

MEETING:	PLANNING COMMITTEE
DATE:	30 JUNE 2010
TITLE OF REPORT:	<p>DMCW/092932/O - OUTLINE PLANNING PERMISSION FOR THE CONSTRUCTION OF A TOTAL CARE FACILITY TO INCLUDE 100 ASSISTED LIVING UNITS (USE CLASS C2 AND C3) AT LAND AT FARADAY ROAD, HEREFORD, HR4 9NZ</p> <p>For: Bovale Limited per Miss Claire Osborn, Harris Lamb Ltd., 75 - 76 Francis Road, Edgbaston, Birmingham, West Midlands, B16 8SP</p>

Date Received: 17 November 2009 Ward: Three Elms Grid Ref: 350422,240965

Expiry Date: 1 July 2010

Local Members: Councillors PA Andrews, SPA Daniels and AM Toon

1. Site Description and Proposal

- 1.1 The site comprises a 1.74 ha area of flat, cleared land (save for an electricity sub-station), formerly part of the Sun Valley Poultry processing plant which adjoins the site to the west. To the north lies part of the Westfields Industrial Trading Estate and a residential cul-de-sac (Armada Close). To the east (beyond Chave Court Close) lies an area of open space known as Widemarsh Common, whilst to the south is a small area of residential and other mixed buildings, generally of two and three storeys. This area together with Widemarsh Common (and an older residential area to its north-west) forms a Conservation Area. The city centre lies about 1.5 km to the south-east.
- 1.2 The proposal comprises an outline planning application for the construction of a Total Care facility to include nursing home (51 beds), retirement home (59 bed) and 100 assisted living units. The application seeks permission for the principle of development, access, layout and scale. Appearance and landscaping are reserved for approval at a later date.
- 1.3 The main access would be off Faraday Road to the north with a secondary access off Chave Court Close to the south. Pedestrian routes through to Widemarsh Common, Grandstand Road and Faraday Road are proposed.
- 1.4 The layout will focus on developing dual aspect buildings around the perimeter of the site with a central green area. The scale of the units are generally three storey articulated blocks with an element of four storey to create additional relief. External materials are brick and render under a tiled roof as identified on the submitted plans. 113 car parking and 18 disabled parking spaces are included within the layout. Of the 100 assisted living units 35% will be affordable.

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

1.5 Members will recall that a previous planning application was refused for an identical proposal and appeal dismissed in 2007.

2. Policies

2.1 National:

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS 4	-	Planning and Sustainable Economic Growth
PPS5	-	Planning for the Historic Environment
PPS9	-	Biodiversity and Geological Conservation
PPS23	-	Planning and Pollution Control
PPS25	-	Development and Flood Risk
PPG13	-	Transport

No references are made to the Regional Spatial Strategy given the Communities and Local Government Secretary, Eric Pickles' confirmation that they no longer carry any weight in terms of planning decisions.

2.2 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S11	-	Community Facilities and Services
DR1	-	Design
DR2	-	Land Use and Activity
DR5	-	Planning Obligations
DR9	-	Air Quality
S4	-	Employment Land
E5	-	Safeguarding Employment Land and Buildings
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H9	-	Affordable Housing
CF7	-	Residential Nursing and Care Homes
NC1	-	Biodiversity and Development
NC5	-	European and Nationally Protected Species
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement

3. Planning History

3.1 DCCW/2006/1780/F Development to provide Total Care Village for the elderly – Use Class C2 residential institution and associated infrastructure. Refused 7 August 2006. Appeal Dismissed.

3.2 Prior to the above planning application the site was occupied as part of the chicken and turkey processing facility by Sun Valley Poultry (now Cargill Meats). However, a devastating fire raised the building to the ground in 1992 and the site has remained largely undeveloped since that time.

4. Consultation Summary

4.1 Environment Agency: Raise no objections relating to flood risk and pollution.

- 4.2 Welsh Water: Raise no objection subject to appropriate condition relating to foul and surface water drainage.

Internal Advice

- 4.3 Traffic Manager: Raises no objections relating to the access points but express concern regarding the limited parking provided. In addition the following are considered to be key requirements:

- (i) A signalised pedestrian crossing on Grandstand Road.
- (ii) Bus shelter provision on inbound and outbound routes.
- (iii) Upgrading Chave Court Close to adoptable standards.

