separates the main village from Aylescroft. Here development is confined to wayside, detached properties set in large parcels of land, large scale development on this site would therefore be considered out of keeping with the existing settlement pattern.

Bosbury itself is set on land at approximately 70m AOD the landform rises in an easterly direction at the outskirts of the village, the site at 80m AOD, peaking at 85m AOD at eastern most tip, is therefore prominent within the local landscape, forming part of the gateway to the village, large scale development on this elevated site has the potential to harm the setting of this rural settlement and would therefore be considered contrary to LA3 of the UDP.

The elevated topography of the land in conjunction with its north west facing slope means that the site relates visually to open countryside. Views of the proposal from a number of locations including elevated land such as Harbour Hill and long distance views into the site from Fox Hill and Stanley Hill are considered likely. The Herefordshire Trail passes through the historic core of the village following the River Leadon and further views along this route are anticipated. The unregistered park and garden Bosbury House is situated south of the B4220 and views from outer edges of the park are probable. The visual impact of the proposal upon its surroundings can therefore be considered extensive.

In the event that the application is approved the following recommendations are put forward for consideration:

- Development at the eastern tip of the site should be avoided due to its especially prominent topography.
- The proposed layout shows roadways within the RPA's of trees with attenuation ponds in close proximity to hard surfaces; these issues would need to be addressed and may result in necessitating a reduction in the number of units.
- Historic maps indicate much of the local landscape was used for fruit production, including the existing site, adjacent land is still in use and it is recommended that the reinstatement of orchard be given consideration as a means of mitigation.
- It should be noted that there does not appear to be a Tree survey submitted as part of the proposal or a landscape appraisal. Both of these documents would be required.

#### 4.5 Parks & Countryside Manager

It is noted in the Design and Access Statement that green open space is to be provided on site to create a gateway feature and a sense of place and openness to the development. It is unknown how large this area is and to what extent it could be considered for informal/formal recreation purposes. As a result of the public consultation the applicant has suggested that there is potential to include a public open space and this detail should be considered at a reserved matters stage. I would add that Bosbury doesn't have an existing play area, and according to the Play Facilities Study is of a size which would only require informal play and recreation opportunities. Any formal provision on a site of this size would be small, offer little in play value and be costly to maintain so careful consideration should be given to whether it is needed or not. It may be that an informal kick-about area would be sufficient. I would agree that this aspect should be considered at a reserved matters stage and in consultation with the Parish Council. Any provision on-site could off-set what is asked for off site.

It is also noted that there will be a pond area at the lowest end of the site for drainage. If designed with health and safety and standing water in mind, they can form opportunities for informal recreation and provide semi natural open space for both natural play and biodiversity.

Adoption/Future Maintenance/Commuted Sums: Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be by adoption by Herefordshire Council with a 15 year commuted sum plus appropriate replacement costs - given the location this is highly unlikely; or by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Draft Heads of Terms: It is noted that the applicant has included the following contributions:

- £235 (index linked) for a 2 bedroom open market unit
- £317 (index linked) for a 3 bedroom open market unit
- £386 (Index linked) for a 4+ bedroom open market unit

To provide off-site public open space / play contribution to be used in accordance with the Play Facilities Strategy and Investment Plans.

The contribution is in accordance with the SPD on Planning Obligations, POS contribution and not children's play which would be a higher tariff. This is due to there being no existing play area in Bosbury and no details of any planned provision (in accordance with the Play Facilities Study and Action Plans). In the more rural areas such as Bosbury, it is more appropriate to use it towards improving quality/accessibility or the more natural and semi natural green space and recreational rights of way in accordance with management plans including the Council's Public Rights of Way Improvement Plan.

However, as described above, the off-site contribution should be adjusted accordingly if there is to be some provision on-site.

#### 4.6 Education

No objection subject to the provision of financial contributions as outlined in the Heads of Terms Agreement that accompanies the application.

#### 4.7 Land Drainage Engineer

Overall, for outline planning permission, we do not object to the proposed development on flood risk and drainage grounds. However, all new drainage systems for new developments must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council). Therefore, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission. The detailed drainage proposals should include:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Soil infiltration rates (soil infiltration tests should be undertaken in accordance with BRE365 guidance) and groundwater levels;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure no flood risk to development and no increased flood risk to third parties up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Demonstration that appropriate pollution control measures are in place prior to discharge.

The management of surface water runoff from this proposed development will be of particular concern due to existing flooding issues downstream of the site. Whilst we approve of the proposed approach as this suggests no discharge from the site up to the 1 in 100 year event, we are mindful that on-site ground conditions may require an alternative approach to be considered that requires some discharge of surface water runoff off-site. If an alternative approach is required, we promote the use of combined attenuation and infiltration structures prior to discharge to a watercourse and with discharge rates limited to existing greenfield rates with betterment provided where possible.

## 5. Representations

### 5.1 Bosbury Parish Council - The parish council wish to object to the development of houses in this location.

Bosbury is a small village close to an Area of Outstanding Natural Beauty. The centre of the village is a Conservation Area and contains many listed properties and two scheduled monuments. The proposed development site abuts the historic core of the village.

The parish council and local residents are not against appropriate residential development to help meet Herefordshire Council's five year shortfall, but the scale of the proposed development in this location is unacceptable as there are a significant number of adverse impacts on Bosbury village:-

- Impact on the Character of Bosbury - Bosbury is a small village that contains a Conservation Area, numerous listed buildings and scheduled monuments. The historic core of the village has a linear settlement pattern along the B4220. A development of this size in this location would fail to respect the townscape and landscape context of the site and the distinctive character and appearance of the locality, including its linear settlement pattern, contrary to policy H13 of the UDP. This impact would be exacerbated by the fact that it is in a prominent location and would be highly visible to people entering and leaving the village along the main road. Furthermore, it would affect views of the Grade I listed church from the eastern edge of the village. It is therefore considered that the proposal would also result in substantial harm to the setting the historic core of the village contrary to paragraph 131 of the National Planning Policy Framework.
- Size of Development - In Herefordshire Council's Core Strategy (draft document) Bosbury has been identified as being sustainable and appropriate for proportionate growth. In the case of the Ledbury HMA this is considered to be 14% growth over the period 2011-2031. According to the 'Rural Housing Background paper (2013) there are 143 dwellings within the main village envelope. This proposal of 37 dwellings would result in a growth of 26%. However, it should be noted that the number of houses within the main village as defined by the settlement boundary is considerably less (circa 100). On this more accurate figure the percentage increase would be approximately 37%. This is nearly three times the 14% identified in the draft Core Strategy and would result in a disproportionate expansion that would detract from the character and setting of the village contrary to UDP policies DRI (Design), S2 (Development Requirements) and H13 (Sustainable Residential Design) and the framework including paragraph 61.
- Play Area - The applicant states that a play area can be provided on the site. However, no play area is shown on the plans. The applicant should therefore be asked to include a small children's play area and an older children's informal space as required by policy H19. Whilst it is appreciated the application is in outline, without including this open space the applicant has failed to demonstrate that the site can satisfactorily accommodate 37 dwellings.
- Access & Highway Safety - The proposed access to the site is in a dangerous position given it is close to a corner in the road and there are also undulations in the road to the north-east of the access. This would result in poor visibility for vehicles leaving the site which would prejudice highway safety contrary to policy S6 of the UDP.
- Flooding - Pluvial flooding is already very high on the site as indicated in their survey with regular flooding down Brook Lane at Dowdings Brook. The development will cause further and additional flooding at this point and in Bosbury village with water surge going into Dowdings Brook and causing additional flooding risk at the New Bridge on Dowdings Brook and further downstream at the conjunction with the River Leadon by the Parish Hall. No solution has been put forward by the applicant to address this issue.
- Infrastructure - The sewerage works are working to capacity and therefore cannot accommodate the extra volume this development would bring without considerable upgrading. The applicant makes no reference to this issue in his supporting information or how it will be addressed.
- Residential Amenity - There would be a detrimental impact on the outlook from the existing dwellings adjacent to the site. Their view would change from one of open countryside to that of a modern housing development.

---

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

- Pre-Application Consultation - Paragraph 188 of the framework states that "early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."

The applicants claim extensive consultation. However, they did not speak to the Parish Council or residents directly to explain their proposal or listen to their views. Instead they sent a letter to the residents but left out at least 50% of the main village including the residents in Aylescroft or Brook Lane and Harbour Hill who will be most affected. The Parish Council and the community is very disappointed with this level of consultation as it has wholly failed to deliver "better coordination between public and private resources and improved outcomes for the community". As such little weight can be attached to the consultation undertaken by the applicant.

In conclusion, Bosbury Parish Council and local residents appreciate that there is a housing shortfall and would welcome an application for a proportionate residential development that respects the character of the village. However, once again, an application has been submitted where the harm caused would significantly outweigh any benefits the proposal has in terms of housing numbers. This would result in an unsustainable form of development contrary to national and local planning policy. The Parish Council therefore strongly object to the application and consider it should be refused.

5.2 CPRE – Object to the application. In summary the points raised are as follows:

- The proposal is out of scale with the village
- The development will be visually obtrusive
- Adverse impact on the setting of the village

5.3 Sixty two letters of objection have been received from local residents. In summary the points raised are as follows:

#### Impacts on the character and setting of the village

- The size of the development is too large for Bosbury.
- The scheme represents over-development.
- Detrimental impact on the setting of the village and the approach to it.
- The village is linear and it is not until Forge Bank that this changes.
- The layout of the development does not reflect the historic pattern of growth of the village.
- The proposal represents a 37% growth of the village and is a disproportionate expansion that would harm its character and setting.
- The proposal would be detrimental to the amenities of the properties that border the site.

#### Sustainability

- The village has insufficient facilities to support the amount of development proposed.
- A need to drive to shops in Ledbury.
- The village has a limited bus service.
- Insufficient capacity within the village's existing infrastructure, particularly the sewage treatment works.
- Insufficient capacity within the village school.
- The current proposal is unsustainable and a smaller number of properties should be considered.

- There is no local employment available and Bosbury would become a dormitory village.
- The proposal would result in the loss of good grade agricultural land.

#### Highway Matters

- The scale of the development is likely to generate significant numbers of additional traffic movements that will cause highway safety issues in the village centre.
- Poor visibility at the point of access to the site onto the B4220.
- Access close to the brow of a hill and bend in the road. Visibility is impeded and the proposal will be detrimental to highway safety

#### Flood Risk

- Present Environment Agency flood zone designations do not accurately reflect recent flood events.
- The site is prone to surface water flooding during periods of heavy rainfall.
- Development will increase flooding along Brook Lane.
- Run-off will enter Dowdings Brook, causing increased flooding downstream in the centre of the village.
- The existing sewerage system is inadequate and cannot accommodate the level of development proposed.

#### Environmental Concerns

- The proposal would result in increases in noise and light pollution.
- The proposed housing does not appear to be environmentally friendly.
- The scheme would result in the loss of a Greenfield site. A sequential approach has not been adopted.
- There are other sites available that are better suited to smaller scale development.

#### Other Issues

- The concerns raised significantly outweigh any benefits that the proposal might bring and would result in an unsustainable form of development contrary to national and local planning policy.
- Detrimental effect on wildlife, particularly birds.
- The proposal is contrary to the emerging Core Strategy and the 14% growth target envisaged for the Ledbury Housing Market Area.
- The proposals do not reflect the wishes of local residents as expressed through the Neighbourhood Plan.
- The agent's consultation process was limited. It did not include those living closest to the site and its results are misleading.
- The scheme does not provide any benefit to the local community.
- The plans do not include enough recreational space.

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

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

- 6.1 Bosbury is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Ledbury Housing Market Area within the emerging Local Plan – Core Strategy with a 14% indicative growth target over the plan period.
- 6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests and highway safety, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### **The Principle of Development in the Context of 'saved' UDP Policies, the National Planning Policy Framework (NPPF) and Other Material Guidance**

- 6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

*"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that maybe given)."*

- 6.6 The practical effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.
- 6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of



being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.

- 6.9 In this context, therefore, the proposed erection of up to 37 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

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

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and movement towards a low-carbon economy.
- 6.13 Bosbury is a main village within the UDP and also identified as a main village in the Hereford Local Plan – Core Strategy. Officers consider that in terms of access to local services that include a primary school and public transport and its relative proximity to Ledbury where there are employment opportunities, the site is sustainably located whereas the delivery of up to 37 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. The site is not subject to any environmental designations and the Council's Conservation Manager observes that the scheme has the potential to deliver ecological enhancement in accordance with saved UDP policy and NPPF objectives.

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

- 6.14 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geo-diversity sites or landscape areas will be judged. It also confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 are broadly consistent with chapter 11 of the NPPF.
- 6.15 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary. The Conservation Manager (Landscape) has

concluded that the proposed development will have an adverse effect on the character of the landscape and the visual amenity of the locality and will affect the setting of the village.

- 6.16 Bosbury has been allocated for proportionate growth in the emerging Core Strategy. However, in the most recent Strategic Housing Land Availability Assessment no sites were identified as having low or minor constraints. The draft Neighbourhood Plan identifies an area adjacent to Old Court Farm as being appropriate for some growth through a combination of barn conversions and new development. This is immediately adjacent to the Grade I listed church and bell tower and the majority of the site is within Flood Zone 2 and 3. In your officers view it has significant constraints and at this stage it is by no means certain that it is appropriate for the proportionate growth that the village will be expected to accommodate. However, the plan is still at Regulation 14 stage and consequently has no weight at this time.
- 6.17 If Bosbury is to accommodate growth in accordance with the emerging Core Strategy then there will need to be a sacrifice of either the historic or landscape setting of the village. Significant weight has previously been attributed by Planning Committee on its historic setting through the refusal of an earlier application. This proposal is distant from the historic core and, in your officer's view will not have a demonstrable impact on its setting. However, it is clear from the comments of the Landscape Officer that, due to the topography of the site and the surrounding area, it will be visually prominent and will be detrimental as it will be seen in relative isolation to the rest of the village's built form.
- 6.18 However, in light of the weight previously given to the importance of protecting the historic setting of the village, your officer's view is that the landscape impacts that will arise as a consequence of this development are outweighed by the need to demonstrate a five year housing land supply.
- 6.19 The impacts of the development can be mitigated to some extent through the imposition of conditions requiring the protection of hedgerows where possible, the creation of green spaces within the development and the formulation of a detailed planting regime, and this is reflected in the recommended conditions below. In the context of the housing supply situation, the principle of development is considered acceptable in relation to 'saved' UDP policies LA2 and LA3.

