

5 DCNE2008/2357/F - PROPOSED TERRACE OF SEVEN DWELLINGS AND ASSOCIATED CAR PARKING. LAND TO THE REAR OF THE HOMEND SERVICE STATION, THE HOMEND, LEDBURY, HEREFORDSHIRE, HR8 1BS.

**For: P. Win Developments Ltd per Mr W Bridges,
CGMS Limited, Burlington House, Lypiatt Road,
Cheltenham, Gloucester, GL50 2SY.**

Date Received: 11 September 2008 Ward: Ledbury Grid Ref: 70969, 38253

Expiry Date: 6 November 2008

Local Members: Councillors ME Cooper, JK Swinburne and PJ Watts

1. Site Description and Proposal

- 1.1 The application site lies on the western side of Homend Crescent. The site has an area of some 0.118 hectare. The site comprises a car park and an area of vacant land. The site is set at a materially lower ground level than Homend Crescent itself. To the rear of the site itself (along the western boundary) is a retaining wall of approximately 3.6 metres in height. The other side of the retaining wall (to the west) is a petrol filling station including a car wash facility, which is set against the aforementioned retaining wall. There is an existing pedestrian link from the application site to the petrol filling station via a steel staircase. This is a private pedestrian route and not a public right of way, although local residents have been utilising this route.
- 1.2 To the south of the application site is Dawes Court a part two-storey and part three-storey residential development. To the east of the application site on the opposite side of Homend Crescent at a materially higher ground level, are a pair of semi-detached dwellings (3 & 5 Homend Crescent) and a terrace of four dwellings (5-8 Homend Crescent). To the north of the application site is a detached two-storey house known as 'Castlebridge'. Homend Crescent has a completely varied series of developments in terms of their era, size, age, scale and design. It does not have a single uniform character or any real degree of homogeneity. There is a footway on the eastern side of Homend Crescent only.
- 1.3 The site has a few trees and little vegetation upon it. None of these trees are of any significant amenity value.
- 1.4 The proposal is to erect a terrace of seven two-storey houses. All these houses would have three-bedrooms. The building would have a pitched and hipped-roof together with three projecting gables. The building would be set at a materially lower ground level than Homend Crescent. Indeed it would be sited such that its ridge level would be 3.02 metres lower than the ridge line of the two storey dwelling at 8 Homend Crescent. Similarly the eaves line would be 3.54 metres lower than the eaves level of number 8 Homend Crescent.

- 1.5 The building has been designed so that the main habitable rooms face east (away from the petrol filling station) with balconies provided to plots 3 and 5. All of the houses would have frontage gardens.
- 1.6 Secure cycle parking storage would be provided. To the north of the building some ten car parking spaces would be provided (including one space for disabled persons) together with refuse storage facilities. The vehicular means of access onto Homend crescent would be towards the north of the eastern boundary.
- 1.7 The pedestrian route through the existing Petrol Filling Station would be maintained as a permissive footpath.
- 1.8 In terms of materials it is envisaged to use a red brick on the ground floor, render on the first floor and a plain concrete tile to the roof. The drawings indicate the use of reconstituted stone cills and architectural features such as the use of quoins.

2. Policies

2.1 Central Government Advice

Planning Policy Statement 1	–	'Delivering Sustainable Development'
Planning Policy Statement 3	–	'Housing'
Planning Policy Guidance Note 13	–	'Transport'

2.2 Herefordshire Unitary Development Plan

S1	–	Sustainable Development
S2	–	Development Requirements
DR1	–	Design
DR2	–	Land use and activity
DR3	–	Movement
DR5	–	Planning Obligations
DR13	–	Noise
H1	–	Housing in the market towns
H13	–	Sustainable Residential Design
H14	–	Re-using previously developed land and buildings
H15	–	Density
H16	–	Car Parking
H19	–	Open Space Requirements
T6	–	Walking
T7	–	Cycling
T11	–	Parking Provision
RST3	–	Standards for Outdoor playing and public open space

3. Planning History

- 3.1 DCNE2004/4098/F – Erection of 6 town houses with garaging – Withdrawn
Upon part of the site (the northern extreme) that previously formed part of the curtilage of the dwelling known as 'Casterbridge' an outline permission was granted for a dwelling under reference DCNE2004/2663/O on 30/09/2004.

