

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>13 MARCH 2013</b>
<b>TITLE OF REPORT:</b>	<b>S122604/O - OUTLINE APPLICATION FOR 35 UNIT HOUSING SCHEME WITH ASSOCIATED ACCESS AT LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HEREFORD</b>  <b>For: Bayhill Property Developments Ltd per Quattro Design Architects Ltd, Imperial Chambers, Longsmith Street, Gloucester, Gloucestershire, GL1 2HT</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122604&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122604&amp;NoSearch=True</a>

**Date Received: 15 September 2012**    **Ward: Valletts**  
**Expiry Date: 10 January 2013**  
Local Member: Councillor JF Knipe

**Grid Ref: 342335,235900**

## **FURTHER INFORMATION REPORT**

### **Background**

This application was reported to Planning Committee on 30 January 2013.

At the conclusion of the debate it was apparent that the Committee appeared minded to refuse permission, contrary to the officer recommendation. In this regard, officers' in respect of this particular application, were concerned that such a decision could be difficult to defend if challenged. Consequently the determination of the application was deferred for this Further Information Report in accordance with the provisions of paragraph 5.12.10.4 of the Council's Constitution

In summary, the Planning Committee appeared minded to refuse permission for the following reasons:-

- The development/location was not sustainable
- The density was too great
- The local infrastructure was lacking/deficient
- The access and highway network was unsuitable

This Further Information Report focuses upon these main issues of concern.

### **Sustainability**

Kingstone is identified as a main village in Policy H4 of the Herefordshire Unitary Development Plan (UDP). At that time the assessment as to whether a settlement could be considered to be a main village was based on an assessment of its size, accessibility, the availability of services and employment opportunities. Kingstone is a relatively large settlement in terms of its population, has a range of facilities which include a shop/Post Office, public house, junior and senior schools and has local employment opportunities within or adjoining the parish boundary shared with Madley. Kingstone

also has transport connections to Hereford and the Golden Valley including access to a bus service. Kingstone remains a suitable and sustainable location for additional development.

The policies of the UDP should now be read in conjunction with the NPPF which sets out national planning policy and this is a key element in the determination of this application. The NPPF provides detailed guidance on the delivery of sustainable development. Paragraph 6 of the NPPF requires the planning system to 'contribute to the achievement of sustainable development'. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Whilst currently the UDP remains as adopted planning policy it is not consistent with the NPPF in terms of the supply of land for housing. Paragraph 49 of the NPPF provides that there is a presumption in favour of sustainable development. It also states that policies in development plans concerned with the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply.

Further Paragraph 14 of the NPPF states that where relevant policies are out of date planning permission should be granted unless '*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*' when assessed against the NPPF as a whole.

In essence what this means is that given the absence of the necessary supply of housing land any proposed development which otherwise accords with the NPPF should be granted planning permission.

There is no doubt in planning policy terms that, Kingstone, in principle, is an appropriate location for additional development given its size and the range of services it contains or is reasonably close to. This particular site was assessed in the Strategic Housing Land Availability Assessment (SHLAA) in which it was concluded that it could be integrated into the current settlement. This remains the case and the development proposed will in the opinion of Officers have no discernible landscape impact, will not adversely harm the amenity of existing dwellings, will not have an unacceptable traffic impact nor will it place an unreasonable strain on infrastructure. The proposed S106 Agreement provides for the impacts to be mitigated and includes the delivery of much needed affordable housing in accordance with Policy H9 of the UDP.

The development is considered to comply with the policies of the NPPF and it is considered that to refuse the application on the basis that it is not sustainable would be extremely difficult to defend if challenged.

### **Density**

The application site is 1.18 hectares in area and it is proposed to erect 35 dwellings. Policy H15 of the UDP requires new development to achieve a density of at least 30 dwellings per hectare. The proposal site provides a rate of fractionally under 30 dwellings a hectare which, whilst not in full compliance with the policy, is considered to be an appropriate density whilst providing for an efficient use of the land. The proposal is considered to be consistent with the density of other residential development in the locality. Therefore it is not considered that a refusal reason based upon the density of the scheme proposed could be defended if challenged, on the basis that it accords with Policy H15 of the UDP and the NPPF.

### **Foul drainage**

Welsh Water has not objected to the proposal confirming that the provision of suitable upgraded drainage infrastructure would not be available until 1<sup>st</sup> April 2015. There is reasonable certainty that this upgraded infrastructure will be in place to accommodate the proposed new development and as such it would be entirely appropriate to impose a Grampian condition to ensure that the necessary works were in place prior to the first occupation of the dwellings.