### **Highway Safety and Pedestrian Access to Local Facilities**

- 6.20 Saved UDP policy DR3 and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'
- 6.21 Bosbury is served by a local bus service and, although the comments made in the letters of representation about its frequency are acknowledged, this does provide an alternative means of transport for local people. The creation of a pedestrian link at the southern corner of the site provides a safe walking route from the site into the centre of the village where public transport and other local facilities can be accessed.
- 6.22 A number of objections have been raised in specific regard to the location of the means of vehicular access to the site, considering it to be unsafe. The entire road frontage of the application site is contained within the 30mph zone which has recently been extended as part of an improvement scheme for the village. The Transportation Manager has visited the site and raises no objection to the proposal. The submitted plans demonstrate that the appropriate

visibility splays can be provided in accordance with the Council's Highway Design Guide and Specification and, subject to conditions, the provisions made are considered to accord with Policies DR3 and T8 of the UDP.

### **Land Drainage and Flood Risk**

- 6.23 The Council's Land Drainage Manager has not objected to the development subject to the imposition of planning conditions. The site lies wholly with Flood Zone 1 and it at low risk of flooding from fluvial sources. Whilst objection letters have expressed concern at surface water drainage and the absence of detailed design from the current submission, there is no objection in principle to the development of the site as proposed on the provision that detailed drainage proposals are formulated and agreed prior to commencement of development. The Land Drainage consultants comments set out the detailed information that should be incorporated at the detailed design stage and this will be reflected in the imposition of a planning condition to require the submission of a fully integrated foul and surface water drainage system for agreement prior to the commencement of development, with completion of the scheme prior to first occupation of any of the dwelling houses approved. This scheme would be subject to a further round of consultation at the Reserved Matters stage.

### **Impact on Ecological Interests**

- 6.24 The Council's Conservation Manager (Ecology) concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests, but actually has the potential to enhance biodiversity. The oak tree scheduled for removal ought to be subject to further survey work prior to felling. Subject to the imposition of conditions as set out below, which include tree and hedgerow protection measures, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

### **Summary and Conclusions**

- 6.25 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.26 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that in the absence of significant and demonstrable adverse impacts, the application should be approved.
- 6.27 The site lies outside but adjacent to the settlement boundary for Bosbury and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. The creation of a pedestrian link in the southern corner of the site will give access to facilities beyond the extent of the application site and will ensure that prospective residents have a genuine choice of transport modes. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.28 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable and, officers consider that the scheme also responds

positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

- 6.29 The Conservation Manager (Landscapes) has objected to the development on landscape impact grounds. However, the village has been identified as one that is appropriate for proportionate growth in the emerging Core Strategy. The Council has previously apportioned significant weight to the protection of the village's heritage assets through the refusal of a similarly sized scheme for residential development. It is not clear that there are any other sites that are available and deliverable in order to address the Council's lack of a five year housing land supply. While it is accepted that the development of this site will have some landscape impacts, there are no national or local landscape designations in the immediate area. Impacts can be mitigated to some extent through detailed design and the imposition of conditions to retain and protect existing landscape features where possible. It is not considered that the scheme will have a demonstrable impact upon heritage assets due to its distance from them and lack of any visual relationship, and the site is not subject to any of the other restrictive policies that footnote 9 of the NPPF refers to.
- 6.30 The provision of a vehicular access to the requisite highway design and specification can be achieved and the proposal is not considered to be detrimental to highway safety.
- 6.31 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits.
- 6.32 It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation in accordance with the Heads of Terms appended to this report and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 37 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary**

- 1. A02 – Time limit for submission of reserved matters (outline permission)**
- 2. A03 – Time limit for commencement (outline permission)**
- 3. A04 – Approval of reserved matters**
- 4. A05 – Plans and particulars of reserved matters**
- 5. C01 – Samples of external materials**
- 6. The development shall include no more than 37 dwellings and no dwelling shall be more than two storeys high.**

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

7. **H03 Visibility splays**
8. **H11 Parking – estate development (more than one house)**
9. **H17 Junction improvement/off site works**
10. **H18 On site roads – submission of details**
11. **H19 On site roads - phasing**
12. **H20 Road completion**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Covered and secure cycle parking provision**
16. **H30 Travel plans**
17. **The recommendations set out in the summary sheet of the ecologist’s report from HEC dated September 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a habitat enhancement plan should be submitted to, and be approved in writing by the local planning authority and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**  
  
**Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan, and to comply with Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.**
18. **G04 Protection of trees/hedgerows that are to be retained**
19. **G09 Details of boundary treatments**
20. **G10 Landscaping scheme**
21. **G11 Landscaping scheme - implementation**
22. **L01 Foul/surface water drainage**
23. **L02 No surface water to connect to public system**
24. **L03 No drainage run-off to public system**
25. **L04 Comprehensive and integrated draining of site**

**Informatives:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
3. **N11C General**
4. **HN04 Private apparatus within highway**
5. **HN28 Highways Design Guide and Specification**
6. **HN05 Works within the highway**
7. **HN07 Section 278 Agreement**
8. **HN10 No drainage to discharge to highway**
9. **HN08 Section 38 Agreement & Drainage details**
10. **HN01 Mud on highway**
11. **HN25 Travel Plans**

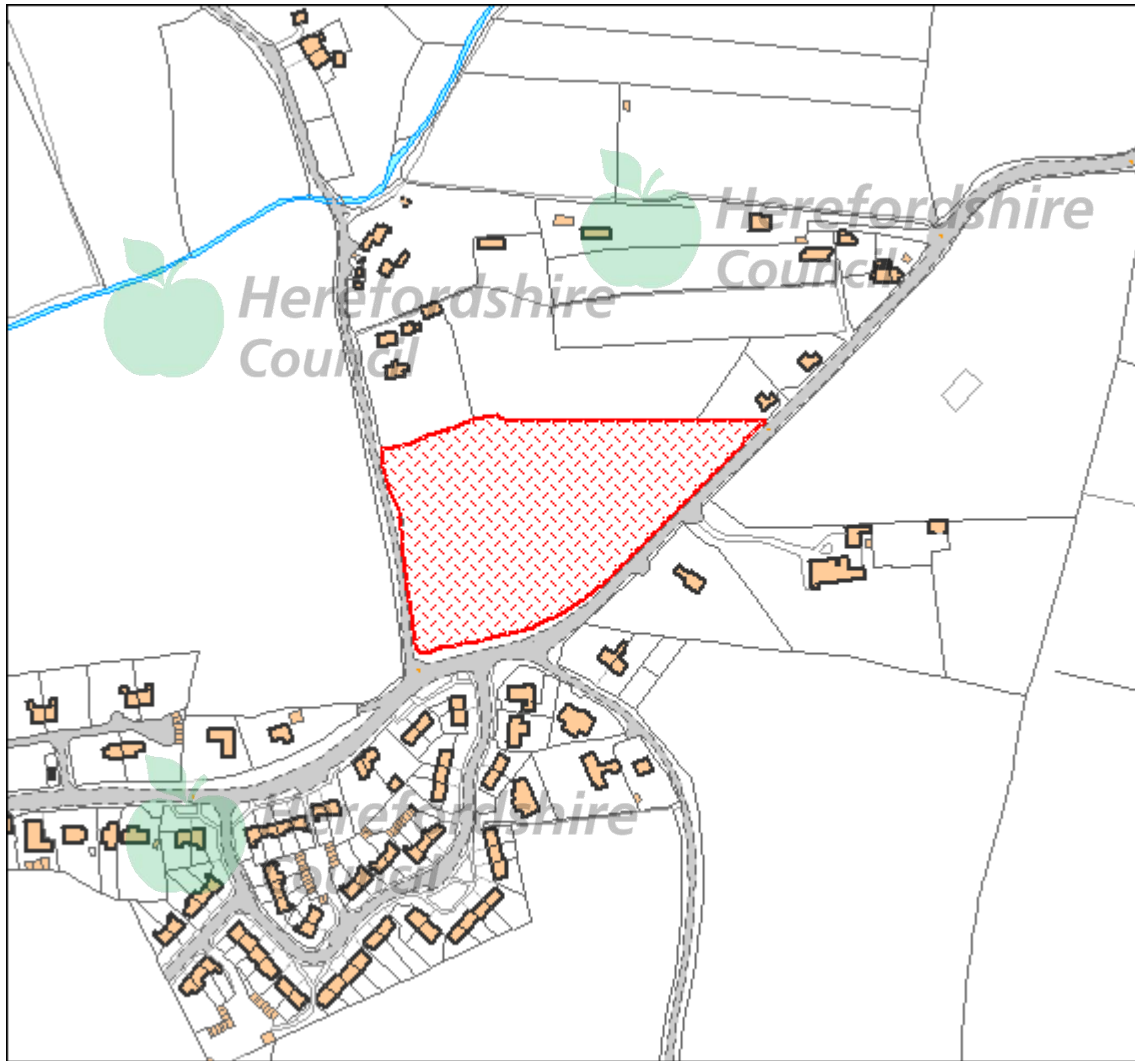
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 143370

**SITE ADDRESS :** LAND TO THE EAST OF BROOK LANE, NORTH OF B4220, BOSBURY, HEREFORD

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005





**DRAFT HEADS OF TERMS**  
**Proposed Planning Obligation Agreement**  
**Section 106 Town and Country Planning Act 1990**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application reference: P143370/O

Proposed residential development for up to 37 dwellings of which 13 (35%) will be affordable on land to the east of Brook Lane, Bosbury, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

<b>£2,845.00</b>	(index linked) for a 2 bedroom apartment open market unit
<b>£4,900.00</b>	(index linked) for a 2/3 bedroom open market unit
<b>£8,955.00</b>	(index linked) for a 4+ bedroom open market unit

The contribution will provide enhanced educational infrastructure at Bosbury Primary School, St Josephs RC Primary School, John Masefield Secondary School, St Marys RC High School, Early Years, Post 16, Youth Services and Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

<b>£1,966.00</b>	(index linked) for a 2 bedroom open market unit
<b>£2,949.00</b>	(index linked) for a 3 bedroom open market unit
<b>£3,932.00</b>	(index linked) for a 4+ bedroom open market unit

The contribution will provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

- a) Traffic calming and traffic management measures in the locality
- b) New pedestrian and cyclist crossing facilities
- c) Creation of new and enhancement in the usability of existing footpaths and cycleways connecting to the site
- d) Provision of and enhancement of existing localised bus infrastructure
- e) Public initiatives to promote sustainable modes of transport
- f) Safer routes to school

3. The developer covenants with Herefordshire Council to pay the sum of:

<b>£235.00</b>	(index linked) for a 2 bedroom open market unit
<b>£317.00</b>	(index linked) for a 3 bedroom open market unit
<b>£386.00</b>	(index linked) for a 4+ bedroom open market unit

The monies shall be used in lieu of the provision of open space on the land to serve the development by Herefordshire Council at its option for improvements to the quality / accessibility of existing facilities in Bosbury and towards improving quality/accessibility or the more natural and semi natural green space and recreational rights of way In accordance with management plans including the Council's Public Rights of Way Improvement Plan. Priorities to spend will be identified through local consultation. The monies may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

<b>£120.00</b>	(index linked) for a 1 bedroom open market unit
<b>£146.00</b>	(index linked) for a 2 bedroom open market unit
<b>£198.00</b>	(index linked) for a 3 bedroom open market unit
<b>£241.00</b>	(index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Leominster. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
6. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*NOTE: The attenuation basin will need to be transferred to the Council with a commuted sum calculated in accordance with the Council's tariffs over a 60 year period.*

7. The developer covenants with Herefordshire Council that 35% (13 units – on basis of development of 37) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
  - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and

- 9.2 satisfy the requirements of paragraphs 10 & 11 of this schedule
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
- 10.1 a local connection with the parish of Bosbury and Coddington
- 10.2 in the event there being no person having a local connection to the parish of Bosbury and Coddington a person with a connection to the adjacent parishes;
- 10.3 in the event of there being no person with a local connection to the above parishes any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.
11. For the purposes of sub-paragraph 10.1 and 10.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 11.1 is or in the past was normally resident there; or
- 11.2 is employed there; or
- 11.3 has a family association there; or
- 11.4 a proven need to give support to or receive support from family members; or because of special circumstances;
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4 and 5, above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

**Andrew Banks**

**Principal Planning Officer**

**24<sup>th</sup> February 2015**





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>143720 - PROPOSED ERECTION OF 40 DWELLINGS INCLUDING 14 AFFORDABLE HOUSES AND CHANGE OF USE OF LAND TO FORM COMMUNITY OPEN SPACE AT LAND SOUTH OF A438 FORMING PARCEL NO 0008 AND PART PARCEL NO 2308, BARTESTREE, HEREFORD</b></p> <p><b>For: INCA 2013 Ltd per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143720&amp;search=143720">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143720&amp;search=143720</a>
<b>Reason Application Submitted to Committee - Contrary to Policy</b>	

**Date Received: 15 December 2014**    **Ward: Hagley**    **Grid Ref: 356092,241115**  
**Expiry Date: 9 April 2015**  
Local Member: Councillor DW Greenow

## 1. Site Description and Proposal

- 1.1 On 27 August 2014 outline planning permission was refused for the erection of up to 60 dwellings on two parcels of land on the south side of the A438, Bartestree. The application also proposed the formation of 0.83ha (2.05 acres) of community open space for transfer to the Parish Council; this land lying adjacent the existing village hall and recreation facilities. The application was refused due to impact on local landscape character and the setting of off-site designated and non-designated heritage assets.
- 1.2 This application is a resubmission of the refused scheme; albeit one that is amended significantly. It is now proposed that up to 40 dwellings (including 14 affordable) be constructed on the eastern parcel (where 49 were previously proposed) with the whole of the western parcel transferred to the Parish Council and protected for community use as public open space; 11 dwellings having previously been proposed on the northern part of this parcel. The application thus proposes twenty fewer dwellings and an increase in the public open space offered to the Parish.
- 1.3 The application remains in outline with all matters bar access reserved and thus seeks approval for the principle of development, with detailed matters of appearance, scale, landscaping and layout deferred until the Reserved Matters stage.
- 1.4 The application site is outside but adjacent the settlement boundary for Bartestree as defined by the Unitary Development Plan (UDP), on a SHLAA 'minor constraints' site.

