

MEETING:	PLANNING COMMITTEE
DATE:	24 APRIL 2013
TITLE OF REPORT:	130426/F - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 34 NO HOUSES AND GARAGES TOGETHER WITH ROADS, SEWERS AND ASSOCIATED EXTERNAL WORKS AT FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD, HR1 1LJ For: Lioncourt Homes Ltd per Mr Paul Harris, The Stables, Woodbury Lane, Norton, Worcester, WR5 2PT
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=130426&NoSearch=True

Date Received: 13 February 2013 **Ward: Burghill, Holmer & Lyde** **Grid Ref: 351082,242392**
Expiry Date: 28 May 2013
Local Members: Councillor SJ Robertson

1. Site Description and Proposal

- 1.1 The application site lies to the north of Attwood Lane, Holmer between Holmer Nursing Home and Attwood Court and within the urban settlement boundary of Hereford as defined in the Herefordshire Unitary Development Plan.
- 1.2 This 0.98 hectare site comprises previously developed land with the last uses comprising a gravel distribution company, a car storage use and a scaffolding firm. It is partially designated as Employment Land and partially within an identified established residential area. The boundaries to the north and east of the site abut agricultural land with Holmer Nursing Home to the south together with Wentworth Park housing estate. Attwood Court abuts the eastern boundary.
- 1.3 Planning permission is sought for the demolition and removal of the remaining commercial buildings and construction 34 dwellings, 12 of which will be affordable. The proposal also includes changes to the highway layout at the access to the site from Attwood Lane.
- 1.4 The 12 affordable dwellings will be located in two clusters, with 6 units being sited to the south east corner in two terraces comprising 3 x 3 bed units 3 x 2 bed units and 6 units (with the same mix) being sited to the south west of the site.
- 1.5 The proposed open market dwellings would provide 2 x 3 bed dwellings with the remainder being 4 bed units. The open market units are a range of house types, each with garages and private amenity space.
- 1.6 The layout which comprises a mix of dwellings from detached, semi-detached and terraced properties, provides for frontage development onto Attwood Lane with the main access into the site adjacent to Holmer Court Nursing Home. A T-junction would be created at this point with traffic having to stop on Attwood Lane before either entering the housing site or continuing south to Roman Road.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- 1.7 The application has been accompanied by a detailed landscape scheme, that includes all hard and soft landscaping, including a detailed planting plan and details of all boundary treatments. The existing conifer hedge forming part of the site's frontage with Attwood Lane would be removed and a new native species hedgerow planted behind estate style fencing. There would be no pedestrian or vehicular accesses directly from Attwood Lane to the dwellings.
- 1.8 The proposal includes a detailed drainage statement that outlines the decision to connect to the Crest Nicholson new foul and storm sewers installed as part of their housing development. This would involve the installation of foul and storm sewer pipes within Attwood Lane to connect the application site and the Crest housing site
- 1.9 The application is a resubmission of an application for 34 dwellings (S121554/F) that was referred to Planning Committee in November and December 2012 and was subsequently refused by members of the Planning Committee for the following reasons:
1. *Notwithstanding the information submitted, there is insufficient information provided to determine that the identified contaminants could be remediated to an extent that would be sufficient to deal with the threats posed by contaminants to health or the environment when having regard to the proposed use of the land for residential purposes. As such the proposal would fail to comply with the requirements of policies DR4 and DR10 of the Herefordshire Unitary Development Plan.*
 2. *The proposed development would result in the unacceptable loss of an existing, allocated employment site contrary to policies S4 and E5 of the Herefordshire Unitary Development Plan*
 3. *The proposed development, having regards to its important location on the edge of the city, would, by virtue of the required site levels and proposed housing design and layout, represent a form of development that would adversely impact upon the landscape amenity of the area. As such the proposal is contrary to the requirements of policies DR1 and H13 of the Herefordshire Unitary Development Plan.*
 4. *The application is not accompanied by a completed section 106 agreement considered necessary to make the development acceptable and is therefore contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Councils Supplementary Planning Document on Planning Obligations*
- 1.10 An appeal has been lodged with the Planning Inspectorate against this decision and this will be heard through the Public Inquiry process on the 6th and 7th June 2013.
- 1.11 This application submission has sought to address these concerns through the submission of additional and updated information in respect of contaminated land, employment land and marketing and through the removal of the play area and provision of an off-site contribution in lieu, allowing for repositioning of the dwellings to the north of the site and improved layout and impact. Detailed consideration of these issues can be found in section 6 of this report.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction - Achieving sustainable development