The wording of the proposed condition accords with the Circular advice on the use of conditions and effectively provides control over the delivery of housing alongside Welsh Water's commitment to upgrade the Waste Water Treatment Works. The proposed condition reads as follows:

"None of the dwellings hereby permitted shall be occupied until the Waste Water Treatment Works, into which the development shall drain has been upgraded. On being advised of the completion of the upgrading of the Works the Local Planning Authority will issue notice that the development can be occupied.

Reason: To prevent the overloading of the Waste Water Treatment works and pollution of the environment and to comply with Policy CF2 of Herefordshire Unitary Development Plan 2007"

The proposed condition would address the concern about potential overloading of the existing facilities and, on the basis of the comments received from Welsh Water, or any evidence to the contrary, it would be difficult for the Council to defend a reason for refusal on this technical issue were the decision to be challenged.

### **Access**

This issue was raised in relation to additional traffic using the local road network and in particular the poor visibility onto the B4349 road. Traffic from the development would access the B4349 through White House Drive and the Transportation Manager's advice is that the access point at the junction of White House Drive and Church Road provides sufficient visibility in both directions and that traffic approaching from the south west would be slowed by the bend in the road. In addition, the advice is that the local road network can accommodate the additional traffic without detriment to highway safety. In the absence of any technical evidence to the contrary, it is considered that a reason for refusal based upon the insufficient capacity or highway safety would be extremely difficult to defend if challenged.

### **Lack of employment opportunities**

This issue links to the sustainability section set out above. Kingstone does benefit from reasonable accessibility to local employment opportunities in and around the village and close by in Madley. However the perceived deficiency in employment opportunities should not be a factor in itself for resisting development of this site. The application should be considered as being sustainable (or not) in accordance with the provisions of the NPPF unless, '*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*'. The benefit of providing housing adjoining a main village that would in turn contribute to meeting the current under provision of housing supply for the county as a whole cannot be reasonably set aside on the basis that there is a perceived shortfall in employment opportunities in the immediate locality. The benefits are considered to outweigh the impact of the development.

### **Conclusions**

The following can be concluded from the above:-

- The Council does not have a 5 year supply of housing land and consequently the UDP in terms of its provision for housing is out of date.
- The development conforms to the NPPF as it promotes housing in a sustainable location
- The highway network has the capacity to accommodate the additional traffic without detriment to road safety
- There is currently a deficiency in foul drainage capacity but this is to be remedied and can be controlled by an appropriate condition
- The development will not impact adversely on the adjoining dwellings nor on the landscape
- Other impacts from the development can be mitigated by a S106 Agreement

As set out in the conclusions given the current policy context there is significant weight in support of the grant of planning permission. The concerns of the Committee are acknowledged but it has not been possible to identify reasons for refusal that would potentially be defensible were a decision to refuse planning permission to be challenged

### **Monitoring Officer Advice**

When determining the application, as a matter of law, the Council should not have regard to matters which are not material planning considerations. To do so, and to refuse permission based on such reasons, could leave the Council open to complaint, and to an adverse costs award at appeal

## **UPDATED OFFICER REPORT**

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

1.1 The site comprises 1.18 hectares of undeveloped agricultural land immediately adjoining the western side of White House Drive from which access is proposed to be gained and immediately north of residential development along the southern side of the gently undulating site. There are no trees on the site and the only vegetation is well maintained hedgerows on the north western boundary of the site and along the north western boundary of the site.

1.2 The site lies adjacent to the settlement boundary which is provided by the rear garden and western boundary of properties in White House Drive and by the northern boundary of Green Lane. Therefore, the site falls within open countryside in planning policy terms.

This is an outline planning application that is seeking to establish the principle of erecting 35 dwellings. The means of access, siting and layout is to be determined as part of this submission. In the event that planning permission was granted a further application would need to include details relating to external appearance and landscaping.

1.3 23 dwellings will provide private housing and the remaining 12 dwellings will provide social housing. The private housing will comprise 7 no., 2 bedroom dwellings, 6 no. 3 bedroom dwellings of two different house types and 10 no., 4 bedroom houses again comprising two house types. The affordable housing will comprise a two storey block of building providing 4 no. 1 bedroom flats, 6 no. 2 bedroom houses, 1 no. 3 bedroom dwelling and a single 4 bedroom dwelling. The dwellings will be accessed off the north western end of White House Drive between two dwellings 17 metres apart. Four detached dwellings will continue the line of detached dwellings on White House Drive before the access road turns at 90 degrees and leads south westwards and slightly down slope towards properties and private allotments in Green Lane. Detached and semi-detached properties will be erected along both sides of the new access road. The affordable housing will be provided on the south western area of the inverted 'L' shaped site. An unequipped open space area is proposed on the eastern boundary of the site.

1.4 The traffic leaving the proposal site will travel south eastwards to the junction with Church Road (C1221), which is the main thoroughfare in this part of Kingstone. It joins the B4349 road to the north and the B4348 road to the south, adjoining the Bull Ring public house.