---

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

- 1.5 The western parcel is broadly rectangular in shape except where two detached residential properties occupy a smaller rectangle in the northwest corner. It is proposed to transfer the entire field (1.87ha) to the ownership of the Parish Council as an extension to the existing village recreation area, which is immediately to the west adjacent the village hall and associated sports pitches.
- 1.6 The boundary of this parcel with the A438 is formed by a hedgerow with narrow grass verge. This hedge is maintained at a height which allows views of the field from the houses on the north side of the road, including Hagley House and The New Inn (now closed). The eastern boundary is formed by trees and dense shrubbery lining the driveway to Hagley Court, including some rare Lucombe Oaks. To the south is a poorly maintained and gappy hedge for approximately 60% of the boundary - with mature trees in the field to the south, including a distinctive row of Lombardy Poplars. West of this Stalls Farm forms the boundary of the field where several barns have been converted into dwellings alongside the original farmhouse. The application proposes no changes to this parcel. It is only the transfer of the ownership to the Parish that is proposed.
- 1.7 To the east of the drive to Hagley Court is the second open grassland field where the residential development is proposed. It is presently accessed via a gate in the northeast corner where there are also three properties facing on to the plot; Nos 1 & 2 Haven Cottages and Figgynut Cottage. All three are set back 18m from the site boundary. There is a bus stop with shelter immediately east of the entrance to Hagley Court. The northern boundary to this parcel is also formed by a maintained hedgerow, affording views across from existing residential properties on the north side of the A438. The proposal would involve removal of this hedgerow as part of the formation of a vehicular access.
- 1.8 To the immediate south of the eastern parcel is an area designated as a nature conservation area where no development will occur. This site supports several mature trees including Oak, Beech, Lime, Cedar and Oriental Plane. There is also a small overgrown pond in the northwest corner of this parkland area. All boundaries are hedged except the diagonal one adjacent to the drive to Hagley Court Cottage which is formed by a post and wire fence.
- 1.9 There are Public Footpaths along the eastern edge of the eastern parcel (Footpath LU29) and east to west across the southern end of the field (Footpath LUI4). This also follows part of the southern boundary of Plot 002, immediately north of Stalls Farm.
- 1.10 Hagley Court (Grade II Listed) lies to the immediate south of the plots and is an unregistered park and garden of local historic interest; the boundary of which passes through the retained conservation area. The house has been split into two dwellings and there are now several properties in the grounds, although the parkland landscape still provides a structure into which the additional properties are absorbed so that their effect on this landscape is limited. Opposite the site on the north side of the A438 both Hagley House and The New Inn, which stands opposite the entrance to the Hagley Court drive, are Grade II listed.
- 1.11 As above, the application site is outside but adjacent the UDP defined settlement boundary and the application is predicated on the lack of housing land supply.
- 1.12 The application is supported by the following:
- Planning Statement
  - Flood Risk Assessment
  - Landscape Capacity Appraisal
  - Phase I Ecology Survey and further bat and newt surveys
  - Transport Assessment
  - Development Constraints Plan
  - Heritage Impact Assessment

---

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



- 1.13 Tree constraints information, which plots notional root protection areas for the mature trees lining the drive to Hagley Court, has also been provided. Since the original application a number of these trees lining the drive, together with some in the nature conservation area to the south have been subject to service of Tree Preservation Orders. The development constraints plan demonstrates a 'development exclusion zone' against boundary hedgerows; with the exception of that lining the road. The public rights of way are also maintained with appreciable buffers. A landscape detail demonstrating the proposed treatment of the A438 frontage has also been submitted. The road side landscape detail indicates 1.5m grass verges either side of a 2.0m footway across the northern boundary of the eastern parcel, with tree planting within the 'inner' verge and a hedgerow to the rear. This approach requires removal of the existing roadside hedgerow for the eastern parcel. As above, the boundary hedging to the western parcel remains unaltered.
- 1.14 The application has been screened in accordance with the Environmental Impact Regulations 2011. It is concluded that the development does not require the submission of an environmental statement.
- 1.15 The application has also been screened in accordance with the Habitats Directive. It is concluded that subject to mains disposal of foul water, the development is unlikely to result in significant effects on the River Wye SAC.

## 2. Planning Policies

### 2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting Sustainable Communities
Chapter 6	-	Delivering a Wide Choice of High Quality Homes
Chapter 7	-	Requiring Good Design
Chapter 8	-	Promoting Healthy Communities
Chapter 11	-	Conserving and Enhancing the Natural Environment
Chapter 12	-	Conserving and Enhancing the Historic Environment

### 2.2 National Planning Practice Guidance 2014

### 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Open Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces

---

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

T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA4	-	Protection of Historic Parks and Gardens
LA5	-	Protection of Trees, Woodlands and Hedgerow
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH3	-	Scheduled Ancient Monuments
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul Drainage

#### 2.4 Herefordshire Local Plan - Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

#### 2.5 Neighbourhood Planning

Bartestree and Lugwardine Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

#### 2.6 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

### 3. Planning History

On site

#### 3.1 DCCE2003/1716/F – Change of use of agricultural land to form village playing field: Approved 29 October 2003. This application relates to the western field.

Other relevant applications.

- 3.2 140531/O – Erection of 30 dwellings, including 10 affordable on land at Quarry Field, Lugwardine. Refused 23 April 2014. Appeal allowed 12 February 2015.
- 3.3 132536/F – Erection of 50 dwellings on land adjoining Williams Mead, Bartestree: Refused 12 March 2014. Appeal lodged, decision pending.
- 3.4 140757/O – Erection of up to 51 dwellings on land east of Church House and west of the A438, Bartestree. Refused 29 October 2014. Appeal lodged, decision pending.
- 3.5 140926/O – Erection of 60 dwellings (including 21 affordable) and a change of use of land to form community open space on land to the south of the A438, Bartestree. Refused 27 August 2014. Appeal lodged, decision pending.
- 3.6 143771/O – Site for erection of up to 100 dwellings with associated open space and community orchard with all matters bar access reserved: As yet undetermined.
- 3.7 The appeal site visit for the original application 140926/O is scheduled for the afternoon of 16 March 2015.

#### **4. Consultation Summary**

##### Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions.
- 4.2 Natural England: No objection subject to confirmation that public sewerage network has adequate capacity to accommodate foul discharge from this site.

##### Internal Council Advice

- 4.3 Conservation Manager (Historic Buildings): Objection.

The proposed site for residential development lies to the east of the driveway to Hagley Court. Hagley Court is a grade II listed country house dating from the early 18th century. Much of the immediate area surrounding Hagley Court is an Unregistered Historic Park and Garden.

The application site is an open field used as grazing land and not part of the Unregistered Historic Park and Garden; nonetheless it contributes to the setting of the Hagley Court complex. The historic complex of Hagley Court and its parkland are clearly visible from the A438, even though the actual buildings are largely obscured by trees and landscaping. Hagley Court's significance as a country house of distinction partly derives from the sense of arrival fostered by the tree-lined driveway which approaches the Court with open fields to both sides. The open character reinforces the rural setting and independent character of Hagley Court to the visitor, villagers and the general public. Historic maps show that the two fields of the application site, to either side of Hagley Court drive, have remained as clear grazing or arable farming, despite the majority of fields lining the A438 being utilised historically as orchards. This indicates that the fields were probably intentionally kept open as part of the sense of arrival at Hagley Court, since there does not appear to be any physical reason why the fields were unsuitable for orchards. The National Planning Policy Framework defines the setting of a heritage asset as "The surroundings in which a heritage asset is experienced". In the case of Hagley Court this experience includes the view and appreciation of the Court complex from the A438 main road, where it is seen as standing separate from the village cluster.

A previous application for 60 houses also included the field to the west of the driveway. This field is now shown as public open space. While this proposal limits the extent of the

developed area to the field east of the drive, the open setting for the Hagley Court complex would still be significantly diminished. The development of the field to the east of the driveway for residential purposes would remove much of the open setting for the Hagley Court complex on the northern side. Part of the significance of Hagley Court derives from its status as a country house and its relationship with its parkland, the surrounding countryside and the village. The house was intended to be visibly separate from the village to set itself apart and emphasise the social status of its owners. The loss of the open and rural arrival would have a significant impact on its setting and would effectively attach Hagley Court to the built environment of the village from which it has historically sought to be very visibly separate. It is therefore considered that this would cause significant harm to the setting of the complex and its parkland. It is considered that the proposal would be contrary to Policy HBA4, setting of Listed Buildings and also paragraph 132 of the National Planning Policy Framework.

The residential proposal would also adversely affect the setting of Hagley House and its neighbour The New Inn. The setting of these grade II listed heritage assets is relatively spacious with edge-of-village character and appearance. This is reinforced by the rural outlook from the listed buildings but also is part of the historic landscape setting when travelling along the A438 in either direction. To have the southern side of the A438 developed in a similar way to the north side would fundamentally change the character and appearance of this edge-of-village location to a much more suburban character and would more strongly link the heritage assets to the original village cluster. This would therefore remove the rural setting of the heritage assets and thus significantly alter and harm their setting and historic context. This would be contrary to HBA4, Setting of Listed Buildings.

#### 4.4 Transportation Manager: No objection subject to conditions

I confirm that the responses provided in the agent's e mail of 27 January 2015 in response to my original comments have clarified what is being sought under the application. I also confirm that the drawing requested to indicate the overall road frontage treatment and access arrangements now proposed was received by e mail on 4th March 2015 (drawing 14-055-04 dated 26th February 2015) and those proposals are considered acceptable.

We can condition access, visibility and footway provision to shop and along A438 as shown on that plan. For completeness it would be better to reference drawing 14-055-04 dated 26th February 2015 (or subsequent approved) in any condition.

We have been provided with documentation indicating third party landowner agreement to enable provision of the footway eastwards to the shop and controlled crossing, and the land will need to be dedicated as highway. The slight uncertainty remains to the full deliverability of this length of footway, as was the case for the previous application, and an overall view needs to be taken in this respect. Without that link, pedestrians have the option to cross the road, albeit not at a controlled crossing, anywhere along the frontage to gain access to residential development and primary school on the north side of A438 and to then cross back to access the shop. This option may benefit for the frontage footway being against the road rather than with an intervening verge (hence the "or subsequent approved" suggestion above).

Subject to that being considered acceptable, my recommendation is for approval subject to conditions as before.

#### 4.5 Conservation Manager (Landscape): The current application P143720/O relates to a previous application P140926/O for 60 dwellings on the same site to which we objected to the principle of development, concluding that the proposals would result in *the coalescence of existing built development either side of this strategic gap, closing off the view over parkland which makes an important contribution to the historic landscape character of the village.*

- The current proposal comprises development to the eastern field only with the western portion now retained as public open space. Whilst it is acknowledged that the site itself does not fall within the unregistered historic park and garden designation, it is clear that the field historically preserved as pasture land and bisected by an avenue of Oaks leading to Hagley Court, has a direct relationship with the house and its parkland setting.
- Having visited the site and its environs on a number of occasions I am of the opinion that for the integrity of the park to be preserved it should be considered in its entirety. The contribution that this pasture land makes to the setting of the house when considered in relation to the surrounding orchard plantation, illustrates the sense of arrival experienced by the visitor to Hagley Court and the historic significance of the country house.
- The imbalance created by development to the eastern side of the park erodes the fundamental design principles including symmetry and balance upon which historical gardens and parklands were founded and is therefore considered equally harmful to its integrity.

When considered in conjunction with application P143771/O an outline application for 100 units extending southwards from land adjacent to this site across parkland adjacent to Longworth Lane. It is considered that there is real potential to significantly harm the historic character of the settlement of Bartestree.

4.6 Conservation Manager (Archaeology): No objection

4.7 Housing Development Manager: No objection subject to revision of the mix of social rented units and removal from the draft Heads of Terms of Hereford as one of the qualifying cascading parishes.

The application meets the requirement to provide 35% affordable housing. The tenure split of 50% social rent and 50% intermediate tenure is acceptable, but the mix proposed is not acceptable. The mix of the social rented units should be 2x1 beds, 3x2 beds and 2x3 beds.

4.8 Schools Capital and Investment Manager: No objection subject to completion of S106 agreement securing contribution towards Lugwardine Academy. It is confirmed that children living at the development *would* get priority over those from outside the defined catchment area who may seek to gain admission.

4.9 Parks and Countryside Manager: No objection

**POS/recreation requirements: UDP Policies H19 and RST3:** My previous comments in relation to this site considered a larger development of 60 houses. This smaller scheme requires less in terms of POS/recreation requirements as follows:

A development 40 houses using the average occupancy of 2.3 (total 92) in accordance with UDP policies H19 and RST3 is required to provide POS and play provision as follows:

- POS (0.4 ha per 1000 population) 0.036ha (360sq m)
- Play area provision including formal and informal( 0.8 ha per 1000 population) 0.073ha (730sq m) of which 0.023ha (230sq m) should be formal (in accordance with the Fields In Trust Standards of provision – 0.25ha per 1000 pop)

**Total 0.10ha**

These policy requirements are more than adequately met through the provision of land for POS/recreation and off-site contributions for play as detailed below.

**Amended site layout plans and Planning & Access Statement:** The revised scheme now includes the whole parcel of land to the west to be made available for POS and as such the

applicant intends to gift it to the community for this purpose subject to certain clauses and restrictions. In doing so the landscape value of the area will be protected and additional POS and recreation land will be provided to meet the needs of the local community. It is understood that the land will be capable of being utilised to provide a number of community uses including informal recreation, picnics and a sports ground. It is 1.87 ha in size which is substantially in excess of policy requirement of 0.1ha. Although the applicant has acknowledged that in the Bartestree and Lugwardine 2008 Parish Plan identified a need for additional playing fields which were initially met by the village hall development, it is recognised that although this information is out of date the Parish Council has recently registered their intent to produce a Neighbourhood Plan. It is for the Parish Council to determine whether this gift is desirable/ sustainable from their perspective.

Whilst it is not a policy requirement for this development to provide outdoor sports provision given its size, the draft Investment Plan for outdoors sports pitches and facilities (which is a document identifying future investment priorities to help deliver quality and sustainable projects in the right locations based on the findings of the playing pitch assessment), includes a project to develop additional junior football pitches in Bartestree. This is seen as a priority for both Bartestree Football Club and the Regional and Herefordshire Football Association and substantiates the applicant's supporting information. Whether an area of land with clauses and restrictions can provide this though will remain to be seen.

**Heads of Terms:** It is noted that the draft heads of terms include under item 3 an off-site contribution toward play provision in the village based on market housing only. This is per previous comments and is supported as part of policy requirement and is in accordance with the SPD on Planning Obligations and the Play Facilities Study and Investment Plan.