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring Good Design

Section 8 - Promoting healthy communities

Section 11 - Conserving and enhancing the natural environment

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

2.2 Herefordshire Unitary Development Plan (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S4	-	Employment
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR10	-	Contaminated Land
E5	-	Safeguarding Employment Land and Buildings
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
LA2	-	Landscape Character
LA3	-	Setting of Settlements
LA5	-	Protection of Tree, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NCI	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement
T6	-	Walking
T7	-	Cycling
T11	-	Parking Provision
RST4	-	Standards for Outdoor Playing and Public Open Space
W11	-	Development and Waste Implications
CF2	-	Foul Drainage

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

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

2.4 Supplementary Planning Documents

Landscape Character Assessment
Planning Obligations
Design
Biodiversity and Development

2.5 Other Guidance

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

3. Planning History

- 3.1 SC981092PF Erection of temporary storage of temporary storage container for a period of twelve months
Approved
- 3.2 CW2000/2069/F Variation of condition 2 of planning permission SC981092PF 16 April 99 for retention of temporary storage shed for twelve months
Approved 06/10/2000
- 3.3 CW2002/1738/F Change of use to storage yard for retail use (retrospective application).
Withdrawn 31st July 2002.
- 3.4 DCCW2004/0182/F Construction of 32 dwellings and associated works.
Withdrawn 9th September 2004.
- 3.5 DCCW2004/3085/F Construction of 32 dwellings and associated works
Withdrawn
- 3.6 DCCW2005/0207/F Continued use for distribution of sand and aggregates including retail for two years
Approved 20/04/2005
- 3.7 DCCW2005/2661/F Variation of condition 2 & 3 (hours of working/loading/unloading) to extend operating time to 7.30am of planning application CW/2005/0207/F and allow employee arrival from 7.00am
Approved 21/09/2005
- 3.8 DCCW2008/0205/F Residential development comprising 32 dwellings with car parking, landscaping and associated works
Withdrawn
- 3.9 S121554/F Demolition of existing building and erection of 34 houses and garages together with roads, sewers and associated external works
Refused 19th December 2013
Appeal submitted – Public Inquiry to be heard on 6th and 7th June 2013.

4. Consultation Summary

Statutory Consultation responses

- 4.1 Welsh Water recommends standard conditions relating to foul and water discharges and request that no development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site, showing how foul water, surface water and land drainage will be dealt with and this has been approved.

Internal Consultation responses

- 4.2 The Conservation Manager (Landscape) makes the following comments:

I have provided landscape comments on a previous application for a similar development proposal for the same site (ref. August and November 2012, S121554/F). The main landscape change to this proposal is that the on site provision of a small play area (LAP) has been removed. This has led to the layout of proposed dwellings being altered along the northern boundary. The number of dwellings remains the same, however the gaps between them have increased. The new northern boundary when viewed across the open countryside, will be of 8 detached houses set behind a combination of existing and proposed planting on the bank. The gaps between the houses will allow views further into the site, thus providing depth to the

development, rather than a solid 'wall'. This is an attempt to be more in-keeping with the existing character of the edge of Holmer.

The images showing a photomontage for the new street scene along Attwood Lane are also welcome and show that at that location the scale of buildings are suitable and the proposed boundary treatment will fit well with the character of the area.

As per the previous application I remain of the view that this is a relatively high density scheme for an edge of city location, particularly in relation to the existing residential development on the north edge of Holmer. The boundaries will still present a new, built up edge in views across the open rural valley from the north and east and along the public footpath to the south. The existing brownfield site conditions and employment allocation, however, are not a positive contribution to the landscape character. On balance there is no landscape objection.

4.3 The Conservation Manager (Ecology) makes the following comments

The site is predominantly hard-standing with a number of buildings associated with its former use; no evidence of protected species was found during recent surveys. I note that there will be some opportunities within the proposed new development to create features for protected and priority species as well as for inclusion of native-species tree and shrub planting.

If this application is to be approved, I recommend the inclusion of conditions.

4.4 The Traffic Manager makes the following comments:

The proposed layout for the development shown on Drawing 11-012/13/02 Rev A is considered acceptable. The level of parking provision is considered acceptable, and garages are of a suitable size to accommodate cars and cycles.