1.5 A Draft Heads of Terms Agreement was submitted with the application. This has been developed further and has been the subject of consultation with the Parish Council.

1.6 The application was the subject of pre-application discussion at a public meeting early in 2012.

1.7 This application was accompanied by a Planning Statement, Design and Access Statement, Landscape and Visual Statement, Waste Minimisation Statement, Transport Statement, Flood Risk Assessment and Biodiversity Appraisal.

## 2. Policies

### 2.1 National Planning Policy Framework

The following sections are of particular reference:

- 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

### 2.2 Herefordshire Unitary Development Plan (UDP)

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- S6 - Transport
- S7 - Natural and Historic Heritage
- S8 - Recreation, Sport and Tourism
- S11 - Community Facilities and Services
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- DR7 - Flood Risk
- H7 - Housing in the Countryside Outside Settlements
- H9 - Affordable Housing
- H10 - Rural Exception Housing
- H13 - Sustainable Residential Design
- H15 - Density
- H16 - Car Parking
- H19 - Open Space Requirements
- LA2 - Landscape Character
- LA3 - Setting of Settlements
- LA6 - Landscaping Schemes
- NC1 - Biodiversity and Development
- NC8 - Habitat Creation, Restoration and Enhancement
- T6 - Walking
- T7 - Cycling
- T8 - Road Hierarchy
- T11 - Parking Provision
- RST4 - Standards for Outdoor Playing and Public Open Space
- W11 - Development and Waste Implications
- CF2 - Foul Drainage

### 2.3 Supplementary Planning Documents

- Landscape Character assessment
- Planning Obligations
- Design

## Biodiversity and Development

### 2.4 Other Guidance

Strategic Housing Land Availability Assessment  
Annual Monitoring Report  
Urban Fringe Sensitivity Analysis

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:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

### 3. Planning History

3.1 None identified.

### 4. Consultation Summary

#### Statutory Consultees

#### 4.1 Welsh Water

Welsh Water state that the proposed development would overload the existing Water Treatment Works. However, improvements are planned for completion by 1 April 2015

Welsh Water offer a condition to safeguard the security of service to customers and the protection of the environment

*'No buildings on the application site shall be brought into beneficial use earlier than 1st April 2015, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority.*

*Reason: To prevent overloading of the Waste Water Treatment works and pollution of the environment'.*

Welsh Water also recommend that in the event of planning permission being granted standard conditions are attached to the planning permission in respect of the separation of foul water and surface water discharges

Welsh Water also state that new legislation makes it mandatory for developers to obtain an adoption agreement, in relation to any connection to the public sewerage system.

As regards Water Supply, this can be made available; however the developer may be required to contribute under Sections 40-41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site water mains and associated infrastructure.

4.2 Environment Agency has no objections as the site is within Flood Zone 1, the Low Risk Zone. The Environment Agency recommends seeking advice of Council's Land Drainage team.

#### Internal Council Advice

4.3 Transportation Manager has no objections subject to appropriate conditions

- 4.4 Conservation Manager (Landscape): The landscape character type is principal settled farmlands. The Landscape and Visual Assessment (LVA) follows recommended standards. It demonstrates that the landscape character has informed the design process. The Landscape Officer confirms that apart from well maintained field hedgerows, there are no obvious landscape features. The proposal will also retain the character and integrity of Kingstone, there will be a change in view points these will not though necessarily be negative ones.
- 4.5 Conservation Manager (Ecology): No objections are raised. There are opportunities for habitat protection and enhancement which would need to be the subject of a submitted scheme prior to commencement of works on the site.
- 4.6 Housing Manager: Support. Tenure split is acceptable, being social rent. The unit sizes meet the requirements of Lifetime Homes. The affordable units will need to be built to the minimum code for Sustainable Homes level 3
- 4.7 Parks and Countryside Manager states that the contributions towards play space for both young and older children is needed given that no provision is made on the site. It is though acknowledged that Kingstone is well served with existing facilities. Nevertheless, given Policy H19 of UDP requires provision for play space for sites of between 30 to 60 dwellings.
- 4.8 Land Drainage Officer states that the Flood Risk Assessment is comprehensive and all aspects of flooding and drainage have been considered for this stage.

## **5. Representations**

- 5.1 Kingstone Parish Council state: Following housing development proposals of 30 homes as an extension to White House Drive and 150 houses opposite Kingstone Surgery the Parish Council organised an open meeting on 30 May 2012.

94 residents attended and 12 sent email comments.