#### 4.10 West Mercia Police:

There are opportunities to design out crime and/or the fear of crime and to promote community safety. There is a clear opportunity within the development to achieve the Secured by Design award scheme. The development appears to have reasonable access control and natural surveillance already built into the design. The principles and standards of the award give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction which would enhance the community well being within this village.

## 5. Representations

### 5.1 Bartestree with Lugwardine Group Parish Council: Support - detailed comment including discussion of a range of issues is set out below:-

Prior to the Parish Council considering the planning application at an Extraordinary Meeting on 3 February 2015, the 47 members of the public in attendance were invited to make constructive comments. There was a detailed discussion between the members of the Parish Council and the local residents.

It was noted that this Application is an alternative to Application No 140926, which is currently under appeal. The Application under appeal relates to a development site of 60 houses on 2 fields. This Application proposes a development of 40 houses on the eastern field with the western field being gifted to the Parish Council for use as community open space.

A considerable number of the residents in Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond the large number that have taken place in the previous two plan periods. The group parish currently holds the position of the third largest village in Herefordshire. They are also incensed that Herefordshire Council has failed to protect them from the present/imminent

development by not being able to demonstrate the five-year housing land supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective.

#### *Location/Impact on Village*

The proposed development site consists of one field, which forms part of the rural heart of Bartestree and defines it as a village. Many residents feel that if 40 houses are built on the site Bartestree will lose its rural character. They feel that the density of housing is too high and that the number of houses proposed is disproportionate to what the village requires and the busy A438 can stand. The centre of the village would be adversely affected and the development would not enhance it at all. The long distance views over the fields are superb and some of these will be lost to the village if the development goes ahead. Currently sheep and horses are seen grazing in the fields, which add to the character of the rural settlement.

It was noted and acknowledged that the offer of the western field to the Parish Council for community open space was very generous and would benefit the residents of Bartestree and Lugwardine.

The proposed development abuts historic parkland and gardens; there is a listed building next to it and a Public Right of Way through the site. There is also a long drive of unique evergreen oak trees, which add to the character of the area. These trees are now subject to a Tree Preservation Order dated 16 January 2015 No. TP0575.

Historically almost all development is to the north of the A438 and it is strongly believed by many residents that the pattern should stay that way, leaving the south open and green. Compared to the previous application only one of the fields would be used for development.

#### *Listed Buildings*

There are 3 Listed Buildings in the immediate area, which would be adversely affected - Hagley House, Hagley Court set in historical parkland and The New Inn public house. The proposed development would detract from the traditional rural setting of all these buildings and fundamentally change the character and appearance of the area. The site is a fairly large proportion of undeveloped area to the south of the A438 that is visible to the public and enjoyed by the residents of and visitors to the village and many residents feel that if planning permission is approved the open setting and beautiful views would be lost to the residents and public forever.

#### *Neighbourhood Development Plan (NDP)*

In June 2014 The Neighbourhood Development Plan Steering Group circulated a comprehensive Questionnaire to the residents of Lugwardine and Bartestree. The response was 75% and the views expressed by the residents support the findings of the Parish Plan; namely that future developments should be moderate, in-fill and/or brown-field sites. It is strongly believed that any Greenfield development should be a last resort and not a default option. Unfortunately the first public consultation of the NDP has had to be postponed, due to delay of the Herefordshire Council completing the SHLAA Assessment for the village.

#### *Water and Sewerage*

Residents of Bartestree and Lugwardine are increasingly concerned and frustrated that Welsh Water and Herefordshire Council continue to take the view that the existing drainage infrastructure in the villages is adequate for existing and future developments. The reality is that residents are experiencing very unpleasant incidents with sewage and flooding. Indeed, on 8 February 2015 local residents contacted the Parish Council to advise that there was raw sewage running down the A438 from a main drain. Welsh Water has finally acknowledged that there are issues with the sewerage and water supply networks in Bartestree and Lugwardine and that it is necessary that development be phased later in the plan period, in

line with Welsh Water's next capital investment programme. It is not surprising, therefore, that many residents are concerned how surface water supply and drainage are to be dealt with.

#### *Traffic/Highway Safety*

Residents are already concerned about the volume of traffic using the A438 in both directions between 7.30am - 9.30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern. Residents who live in properties along the nearby section of the A438, or joining it from side roads, already experience delays and risk when attempting to exit their driveways on to the main road. With a further 40 dwellings it is not unreasonable to estimate another 80 vehicles that will need to join the A438 at peak times.

Pedestrian access is poor. Any children attending the local schools (if they can find a place) will have to cross the road in the opposite direction from where they are heading. This is most likely to result in them trying to cross a dangerous busy road without using the pedestrian crossing. Any children using the local secondary school are already forced to cross in 2 different places, as there is no continuous footpath.

#### *Capacity*

Given the number of proposed dwellings, there will be a large number of children of varying educational ages who will need to travel to school. There is little or no provision for the range of education that will be required, which will result in there being a greater volume of traffic ferrying them to and from alternative schools.

#### *Nature of Development*

A large number of residents consider that there is little demand for this number of houses in Bartestree. The purchasers would not be employed locally but in Hereford or beyond and that the needs of the people of the village have not been addressed. However, it is noted that the proportion of affordable and intermediate housing is reasonable and that the larger executive houses have been kept to a minimum.

#### *Cumulative Effect*

The residents of Bartestree and Lugwardine, as well as the Parish Council, feel that it would be wholly unreasonable not to take into consideration the cumulative impact of this application. It should be considered in light of the fact that there are currently six applications pending. If these are approved on Appeal or at the Planning Committee then there will be 290 new dwellings in the village. If each application is only considered on its merits without looking at the cumulative impact then the problems that will arise regarding the traffic, school facilities, water and sewage will be immense and could not be reversed.

This application is one of six planning applications received in the last 12 months. If all applications were approved a total of 290 new houses would be added to a Group Parish which currently has a core of 650 dwellings. This would mean a potential increase of 45% in 5 years and two and a half times the increase recommended in the LDF Core Strategy of 117 dwellings over 20 years. The Group Parish and Herefordshire Council have supported and approved applications for 13 dwellings since 2011, which complies with the recommended increase in development.

#### *Conclusion*

It is recognised by the Parish Council and the residents that effectively this Application is an alternative to Application No 140926. Application No 140926 seeks permission for 60 dwellings on 2 fields with a small area donated for community open space. This current Application restricts development to one field with the other field being gifted to the community. It has been acknowledged that this is an unusual and generous gesture by the developers.



The Parish Council asked the residents present to indicate their response to this Application and of the 47 present, 17 voted for and 15 against. The mood was split with those supporting the application appearing to do so reluctantly but acknowledging that there will have to be some development in the villages.

The Parish Council voted 5 in favour of the application, 2 opposed and 1 Councillor did not vote. The application is therefore approved in outline and subject to appropriate arrangements being made for dealing with water supply, sewerage and the disposal of surface water.

5.2 40 letters of objection have been received. The content is summarised as follows:-

- The scale of development sought in terms of number will dominate and transform the notion of village life.
- Other large-scale developments have and are likely to come forward, transforming the feel of the village, resulting in coalescence with Lugwardine and turning the village into nothing more than a suburb of Hereford;
- The pressure brought to bear by the response to the Council's apparent housing land supply issue is wholly prejudicial to the Parish's Neighbourhood Plan. A steering group has been enacted. It would be fundamentally wrong and contrary to NPPF paragraph 17 to take decisions on large-scale proposals when an enormous amount of work in preparation of the neighbourhood plan has already been undertaken;
- The Draft Local Plan – Core Strategy 2013-2031 envisages proportionate growth of 118 dwellings over the plan period. This equates to 7/8 a year. Parishioners are supportive of a staged and progressive approach, utilising the redevelopment of brownfield sites rather than a headlong rush to meet a shortfall that only exists because of the planning policy position;
- At various times existing dwellings suffer from reductions in water pressure. Adding 40 dwellings will exacerbate this issue, which is of significant concern in the context of other large-scale proposals in the locality. Assurances given by the developer and Welsh Water are not sufficient;
- The road is designated a 'road for concern' by the West Mercia Safe Roads Partnership and speed measurements reveal that a high proportion of vehicles break the 30mph speed limit. Adding two junctions on the south side of the A438 in close proximity to busy junctions on the north side of the road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community. These houses will become the preserve of executives who work elsewhere and commute long distances to work. This is not representative of sustainable development;
- There is no continuous pavement link between Bartestree and Lugwardine. This is particularly relevant given the developer's assertion that the site is well served by footpaths. School children walking to the high school in Lugwardine have to cross the A438 at two points. Pedestrians coming to the primary school in Bartestree from Lugwardine have to do the same;
- The development will result in the loss of privacy for residents living opposite and nearby, some of whom cannot erect or plant screens because their properties are listed;
- The schools are at capacity and without the ability to expand on their sites. This has been confirmed by the head-teacher of Lugwardine Primary School (located in Bartestree);
- The submitted layout indicates a density which is out of keeping with the local pattern of development;
- It is clear that some on the Parish Council have been seduced by the offer of the western parcel as community open space. This should not detract from the fact that the development proposed on the eastern parcel is unacceptable;
- The complete or even partial loss of the roadside hedge would be detrimental to green infrastructure and damaging to the character of the village;

- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, medical facilities and only one comparatively modest convenience store;
- Drainage is a significant constraint. The existing mains sewer is considered over capacity, as is evidenced by frequent flooding locally;
- The development will irrevocably change the character of the village. Development on the south side of the main road is limited to sporadic, historic properties;
- The development will result in the loss of an outstanding view southwards towards the AONB;
- The historical and cultural narrative of the villages would be better served through smaller development;
- The proposed dwellings do not meet the needs of the elderly. There are no bungalows;
- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The cumulative impact of this and other proposed development should be considered in relation to the impact upon existing residents, infrastructure and traffic congestion;
- The surface water drainage strategy is not fully detailed and liable to cause pollution of private water supplies;
- There are no allotments or public open space and the site does not enjoy good links to existing facilities;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips;
- The impacts of the development upon bat flight paths and great crested newt habitats are underestimated. Great crested newts are known to inhabit ponds locally;
- The detailed landscape proposal requires removal of the roadside hedgerow, which in itself is contradictory to the original Landscape Character Appraisal and damaging to landscape character;
- The construction phase will create noise, dust and traffic chaos for existing residents. Small-scale developments ongoing cause enough disruption. Large-scale versions will be horrendous.

5.3 Two letters of support have been received. The content concludes that the additional population can only be good for the viability of local services and that the scheme has taken reasonable account of village requirements in the form of the community open space.

5.4 Hereford and Worcester Garden Trust: Objection.

The Trust wrote in April 2014 opposing the development of two fields either side of the drive to Hagley Park, fronting the A438 (Planning Application 140926). Whilst we are impressed by the generous offer made by the developer of the western field as a public recreation area, we can see no reason to withdraw our original letter. The tenor of our argument still stands and a development of 40 houses is still out of place in this sensitive part of Lugwardine/Bartestree. Accordingly, with minor amendments, I resubmit our original statement.

In the Survey of Historic Parks and Gardens of Herefordshire (2001) the Hereford and Worcester Gardens Trust recorded six parks and gardens, worthy of local listing in the parishes of Lugwardine and Bartestree. The Survey also noticed that the presence of these estates created two extensive areas of parkland, which is marked on the 1886 6" OS plan. This is found in the west of the parish, around New Court and Lugwardine Court, and in the east, overlooking the Leadon valley, around Longworth Court, Wilcroft, Hagley Park and Bartestree Court. Lugwardine was much favoured in the late 18th and early 19th century as a place of residence for members of the minor gentry, high churchmen and well-to-do traders from the city of Hereford. Their planting (and their buildings) gave Lugwardine an unparalleled polite environment, which is still apparent today albeit major inroads have been made, with

modern housing, in the vicinity of Wilcroft, Bartestree Court and Lugwardine Court. Hagley, however, at the heart of the upper village, still retains the integrity of its parkland setting.

Although there has been considerable development, behind the historic building line, on the north side of the A438, the south side of the road, either side of the drive to Hagley Park, remains conspicuously rural. The two fields of permanent pasture - the site of the proposed housing development - provide a foreground both for the listed buildings on the north of the road and the parkland around Hagley, which stands out prominently in the near distance. A notable landscape feature is the drive to Hagley Park, which bisects the development area and is lined with an avenue of Holm oaks (*Quercus Ilex*) - some of the best full-grown examples of this species in Herefordshire. The drive is entered via a fine cast iron gate of lattice design, with classical columns as piers, dating from the Regency era e.g. c. 1820-30. Hagley Park was a new estate when it made its first appearance on the 1831 1" OS map.

By 1886 it had a mature parkland landscape, which merged on the south-east with the older parkland around Longworth Hall. Before the arrival of the drive, the two fields under consideration here were originally one field. Although not formally imparked, they were attached to Hagley and are referred to on the tithe map of 1842 as the 'Piece at Hagley'. It seems very likely that the 'piece' provided a summer paddock for the household horses at mansion. Either side of the field there were orchards in 1886 and to the south an area of mature tree planting, screening the north side of the house and its gardens. This area still contains some large specimen oaks, limes, sweet chestnut and conifers, typical of early 19th century planting. This was probably part of the 'thick coppice' noticed by the Woolhope Naturalists Field Club on a visit to Hagley in August 1857. The Hereford and Worcester Gardens Trust believes that the open aspect of the 'Piece at Hagley' should be preserved as an essential element in the setting of upper Lugwardine. It is an integral part of the polite landscape surrounding Hagley Park, which is itself a listed building and thus, an important heritage asset in the village-scape. The area is accessible by footpaths and thus, has recreational and amenity value. Moreover, on the opposite side of the main road there are a series of listed buildings including the outstanding New Inn, and several fine Georgian houses e.g. Hagley House, not to mention, other pretty vernacular cottages, which give much character to this part of the village. Their listed status would be blighted by the new housing, placed so conspicuously with their backs along the edge of the field under consideration. Similarly, the new houses would have a detrimental impact upon the character of the Regency drive to Hagley Park, crowding the wonderful Holm oaks and obscuring the parkland landscape beyond. These two fields play an important part in the landscape of upper Lugwardine and the Council should refuse permission for development.

#### 5.5 Hereford Ramblers: No objections.

The eastern boundary will still be served by Public Footpath LU29, with an access from the A438 at the north-eastern corner of Parcel 1 (Eastern Field) and south-eastwards down to OS 356260, 241134.