The Transport Statement indicates an increase in traffic on Attwood Lane as a result of the development, but when compared to the previous employment use of the site any increase is minimal. The size and type of vehicles is also reduced from that experienced with the employment use. A comparison of trip generation between the proposed use and former use has been provided separately for information. The distribution of traffic at A4103 Roman Road means that any traffic impact upon Starting Gate Roundabout and A49 Trunk Road will also be minimal, and it should be noted that the Highways Agency has recently announced a pinch point scheme for that junction to increase junction capacity.

The Transport Statement indicates works (Paragraphs 4.7-4.12 and Figure 3) to Attwood Lane to continue the footway and provide connectivity between Roman Road and the development. It is considered that this pedestrian connectivity is essential. However it is considered that, to allow for more flexibility and a comprehensive approach in the production of an overall traffic calming scheme for Attwood Lane, the mechanism of a Planning Obligation contribution would be more appropriate to secure the proposals.

The Transport contribution sum stated in the Draft Heads of Terms is considered acceptable for this and the other schemes noted.

Street lighting for the development will need to be finalised.

Trip generation comparisons

In the absence of any specific categories within TRICS database for the most recent previous uses of the site i.e. sand/gravel distribution and scaffolding services, I have reverted to establishing the trip generation for B2 (General Industrial) use on a similar sized site. B1 (Light Industrial) use would have a significantly greater trip generation.

The site area from the application form is 1.1ha. Utilising a developable ground Gross Floor Area to site area ratio of 40% would give a likely permissible footprint of around 4,400 sq m of B1/B2 use.

Using trip generation figures from the TRICS database for similar sized industrial estates, even the lower traffic generation use of B2 (General Industrial) gives rise to the following trip rates per 100 sq m Gross Floor Area.

General Industrial (B2) trip Generation

Morning peak 0800-0900 trip rate Arrivals 0.40 departures 0.20
Equivalent trips for 4400 sq. m Arrivals 18 departures 9 Total 27

Evening peak 1700-1800 trip rate Arrivals 0.10 departures 0.32
Equivalent trips for 4400 sq. m Arrivals 4 departures 14 Total 18

Residential trip generation (as per submitted Transport Statement)

Morning peak 0800-0900 Arrivals 6, departures 14 Total 20

Evening peak 1700-1800 Arrivals 14, departures 9 Total 23

Therefore the likely two way trip generation for the proposed residential development would be lower in the AM peak than B2 employment use over that site area, marginally greater in the PM peak, and overall taken over the two peak hours would give a slight reduction in trips.

There is also the benefit of removal of commercial vehicles from Attwood Lane.

4.5 Amey (Drainage)

This project is for the redevelopment of a former industrial site for residential purposes. It is not within any Flood Zone, and there are no ordinary watercourses in close proximity, with the nearest Ground Water Protection Zone 2.1 km away.

The site is presently at least 90 % impermeable, so the proposed development, which is to incorporate gardens and open space, will reduce the surface water runoff. Nevertheless, as the proposal is to drain to existing sewers, the applicant should be encouraged to include rainwater harvesting and green roofs etc in the development proposals and so manage the flows.

4.6 The Head of Strategic Plans and Regeneration makes the following comments:

The subject site is approximately 9800s-qm in size and was a former sand and gravel merchant's distribution place (a sui-generis use), followed by a number of sui-generis uses which has been vacant for a number of years. The subject site lies within the boundary of Hereford Urban Area and is an isolated employment site amongst a residential environment.

Loss of an Employment Site

Policy E5 of the Herefordshire UDP safeguards the loss of employment sites to non-employment uses unless there would be substantive benefits to amenity and that the site is no longer fit for employment uses.

The subject site consists of a large outdoor storage yard for sand and gravel, and derelict buildings which are in a very poor repair which have a floor space of approximately 1000Sqm. The existing use as a sand and gravel yard restricts the ability of the site to come forward for alternative more common B-class employment uses such as offices, warehousing or light

industrial. A re-use of the site would need to be a use requiring a large amount of outdoor storage space such as a sand and gravel yard, or another use with similar land requirements, for example an outdoor storage yard, shipping container storage or scrap metal yard; uses which because of their amenity impacts would not be suitably situated within a residential environment. It is also considered that visually the current buildings on the site are not fit for re-use and would require demolition.