A summary of the comments specific to White House Drive were:

- a) 84% were against the 30 houses (now 35 houses)
- b) majority thought this proposal too large and that Kingstone should have no more 60 houses built with the 20 year scale of the Local Development Plan
- c) affordable houses should not be more than 25% (preferably less) of any development to bring Kingstone currently at 30%, in line with the County average of 15%
- d) these proposals far exceed the local housing requirement identified in the last housing survey of 7 affordable homes
- e) there is no local employment so these homes will just add commuters to the daily Belmont Road traffic jam twice a day
- f) there is no gain to the village whatsoever from this proposal
- g) there is general concern about utility services coping with this increase in particular the sewage system is known to be overloaded. It has been stated that the utility infrastructure would not cope with further housing particularly as further housing planned for Madley will use this overloaded structure
- h) is White House Drive and the C1221 road junction suitable for the large increase in traffic?

About 30 residents attended the last Parish Council meeting on the 14 November and again re-iterated their opposition to this housing proposal. There was a specific complaint that one of the new houses was shown very close to the garden of 21 Green Lane. This could be avoided by realigning the houses so that the back gardens abutted the existing property.

The Parish Council therefore recommends that this application be rejected.

5.2 69 letters of objection have been received. In summary the points raised are as follows:

- Greenfield site, brown field sites should be developed first. Contrary to Policies S3, H13 and HBA9 of UDP.
- Loss of valuable open space. Village needs green heart
- Village not a town
- Loss of privacy
- Loss of light
- Loss of outlook
- Nearby house very wide and as tall.
- Light pollution from parking area
- Three –storey house dominates our property
- Understand covenant on land restricting development
- Enough affordable housing
- No provision for elderly i.e. bungalows
- At public meeting led to believe would be 15 dwellings
- Discrepancy in stated parking spaces is it 63 or 72?
- Additional traffic, 70 %
- Junction onto Church Road has very poor visibility particularly to right. Exacerbated by no footpaths
- Increase traffic on Whitehouse Drive a danger to this existing cul-de sac, particularly to children
- Poor junctions onto B4348 road at Dews Corner and onto Allensmore/Peterchurch junction
- Belmont Road cannot take any additional traffic. South of city experiencing major hold ups now, deterring people moving to Kingstone and beyond (empty properties in village)
- Not the employment as stated, by applicant, in village. New residents will inevitably commute
- Question of capacity of school and surgery to take additional population.
- Land acts as natural drain now, won't when covered over.
- Question capacity of sewage works also used by Madley, which has 19 dwellings approved recently at Madley. Sewerage is old and failing
- Understood water brought from Wormelow to lagoon to serve village
- Hedgerow will not screen site
- Will devalue properties
- More policing required. Who pays?
- Definition of affordable housing?
- No Section 106 money going to community.
- Are these sweeteners for further development?
- Development to rear of Hawthorn Rise refused by Council similar as for this site.
- See copy of letter from Andrew Mitchell MP, self-explanatory
- Affordable houses will make private dwellings difficult to sell.

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

6.1 The key considerations in the determination of this application are as follows:

- 1) The Principle of the Development
- 2) The NPPF and Housing Land Supply



- 3) Landscape Impact
- 4) Layout and Design
- 5) Highways Matters
- 6) Infrastructure
- 7) Other Matters
- 8) Conclusion

### The Principle of Development

- 6.2 The site falls outside of the settlement boundary for Kingstone as defined by the Herefordshire Unitary Development Plan (UDP) and therefore falls within open countryside. New residential development in the countryside can be permitted where it satisfies one of the exceptions within UDP Policy H7 such as for a dwelling for a key worker or possibly entails the conversion of a suitable rural building. Policy H10 does allow for exceptional affordable development where it adjoins an existing settlement boundary, such as in this instance. However, it is necessary to consider whether or not there are any other material planning considerations.
- 6.3 The Core Strategy is not sufficiently advanced to be given due weight in the consideration of this application, in any case there are no specific policies or proposals that relate to this particular site. The National Planning Policy Framework (NPPF) came into force in March 2012. Paragraph 215 of the NPPF clarifies that due weight can still be given to the relevant UDP policies for a period of 12 months from the date of adoption of the NPPF providing those policies are broadly consistent with the NPPF.