The southern boundary adjoins an area of 'retained land' and we are pleased to note that footpath LU29 will be maintained, to access the neighbouring proposed development P143771/0 at OS 356282, 241074.

Footpath LU14 also routes from this point, north-westerly, through this retained land and it should also be managed by the Applicant. There is a pond close to the south west corner of parcel 1, which tends to flood during heavy rain, making access to the footpath stile difficult. This could be exacerbated by run off from parcel 1 development.

The southern boundary of Parcel 2 (Western Field) shares a common boundary with Stalls Farm House buildings and, footpath LU14 runs alongside and to the north of these buildings. At present this footpath section is very muddy and drainage from the field favours this location.

If the land to the north of this path and up to the housing boundary is removed from agricultural use and left as a Public Open Space, then the condition of the footpath would improve.

It should be noted that footpaths do require maintenance over a period of time and I would request that it is made clear who is responsible for this. The developer should be aware that he/she has a legal requirement to maintain and keep clear a Public Right of Way at all times.

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

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

- 6.1 Bartestree with Lugwardine are both identified as main villages within the UDP and are also identified as candidate villages for proportionate growth over the lifetime of the emerging Hereford Local Plan to 2031. The indicative growth target is 18% across the two villages, which equates to 117 dwellings. This is one of five large-scale sites received within Bartestree and Lugwardine over the last 12 months. The others are identified in the planning history section and are at various stages in their determination. The appeal at Quarry Field, Lugwardine (30 dwellings) has been allowed. Appeal decisions are pending in relation to land adjacent Williams Mead (50 dwellings), the forerunner to this application (60 dwellings) and land to the east of Church House (up to 51 dwellings). There is a current application (143771) for the erection of up to 100 dwellings on land to the immediate east of the site.
- 6.2 The application is made in outline with all matters bar access reserved and involves the erection of up to 40 dwellings with 35% affordable on land to the south of the A438 Hereford-Ledbury Road, Bartestree with associated vehicular access. The site for residential development is now limited to the field of permanent pasture on the east side of the drive to Hagley Court. The site is outside but adjacent the settlement boundary as defined by the Unitary Development Plan. The application is predicated on the Council's lack of housing land supply.
- 6.3 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, heritage assets in the form of the listed buildings and unregistered parkland nearby, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### ***Planning Policy***

- 6.4 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 6.5 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached. At the time of writing the Core

Strategy Policies, which have been examined in public, attract only very limited weight for the purposes of decision taking.

- 6.6 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.
- 6.7 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *“Approving development proposals that accord with the development plan without delay; &*
  - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
    - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - specific policies in this Framework indicate development should be restricted.”
- 6.8 In the context of the UDP and the Council’s acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.
- 6.9 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.10 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced in Chapter 6 - Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.11 The social dimension *also* refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.
- 6.12 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located within one of the largest villages in proximity to the main population centre (Hereford) whereas the delivery of 40 dwellings, including 35% affordable, and community open space would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. In this case, it is the assessment of the development’s approach to fulfilment of

the environmental role, with specific reference to landscape character and the impact on the setting of listed buildings and unregistered historic parkland that is critical.

### **Impact on landscape character, visual amenity and heritage assets**

- 6.13 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.14 The application site has no formal landscape designation. It lies in open countryside outside the settlement boundary. The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 2.5km to the south east, where there is a public viewpoint above Prior's Frome, and some 5km to the south at Holme Lacy. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB). It is also accepted that the site has a limited visual envelope, being reasonably well screened from most vantage points; the obvious exceptions being close up views from private properties, public rights of way and the main road.
- 6.15 The application site is located immediately opposite two Grade II listed buildings and sits on either side of the regency driveway to Hagley Court; also Grade II listed. The unregistered parkland associated with the latter extends into the southern part of the application site; albeit covering the area that is designated as a retained nature conservation area. The Conservation Manager (Landscape) objects to the proposal as set out above at 4.5. Hagley Court itself, however, is largely hidden from views from the main road in a mature, well treed setting.
- 6.16 Although accepting that the site has a limited visual influence and benefits from a degree of screening from a southerly aspect in particular, the Landscape officer considers that the application understates the importance of the site as part of an historic landscape; rather the Landscape Capacity Appraisal (LCA) has been predicated on assessment of the visual impacts, without full assessment of the impact on the historic landscape. There remains a level of disagreement, therefore, in relation to the site's sensitivity and its function as a remnant of a structured historic landscape. The Conservation Manager (Historic Buildings) also objects on the basis that the application site forms an important element to the setting of the adjoining listed buildings.
- 6.17 It follows that there is disagreement as regards the nature and magnitude of the landscape character and visual effects likely to arise as a result of the development proposed. The LCA acknowledges that the development would result in the loss of grazed pasture land, which provides a strategic gap on the southern side of the A438 affording views towards Hagley Court's parkland and wider-ranging views of the open countryside beyond, extending as far as the AONB. It is also acknowledged that built development, other than at the eastern end of the village, is limited to scattered, period properties and that this development would clearly alter the landscape character of the site and reduce the permeability and openness of views along a section of the A438. The submitted Heritage Statement accepts that some harm would result to the setting of the listed buildings, but that such harm is less than substantial.

- 6.18 Although your officers recognise the direct impacts on landscape character arising from loss of pasture land and replacement with housing and the direct impact upon the amenity of neighbours, walkers using the public rights of way network locally and those travelling through Bartestree, these must be weighed against the benefits of the scheme, including those relevant to the economic and social roles outlined above. Officers acknowledge that this major development would irrevocably change the character of the village, diminishing the rural setting and transform the village pattern into a more nucleated settlement. Against this, however, the site is not subject to landscape or nature designation itself, is unconstrained in other respects and in your officers' opinion, represents a logical location for development at the heart of the village on the same side of the road as the village hall, playing fields and recreation areas, shop and nursery.
- 6.19 Officers are also conscious that although potentially unbalancing the foreground of Hagley Court by developing on one-side of the driveway, the retention of the western parcel as public open space does retain a large proportion of land to the south of the main road as undeveloped; and specifically that land directly opposite the listed Hagley House and The New Inn. Officers consider it reasonable to conclude, therefore, that the impact of development upon the setting of these designated heritage assets is reduced significantly by comparison with the original scheme and is less than substantial.
- 6.20 In terms of mitigation the scheme demonstrates a significant undeveloped margin to the site's northern and eastern boundaries and subject to detailed design the treatment of the site's northern boundary with the A438 has the potential to form an attractive corridor, with tree planting potentially reflecting some of the existing mature specimens on the north side of the A438. Conditions will be imposed requiring the formulation of detailed planting and management proposals to ensure that an appropriate form of development is brought to fruition at the Reserved Matters stage.
- 6.21 In the overall weighing of the benefits and adverse impacts of the development proposed, officers are conscious of the context set by the lack of housing land supply and the fact that although situated in an historic landscape and forming the foreground of the unregistered parkland, the site (excepting the southern half of the nature conservation area) is not subject to any specific landscape or conservation designation. Moreover any large development within an historic settlement is likely to exert some influence on the setting of listed buildings; as is the case here and with other proposed sites in Bartestree and Lugwardine. The setting of Hagley House and The New Inn have been subject to considerable change over the course of the latter part of the twentieth century; the latter is set back significantly from the carriageway and as identified above, the retention of the western parcel without development does safeguard a proportion of the open area on the southern side of the road. The Conservation Manager (Historic Buildings) also acknowledges that the development will not directly affect the immediate setting of the Court within its parkland. As such the harm to the setting of listed buildings is considered less than substantial and as per paragraph 134 of the NPPF the harm should be weighed against the public benefits of the proposal.
- 6.22 Therefore, whilst acknowledging a degree of conflict with the objectives of 'saved' UDP policies LA2 and LA3, HBA4 and NPPF paragraphs 109 and 134, in exercising the planning balance, officers conclude that the nature of harm identified, would not amount to significant and demonstrable adverse impacts that should lead to refusal. The harm to landscape character is localised harm in an edge of village location that officers do not consider prejudicial to the overarching character of the Principal Settled Farmlands typology. In this respect although the Conservation Manager (Landscape) considers that although the adverse visual and landscape effects associated with the development as likely to be significant, these effects are local in their impact and not prejudicial to regional landscape character, whereas the harm to the setting of the designated heritage assets (listed buildings) is not considered substantial and must be weighed against the public benefits of the scheme.

## **Transport**

- 6.23 As per the comments above at 4.4 the Transportation Manager has provided revised comments in the light of additional information provided during the course of the application. He is now satisfied with the proposals to the extent that a conditional approval is recommended. The footway across the frontage of the eastern parcel would permit access to the bus stop on the southern side of the road, whilst provision is made for onward pedestrian travel eastwards alongside The Haven Cottages towards the shop. Whilst there is some doubt that this route would be continuous in the context that the landowner has not consented to the use of a short section immediately adjacent the shop, people would be able to cross the A438 at any point along the frontage to the pavement on the north-side of the road and use the controlled crossing to return to the shop.
- 6.24 The proposed access will also provide the requisite 2.4m x 90m visibility to the nearside of the carriageway in each direction. The position of the access was amended under the refused application to achieve better spacing relative to the Wilcroft Park on the north-side of the road and this has been persisted with.
- 6.25 The Traffic Manager concludes that the scheme is acceptable and would not result in the severe residual cumulative effects described by the NPPF that would warrant refusal.

## **Public Open Space**

- 6.26 The scheme makes provision for 1.87ha of public open space through the dedication of land to the Parish Council. This land is the whole of the western parcel and more than doubles the previous offer. The land is well located relative to the existing Village Hall and playing fields. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift.
- 6.27 In addition, the land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind on the land unless such development has first been agreed in writing by the applicants and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land. These clauses give the requisite certainty as regards long-term ownership and rights of use of the land. This offer thus recognises that the Parish Council has long-term aspirations to acquire the whole of the western parcel for community use, and the proposal far exceeds the planning policy requirement in terms of the actual provision of open space and is more than large enough to provide for a full-size pitch as need dictates, with significant space left over. Officers consider that in the circumstances this proposal represents a genuine, long-term benefit to the community in a convenient and accessible location relative to the existing facilities that accords with and exceeds the requirements of UDP policies H9 and RST3 and NPPF paragraphs 70 and 73.
- 6.28 S106 requirements will also include a contribution of £49,588 to be spent in accordance with Parish Council requirements on off-site play facilities. This would again help contribute towards fulfilment of an outstanding desire to extend the existing facility at the village hall, whereas the transport contribution has been identified as potentially contributing towards improvements to Village Hall junction with the A438 and widening of the access road.

## **S106 contributions**

- 6.29 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:
- 'Education Contribution' - £107,124 based on the current open market housing mix.



- ‘Sustainable Transport Contribution’ - £77,400 based on current housing mix. This money would be directed towards sustainable transport projects, with potential expenditure on traffic calming and speed management measures and the widening of the splay and entrance road to Village Hall and Playing Fields for safer egress and entry. This would help fulfil one of the Parish Council’s aspirations.
- ‘Off site play’ - £49,588 based on current housing mix. This contribution would be directed towards the improvement and extension of the existing play facilities at the village hall, which would help contribute towards fulfilment of one of the Parish Council’s aspirations.
- ‘Waste & Recycling’ - £3,120 based on current housing mix.
- ‘Library’ - £5,664 towards enhanced library facilities

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

A restriction is also imposed requiring the dedication of the 1.87ha of Community Open Space, in accordance with the terms described above. A maintenance contribution towards the management of on-site public open space and the SUDs basins, which will be adopted by the Council, will also be required.

#### *Capacity at the local Primary School*

- 6.30 Lugwardine Primary School is found on Barnaby Avenue, Bartestree to the north of the A438, but within reasonable walking distance of the site. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that a considerable proportion of pupils presently at Lugwardine Primary live outside catchment. It has also been confirmed that despite academy status, the admissions policy gives priority to children living within the defined catchment area above all other children apart from those who are looked after.
- 6.31 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

#### *Impact on adjoining residential amenity*

- 6.32 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site in the manner envisaged by the revised illustrative layout i.e. with housing set back from the A438 behind grass verges and footway and the relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

#### *Ecology*

- 6.33 The Council’s Ecologist concurs with the findings of the submitted appraisal and bat and newt surveys. It is considered that the proposal will have no worse than a neutral impact on

---

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

ecological interests. Subject to the imposition of conditions as set out below, the development is considered to accord with the provisions of the Development Plan and NPPF guidance in this regard.

- 6.34 It is also concluded that adverse impacts on the fine, mature specimen trees on and off-site; most notably the Lucombe Oaks lining the Hagley Court drive, can be avoided.

*Foul drainage and water supply*

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

*The proposal is prejudicial to the development of the Neighbourhood Plan*

- 6.36 Bartestree and Lugwardine Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which states that planning should be '*genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area*'.

- 6.37 The tension between the NPPF requirement to significantly boost the supply of housing where supply issues persist and the devolution of planning powers to parish councils is obvious and widely felt. As an objective assessment, drawing on parallels elsewhere, officers conclude that in this instance the Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking. Whilst acknowledging that large-scale schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes because they are potentially prejudicial to the neighbourhood plan; particularly where the plan is in the early stages of preparation. It is your officers' advice that emerging neighbourhood plans i.e. those that have not yet reached regulation 14 status cannot be attributed weight for the purposes of decision taking.

### **Summary and Conclusions**

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

the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for 1.87ha of community open space, which will be dedicated to the Parish Council. Given the current circumstances, officers consider that the gifting of the land at no cost to the Parish Council is a benefit of the scheme, as are the requisite S106 contributions.

- 6.41 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm of nature conservation interests. As such, although the harm arising from the loss of the eastern parcel in the foreground of unregistered parkland is acknowledged, the decision taker must weigh the significance of this harm against the benefits of the scheme.
- 6.42 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary.**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **C01 Samples of external materials**
5. **The development shall include no more than 40 dwellings and no dwelling shall be more than two and a half storeys high.**

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

6. **H06 Vehicular access construction**
7. **H09 Driveway gradient**
8. **H11 Parking - estate development (more than one house)**
9. **H17 Junction improvement/off site works**
10. **H18 On site roads - submission of details**
11. **H19 On site roads - phasing**
12. **H20 Road completion in 2 years**
13. **H21 Wheel washing**

14. H27 Parking for site operatives
15. H29 Secure covered cycle parking provision
16. H30 Travel plans
17. L01 Foul/surface water drainage
18. L02 No surface water to connect to public system
19. L04 Comprehensive & Integrated draining of site
20. G04 Protection of trees/hedgerows that are to be retained
21. G10 Landscaping scheme
22. G11 Landscaping scheme - implementation
23. The recommendations set out in Sections 8.3 to 8.8 of the Phase 1 ecologist's report from Phil Quinn dated May 2014 and Section 7 of the Great Crested Newt report from Phil Quinn dated May 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement with a habitat enhancement plan should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

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

24. Prior to commencement of the development, a reptile survey for should be conducted with results and any mitigation necessary submitted to, and be approved in writing by the local planning authority, and the work shall be implemented as approved.