The site has therefore not been assessed in the Employment Land Study because it is a sui-generis use which is not able to be directly reused as an employment site for a mainstream 'B Class' employment use which the Employment Land Study is based upon. This difficulty in reusing the site as an employment use is highlighted by the applicant's attempts to market the property for a number of years with no tenants coming forward to re-let the property. To enable the subject site to come forward for employment use, the site would require to be redeveloped completely, involving a large investment which would not appear viable considering there are employment sites nearby within Hereford's Business Parks with vacant units which are more suited to the mainstream employment uses and are available and ready to move into.

Paragraph 22 of the NPPF is clear that local planning authorities should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. The applicant's agent has argued that the application site is not a viable employment site and would not have a realistic chance of being used for employment given any economic recovery in the years ahead.

Given that the site is a brownfield site, the redevelopment of this land would be in compliance with paragraph 111 of the NPPF which promotes the effective re-use of brownfield land. As the site has already been vacant for a number of years, there would not be the requirement in Policy E5 of the UDP to relocate the sui-generis employment site with another.

Taking the above into account, the loss of this sui-generis employment site is not considered to significantly impact upon the supply of employment land in Hereford. The site as developed for housing would enable the use of the site to continue the use with the surrounding residential area, significantly reducing the amenity in terms of the current use and any proposed employment use which could move in straight away.

Principle of Residential Development

The subject site is within the settlement boundary of Hereford and given the compliance of the proposal to Policy E5, the proposal would comply with Policy H1 of the Unitary Development Plan. As the site is surrounded by residential development, to continue this use is considered appropriate and is a preferred use of the site rather than an isolated industrial use. Given the site is for 34 dwellings, Policy H9 Affordable Housing provision and Policy H19 Open space requirements are also relevant. The applicant has also submitted evidence of consultation held with the community and feedback which was considered during the process of designing the development. Many of the responses favoured the reuse of the site for residential, hence the proposal is in compliance with the NPPF which at paragraph 66 supports the consultation and taking on the views of the community in developments which directly affect them.

Herefordshire Council currently cannot present a five year housing supply and hence in July 2012, it was agreed by council that there would be some flexibility with housing policies so that suitable sites were able to come forward to help deliver housing. The decision means that sites which are outside, but adjacent to the settlement boundary, within a main settlement and assessed in the Strategic Housing Land Availability Assessment (SHLAA) as having no or minor constraints can come forward in principle for residential development.

Although this subject site was not put forward through the SHLAA process, the site is capable of being assessed through this process as it is able to deliver more than 5 dwellings and is within the confines of Hereford City. It is considered that if the site is considered under the SHLAA

review, it would be considered as having development potential within the plan period as it is suitable, achievable and available for residential development.

Conclusion

Taking the above into account, the proposal for residential development would be appropriate in principle given that the site is a brownfield location, is within the confines of Hereford Urban Area as well as complimenting surrounding residential uses. The current sui-generis use of the site is an isolated employment site which has derelict buildings and would require considerable investment in order to make the site attractive to a mainstream B-Class employment use. The site has been re-marketed without success and the redevelopment of the site for residential use has community support and would significantly reduce the amenity impacts which are currently caused by this isolated employment site.

4.7 The Waste Services Manager makes the following comments:

Under point 7 of the application form it states that plans do not incorporate areas to store and aid in the collection of waste. However, I have noted the changes made to the design in the combined site layout and survey document and the planning layout document that changes have been made to accommodate the use of a 26 tonne refuse collection vehicle to the east of the development.

Although a collection point had been allocated for the plots 6-11, the applicant must ensure that this space is large enough to accommodate the positioning of 6 x 240 litre bins with dimensions of 585mm x 740mm at the base plus at least 2 black refuse sacks from each property

4.8 The Housing Manager makes the following comments:

The application meets the requirements for 35% of units to be affordable and for these to be built to the HCA's Design and Quality Standards, Lifetime Homes Standards and level 3 of the Code for Sustainable Homes. The positioning of the units is also acceptable.

The tenure mix does not meet requirements as the application indicates the provision of social rented units only whereas the development brief indicated 9 units for social rent and 3 for intermediate tenure and the Draft Heads of Terms states at least 6 for social rent and the remainder being for either rent of intermediate tenure occupation. I would advise that Housing Needs and Development will accept 6 units for social rent with the remaining 6 units for intermediate tenure.