- 4.4 Housing Needs and Development Manager: Strategic Housing supports the application to provide 100 units of which 35% equating to 35 units would be provided as affordable dwellings. These units are required to be built to Housing Corporation Design & Quality Standards (standard adopted by the Homes & Communities Agency) and a minimum Code Level 3 for sustainable homes for any Housing Association to place a bid for funding from the Homes & Communities Agency.

Following discussions with the Agent it was agreed that all of the affordable dwellings would be for social rent and occupied by persons aged 55 and over, these units will be subject to a S106 and allocated through Home Point to local people in housing need.

- 4.5 Head of Environmental Head and Trading Standards: I understand that the Council tried, and failed, to defend an objection on the basis of potential noise and odour problems originating from Sun Valley.

Without the support of the Environment Agency, this position is untenable. The EA now deal with the permit for the site and field all complaints. They can advise on the complaint level and enforcement regime.

I have visited the site. I took a few noise measurements and I am satisfied that for the purposes of PPG24 the site falls within noise exposure category A. I therefore withdraw my request for a noise survey.

- 4.6 Property Operations Manager: Agree to the demolition of the closed public toilets on Widemarsh Common.

- 4.7 Planning Policy Manager:

Residential development or economic development

The applicant states that the application has an employment generating use and if this is to be assessed, then PPS4 should be examined. PPS4 sets out the Government's planning policies for economic development and incorporates a wider category of business use outside of the traditional B Use Class. Whether or not this proposal can be seen to be economic development depends on PPS4 Para 4-8.

The application meets the initial assessment at paragraph 4 criterion 1 by providing employment opportunities. However, it fails with criterion 5 as it states 'these policies do not apply to housing development. As this application is for a total care village in Use Class C2 (residential institution) and the purpose of the facility is housing for the elderly then the requirements of PPS4 have not been met and therefore it cannot be assessed under economic development policies.

Loss of employment land

The residential proposal is on an area of land which is Safeguarded Employment land in the Adopted UDP under policy E5 and therefore this proposal is contrary to policy. There are no specific targets set out in the UDP for acceptable amounts of employment land that can or cannot be lost to other uses, however, it is recognised that it is important that both the existing and proposed supply of land and buildings for employment uses is protected for such purposes if the UDP is to successfully maintain and enhance employment opportunities throughout the County.

The recent *Herefordshire Employment Land Study (October 2009)* forms part of the evidence base for the Core Strategy and it refers to the employment land situation in Hereford. Para 9.72 of the study states that outside of the Rotherwas Industrial Estate, more centrally located employment opportunities in the County Town sub area assessed as part of this study are limited in number and in certain cases, quality. Faraday Road which forms part of the Westfields Trading Estate has been assessed as a good employment site. It was recommended that sites that were rated 'poor' and 'moderate' in the study should be reviewed and employment sites ranked as 'good' and 'best' should be retained. The Employment Land Study is emerging evidence and is a material consideration in this application. Similarly the employment position in Hereford continues to be constrained with a limited supply of readily available land with most developers preferring sites to the north of the river. This emphasises the importance of Faraday Road not only as an employment resource that is an alternative to Rotherwas but as a good piece of employment land.

Summary

On the basis of the points raised above the application is contrary to policy E5 of the Adopted UDP as the land is intended for employment development. For clarity on previous issues with this site, a consultation with Environmental Health should be sought.

4.8 Economic Development Manager: Comments:

As previously, the application site still remains clearly allocated as Safeguarded Employment Land and is well located next to an established and thriving industrial estate, where some recent infill has taken place. The site itself does not suffer from any constraints and has good access into the industrial estate and, from there, onto the A49 and the Trunk road network.

Because there is only one bridging point to modern highway standards, it is considered that from an employment land perspective, the city is divided into north and south of the river. It is likely that this will remain the situation until a second modern city bridging point is in operation.