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

25. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the construction process. Specific measures to safeguard the integrity of private water supplies should be highlighted such as pollution risk and increased use projections. The Plan shall be implemented as approved.

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

To comply with policies NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the

requirements of the NPPF and the NERC Act 2006.

**Informatives:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **HN10 No drainage to discharge to highway**
3. **HN08 Section 38 Agreement & Drainage details**
4. **HN07 Section 278 Agreement**
5. **HN04 Private apparatus within highway**
6. **HN28 Highways Design Guide and Specification**
7. **HN27 Annual Travel Plan Reviews**
8. **HN25 Travel Plans**
9. **HN13 Protection of visibility splays on private land**
10. **N02 Section 106 obligation**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



# HEADS OF TERMS

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

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1 April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application proposal: Outline proposal for the erection of 40 dwellings (including 14 affordable houses) and a change of use of land to form community open space on land to the south of A438 parcel no. 0008 and part parcel no. 2308 Bartestree, Herefordshire.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):
2.
  - £3,106.00** (index linked) for a 2/3 bedroom open market unit
  - £5,273.00** (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Hereford City Early Years, Lugwardine Academy Primary School, St Francis RC Primary, a proportionate contribution towards St. Mary's High School R.C Primary School and Hereford City Youth with 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the education contribution would be £107,124.00.**

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
4.
  - £2580.00** (index linked) for a 3 bedroom open market unit
  - £3440.00** (index linked) for a 4+ bedroom open market unit

to provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the highway contribution would be £77,400.00.**

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

- 4.1. The provision of enhanced bus waiting facilities
  - 4.2. Pedestrian improvements
  - 4.3. Traffic calming and speed management measures
  - 4.4. Widening splay and entrance road to Village Hall and Playing Fields for safer egress and entry
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
    - £1,640.00** (index linked) for a 3 bedroom open market unit
    - £2,219.00** (index linked) for a 4+ bedroom open market unit

To provide enhanced off-site play infrastructure within the locality of the application site. The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is an existing neighbourhood play area at the village hall which is in need of extension and refurbishment in places. A village of the size of Bartestree requires a neighbourhood play area therefore investment at the existing facility will help ensure that a quality facility is provided and would benefit from additional equipment for older children in particular. **Based on the indicative open market housing scheme submitted the off-site play contribution would be £49,588.00.**

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

- £198.00** (index linked) for a 3 bedroom open market unit
- £241.00** (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the library contribution would be £5,664.00.**

7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120.00 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the waste contribution would be £3,120.00.**
8. The developer covenants with Herefordshire Council to gift the community open space to the parish council. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift. In addition, the gifted land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind, on the land unless such development has first been agreed in writing by our clients and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land.
9. The developer covenants with Herefordshire Council that 35% (14 in total based on a scheme of forty dwellings) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
10. Of those 14 Affordable Housing units, at least 7 shall be made available for social rent with the remaining 7 being available for intermediate tenure occupation.
11. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
12. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
- 12.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 12.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
13. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
- 13.1. a local connection with the parish of Bartestree and Lugwardine;
  - 13.2. in the event there being no person with a local connection to the parish of Bartestree and Lugwardine a local connection to the parishes of Hampton Bishop, Domington and Mordiford, Weston Beggard, Withington;
  - 13.3. in the event of there being no person with a local connection to Bartestree and Lugwardine any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 above.

---

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



14. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 14.1. is or in the past was normally resident there; or
  - 14.2. is employed there; or
  - 14.3. has a family association there; or
  - 14.4. a proven need to give support to or receive support from family members; or
  - 14.5. because of special circumstances;
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
17. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5 and 6 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
18. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
19. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
20. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

**December 2014**





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P150067/O - PROPOSED ERECTION OF UP TO 31 DWELLINGS. CONSTRUCTION OF NEW VEHICULAR ACCESS AND ASSOCIATED WORKS. DEMOLITION OF NO 5 VINE TREE CLOSE AT LAND ADJACENT VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE</b></p> <p><b>For: Mr Smith per Mr Paul Smith, First Floor, 41 Bridge Street, Hereford, Herefordshire HR4 9DG</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150067&amp;search=150067">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150067&amp;search=150067</a>
<b>Reason Application Submitted to Committee - Contrary to Policy</b>	

**Date Received: 13 January 2015**

**Ward: Hagley**

**Grid Ref: 356245,243249**

**Expiry Date: 14 April 2015**

Local Members: Councillor DW Greenow

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

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 31 dwellings on a 2.2 hectare site to the west of the 1970's residential development Vine Tree Close and north of the comparatively recently built Farndon Rise, Withington. The site lies outside but adjacent the Unitary Development Plan (UDP) settlement boundary for Withington, which is a main village within both the UDP and the draft Herefordshire Local Plan - Core Strategy. The application is predicated on the Council's inability to demonstrate the requisite 5-year housing land supply with buffer.
- 1.2 The application is a resubmission of an earlier refused scheme for the erection of up to 45 dwellings (141134/O), which is now at appeal. The earlier scheme was refused as a consequence of the impact the proposed access would have upon the living conditions of residents adjoining the proposed access; the visual impact and the effect on landscape character and the setting of the village; concerns in relation to the ability to drain the site without increasing the likelihood of surface water flooding elsewhere and the lack of a completed S106 agreement.
- 1.3 The site is a large, rectangular agricultural field situated on the north-western edge of Withington. The landscape character type is Principal Settled Farmlands. The site itself is typical of this, being in arable use with hedgerows to field boundaries. There are several public rights of way in close proximity, including the Three Choirs Way long distance trail and the well-used public right of way which runs along an old track-way, Veldo Lane, on the site's northern boundary. Withington Conservation Area stands off to the east at approximately 120m at its

---

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

nearest point. Inter-visibility with the Conservation Area is limited by Vine Tree Close, which sits in between.

- 1.4 The site contributes to the rural character of the setting of the village. Topography is also a key feature of the site, as it is a relative high point in the immediate surroundings and it slopes down from a high point in the middle of the site to both the north and south. It is visible from several viewpoints to the north and from nearby residential properties. To the west is a copse, through which run two permissive routes linking Veldo Lane to the village.
- 1.5 The site was identified as land with significant constraints by the Strategic Housing Land Availability Assessment. This was due to the absence of a means of access. The application addresses this by taking access through the site of No.5 Vine Tree Close, which would be demolished. Vehicular access to the site is thus contingent on a route that enters Vine Tree Close and passes between Nos.4 and 6.
- 1.6 The scheme has been amended following refusal of 141134/O to limit the development to a maximum of 31 dwellings, with additional green infrastructure included. As proposed previously there is a buffer zone against the copse and orchard planting where the site adjoins Veldo Lane. To the immediate south of the proposed orchard an area is demarked within which dwellings will be single-storey, reflecting the presence of bungalows in the part of Vine Tree Close to the immediate east. Further open space is indicated adjacent the main estate road, with an equipped small children's play area. The Framework Plan also identifies the opportunities for footpath links to surrounding rights of way and permissive routes.
- 1.7 The application is made in outline with all matters bar access reserved, but is accompanied by the following supporting documents:
  - Flood Risk Assessment and Drainage Feasibility Study;
  - Planning, Design and Access Statement;
  - Ecological Assessment and addendum to address bats, birds and nesting birds;
  - Development Framework Plan;
  - Topographic Survey; and
  - Cross-sections
- 1.8 The application is also accompanied by a draft Heads of Terms outlining an agreement in principle to make contributions towards sustainable transport, education and other projects subject to CIL compliance. The agreed Heads of Terms is appended to the report.
- 1.9 The Council has adopted a Screening Opinion in relation to the development proposal which concludes that it is not development requiring the submission of an Environmental Statement.

## **2. Policies**

- 2.1 National Planning Policy Framework. The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

- 2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
E15	-	Protection of Greenfield Land
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

### 2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

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

2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

---

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

### 3. Planning History

- 3.1 141134/O - Proposed erection of up to 45 dwellings, construction of new vehicular access and associated works: Refused 29 October 2014. Appeal via Written Representations lodged, but as yet undecided.

### 4. Consultation Summary

#### Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions

#### Internal Council Advice

- 4.2 Transportation Manager: No objection subject to conditions

The submitted drawing 763-03 titled 'Entrance existing and proposed' indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with our Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.

Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to 100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable.

Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school.

My previous comments continue to apply for the desirability of provision of a route from the site to the village hall.

- 4.3 Conservation Manager (Landscape): No objection subject to conditions

As mentioned in my Landscape Advice of the 9 June 2014, I have no landscape objections to this application. I have now read the appellant's 'Landscape and Visual Impact Assessment' and these are my landscape comments based on their Assessment.

I agree with their following comments:

- The site has no local or national landscape designations and
- The northern most sector of the field is the most visually exposed element of the site within the landscape when it is viewed from the north over intervening mature vegetation and hedgerows.

I also agree with their Conclusion of Mitigation 7.2

- The retention and enhancement of the screening properties of existing tree and hedgerow screening. The planting of new hedgerows and trees particularly along the north – western and southern site boundaries.
- The exclusion of development in the north – western corner of the site and
- The restriction of development in the north – eastern segment of the site to bungalows.

As previously mentioned in my landscape advice of the 9 June 2014, I would advise again for:

- The northern boundary to have a biodiversity zone of orchard trees; and
- The existing woodland on the western boundary to have a native hedgerow buffer zone. This buffer zone should be in-between the existing woodland and the proposed housing.

#### 4.4 Conservation Manager (Ecology): No objection subject to conditions

I have received and read the updated survey information with regard to the bat, badger and bird survey information. As mentioned before I am happy to accept the great crested newt assessment and I am also content to accede to the mitigation proposals for badgers and bats with accommodation of a 10 metre buffer alongside The Coppice woodland area. If approval is given, the mitigation contained in the original and supplementary reports from Wilder Ecology with regard to badgers and bats should now be adhered to in a production of a method statement secured by condition.

#### 4.5 Land Drainage Officer: No objection subject to conditions

We hold no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. The detailed drainage proposals should include:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Provision of detailed calculations that demonstrate that the proposed surface water drainage system will not flood during the 1 in 30 year event, that the peak discharge rate from the site will be limited to equivalent greenfield rates up to and including the 1 in 100 year event, that the peak discharge rate will be less for smaller events to mimic natural runoff conditions and that sufficient attenuation will be provided within the site boundary to prevent increased flood risk up to and including the 1 in 100 year plus climate change event.
- Evidence that the Applicant has sought and agreed permissions and agreed allowable discharge rates to discharge foul water and surface water runoff from the site with the relevant authorities;
- Infiltration test results undertaken to BRE Digest 365 methodology and groundwater depth records where infiltration is proposed.
- Demonstration that appropriate pollution control measures are in place prior to discharge.
- Demonstration that the Applicant has designed for exceedance of surface water systems.

We are confident that these requirements can be addressed as part of a planning condition or subsequent reserved matters application following approval of the outline planning application.

#### 4.6 Parks & Countryside Manager: No objection

The proposed layout incorporates areas of open space which are of a semi natural nature and are provided as part of the landscape and nature conservation requirements. At the time of pre-application negotiations none of these areas were considered suitable to provide on-site play provision of any value either formal or informal particularly given the size of development and location of existing recreation facilities. An off-site contribution towards children's play and recreation was thus requested to meet policy requirements. The off-site contribution will be used in accordance with the Play Facilities Study/Action Plan and Investment Plan in consultation with the Parish Council and local community and on priorities at the time. Withington is well served by play areas including large neighbourhood recreation ground/sports

---

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

pitches at the Village Hall which is owned and maintained by the Parish Council and has room to expand and further improve the play and recreation offer. The proposal lies within easy walking distance of this facility and it is noted that in their Planning, Design and Access Statement, the applicant has suggested at the developers expense, to enhance the footpath links to this facility from the site through the copse to improve access which is supported; albeit the Parish Council's permission will be required.

Although on-site children's play provision has not been requested by the Council, in this instance the Parish Council has requested that the applicant makes some provision on site for younger children as well as an off-site contribution. Therefore the applicant has provided scope to construct a small child play area on a public open space in a suitable location at the centre of the proposal in a position that would be easily overlooked from adjoining properties ensuring appropriate passive supervision. Further discussions should take place at the design stage (reserved matters) with the Parish Council as to their requirements for both on and off site provision for play and recreation.

**Draft heads of terms:** It is noted that the draft heads of terms include the off-site contributions for play in accordance with the SPD on Planning Obligations as follows under item 3:

- £1,640.00 (Index linked) for a 3 bedroom open market dwelling
- £2,219.00 (index linked) for a 4 bedroom open market dwelling

This will be calculated accordingly to take account of any on-site provision, as described above. Future adoption and maintenance of any on-site POS is in accordance with pre-application comments and is included under item 4 as follows: "The maintenance of the on-site Public Open Space will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use."

- 4.7 Public Rights of Way: No objection, although the vehicular access into the site will cross public footpath WT14 in Vine Tree Close. Care must be taken to protect footpath users at all times.
- 4.8 Waste & Recycling Manager: Detailed layout plans should ensure that each household places their refuse/recycling in a location which does not exceed 30m from the adoptable highway.
- 4.9 Housing Development Officer: No objection. The scheme provides for 35% affordable housing. Tenures will need to be finalised and the exact location of the affordable housing units within the scheme should be agreed as a precursor to submission of Reserved Matters.
- 4.10 Schools Capital and Investment Manager: No objection
- 4.11 Environmental Health Manager (Noise): No objection

This proposal comprises of a significant reduction in the numbers of houses proposed at this development.

I commented earlier with regard to the potential road traffic impact on neighbouring properties at no 4 and no 6. Vehicular movements in and out of the development would be reduced by one third. I do not believe that these would cause a nuisance and that although there would be some amenity loss to numbers 4 and 6 this would largely occur during peak hours. For these reasons I have no objection to this development.