With regards to the Draft Heads of Terms section 10 and 13 need to be amended with section 10 stating "at least 6 shall be made available for social rent with the remainder being available for intermediate tenure occupation. For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent" and section 13 needs to be amended to reflect local connection to the Parish of Holmer in the first instance. It should then cascade out to the surrounding villages before Hereford City.

4.9 The Parks and Countryside Manager comments as follows:

Open Space Requirements:

In accordance with Saved UDP policies H19 and RST3 residential developments are required to provide an amount of open space depending on the scale of the development. In this instance no POS or play provision is provided on site. Therefore off-site contributions have been sought and agreed towards both play facilities for children of all age groups and POS to compensate for it not being on site and in accordance with the number of houses proposed. These contributions are calculated using the SPD on Planning Obligation tariffs.

SPD on Planning Obligations.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

In accordance with the SPD on Planning Obligation we also ask for a Sport England contribution, in recognition of the additional pressure the new residential population will bring to an ageing stock of sports facilities. The calculation is based on Sport England's facilities calculator and the size of the development.

Heads of Terms:

In respect of off site contributions for the open space requirements, it is noted that the draft Heads of Terms are incorrect in so far as they suggest both on and off site contributions. Therefore, please could they be revised to take account of the following including the lower no. of market houses (1 x 4 bed reduction):

Points 4 and 5 (*draft Heads of Terms*)

- £34,730 in lieu of play provision towards off-site play contributions (*this is based on market housing only and discounting the first bedroom as this is a contribution for children*).
- It will be used by Herefordshire Council on identified priorities at the time in accordance with the emerging Play Facilities Strategy and Investment Plan, including play areas in the vicinity at Wentworth Park and the adjacent housing areas. (*Given the location off Attwood Lane, other play provision in the city is on the other side of the main road which is a barrier for children and beyond accepted thresholds*)
- £8,190 in lieu of POS towards off-site contributions. (*this is based on market housing only*)
- It will be used by Herefordshire Council on improving access to the larger older children's play area on the neighbouring development and improving provision at the facility in accordance with the emerging Play Facilities Strategy and Investment Plan.
- £17,704 towards sports facilities in accordance with Sport England's Facilities Calculator.
- It will be used by Herefordshire Council on identified priorities at the time in accordance with the Indoor Facilities Strategy and the emerging Playing Pitch Assessment and Investment Plan. This includes Aylestone Park.

4.10 The Public Rights of Way Manager makes the following comments:

No objection to the development. Works will be carried out in close proximity to public footpath HO8A (see attached plan), which must not be affected in any way

4.11 The Environmental Health Officer (Contaminated Land) makes the following comments:

I have reviewed the above report and would make the following comments with risk to human health in mind only:

Context and overview

- The above report should be read in conjunction with those that precede it and are updated by it. It provides a review of previous assessments and investigations in light of revised guidance and assessment criteria and includes an overview of previous reports although the detail remains in the originals.
- The report identifies that the site is impacted by hydrocarbon and metals contamination. The former from a fuel storage tank and the latter from the made ground which was seemingly used to level the site at some stage. The made ground being more extensive towards the north of the site where the site drops away to adjacent fields where it extends to more than 4 mbgl in some places along the northern boundary. It goes on to make recommendations for further investigation and assessment where required. I have outlined those which I understand to be the main remedial techniques together with further works below:

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

Metals and Hydrocarbon remediation

- The report has identified that a simple cover layer system with mixing zone would not be appropriate in this instance given the extent of contamination on site. The report recommends the removal of 700mm of made ground material across the site in any garden or landscaped areas (these would be those most likely for future users to come into contact with contaminated soils). Following this, the report recommends 100mm of crushed 'roadstone' as a 'no-dig' layer with geomembrane above and below and 600mm certified clean topsoil imported to achieve finished levels.
- The report discusses the hydrocarbon impacted soils and recommends that these are delineated and removed from site together with any other hot spots of contamination identified.
- Prior to undertaking the remedial/mitigation works identified above, a formal remediation and verification plan will be submitted by the applicant. This will provide more detail on the general principles for remediation discussed in the report which will be followed by a validation report to demonstrate that those proposal for remediation have been suitably carried out.