### The NPPF and Housing Land Supply

- 6.4 At the heart of the NPPF is a general presumption in favour of sustainable development and applications for housing should be considered in this context. The NPPF requires that local planning authorities should identify a rolling five year supply of deliverable housing land to ensure choice and competition in the market. Additionally, the NPPF requires an additional buffer of 5% (increased to 20% if a planning authority has persistently under delivered housing land). On the basis of the evidence available to date, it is considered the requirement for a 5% buffer is applicable to Herefordshire.
- 6.5 Earlier this year, the Council published its Annual Monitoring Report (AMR) which monitors housing land availability. Based on the AMR figures, the Council currently has a shortfall of 216 units which equates to a 4.6 year supply. This shortfall also does not account for the requirement to maintain the additional 5% buffer which would amount to a further 140 units. The data collection for the 2011/2012 period has commenced and this will provide a more up to date land supply position but it is not anticipated that the shortfall will have decreased.
- 6.6 Paragraph 49 of the NPPF stipulates that relevant policies concerning the supply of housing land should not be regarded as up to date if a five year land supply cannot be demonstrated. In view of this, there is a requirement to release further land for housing that is deliverable within the next five years and is sustainable. There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance but in terms of the principle, if the development is acceptable in all other respects, the conflict with UDP Policy H7 is not a reason for refusal of the application that could be sustained.
- 6.7 This position was also endorsed by the Council's Cabinet on 12 July 2012. The agreed process for considering proposals of this nature being that with larger developments, the focus should be on sites that have been identified as having low or minor constraints in the Strategic Housing Land Availability Assessment unless it can be demonstrated that the location is sustainable and appropriate for additional housing development and the environmental and other impacts of the development are acceptable.

### Landscape Impact

- 6.8 The site has no statutory landscape designation but is classified as Principal Settled Farmlands in the Council's adopted Landscape Character Assessment Supplementary Planning Document. This roughly triangular area of land does not have notable landscape features, the main contribution being the existing well maintained hedgerows. The proposals for additional boundary planting, street trees and shrub planting will provide a well integrated development layout as confirmed by the Conservation Manager (Landscape)
- 6.9 The major impact will continue to be the large extent of post Second World War housing to the east and south of the proposal site. The major impact will be given the topography of the site this backdrop of modern houses. The landscape appraisal confirms that from distant views particularly from the west and north-west the impact of the new development is mitigated by established trees around the playing field to the north and by intervening buildings. This is a matter though that will need to be the subject of a reserved matters application. Therefore, it is not considered that the proposal will have an adverse impact in the landscape and therefore the proposal accords with Policy LA2 of UDP.

### Layout and Design

- 6.10 The proposal provides a housing scheme with a mix of housing types, detached semi-detached, a terrace together with a building providing flats on two floors. The layout will integrate well with the existing adjoining White House Drive by providing a continuation along the northern boundary of the site. These dwellings will utilise a backdrop of trees and hedgerows. The private dwellings on the northern end of the site are reasonably well spaced and have satisfactory areas of private garden. There is considered to be sufficient spacing between properties which adjoin White House Drive such that acceptable levels of privacy are maintained in accordance with Policies DR1 and SH13 of UDP.
- 6.11 Plots 10 and 11 which will adjoin private allotments and the rear boundaries of properties in Green Lane will not have an adverse impact on the amenity of adjoining residents. However, plot 17 which is a 4 bedroom dwelling over 8 metres in height is in the south western most dwelling close to a boundary with a property in Green Lane. This dwelling type has been swapped for one which is not as tall or wide and on this basis it is considered the submitted layout can be supported.
- 6.12 The layout is not regimental and with the proposed public open space on the eastern side of the development adjoining properties in White House Drive, the new dwellings will be laid out such that privacy between new properties and existing properties around the site is maintained.

### Highways Matters

- 6.13 This is considered to be one of the major issues raised in objections received from local residents and The Parish Council. The primary issue is considered to relate to the junction of White House Drive and Church Road, which is a class III road. It is considered that given the visibility achievable and the configuration of the classified road, which slows traffic approaching from the right or south west the available visibility in both directions is satisfactory. Reference has also been made to additional traffic joining the two class II roads to north and south of Church Road and to increasing traffic in general on the Belmont Road. It is considered that the increased movement of traffic on local roads albeit on class II roads is not a factor that outweighs the primary objectives of national government advice of providing sufficient numbers of sustainable development across the country.
- 6.14 A discrepancy has been highlighted in some representations received relating to the number of parking spaces cited in the Transport Statement and the number identified in the application

form and submitted plans. This has come about primarily as the higher figure includes garage spaces and the lower one includes only spaces around the site. The provision of integral garage spaces will together with the provision of visitors spaces bring the level of parking, as stated on the application form to 74 spaces which includes 3 visitors spaces and an average of just over 2 spaces per dwelling which is considered to be acceptable and therefore accordance with Policy DR3 of UDP. This parking provision is also considered to be acceptable by the Traffic Manager.

- 6.15 The Traffic Manager is seeking slight re-alignments to the new road together with give way signage and appropriate lighting at the junction of Church Road and White House Drive; these are matters that can be addressed by a Section 38 Agreement with the Highway Authority and developer.