Since the previous planning refusal, planning permission has been granted on appeal for the redevelopment of the Holmer Trading Estate for a mixed use development and the reinstatement of a former canal link. The estate provided in the main, poor quality employment accommodation. However, the new scheme will re-provide the same amount of Planning Use Class B floor space as previously, in new accommodation to modern standards.

Whilst from a quantitative perspective there may be enough land and/or premises in Hereford City to accommodate the vast majority of Edgar Street Grid businesses relocating from the line of the proposed Link Road and Livestock Market. The majority of businesses have expressed a strong desire to stay north of the river and even here, not all have identified guaranteed relocation sites.

There is also a qualitative dimension that has not been fully addressed, around issues such as appropriate locations, sizes, ownerships, rents and building quality. Well located and unconstrained developable employment land such as Faraday Road could go some way in overcoming these. But land is still scarce in the north of the city, particularly for those with larger space requirements, and it is for this reason that it is considered that this particular site should continue to be safeguarded for Planning Use Class B and other appropriate sui generis uses, despite current marketing and pricing issues.

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South of the river, the situation has recently improved as the Council has been able to come to a strategic solution for the flooding issues identified by the Environment Agency, although provision of services on some sites may still act as a short term constraint.

We believe that the current allocated employment land provision is as follows:

Available at present - 1.92 hectares

South of the river

Available at present - 11.87 hectares

[Available in the shorter term - 9.6 hectares]

[Available in the longer term - 8.28 hectares]

We accordingly object to this planning application on the basis of loss of employment land north of the river.

4.9 Adult Social Care: Awaited.

5. Representations

5.1 Hereford City Council: The City Council has no objection to this application provided that 35% of the units are affordable. It is noted that this development is on land designated for employment but that this will be compensated for by development of the Three Elms Trading Estate.

5.2 One letter of objection has been received from Pinsent Masons, 3 Colmore Circus, Birmingham acting for Cargill Meats. The main points raised are:-

1. The proposed development is contrary to the Herefordshire Unitary Development Plan – loss of employment land and specifically Policy E5.
2. The proposal is contrary to the emerging policy of the Place Shaping Consultation.
3. The assisted living units are a C3 use and not C2. However, both are a residential use and contrary to policies in the Herefordshire Unitary Development Plan.
4. Proposal is contrary to PPS4 in that although employment is identified, it is from the wider category of business use outside of the traditional 'B' use Class.
5. The proposal is still contrary to the reasons as stated on the previous refusal which was upheld by appeal.
6. The site lies adjacent to noise generating industry which operates on a 24 hour basis. Mitigation would not overcome excess noise and nuisance.
7. The site lies adjacent to the Sun Valley Rendering Plant where short term odours, despite best practice, are released. The site is therefore unsuitable for residential development.
8. There are restrictive covenants on the land preventing its use for residential purpose.

9. Westfield Trading Estate is heavily trafficked and would be a danger to safe access for a care home. It is therefore contrary to Policy CF7 which requires that the care home is accessible and reasonable access to services and facilities.

10. The dismissed appeal supported the Council's decision that the site should be retained for employment.

5.3 Three letters of support for the proposal have been received although the condition and use of Chave Court Road has been highlighted as an issue.

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

6. Officer's Appraisal

6.1 The previous planning application was refused on seven reasons for refusal. However, the subsequent appeal was only dismissed on two grounds, namely protection of the land for employment and the lack of affordable housing provision within the assisted living units. This report therefore focuses on these two main issues.

Affordable Housing

6.2 The application now provides for affordable housing in the assisted living units. This is supported by the Council's Strategic Housing Manager and will equate to approximately 35 units of accommodation being 35% of the 100 proposed units. The nursing and care homes fall outside of the requirements for affordable units. Therefore on the provision for affordable housing, I conclude that the proposal complies with policy.

Employment Land

6.3 The site lies within a larger area of safeguarded employment land identified as Westfields Trading Estate. The site has remained largely undeveloped since the devastating fire in 1992.

6.4 The recent Herefordshire Employment Land Study (October 2009) forms the evidence base on employment land for the Core Strategy. This site was included and rated as a good employment site and on this ranking should be retained. In addition the Council's Economic Development Team have identified that there is only 1.92 hectares of available land north of the river and 11.87 hectares south.