Further works

- In addition to the remediation plan, further works have been identified in the report to include investigation for the presence of asbestos on site and some additional sampling (most likely in the impacted 'hot spot' areas) to confirm the oxidation state of some compounds identified in the reports.

General Comments

- This report recognises that previously suggested remedial approaches are not considered appropriate at this site. The finer details of the technique proposed will be discussed in the later plans and reporting identified in the recommendations. However, the principle of removal and off-site disposal together with a cover system is an approach commonly used at sites impacted by contamination. The additional testing will help to address outstanding uncertainties at the site and it is anticipated that the outcomes will be incorporated into the formal remediation plan (although the principle is unlikely to change).

Technical queries/comments

- The report mentions, in s3.3, elevated methane of up to 4.7% vol. However, the section on soil gas makes no further reference to this. I would be grateful if confirmation is provided that the GSV calculations include these figures or reasoning for exclusion.
- S8.7.1 refer to previous uses of the site and the likelihood of compounds being present. It discusses the history of the site from ordnance survey mapping as supporting evidence for the analytical approach adopted i.e. that no previous uses are likely to have produced CrVI. However, it could be similarly argued that the previous on-site industries are also unlikely to have produced the significant Ni impact at the site. The made ground has been identified as being the source of contamination at the site, the report identifies that this material has been imported to make up site levels (s6.3). The source of this material is unknown but given the depth of MG it is unlikely to be site won material. In other words, the original source of the made ground (and metals contamination) seems unclear. In this instance, I feel a precautionary approach should be adopted to provide reassurance and this will be provided by the further testing recommended. I would re-iterate at this point that no matter what the results of further analysis, the principles of the remedial approach will remain valid.

- I would be grateful if the remediation and verification plan provides further detail to include detailed plans of made ground removal for ease of reference together with supporting evidence for the use of a 700mm cover system to demonstrate it is of sufficient depth to mitigate any risk to future residents (reference should be made to CIRIA SP124, SP106 or similarly authoritative technical guidance).
- As with all potentially contaminated sites, it is possible that unforeseen contamination may be present on site and a plan should be in place for consideration of this to include actions and responsibilities should any be encountered.

For reference, an example of a suitable condition can be found below:

1. 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.
2. The Remediation Scheme, as approved pursuant to condition no. (1) 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.

5. Representations

Consultations on additional information were undertaken with the last date for comments being the 14 April 2013. Any additional consultation responses will be included in the schedule of committee updates.

5.1 Holmer and Shelwick Parish Council make the following comments:

No response received to date.

5.2 Letters of objection have been received from:

- Pauline Jenkins, Court Orchard, Attwood Lane
- Mr Garrett, 4 Belfry Close

These letters can be summarised as follows:

- Concern about sewerage capacity in the area and water pressure;
- Concern about future development in the area;
- Attwood Lane is a rat run between Roman Road and A49 with high speed and high volumes of traffic. Attwood Lane is in a poor state of repair.

5.3 The consultation responses can be viewed on the Council's website by using the following link:-
<http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=130426&NoSearch=True>

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

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

- 1) The Principle of Development
- 2) Loss of Employment Land
- 3) Landscape Impact
- 4) Layout and Design
- 5) Highway issues
- 6) Drainage Infrastructure
- 7) Other matters
- 8) Conclusion

The Principle of Development

6.2 The application site lies within the defined settlement boundary and thus Saved Policy H1 of the Unitary Development Plan (UDP) is relevant. This policy is clear that residential development will be permitted within settlement boundaries where compatible with the development plan.

Loss of Employment Land

6.3 It is acknowledged in the application submission that approximately 0.49 hectares of the site is protected for employment uses under Saved Policy E5 of the UDP but also that the site has not been used since 2008 for this purpose. Policy E5 of the UDP states:

Proposals which would result in the loss of existing, permitted or proposed employment land and buildings to non-employment uses will only be permitted where:

1. *there would be substantial benefits to residential or other amenity in allowing alternative forms of development, and the site or premises concerned can be shown to be unsuitable for other employment uses, including consideration of mitigation measures. Where such proposals are permitted, an alternative site should be found for the relocation of any existing businesses; or*
2. *in the case of proposals incorporating elements of retail use, this is restricted to a minor or incidental activity associated with an otherwise acceptable Part B or other employment generating use*