#### Infrastructure

- 6.16 Welsh Water has confirmed there is not the capacity for these additional dwellings until 2015. It is a matter that has also been referred to in representations received from the Parish Council and local residents. However, Welsh Water state that improvement works which are on going will make it possible after April 2015 for the developer to utilise these sewage works. There would also be an option for the developer to contribute towards funding the works needed. A Grampian style planning condition will need to be attached to any planning permission granted. Therefore, although Welsh Water confirm that works are required to enable the development to proceed, they have not objected and accordingly this proposal accords with Policy DR4

#### Housing mix

- 6.17 Although, this has not been the subject of representations received, it is considered that the mix and style of dwellings submitted for the general housing market is acceptable as regards the mix of four bed units and smaller three and two bedroom units.
- 6.18 Twelve units will be affordable dwellings. Nine will be made available for social rent and three for intermediate tenure occupation. The Strategic Housing Officer supports the number and tenure of the affordable units, four of which are one bedroom flats. Representations have been received relating to a perceived over provision of affordable housing. However, the provision of such housing needs to be placed in the context of other settlements that have not brought affordable housing. Issues of devaluing existing housing stock by providing affordable provision do not provide a justified or sustainable planning policy objection for not providing such development which is a requirement of not only UDP policy but also in the National Planning Policy Framework.

#### Section 106 Agreement

- 6.19 A Section 106 Heads of terms is appended to this report. This provides for contributions towards the provision of new and enhanced community infrastructure in line with the adopted Planning Obligations Supplementary Planning Document. This includes monies towards education, new highway and sustainable transport, enhancement of existing off site play facilities, library contribution and improvements to waste and recycling provision.

#### Flood Risk

- 6.20 Both the Environment Agency and the Council's Land Drainage Officer confirm that the site is not at risk of flooding, which is an issue raised in representations received. Therefore, the site is capable of development in accordance with Policy DR7 of UDP.

### Biodiversity

- 6.21 The proposal site which is used for grazing is not one rich in biodiversity as confirmed by the Planning Ecologist. There are though opportunities for habitat enhancement with additional hedgerow and tree planting on the western boundary of the site. These are matters though that can be addressed by attaching a planning condition requiring details of habitat protection and enhancement before any works commence on site. Therefore, the proposal accords with Policies NC1 and NC4 of UDP.

### Play Facilities

- 6.22 The scheme whilst not providing an equipped play area does provide an open space area. This is though compensated for by contributions within the remit of the Draft Heads of Terms towards on going projects in Kingstone cited by the Parks/Countryside Manager. It is on this basis that the proposal can be supported and accord with Policy H19 of UDP.

### Other matters raised

- 6.23 Reference has been made to a refusal of planning permission for a site at Hawthorn Rise at Peterchurch. This reference is made on the basis of comparability. The site proposal for development to the north of Hawthorn Rise utilising an existing estate road was refused on the proximity of the access road to bungalows either side of it. This site is not comparable to the one the subject of this application given the dwellings either side of the road, in this instance are at a minimum of 17 metres apart. Reference is also made to a green belt development in Sutton Coalfield. There is no green belt in Herefordshire and this development is sustainable.

### Conclusion

- 6.24 Paragraph 14 of the NPPF states that:
- a presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision-taking. In terms of the latter, this means
  - approving development proposals that accord with the development plan without delay; and
  - where a development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless:
  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or - Specific policies in the NPPF indicate development should be restricted."
- 6.25 It has already been established that the UDP housing supply figures are not up to date due to the deficit in housing land supply. The development offers benefits in terms of the delivery of additional housing including twelve affordable units and it is accepted that the development is sustainable in terms of location of the site and accessibility by non car based transport modes, the revised layout and design and the commitment to construct to a high sustainability standard. This is not a brownfield site but the site will also not have an adverse impact in the landscape and although this is a reserved matter, there are opportunities further tree and hedgerow planting and opportunities for biodiversity enhancement.
- 6.26 The development can be served by a means of access that will not have an adverse impact on highway safety.

## **RECOMMENDATION**

**That subject to completion of a Section 106 planning obligation in accordance with the draft Heads of Terms as Annex 1, the Officers named in the Scheme of Delegation be authorised to**

grant planning permission subject to conditions noted in the report and subject to any further conditions considered necessary by Officers:

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. B01 Development in accordance with the approved plans
6. F08 No conversion of garage to habitable accommodation
7. F16 No new windows in specified elevation
8. H03 Visibility splays
9. H06 Vehicular access construction
10. H11 Parking - estate development (more than one house)
11. H19 On site roads - phasing
12. H20 Road completion in 2 years
13. H21 Wheel washing
15. H27 Parking for site operatives
15. H29 Secure covered cycle parking provision
16. H30 Travel plans
17. H17 Junction improvement/off site works
18. K4 Nature Conservation - Implementation
19. None of the dwellings hereby permitted shall be occupied until the Waste Water Treatment Works, into which the development shall drain has been upgraded. On being advised of the completion of the upgrading of the Works the Local Planning Authority will issue notice that the development can be occupied.