- 3.2 DCNE2007/0966/F – Proposed three storey building to provide 13 apartments, with 18 parking spaces and associated cycle parking – Planning Permission Refused on the following sole ground: -

“ The proposed development by reason of its extensive glazing and height and mass of the building upon such a prominent site, would represent a discordant feature inappropriate to its context detracting from the character and appearance of the area. As such the proposal is considered to be contrary to policies DR1 and H13 of the Herefordshire Unitary Development Plan March 2007”

- 3.3 An appeal was lodged and dismissed on the same ground as the sole refusal reason.

4. Consultation Summary

Statutory Consultations

- 4.1 Severn Trent Water has no objections to the proposed development subject to the imposition of an appropriate condition.

Internal Council advice

- 4.2 Environmental Health Section - No objections
Petroleum & Explosives Officer - No objections
Transportation Section - No objections
Building Control Section - No objections

5. Representations

- 5.1 The Ledbury Parish Council recommends APPROVAL
- 5.2 Two letters of support has been received from a local resident who considers this revised proposal to be sensibly scaled and appropriately designed for the site.
- 5.3 The occupiers of seven properties in the immediate vicinity object to the proposed development on the following summarised grounds: -
- The proposed development would destroy views from Homend Crescent;
 - The local highway network (including Knapp Lane) is inadequate to cater with the vehicular and pedestrian traffic likely to be generated by the proposed development;
 - There is a need to retain the pedestrian link;
 - Concern over land stability;
 - Concern as to proximity of Petrol Filling Station;
 - Homend Crescent should be made "access only"
- 5.4 A letter of objection has been received from another member of the public who objects on the same grounds as the local residents and wishes to see a modern design.

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

6. Officer's Appraisal

- 6.1 The application site lies within the settlement boundary of Ledbury. Policy H1 of the Herefordshire Unitary Development Plan allows for residential development within the settlement boundary of market towns, including Ledbury. The density of this proposal is some 46% lower than the density of the most previous proposal that was dismissed on appeal (Reference DCNE2007/0966/F). Nevertheless the scheme remains a relatively high density. In the long-term by making the most efficient use of land within towns, reduces the need for housing development. Therefore there is no objection to the principle of the development. In this respect it is important to note that in dismissing the previous appeal the Inspector also found no objection to the principle of residential development, only the detail of the design.
- 6.2 Whilst Homend Crescent is a pleasant residential street, it has no defining characteristic or architectural form. In fact there are a variety of buildings of various eras with no consistent architectural style or design. It must be stressed that the site is not within the Conservation Area or adjoining the Conservation Area. In response to the previous refusal and dismissed appeal the architect has revised the design approach from a contemporary design to a more traditional vernacular of a building with a pitched roof.
- 6.3 As opposed to the previous scheme that was for a three-storey building, this proposal is only for a two-storey building. The proposed building would be 2.8 metres lower than the previously refused building and due to its lower eaves height and use of hipped roofs would have a lesser physical mass. The apparent mass of the front and rear elevations would be broken-up by the use of the three projecting gables that have a depth of some 1.1 metres.
- 6.4 The fact that the ridge level of the proposed building is actually lower than the eaves level of the house at 8 Homend Crescent means that the stepping-up affect of buildings that run along the contours of the hillside when viewed from say Orchard Lane would be maintained.
- 6.5 There is not the same degree of glazing that was considered a discordant feature of the previous scheme.
- 6.6 Therefore on the critical issue of design I consider the proposed development to be acceptable.
- 6.7 With regard the detail of materials a planning condition is recommended requiring those details to be approved.
- 6.8 The distance between the proposed building and the front elevation of the dwellings at numbers 5-8 Homend Crescent opposite would be more than 27 metres. This is well in excess of the 21 metre privacy distance one would normally attempt to secure between habitable room windows. Similarly given the distance involved and the fact that the proposed building is materially lower than number 8 Homend Crescent there would be no undue loss of daylight or sunlight to those properties.