6.5 The Herefordshire Unitary Development Plan requires that the Council have available 100 hectares of land for Part B employment development in the county. The latest Annual Monitoring Report (2008/9), shows that supply amounts to 172.5 hectares. Therefore in purely quantitative terms I consider that there is no need to safeguard the site. However the policy also requires that their needs to be a choice of sites. In this respect the city has approximately 14 hectares available but less than 2 hectares is available north of the river. Therefore in qualitative terms the loss of this site (1.74 hectares) would impact detrimentally on the supply of employment land north of the river.

6.6 The applicants claim that the Care Village will also provide in excess of 140 jobs, however these are not within the Class B employment use and required by Policy ED5.

6.7 Mention has been made previously of the need to retain the site for the urban regeneration of Hereford City with displaced businesses having the opportunity to relocate to this area. However no objections have been made on this basis and during the previous appeal it was identified as convenient but not necessary and therefore little weight can be attached in this

respect. However I conclude that significant weight should be given to the protection of this site for employment redevelopment.

Other Matters

- 6.8 Odour, noise and access have been raised in the processing of the application.

Odour

- 6.9 The adjacent Cargill Meats Rendering Plant is controlled under Permit by the Environment Agency. The Permit contains protective conditions and the Environment Agency regulate the site against these conditions to ensure compliance. PPS23 advises that local planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. It is therefore reasonable to assume that Best Available Techniques (BAT) are implemented to ensure that pollution (odour) is prevented or minimised. Accordingly I consider that the proposal would provide satisfactory living conditions for future residents so there would be no undue risk of annoyance for residents. This was also the view of the Inspector.

Noise

- 6.10 This aspect was also considered at the dismissed appeal and the Inspector confirmed that there was no evidence that ambient noise levels would lead to complaints and that the complaints would lead to threats regarding future operation of Cargill Meats. Members will also note that the Council's Environmental Health Officer has taken noise readings and confirmed that the proposal falls within Noise Category A and therefore does not object to the proposal.

Access

- 6.11 The main vehicular access is proposed off Faraday Road to the west with a secondary access of Chave Court Close to the east. Pedestrian access is also provided with access to local neighbourhood shops. The site also lies close to the city centre and its proposed urban regeneration. Bus routes run along Grandstand Road and in accordance with the Traffic Manager's requirements bus shelters would be required together with a pedestrian crossing to facilitate enhanced and safe access to either the neighbourhood centre or city centre. Access along Chave Court Close is limited and requires upgrading which can be controlled by condition.
- 6.12 Subject to the above I am therefore satisfied that safe pedestrian and vehicular access can be achieved as recommended by the Traffic Manager. Although limited parking is proposed its location in the city provides for alternative methods of transportation. To conclude the site has the potential for excellent permeability into the city and local services.

Material Considerations

- 6.13 The site has remained undeveloped for nearly 20 years and presents a forlorn appearance on the edge of Widemarsh Common Conservation Area that adjoins the east and southern boundaries of the site. The redevelopment of this site will provide a positive enhancement to the Conservation Area and would markedly improve the visual quality of the site and surroundings. This is an undoubted advantage of the proposal and deserves significant weight. This view was also accepted by the Inspector. In addition the developer has agreed to facilitate the removal and landscaping of the redundant public toilets.
- 6.14 Another factor to consider is the amount of brownfield land that is proposed to be developed. PPS3 gives a national target of 60% of new housing on previously developed land. The total

brownfield land identified in the Strategic Housing Land Availability Assessment for Hereford amounts to just 8%. Therefore significant weight can be attached to the redevelopment of this brownfield site.

- 6.15 Alternative sites have been investigated by the applicant and are not available. Therefore despite the need for the development as confirmed by the Strategic Housing Officer, there are no identified or available sites. This requires to be given reasonable weight.
- 6.16 Finally, the site's location in terms of sustainability warrants significant consideration given its position on the edge of the city centre.