- 4.12 Environmental Health Manager (Contaminated land): No objection



## 5. Representations

### 5.1 Withington Group Parish Council: Objection

The WGPC objects to the proposed application for 31 dwellings, on access, traffic and landscape impact grounds. In addition, whilst it is noted that the Herefordshire Council is not defending its reasons for refusal relating to the lack of a proven surface water drainage proposal and the lack of a Section 106 agreement in respect of application P141134/O, the WGPC is objecting on these grounds. The WGPC also seeks clarification of the status of the application. The landscape plan appears to indicate 32 dwellings and the site proposal plan only 31 dwellings. In addition the layout details on the two plans are different in respect of the position and type of dwellings, the road layout and the footpath routes. The supporting design and access statement also differs from the plans.

The only matter not reserved for subsequent submission is access. The WGPC objects in principle to the proposal as the landscape characteristics of the site are not reflected in the submitted information and thus it has not been shown how 31 dwellings can be accommodated successfully on the site. Any subsequent approval with conditions restricting the development to 31 dwellings will be superseded by a further application for more dwellings once the principle of development has been established. This is obvious from assessing the differences between the previous application for 45 dwellings which had the same impact on the landscape with development on the highest point and on the rising land behind Farndon Rise.

Reference to the Core Strategy and proposed Neighbourhood Plan was dismissed in the assessment of the previous application (P141134/O) as premature and thus carrying no weight. The Core Strategy inquiry is now programmed for February and the Neighbourhood Plan is expected to be in first draft by mid-March, with proposals for the location of new housing development based on the requirement in the former. The application site is not favoured by a significant majority of residents of the village, with a site adjoining the A4103 and C1130 at Whitestone being the favoured location. Plans for this site have been the subject of public consultation by a developer and whilst currently for 80 dwellings (considered too many by the WGPC) a comprehensive development of the site incorporating other uses required by the community could be accommodated. Residential development as enabling development for other uses would not be capable on the application site other than through the normal S106 procedure. It is therefore considered that an objection on the basis of the policies in the Core Strategy and proposed Neighbourhood Plan is no longer premature.

In addition to the objections relating to the impact on 4 & 6 Vine Tree Close and on landscape impact grounds, the WGPC considers that the additional traffic and vehicle movements in Vine Tree Close will create significant dangers to children and parents walking to school and having to cross the only access to the site.

The impact on Nos. 4 & 6 Vine Tree Close will be unacceptable with vehicle movements and noise causing disturbance to the quiet enjoyment of the occupiers in their private quiet gardens. There will also be disturbance through pedestrian movement into the site alongside the two properties. The proposal in the design and access statement (para 8.34) refers to the provision of a footpath along the rear of the properties in Vine Tree Close but only a short length is included on the landscape proposals plan (linking into a 'private' drive!). This proposal is not acceptable as further disturbance and potential unwanted activity could be generated.

In respect of the visual impact of the proposal on the landscape setting of the village the applicant makes great play of the proposal to site 3 bungalows on a higher point of the site. However, the proposals also include 2 storey development on the highest point of the site which is identified as a ridge line running WNW from the rear of 7/8 Vine Tree Close. In addition development behind Farndon Rise is illustrated as being tightly packed on rising land and of 2 storeys. The applicant proposes a thick tree screen along the southern boundary to screen the

new development. This is an unacceptable use of landscaping in trying to hide development which is clearly unacceptable. Such a tree screen will also cause serious shadowing in the proposed gardens (all south facing) and is unlikely to be maintained over the life of the development or even in the short term.

The WGPC has stated that it will not accept the responsibility for the open spaces. However it is proposed to provide an additional open space area adjacent to the Copse (owned by the WGPC). The applicant has not requested the views of the WGPC in respect of the long term maintenance of this area. In the previous application it was suggested that with the appropriate financial contribution over a 15 years period this area could be of interest to the WGPC. This suggestion has not been followed up by the applicant, nor included in the draft heads of terms.

Footpath links are indicated as forming part of the argument indicating that this will be a sustainable development. Links into the Copse to provide pedestrian access to the public open space, village hall, post office and village stores will be required to be constructed to a high standard. The WGPC has not been consulted on these proposals nor has permission to create the links been sought. Without agreement in respect of a 15 years maintenance scheme or funding, the WGPC objects to additional links being created.

The applicant refers to providing a paved footpath along Veldo Lane to the existing footpath at the end of Vine Tree Close. Veldo Lane is not publicly maintained and the consent of several owners may be required. It is also noted that this is to be funded through highway contributions in the S 106 agreement. However no such funding arrangements are included in respect of the footpaths in the Copse.

Observations on the draft heads of terms of reference for the S106 agreement:

1. The terms state that part of the sustainable transport infrastructure to be funded will be the provision of dropped kerbs in Vine Tree Close. The only additional dropped kerbs required will be as a result of the development and will be a direct development cost. The WGPC is concerned that of all the contributions to sustainable transport infrastructure paid by developers over the last 15 years there is no evidence of any additional works on the highway infrastructure to indicate where these funds have been spent.
2. There is no funding for the provision or long term maintenance of public footpaths off site other than in respect of Veldo Lane.
3. There should be no social rented dwellings in the affordable housing provision only assisted purchase schemes or shared ownership.

In conclusion the WGPC maintains its objection to the development of the site for residential purposes for the following reasons:

- The Neighbourhood Plan exercise favours an alternative site for future residential development in Withington up to 2031.
- The impact on the landscape setting of the village through development on the highest point on the edge of the village is unacceptable and will be detrimental to views towards the conservation area and listed church, and to views from the village.
- The impact on Nos. 4 & 6 Vine Tree Close through traffic disturbance and pedestrian movements will be unacceptable.
- The visual impact on the residents and properties in Farndon Rise will be unacceptable.
- No acceptable layout has been presented to illustrate whether an acceptable development could be achieved.
- No details of footpath links and their maintenance have been submitted for both on and off site links.

- No detailed sustainable urban drainage scheme has been submitted and the WGPC still believes a development could lead to off-site flooding.
- As the submitted plans are not indicated as 'for illustrative purposes only', the difference between them and the Planning Design and Access statement should make the application incomplete.

5.2 96 letters of objection have been received. The content is summarised as follows:-

- The application site is outside the UDP settlement boundary;
- The site is greenfield land, whereas there should be a presumption in favour of utilising brownfield sites first;
- Development would not be sustainable due to adverse impacts on existing residents, ecological interests and highway safety concerns. The contribution that the development would make in terms of addressing a short-term need for housing does not off-set the significance of these adverse impacts;
- Withington has witnessed large-scale development in the relatively recent past and doesn't need more. The scale of development sought in terms of number will dominate and transform the notion of village life, turning the village into a suburb or small town. Demand for housing would be best met in Hereford and the market towns;
- The pressure brought to bear by the response to the Council's apparent housing land supply issue is wholly prejudicial to the Parish's Neighbourhood Plan. A steering group has been enacted and a draft plan is due for publication in the near future. It would be fundamentally wrong and contrary to NPPF paragraph 17 to take decisions on large-scale proposals when an enormous amount of work in preparation of the neighbourhood plan has already been undertaken;
- The Draft Local Plan - Core Strategy 2013-2031 envisages proportionate growth of 65 dwellings over the plan period. Over half of this need has already been met via small-scale developments and the 33 dwelling UDP allocation adjacent the Chapel. In combination this development will exceed the 'target' within the first 3 years of the plan period;
- Parishioners are supportive of a staged and progressive approach, utilising the redevelopment of brownfield sites rather than a headlong rush to meet a shortfall that only exists because of the planning policy position;
- In response to the Neighbourhood Plan questionnaire, only 3% of respondents favoured this site, whereas 69% favoured the site opposite Orchard House Care Home. David Wilson Homes have the option on this preferred site and intend making an application shortly;
- Alternative sites would be unlikely to have such impact on adjoining property. The site is higher than adjacent development meaning overlooking and subsequent loss of privacy is likely. Likewise all traffic from this development would have to get to the A4103 via Withies Road or Southbank; both of which are narrow and suffer from congestion;
- Vine Tree Close is a cul-de-sac of 35 dwellings. Accessing a further 31 dwellings via an existing cul-de-sac is dangerous. Access to such a development should be from a main road;
- Vine Tree Close is well-used as a safe route to school, with large numbers of mothers and young children using the public footpath through Vine Tree Close as the safest route to school. Adding a junction here will cause chaos and result in an accident.
- Traffic entering and leaving the site will make living conditions on the houses either side of the junction intolerable with noise and increased vehicle emissions. Headlights are also likely to affect houses opposite;
- The access from Vine Tree is at a point where the road bends and not far from the staggered junctions where Southbank and Duke Street meet Withies Road. The additional traffic using the network in close proximity to busy junctions on either side of Withies road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community;

---

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

- The development would destroy the ambience of Vine Tree Close, which is a cul-de-sac located around quiet green space with views of the open countryside;
- The development will result in the loss of privacy for residents living opposite and nearby. The submitted layout indicates a footpath that passes in close proximity to adjoining properties in Vine Tree Close. This will present privacy and security issues;
- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, doctors or pharmacy;
- Drainage is a significant constraint and the application is in large part silent on the issue. Given run-off concerns relative to lower-lying houses, it should be determined now as to whether infiltration to ground or on-site storage is appropriate;
- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips. Commuters into Hereford are not well served by buses. The earliest arrival in Hereford on weekdays is 8:08am and the latest departure leaves Hereford not long after 17:00pm – not conducive to shift work;
- The impacts of the development upon bat flight paths and nesting birds, including the endangered Sky Lark, are underestimated;
- The badger sett in the copse has also not been accounted for;
- There are discrepancies between the submitted layout and landscape plans; the latter appearing to show 32 not 31 units;
- The development will adversely affect the landscape character and setting of the village. At a high point locally, roofs will dominate the skyline and compete with the Church spire;
- The construction phase will create noise, dust and traffic chaos for existing residents;
- The village should not have to accept large-scale growth. It has had its share and does not have the facilities to support more e.g. doctors' surgery or good transport links.

5.3 There has been one letter of support. This considers the application site to represent the most sustainable location relative to the school, with far fewer dwellings proposed here than on the 'preferred' site opposite Orchard House.

5.4 Herefordshire CPRE objects to the proposal. The objections to the 45 dwelling scheme remain and are summarised below:

The Herefordshire UDP 2007 clearly shows the Withington settlement boundary and the proposed development is outside it, in open countryside. The land is currently in use for arable farming. Saved Policy E15 states: "Development of Greenfield land, including the best and most versatile agricultural land will not be permitted" and Saved Policy H7 states: "proposals for housing development outside ... the main villages and smaller settlements will not be permitted". This proposal satisfies none of the exception criteria for these policies.

The proposed development would significantly alter the character of and the views from public footpaths WT8, WT12, WT14 and from Veldo Lane. There is conflict with saved UDP policy T6 which states "Development proposals should ... respect the ... recreational value, attractiveness and historical significance of any designated public right of way".

The access to the proposed site is unsuitable and represents a hazard to walkers, motorists and other road users.

There would also be a significant increase in traffic on the narrow Withies Lane. There would be significant hazards associated with this for all road users. Footpath WT14 passes along Vine Tree Close and is used as a safe walking route for children from the main body of the village to school. There is conflict with Saved Policies S2, DR2 & DR3.

Notwithstanding the fact that the appeal was dismissed, the applicant makes reference to the housing land supply issue which came to the fore at the Home Farm, Belmont appeal.

Irrespective of the shortfall of housing land the Inspector's decision to dismiss the application was wholly based on the balance of harm to benefit:

*"As a consequence, the proposal would be at odds with the environmental role/dimension to sustainable development. Moreover, notwithstanding the shortfall in HLS, these adverse environmental impacts and the harm to the setting of heritage assets that I have also identified would significantly and demonstrably outweigh the economic and social dimensions/benefits of the scheme..." (paragraph 65 of the appeal decision).*

There is nothing Innovative or outstanding about this outline proposal as required by NPPF paragraph 63; and paragraph 64 states: "Permission should be refused for development of poor design that fails to take opportunities available for Improving the character and quality of an area and the way it functions". A mundane housing estate, at best contributes nothing to the character and quality of Withington (and the surrounding countryside) and the way it functions and I believe will detract considerably from it. It is concluded that the development is not representative of sustainable development and that the presumption in favour should not, therefore, apply on the basis that *adverse impacts... would significantly and demonstrably outweigh the benefits.*

The proposal is contrary to the emerging Neighbourhood Plan, with respondents expressing a clear preference for the site opposite Orchard House. There is clear evidence that the development of this piece of land would be contrary to the wishes of local people.

- 5.5 In response to the Parish Council's comments the applicant has submitted a revised site plan and landscape plan. These address the inconsistencies between the illustrative site plan and landscape plan referred to above and also identify the potential for the units in the north-west corner of the site to be single-storey; bringing the total to 8. The layout also moves properties on the southern boundary further northwards, to maximise distances to properties in Farndon Rise.
- 5.6 Parallels are also drawn with the Quarry Field appeal at Lugwardine, it being suggested that in terms of the setting within the landscape and proposed means of access passing between two dwellings, the two proposals share similarities.
- 5.7 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

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

- 6.1 Withington is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Hereford Housing Market Area within the emerging Local Plan - Core Strategy with an 18% indicative growth target over the plan period. This equates to 65 dwellings, of which 37 have either been constructed or are committed i.e. an extant planning permission exists. The application is made in the context of the housing land supply deficit. The Core Strategy Examination has finished. From evidence heard at the Inquiry, it appears likely that housing requirements in main villages will increase if the rural areas are to deliver the requisite number during the lifetime of the plan.

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

The Principle of Development in the Context of 'Saved' UDP Policies the NPPF and Other Material Guidance

- 6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007 (UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

*"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that maybe given)."*

- 6.6 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.

- 6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the recently published Housing Land Supply Interim Position Statement - October 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.

- 6.9 In this context, therefore, the proposed erection of up to 31 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 and 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

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

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and movement towards a low-carbon economy.
- 6.13 Withington is a main village within the UDP and also identified as a main village in the Hereford Local Plan - Core Strategy. In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located whereas the delivery of up to 31 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.
- 6.14 The Parish Council has expressed concern at the proposed footpath link into their coppice on the site's western boundary. It should be noted, however, that officers do not consider formation of this link is fundamental to the acceptability of this scheme. There are acceptable alternative routes to village facilities, which although not as direct, are within reasonable proximity.