- 6.9 No habitable room windows are proposed in the southern flank elevation and as such there would be no loss of privacy to habitable room windows within the Dawes Court flatted development. The height of the building and the respective distances would also ensure that there would be no undue loss of daylight to habitable room windows within the Dawes Court flatted development. Similarly no habitable room windows are proposed in the northern flank elevation and as such there would be no loss of privacy to the house known as 'Castlebridge'.
- 6.10 Therefore it is considered that there would be no undue loss of privacy, daylight and / or sunlight to neighbouring residential properties.
- 6.11 In terms of the amenities of the occupiers of the proposed house, each lounge and main bedroom faces east away from the petrol filling station that is set at a materially lower level. Similarly the outdoor amenity areas in the form of balconies and gardens face east towards Homend Crescent away from the noise and odour source. The Environmental Health Section has been consulted upon the issue of noise and odour and is satisfied that the occupiers of the proposed houses would enjoy a satisfactory level of amenity.
- 6.12 The Building Control Section would deal with the matter of land stability under the Building Regulations. The issue of land contamination has been addressed. The Environmental Health Section is recommending appropriate conditions.
- 6.13 With regard the transportation matters, the Transportation Section consider that the local highway network has sufficient capacity with the additional traffic that the proposed development would generate. With regard the car parking provision ten car parking spaces are to be provided. The policy of the Herefordshire Council is that to reduce reliance upon the private motor vehicles the supply of car parking spaces should be reduced. The policy of Herefordshire Council is that a maximum of 1.5 spaces per dwelling should be provided. Clearly the proposed development complies with this policy. Furthermore this site is in a highly sustainable location as far as Ledbury is concerned. It is within easy walking distance of the Town Centre, the railway station and the food supermarket on the western side of The Homend.
- 6.14 Following extensive negotiations the applicant has agreed that the private right of way (not a public right of way) through the site be retained.
- 6.15 Provision is made on-site for cycle storage facilities.
- 6.16 There would be space along the frontage between Homend Crescent and the frontage gardens for landscaping to be secured by way of condition.
- 6.17 Whilst it is considered that the proposal includes sufficient amenity space for the future occupiers of the proposed development in the form of balconies and front gardens, there is still a need to address the issue of children's play equipment, amenity green / open space and sports facilities. In this respect the applicant has agreed to make the following commuted sums: -
- £2,219 (index linked) to provide / enhance children's play space and / or children's play equipment and / or amenity green space / open space within the Ledbury Town Council area; and
 - £4,687 (index linked) to provide / enhance sports facilities within the Ledbury Town Council area.

- 6.18 In terms of impact upon the wider infrastructure the applicant has agreed to make the following other commuted sums: -
- £20,657 (index linked) towards education provision within the Ledbury Town Council area; and
 - £18,081 (index linked) towards sustainable transport initiatives within the Ledbury Town Council area; and
 - £1,386 (index linked) towards library provision within the Ledbury Town Council area.
- 6.19 These contributions fully meet the requirements of the Education, Transportation and Library Services.
- 6.20 The policies within the Herefordshire Unitary Development Plan only require the provision of affordable housing within the market towns on developments of 15 dwellings (or more) or sites of more than 0.5 hectare. Neither threshold is reached in this case.
- 6.21 In terms of potential air and ground pollution arising from the adjoining petrol filling station this matter is controlled under separate legislation (Environmental Protection Act 1990). In terms of the explosive risk from the adjoining Petrol Filling Station, the management of such facilities is controlled under separate legislation (i.e. Safety Regulations made under the Health and Safety at Work etc act 1974 and a Petroleum Licence issued by the Authority with licence conditions under the Petroleum (Consolidation) Act 1928). Such facilities are then inspected annually by the Council's Petroleum and Explosives Officer to ensure compliance. Indeed modern technology ensures that when fuel is delivered no vapour is released into the atmosphere. It is recovered back into the delivery tanker.
- 6.22 In conclusion, it is considered that the proposed development is acceptable in principle, overcomes the design objections of the previous scheme, fully complies with the provisions of the Herefordshire Unitary Development Plan and fully meets the requirements of the Council's Supplementary Planning Document entitled 'Planning Obligations'.

RECOMMENDATION

1. **The Head of Legal Services be authorised to complete a planning obligation under Section 106 of the town and Country planning Act 1990 as set out in the draft Heads of Terms Agreement and deal with any other appropriate terms, matters or issues;**
- 2 **Upon completion of the above-mentioned planning obligation officers named in the Scheme of delegation be authorised to issue planning permission subject to the following conditions.**
 - 1 **A01 (Time limit for commencement (full permission))**

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

- 2 Prior to commencement of the development hereby permitted, written details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted shall be submitted to the Local Planning Authority for their written approval. The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved materials and thereafter maintained as such.