6.4 Having regard to policy E5, an assessment must be made as to whether the sited can be shown to be unsuitable for other employment uses. The subject site consists of a large outdoor storage yard for sand and gravel, and derelict buildings which are in a very poor repair which have a floor space of approximately 1000Sqm. The existing use as a sand and gravel yard is a sui-

generis use restricts the ability of the site to come forward for alternative more common B-class employment uses such as offices, warehousing or light industrial. A re-use of the site as it is would need to be a use requiring a large amount of outdoor storage space such as a sand and gravel yard, or another use with similar land requirements, for example an outdoor storage yard, shipping container storage or scrap metal yard; uses which because of their amenity impacts would not normally be suitably situated within a residential environment. It is also considered, based on a visual assessment, that the current buildings on the site are not fit for re-use and would require demolition and redevelopment.

- 6.5 Further to the above, The Drivers Jonas Deloitte report, commissioned by Herefordshire Council to look at future employment requirements of the Council reviewed all the UDP allocations and commitments plus any other sites identified by the Council in terms of market attractiveness, environmental sustainability and strategic planning / economic considerations and these were ranked, seeking to retaining Best or Good site through the Development Plan Process but noting likely justification to release the poorest performing site from the employment portfolios. It is noted that the application site was not included in this review as its use was considered Sui Generis rather than within a B class but given its condition and location is likely to have been considered poor.
- 6.6 The Parish Council and committee members had also previously questioned the marketing of the site. In response to this the applicant has been asked to re-visit this issue. Information received from Turner and Co confirmed that the site was marketed for its existing storage use, albeit not actively, for employment uses including 'To Let' Boards, website marketing and newspaper advert (x1) between November 2008 and the end of 2009. Whilst it is acknowledged by officers that this may not be considered extensive, they were undertaken when market conditions were more favourable and it is clear that this site only attracted residential developers. Nonetheless, the site has been vacant since 2008, and has been marketed since this time. It is also important to consider that there is no specific requirement within either the Unitary Development Plan or National Planning Policy Framework requiring developers to market sites for a specific period, nor how they should be marketed. The requirements of policy E5 referring only to the need to be shown to be 'unsuitable for other employment uses'.
- 6.7 To enable the subject site to come forward for employment use, the site would require to be redeveloped completely, involving a large investment which would not appear to be viable considering there are employment sites nearby within Hereford's Business Parks with vacant units which are more suited to the mainstream employment uses and are available and ready to move into. The application includes a report undertaken by Connells that identifies some of the available units in the area, including sites at Faraday Rod, Burcott Road, Three Elms Industrial Estate, all within 2miles of the application site, many of which have been vacant for some time despite being actively marketed by agents. It also identifies the more recent developments that are coming forward at Rotherwas Enterprise Zone, Moreton-on-Lugg and Whitestone. Whilst the letter from Turner and Company, former agents at the site, suggested that there would potentially be a strong demand for units in this location due to a shortage in the north of the city, the survey from Connells, and a look at the Commercial Property Register (on Councils website) would suggest otherwise.
- 6.8 It is officers' opinion that the site is vacant and potential is restricted by its former Sui Generis and storage uses. It is an isolated employment site that has derelict buildings and would require a considerable investment in order to make the site attractive to the market. The site also lies within a predominantly residential area and as such, other employment generating uses would have potential to impact upon the amenities of local residents. It is acknowledged that previous uses on the site resulted in concerns about noise, dust and traffic movements of large vehicles. It is also acknowledged that the site is accessed from Attwood Lane, where there is continued concern about traffic movements. Again, employment generating uses could result in large, commercial vehicles using this lane. As such, it is considered that there would be some benefit

in relation to the improvement of residential amenity. The proposed residential use of the site is therefore considered to comply with the requirements of policy E5 of the UDP.