Conclusion

- 6.17 The previous appeal was dismissed on lack of affordable housing and development of employment land. The proposal now provides for affordable housing and therefore the protection of employment land is the only main issue for consideration. Whilst its development would be contrary to Policy E5, the retention of this land is not fundamental to the regeneration of Hereford City. In quantitative terms there is considerable excess over the UDP requirement. Although there is limited availability of land north of the river this should not be considered in isolation to the overall development of Hereford.
- 6.18 The benefits of developing the site as proposed provide for a reuse of brownfield land, enhancement of the adjoining Widemarsh Common and Conservation Area and complementary land uses adjacent to existing residential development. These are all factors that are considered to carry significant weight in the planning balance of the site sufficient to warrant a recommendation for approval subject to the requirement of a Section 106 in accordance with the attached Heads of Terms.

RECOMMENDATION

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

- 1 C02 Time limit for submission of reserved matters (outline permission)**
- 2 C03 Time limit for commencement (outline permission)**
- 3 C04 Approval of reserved matters**
- 4 C05 Plans and particulars of reserved matters**
- 5 C12 Section 106 Agreement**
- 6 C74 Staging of development**
- 7 CAD Access gates**
- 8 CAE Vehicular access construction**
- 9 CAL Access, turning area and parking**
- 10 CAP Junction improvement/off site works**
- 11 CAT Wheel washing**
- 12 CA2 Landscape maintenance arrangements**

- 13 **CB2 Secure covered cycle parking provision**
- 14 **CB3 Travel Plans**
- 15 **CCP Sustainable Homes Condition**
- 16 **CBK Restriction of hours during construction**
- 17 **CBO Scheme of surface water drainage**
- 18 **CAP Pedestrian crossing – Grandstand Road**
- 19 **CAP Bus shelters**
- 20 **CAP Upgrade to Chave Court Close**

INFORMATIVES:

- 1 **I05 No drainage to discharge to highway**
- 2 **I45 Works within the highway**
- 3 **I13 Section 106 Obligation**
- 4 **I08 Section 278 Agreement**
- 5 **I38 Avoidance of doubt – Approved Plans**
- 6 **I34 Reason(s) for the Grant of PP/LBC/CAC**

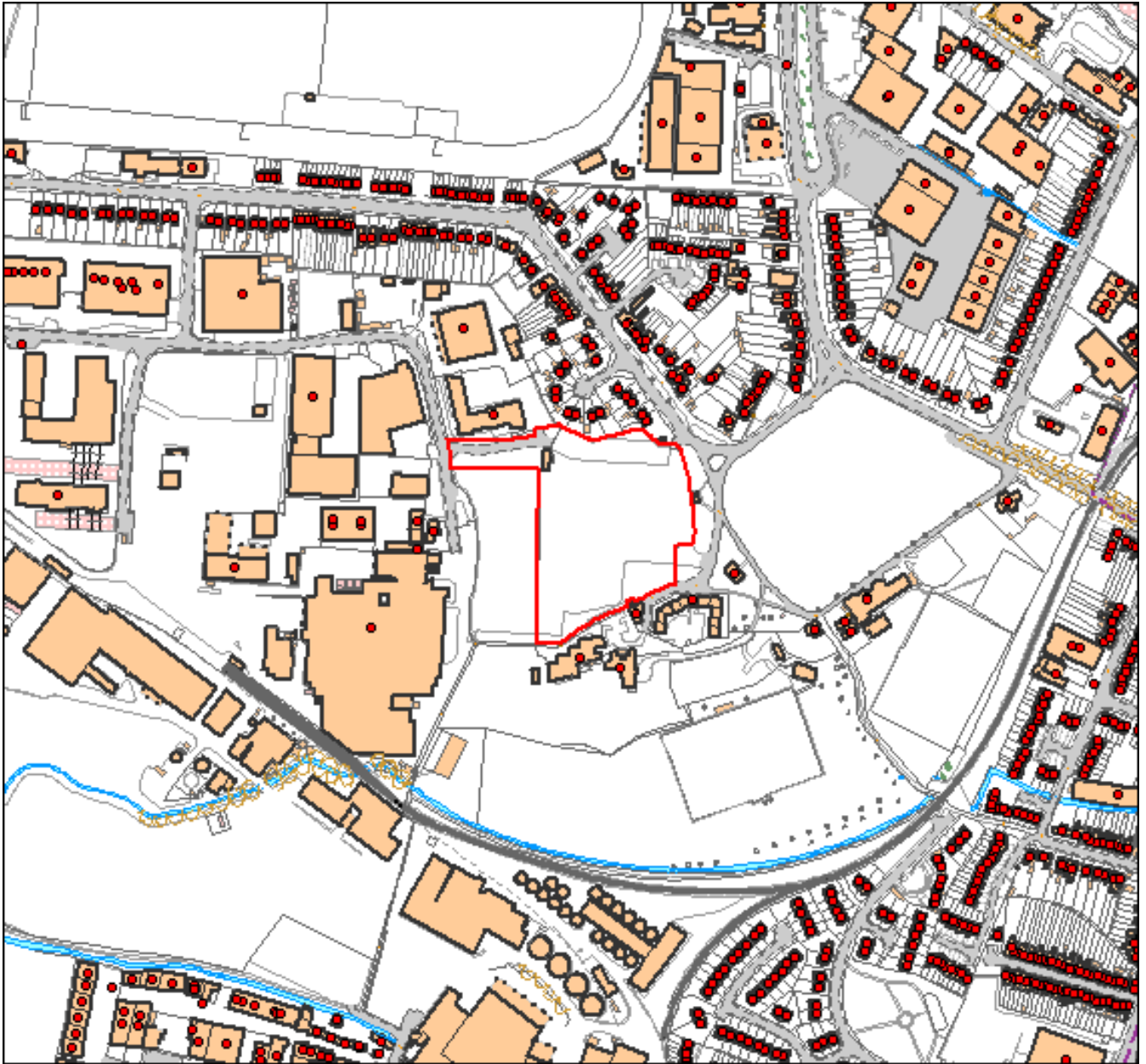
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCW/092932/O