**Reason:** To prevent the overloading of the Waste Water Treatment works and pollution of the environment and to comply with Policy CF2 of Herefordshire Unitary Development Plan 2007

20. L01 Foul/surface water drainage
21. L02 No surface water to connect to public system
22. L03 No drainage run-off to public system
23. L04 Comprehensive & Integrated draining of site
24. CC0 Site Waste Management Plan

#### **Reasons for Approval**

1. In reaching the decision to grant planning permission, regard has been had to the relevant policies in the Herefordshire Unitary Development Plan and the National Planning Policy Framework. The local planning authority was also mindful of other supplementary planning guidance

The National Planning Policy Framework requires the Council to maintain a 5 year supply of deliverable housing land and where this requirement is not being met, the relevant plan policies concerning the supply of housing land should not be

regarded as up to date. As such the conflict with UDP Policy H7 is not, in itself, a reason for refusal.

The development offers the benefits in terms of the additional housing within the next five years including twelve affordable and is sustainable in terms of the location of the site, accessibility and the availability of existing services, facilities and employment opportunities. The amended plan provides an improved relationship to existing properties in terms of residential amenity. The development will not have an adverse impact in the wider landscape and there are opportunities to mitigate the localised impact of the development by further tree and hedgerow planting as well as measures for improving biodiversity. The need to deliver additional housing land and the requirement to consider new residential development in the context of a presumption in favour of sustainable development along with the benefits of the development outweigh the conflict with Policy H7, in this instance. The development is considered to comply with other relevant Policies S1, S2, S3, S6, S7, S8, S11, DR1, DR2, DR3, DR4, DR5, DR7, H9, H11, H13, H15, H16, H19, LA2, LA3, LA6, NC1, NC8, T6, T8, T11, RST4, W11 and CF2 of the UDP and is therefore considered acceptable.

**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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. N02 Section 106 Obligation
3. HN01 Mud on highway
4. HN04 Private apparatus within highway
5. HN05 Works within the highway
6. HN08 Section 38 Agreement & Drainage details
7. HN10 No drainage to discharge to highway
8. HN17 Design of street lighting for Section 278
9. HN24 Drainage other than via highway system

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.

# 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 open market units only.

Outline planning application S122604/O

Outline application for the erection of 35 dwellings (23 x open market dwellings and 12 x affordable dwellings) on land to the rear of White House Drive, Kingstone, Hereford.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £87,893.00 (breakdown detailed in the table below) to provide enhanced educational infrastructure at South Hereford City Early Years, Kingstone and Thruxton Primary School and South Wye Youth Service with 1% allocated for Special Education Needs (SEN). No secondary school contribution is required as capacity presently exists in all year groups. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed) and may be pooled with other contributions if appropriate.

<b>Pre-School</b>	<b>£6,772.00</b>
<b>Primary</b>	<b>£55,797.00</b>
<b>Post 16</b>	<b>£2,001.00</b>
<b>Youth</b>	<b>£19,059.00</b>
<b>SEN</b>	<b>£4,264.00</b>
<b>Total</b>	<b>£87,893.00</b>

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £48,821.00 to provide new highway and sustainable transport infrastructure to serve the development. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed) and may be pooled with other contributions as appropriate.
3. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
  - 3.1. Localised sustainable transport infrastructure to enhance the accessibility of the site for non car based modes of transport including but not limited to:
    - a) Creation of cycle link between Kingstone and Madley via the Madley Industrial Estate
    - b) New pedestrian and cyclist crossing facilities
    - c) Bus passenger waiting facilities in Kingstone specifically along the C1221
  - 3.2. Enhancement in the usability of the localised public right of way network
  - 3.3. Provision of park and share and park and cycle facilities
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £38,785 for the provision of new or the enhancement of existing play facilities in the locality and £15,684 for the provision of new or the enhancement of existing sport facilities in the county (contribution based around the requirements of saved policies H19 and RST4 of the UDP and Sport England Sports Facilities

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

Calculator). The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed) and may be pooled with other contributions as appropriate.