Reason: To ensure a satisfactory appearance to the development.

- 3 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping using indigenous species. The submitted scheme of landscaping must include details as to the location of all planting, the species, size and the density of planting.

Reason: To ensure that the development is satisfactorily integrated into the locality.

- 4 All planting, seeding, and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted or the completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the locality.

- 5 Prior to the first occupation of any of the dwellings hereby permitted the vehicular means of access, car parking, turning / manoeuvring area(s) for vehicles shall be fully implemented. Thereafter these areas shall be kept available for such use.

Reason: In the interests of highway safety and to encourage the use of modes of transport other than the private motor vehicle.

- 6 Prior to commencement of the development hereby permitted full details of all boundary treatments (i.e. walling, fencing, gates or other means of enclosure) shall be submitted to the Local Planning Authority for their written approval. The approved boundary treatments shall be fully implemented prior to the first occupation of any of the dwellings hereby permitted and thereafter maintained as such.

Reason: To ensure a satisfactory appearance to the development.

- 7 Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval: -

- Full design and external appearance details (i.e materials) of the refuse and secure cycle parking / storage facilities

The development shall not commence until the Local Planning Authority has given such written approval. The development shall not be first occupied until the refuse stores and secure cycle parking / storage facilities have been fully implemented. Thereafter these facilities shall be maintained.

Reason: To ensure appropriate refuse storage facilities and secure cycle parking / storage facilities that encourage the use of modes of transport other than the private motor vehicle.

- 8** No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

- 9** The Remediation Scheme, as approved pursuant to condition 8 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health.

- 10** Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development have been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed / occupied.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

11 Prior to commencement of the development hereby permitted full details of a scheme of insulation against noise shall be submitted to the Local Planning Authority for their written approval. The submitted scheme of glazing and passive ventilation shall be provided which achieves or exceeds the level of performance described in paragraph 5 of the noise assessment: SLR REF: 402.0525.00006. The approved scheme shall be fully implemented prior to the first occupation of any of the dwellings hereby permitted and therefore maintained as such.

Reason: To ensure that the occupiers of the dwellings hereby permitted enjoy a satisfactory level of amenity.

INFORMATIVES:

1 N15 - Reason(s) for the Grant of Planning Permission

2 N19 - Avoidance of doubt - Approved Plans

Decision:

Notes:

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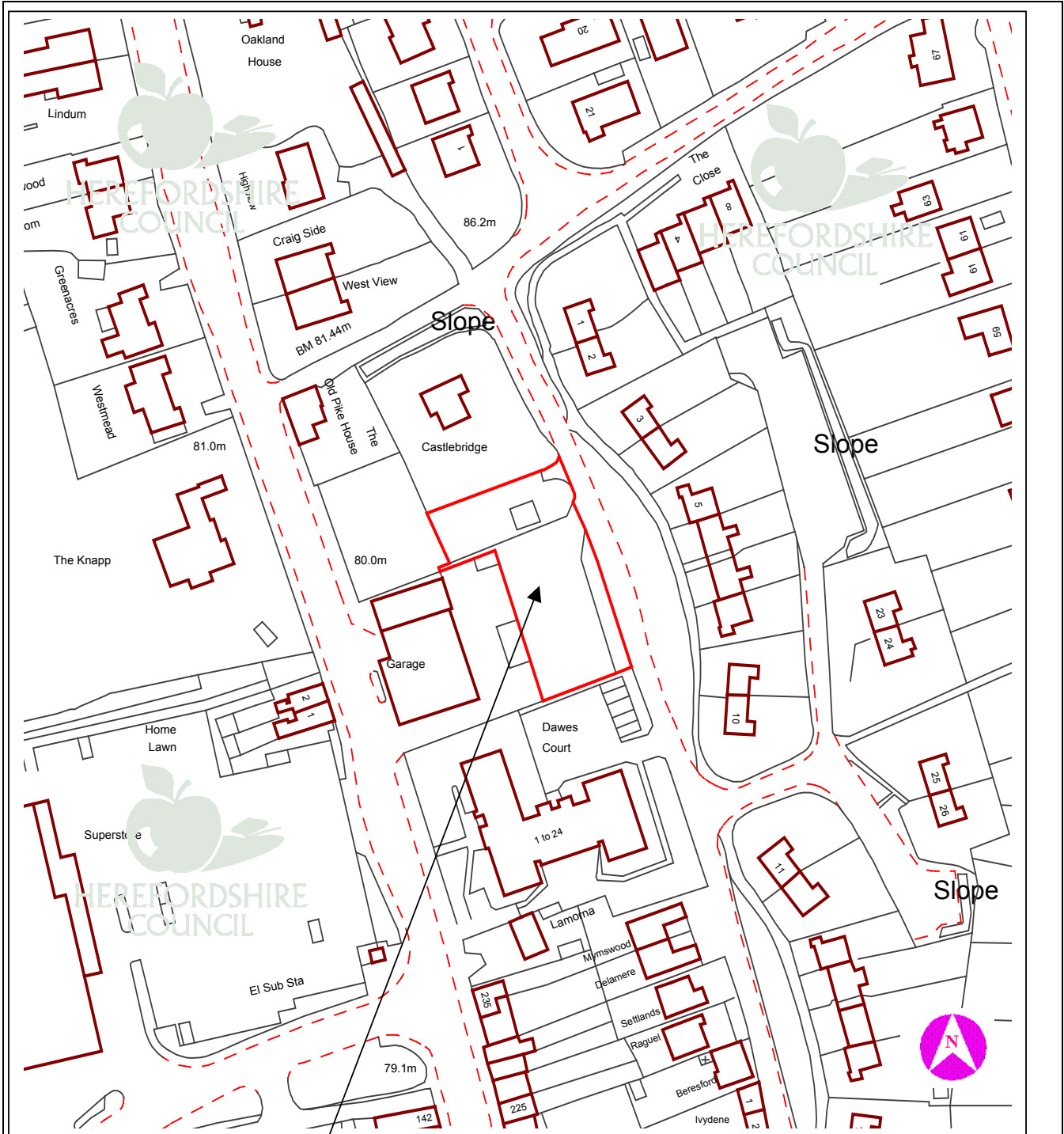
Background Papers