SITE ADDRESS : LAND AT FARADAY ROAD, FARADAY ROAD, HEREFORD, HR4 9NZ

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

Planning Application – DCCW092932/O

Outline planning permission for the construction of a Total Care facility to include 100 assisted living units (use class C2 and C3)

Land off Faraday Road, Hereford. HR4 9NS

1. The developer covenants with Herefordshire Council to pay £XXXX for **improvements to seating, access and safety railing at Widemarsh Common.**
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £XXXX towards the cost of **demolition of the redundant toilets and landscaping of the cleared site.**
3. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £XXXX for off site **highway works** and improved public and sustainable transport infrastructure to serve the development (which aren't Section 278 works i.e. essential to facilitate the development).
4. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes: (The list is not in any order of priority)
 - a) Enhancements in the usability of the existing Public Rights of Way in the locality of the application site
 - b) Traffic calming in Faraday Road, Grandstand Road,
 - c) Pedestrian Crossing in Grandstand Road
 - d) Bus Shelters on either side of Grandstand Road.
 - e) Upgrade of Chave Court Close to a specified standard
5. Prior to the commencement of the development, the developer shall provide a strategy (which should include physical measures) in consultation with Herefordshire Council for minimising the impact of the development on the environment. The strategy shall include the following:
 - a. A waste audit
 - b. On site waste management facilities
 - c. A package of measures to reduce the carbon footprint of the development informed by carbon footprint analysis
 - d. A time bound programme of implementation along with measures to enable future monitoring
6. 35% of the total number of residential apartments shall be "Affordable Housing" which meets the criteria set out in Section 5.5 of the Herefordshire Unitary Development Plan (Revised Deposit Draft) and related policy H9 or any statutory replacement of those criteria and that policy. All of the affordable units shall be made available for rent and occupied by persons aged 55 and over. None of the Affordable Housing shall be occupied unless the Herefordshire Council has given its written agreement to the means of securing the status and use of these units as Affordable Housing. All the affordable housing units shall be completed and made available for occupation prior to the occupation of more than 50% of the other residential

apartments on the development or in accordance with a phasing programme to be agreed with Herefordshire Council.

7. In the event that Herefordshire Council does not for any reason use the said sum of Clauses 1, 2, and 3 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.
8. All of the financial contributions shall be Index linked and paid on or before commencement of the residential development unless otherwise agreed with Herefordshire Council
9. 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.

Kevin Bishop - Principal Planning Officer June 2010