#### Impact on Landscape Character

- 6.15 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It also confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.16 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary. Although categorised as a SHLAA significant constraints site this was on the basis that access was not demonstrated at the time of assessment; something that this proposal addresses. The Conservation Manager (Landscape) concludes the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape

or its visual amenity (for example views from the AONB). The officer considers that the site can accommodate development, although this is contingent on the Reserved Matters submission reflecting the need to retain, insofar as possible, the hedgerow features for which the Principal Settled Farmlands landscape typology is known and bolstering these features as appropriate. The Development Framework plan now reflects this requirement and enhances green infrastructure by drawing development away from the northern boundary onto Veldo Lane and from the copse on the western flank has acknowledged nature conservation interests to a greater extent than originally.

- 6.17 The application has also acknowledged the potential at the Reserved Matters stage to provide a small children's play area, which reflects the comments of the Parish Council in relation to the earlier refused application.
- 6.18 On the basis that conditions will be imposed requiring the protection of hedgerows, and in the context of the housing supply situation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.

#### Impact on Heritage Assets

- 6.19 The application site is 120m west of the Withington Conservation Area. Style House, at the entrance to Veldo Lane is one of several listed buildings that with St Peters Church, further to the east, form the nucleus of the Conservation Area. However, due to the intervening presence of Vine Tree Close and other features, the site exerts a relatively small visual influence upon the setting of these designated heritage assets.
- 6.20 In this case it is considered that any impact can be mitigated through appropriate and sensitive detailed design and landscaping and that as a consequence the harm to the significance of the designated heritage assets will be less than significant. Accordingly, as per NPPF paragraph 134, the harm should be weighed against the public benefits of the proposal, which in this case can be taken as the scheme's contribution towards boosting housing supply, the associated economic and social benefits and absence of any other significant adverse impacts. As such, and having regard to the nature of the proposal and the overarching context set by the lack of housing land supply, the harm to the setting of listed buildings is considered less than substantial.

#### Impact on Ecological Interests

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

#### Transport

- 6.22 The NPPF advises that development should only be prevented or refused when it can be demonstrated that it would result in residual cumulative impacts that are severe. Officers consider this is not the case here and the Transportation Manager has no objection.
- 6.23 The submitted drawing indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with the adopted Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.
- 6.24 Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to



100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable. Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school and will form part of the S278 agreement.

- 6.25 The Traffic Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

#### Land Drainage and Flood Risk

- 6.26 The Land Drainage Officer has no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. A condition is recommended to ensure the submission of a fully integrated foul and surface water drainage system.
- 6.27 On the basis of this and earlier advice, the Council has not pursued the drainage related reason for refusal of the scheme now at appeal and officers reiterate that they do not consider a drainage-led refusal reason to be justified.

#### S106 Heads of Terms

- 6.28 The S106 draft Heads of Terms are appended to the report. The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria. The Parish Council has requested that none of the affordable housing units be for Social Rent, but this position is not supported by the Council's Housing Development Officer. The precise tenure of the affordable housing can be negotiated further at the Reserved Matters stage; the caveat being that the 35% requirement (11 units) is met. A maintenance contribution towards the management of on-site public open space and any necessary SUDs system, which will be adopted by the Council, will also be required. The Parish Council has indicated previously that it may not be inclined to permit a footpath link into the coppice that they own. The draft Heads of Terms nonetheless maintain inclusion of this as a potential project in the event that there is a change of heart. Expenditure of the off-site highway and play monies will be undertaken in consultation with the Parish Council. Officers do not, however, consider that the inability to link through into the coppice materially affects the scheme's claim to sustainable development. There are other pedestrian routes to village facilities and amenities.

#### Impact on Adjoining Residential Amenity

- 6.29 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without undue impact on adjoining property, particularly those dwellings adjoining the site to the south and Vine Tree Close to the east. Clearly this will be contingent on detailed consideration at the Reserved Matters stage and in this respect the Development Framework plan identifies development exclusion zones within which no dwelling would be sited. Adoption of this approach, which can be subject to a planning condition, would ensure adequate separation distances, although care would need to be taken to ensure that dwellings on the site's periphery are constructed at a level that does not result in an undue overbearing impact. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.
- 6.30 Concern has also been expressed in relation to the impact of the proposals upon Nos.4 and 6 Vine Tree Close, between which the access route would pass. Officers do not consider this issue, in the weighing of benefits and adverse impacts, would equate to a reason for refusal. This perspective is reinforced by the Environmental Health officer's comments at 4.11.

## Foul Drainage and Water Supply

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

## Sustainable Design

- 6.32 The applicant has confirmed that all dwellings shall follow a fabric first approach to energy efficiency. It is envisaged that energy consumption and carbon emissions will be reduced by building to a minimum of code 4 of the code for sustainable homes. The site offers good opportunity to construct on an orientation that ensures optimum exposure to passive solar gain and for solar thermal and PV panels.

## Loss of Grade 2 Agricultural Land

- 6.33 Defra mapping suggests the site is Grade 2 agricultural land. Saved policy E15 requires that development resulting in the loss of such land should only be permitted where there is a lack of suitable development opportunities within the boundaries of the existing urban areas or on previously developed sites or where there is an established need for the development of agricultural land; in which case poorer quality land should be utilised first. This is enshrined in NPPF paragraphs 112 and 143. In this instance the case for releasing such sites is entwined with the housing land supply issue and the loss of the best and most versatile agricultural land should be weighed against the need for the development and other attendant benefits. In this case, the site is well-related to the village and the loss of 2.2ha of Grade 2 land is not considered to represent a sound basis for refusal in the circumstances.

## The Neighbourhood Plan

- 6.34 Withington Group Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan for a considerable period. Paragraph 17 of the NPPF, states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.
- 6.35 The Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

## Summary and Conclusions

- 6.36 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.37 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA site that was designated as having significant constraints on the basis of lack of access as opposed to being unsuitable or inappropriate in other respects. Withington is, having regard to the NPPF, a sustainable location and this site is well placed to benefit from good pedestrian connectivity to village

facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

- 6.38 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.39 The Conservation Manager (Landscape) confirms the application site has the ability to accommodate residential development subject to the retention of landscape features and a margin against the copse and Veldo Lane and the Development Framework Plan responds positively to these requirements. The site is some 120m from the Conservation Area, but development would exert relatively little influence on the setting of the Conservation Area and the listed buildings within it. Certainly any impact such as there may be is likely to result in less than substantial harm to the significance of the heritage assets. This is in the context of the safeguard provided by detailed assessment of the layout, landscaping, scale and appearance at the Reserved Matters stage.
- 6.40 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a Section 106 Planning Obligation and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 31 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Commencement of development**
3. **A04 Approval of reserved matters**
4. **C01 Samples of external materials**
5. **The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the Development Framework Plan 763-05A received on 4 March 2015.**

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

6. The development shall include no more than 31 dwellings and no dwelling shall be more than two storeys high.

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

7. H06 Vehicular access construction
8. H18 On site roads - submission of details
9. H19 On site roads - phasing
10. H20 Road completion in 2 years
11. H21 Wheel washing
12. H27 Parking for site operatives
13. H29 Secure covered cycle parking provision
14. The recommendations set out in the ecologist's reports from Wilder Ecology dated April 2014 and July 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement with a habitat enhancement plan should be submitted to, and be approved in writing by, the local planning authority, and the work shall be implemented as approved.

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

15. L01 Foul/surface water drainage
16. L02 No surface water to connect to public system
17. L04 Comprehensive & integrated draining of site
18. G04 Protection of trees/hedgerows that are to be retained
19. G10 Landscaping scheme
20. G11 Landscaping scheme - implementation
21. G14 Landscape management plan

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. **HN08 Section 38 Agreement & Drainage details**
3. **HN15 Affected street lighting or illuminated signs**
4. **HN28 Highways Design Guide and Specification**
5. **HN05 Works within the highway**
6. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**
7. **N02 Section 106 Obligation**

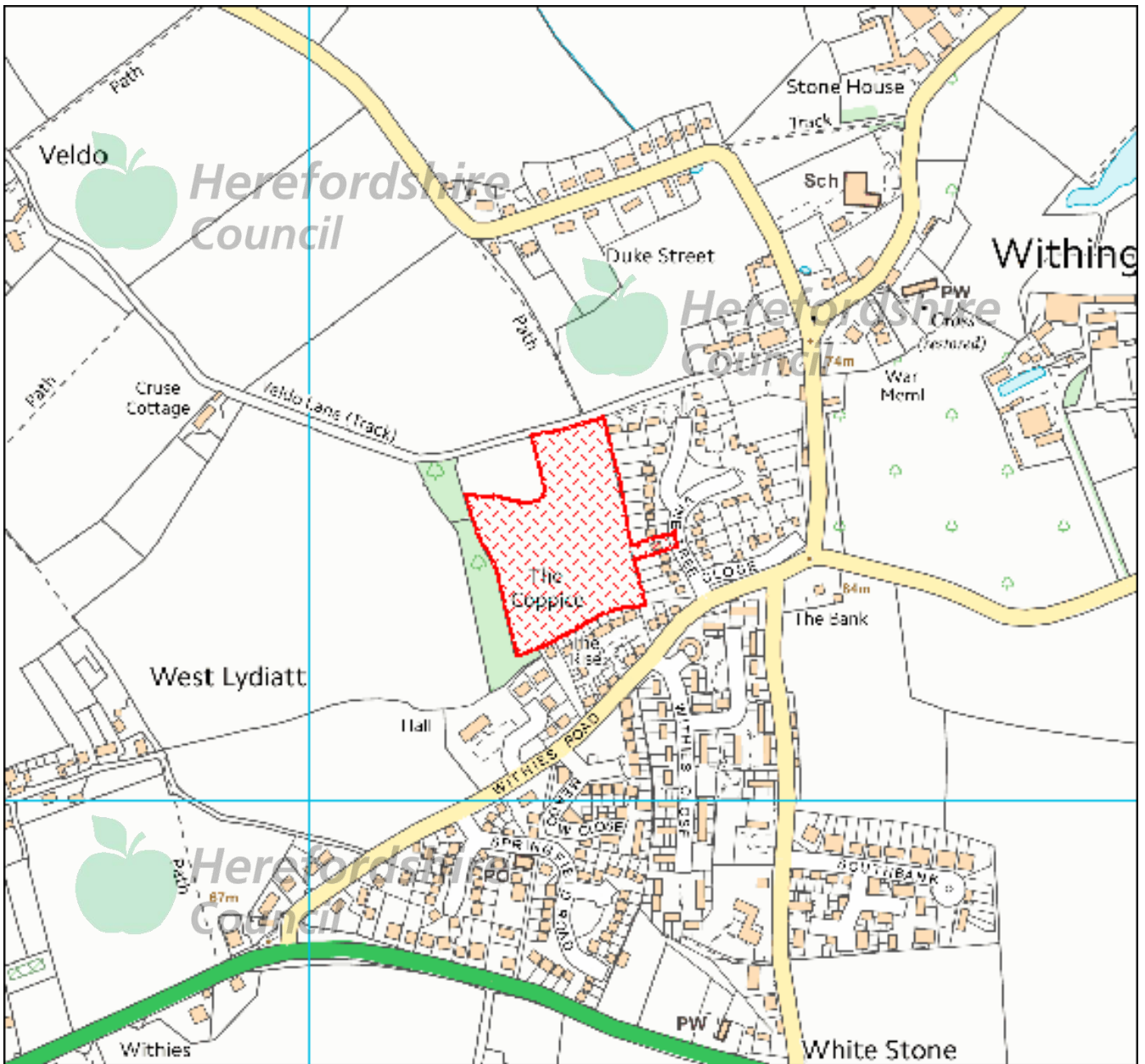
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 150067/O

**SITE ADDRESS :** LAND ADJACENT VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

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

**DRAFT HEADS OF TERMS**  
**Proposed Planning Obligation Agreement**  
**Section 106 Town and Country Planning Act 1990**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only. **The contributions are calculated on an indicative scheme of 19 open market units as the proposal involves the demolition of an existing 4 bedroom dwelling.**

Planning application: P150067/O

Proposed erection of up to 31 dwellings (20 open market and 11 affordable), construction of a new vehicular access and associated works on land adjacent to Vine Tree Close, Withington, Herefordshire.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

**£861.00** (index linked) for a 2 bedroom open market dwelling  
**£1,302.00** (index linked) for a 3 bedroom open market dwelling  
**£2,318.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford City Early Years, St Francis Xavier Roman Catholic Primary School (5% of overall contribution), St Mary's Roman Catholic Secondary School (8% of overall contribution), post 16, Hereford City youth services and the Special Education Needs Schools (1% of overall contribution). The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the total contribution would be £36,200.00.**

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum:

**£1,720.00** (index linked) for a 2 bedroom open market dwelling  
**£2,580.00** (index linked) for a 3 bedroom open market dwelling  
**£3,440.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the total contribution would be £60,200.00.**

The sustainable transport schemes would comprise;

- A new footpath along Veldo Lane from the development site to the existing footpath;
- Improvements to the footways on Vine Tree Close with re-surfacing and the provision of dropped kerbs.
- Improvements to the footway link through the adjacent coppice to the village hall and sport/play facilities.

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum:

**£965.00** (index linked) for a 2 bedroom open market dwelling  
**£1,640.00** (index linked) for a 3 bedroom open market dwelling  
**£2,219.00** (index linked) for a 4 bedroom open market dwelling

The contributions will either provide for on/off-site play facilities at the existing village play facilities, which may include changing facilities for local sports clubs. The split between on/off site play provision will be informed in consultation with the Parish Council. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the contribution would be £38,590.00.**

4. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

<b>£120.00</b>	(index linked) for a 1 bedroom open market dwelling
<b>£146.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£198.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£241.00</b>	(index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

**Based on the indicative scheme submitted the contribution would be £4,390.00.**

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative scheme submitted the contribution would be £2,400.00.**
7. The developer covenants with Herefordshire Council that 35% (up to 11) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
8. Of that 35% Affordable Housing units, at least 50% shall be made available for social rent with the remaining 50% being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
- 10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 10.2 satisfy the requirements of paragraph 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
- 11.1 a local connection with the parish of Withington;
  - 11.2 in the event there being no person with a local connection to the parish of Withington the adjoining parishes;
  - 11.3 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 above
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 12.1 is or in the past was normally resident there; or
  - 12.2 is employed there; or
  - 12.3 has a family association there; or
  - 12.4 a proven need to give support to or receive support from family members; or
  - 12.5 because of special circumstances
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph

---

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



Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman  
Planning Obligations Manager