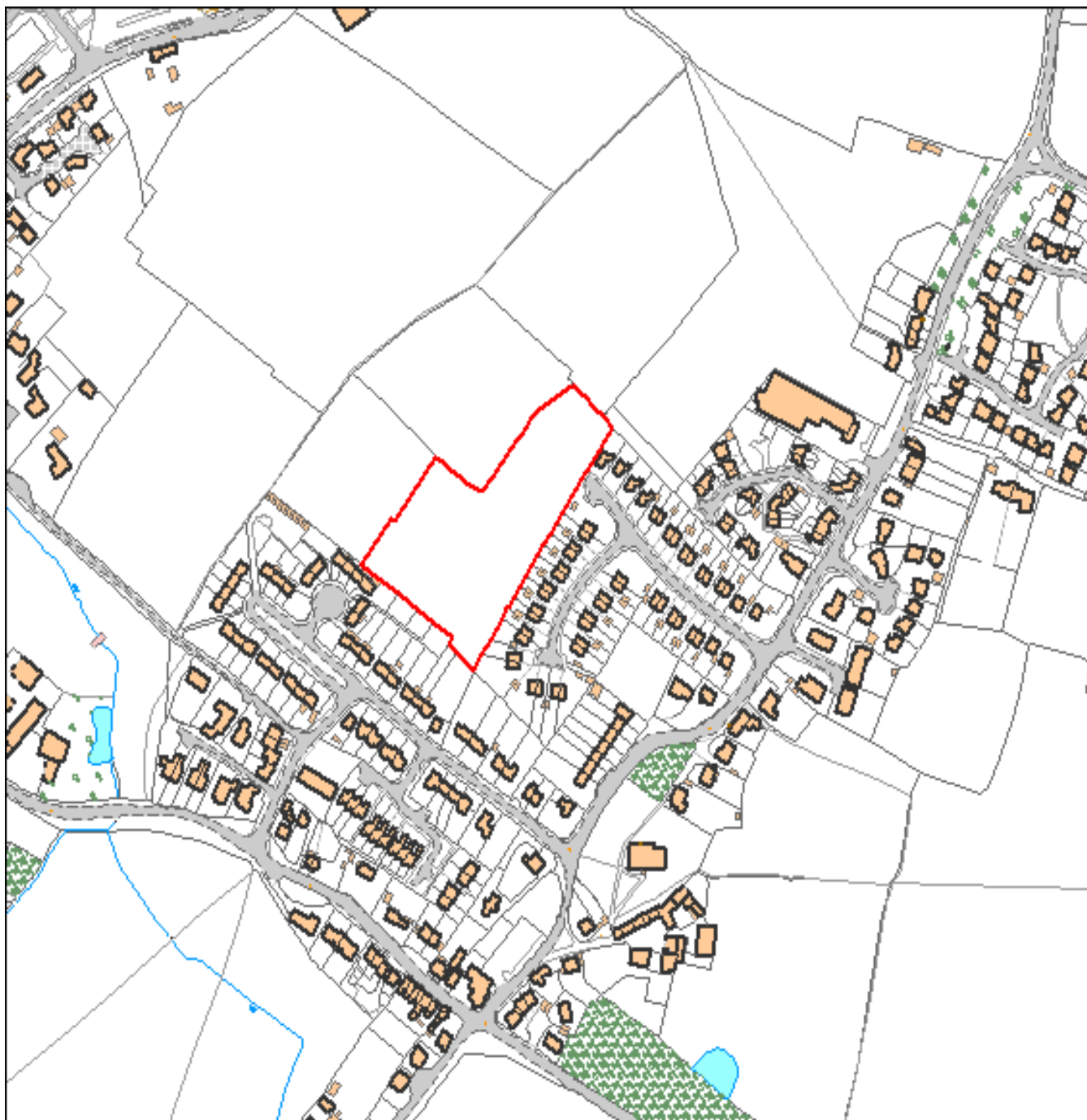
5. The money shall be used by Herefordshire Council for priorities identified in the Indoor Sports Facilities Strategy, the emerging Play Facilities Strategy and emerging Playing Pitch Strategy.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £4,620 towards the provision of new and enhanced of existing library facilities in Peterchurch. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed) and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £2,760 towards the provision of new or the enhancement of existing waste and recycling facilities to serve the development and waste reduction strategies within the locality and city.
8. The developer covenants with Herefordshire Council that twelve (12) 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.
9. Of those Affordable Housing units, nine (9) shall be made available for social rent and three (3) being available for intermediate tenure occupation. For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.
10. 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.
11. 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:-
  - 11.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 11.2. satisfy the requirements of paragraphs 12 & 13 of this schedule
12. 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:-
  - 12.1. a local connection with the parish of Kingstone;
  - 12.2. in the event of there being no person having a local connection to the parish of Kingstone, a person with a local connection with the parishes of Madley, Clehonger, Abbey Dore, Throxston, Treville, Allensmore and Eaton Bishop
  - 12.3. in the event of there being no person with a local connection to any of 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 12.1 or 12.2 above.

13. For the purposes of sub-paragraph 12.1 or 12.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 13.1. is or in the past was normally resident there; or
  - 13.2. is employed there; or
  - 13.3. has a family association there; or
  - 13.4. a proven need to give support to or receive support from family members; or
  - 13.5. because of special circumstances;
14. 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.
15. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 4, 6 and 7 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, 4, 6 and 7 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.

**20 November 2012**



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

**APPLICATION NO:** S/122604/O

**SITE ADDRESS :** LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HEREFORD

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Further information on the subject of this report is available from Andrew Prior on 01432 261932