Internal departmental consultation replies.

DRAFT HEADS OF TERMS**PROPOSED PLANNING OBLIGATION AGREEMENT
SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

- Residential development of 7 dwellings
 - Land to the rear of Homend Service Station, The Homend, Ledbury
 - P-Win Developments Ltd.
- 1 The developer will provide a pedestrian link across the land prior to the occupation of any new dwellings. The developer will be responsible for the future maintenance of the link and ensure that the link is without obstruction or impediment. The general public will be able to pass and re-pass along this route at no financial cost.
 - 2 The developer will pay Herefordshire Council the sum of £2,219 (index linked) to provide/enhance children's play space and/or children's play equipment and/or amenity green space/open space within the Ledbury Town Council area prior to the first occupation of any new dwellings.
 - 3 In the event that Herefordshire Council does not, for any reason, use the contributions in clause 2 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
 - 4 The developer will pay Herefordshire Council the sum of £4,687 (index linked) to provide/enhance sports facilities within the Ledbury Town Council area or if no suitable scheme is identified the Herefordshire Council area prior to the first occupation of any of the new dwellings.
 - 5 In the event that Herefordshire Council does not, for any reason, use the contributions in clause 4 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
 - 6 The developer will pay Herefordshire Council the sum of £18,081 (index linked) towards sustainable transport initiatives within the Ledbury Town Council area prior to the first occupation any of the new dwellings.
 - 7 In the event that Herefordshire Council does not, for any reason, use the contributions in clause 6 for the purposes specified in the Agreement within 10 years of the date of this Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by this date.
 - 8 The developer will pay Herefordshire Council the sum of £20,657 (index linked) towards education provision within the Ledbury Town Council area prior to the first occupation of any of the new dwellings.
 - 9 In the event that Herefordshire Council does not, for any reason, use the contributions in clause 8 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.

- 10 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.
- 11 The developer will pay Herefordshire Council the sum of £1,386 (index linked) towards library provision (including the purchasing of books) within the Ledbury Town Council area prior to the first occupation of any of the new dwellings.
- 12 In the event that Herefordshire Council does not, for any reason, use the contributions in clause 11 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
- 13 The developer will pay Herefordshire Council the sum of £944.20 (index-linked) towards the monitoring of the Agreement.



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APPLICATION NO: DCNE2008/2357/F

SCALE : 1 : 1250

SITE ADDRESS : Land to the rear of The Homend Service Station, The Homend, Ledbury, Herefordshire, HR8 1BS

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