- 6.9 It is also necessary to consider the position of the National Planning Policy Framework. Paragraph 22 of the NPPF states:

'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities'

- 6.10 From this it is clear that local planning authorities should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. For the reasons detailed above, it is concluded that there is no realistic prospect of this site being used for allocated employment use and as such alternative uses should be considered on their own merits. The interest for this site from residential developers is a clear market signal, and residential development also benefits the local communities.
- 6.11 This submission scrutinised the Council Annual Monitoring Report (AMR) and Employment Land review considered the employment land requirements for the plan period (UDP). This currently stands at 100 ha (policy S4) and the AMR demonstrates this has been exceeded resulting in a considerable over supply of 50.12 ha. Given this, the loss of the employment land associated with this site comprising approximately 0.49 ha could not be considered detriment too the overall employment land supply in Herefordshire. As such, the proposal would not conflict with the aims of policy S4 of the Unitary Development Plan and clearly demonstrates that there is not an under provision or shortage of land.
- 6.12 Given that the site is a brownfield site, the redevelopment of this land would be in compliance with paragraph 111 of the NPPF which promotes the effective re-use of brownfield land. As the site has already been vacant for a number of years (since 2008), there would not be the requirement in Policy E5 of the UDP to relocate the uses.
- 6.13 It is also advised that the NPPF states that: "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."

"For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of- date, granting permission unless:

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or, specific policies in this Framework indicate development should be restricted."

- 6.14 Given this strongly worded presumption in favour of sustainable development it is my opinion that it will be difficult to argue that the housing development, within the existing urban settlement boundary, re-using a brownfield site is not sustainable development.
- 6.15 Furthermore, it is also my planning judgement that it will be difficult to argue the case that the loss of this relatively minimal area of employment land is so significantly and demonstrably harmful that its loss would outweigh the benefits afforded by the residential development. This stance on the loss of employment land is reinforced by the evidence base underlying the Core

Strategy, as the 2010 study of employment land requirements provides no basis for emerging policy to maintain the application site's protected status.

- 6.16 Members should also be mindful that in relation to the Council's 5-year land supply for housing we are currently falling short of this requirement; this has serious implications in an appeal situation. Recent appeal decisions across the country indicate that if a Council does not have a 5-year land supply, and the housing proposed is in a sustainable location the Planning Inspectorate are allowing appeals and awarding costs where the planning authority is unable to provide robust evidence to resist sustainable residential development.

Contaminated Land Issues

- 6.17 The site has been identified as having significant contamination as evidenced by the comments from the Environmental Health Manager above. The Planning Committee resolved to refuse the previous application on the grounds that there was insufficient information provided with the application to demonstrate that the site could be developed successfully without harm to future occupiers or to the environment. Members may recall that the Council's Environmental Health Officer had previously recommended that a condition, that required further testing and information be submitted, and that this informed a detailed remediation strategy, followed by validation and certification prior to occupation, would suffice. Members were not satisfied that this was sufficient. Since this decision, officers have been liaising with those Councillors that are preparing the appeal in respect of this and it has been agreed that, in light of the additional testing and results, the Council will not continue to defend this reason for refusal.
- 6.18 In response to this, additional testing and reporting has been undertaken that updates the 2003 and 2007 reports. A non-technical description of the outline remediation methodologies has been prepared by the applicants consultants (Applied Geology) and this is attached as an appendix to this report. This identifies that where necessary some areas of contaminants will be removed from site, and that it is proposed that a 'cover layer' system consisting of a 100mm thick no dig layer, overlain by a 600mm depth of clean imported subsoil and topsoil.
- 6.19 This report also confirms that this will involve raising site levels by approximately 700mm and this has been taken into account in the preparation of the site design, including the heights and siting of the dwellings. The impact of which is discussed later in this report.
- 6.20 Following the refusal of the planning application, the applicants and planning officer met with representatives of the Holmer Parish Council to discuss their concerns. At their request, additional testing has been undertaken on land outside of the application site (to the north) to establish whether there has been any leaching of contaminants to the wider area. This report concludes that the concentration of chromium and nickel are not indicative of ground contamination and that the Attwood Lane site has not impacted the adjacent field in respect of soil contamination.
- 6.21 Policies DR4 and DR10 of the UDP are applicable in relation to this issue. Policy DR10 requires that development on or adjacent to land which is known or suspected to be contaminated will only be permitted provided that:
1. a site investigation and risk assessment has been carried out to determine the nature and degree of any contamination, its source and possible pathways and receptors; and
 2. appropriate remediation and protection measures are proposed to reduce any risk to an acceptable level, taking into account the nature of the proposed use and the nature and extent of contamination, its source and possible pathways and receptors.

Development will not be permitted where the risk cannot be reduced to an acceptable level or appropriate remedial or protection methods are not proposed.

6.22 Paragraph 120, 121 and 122 of the National Planning Policy Framework are also relevant and state as follows:

120. 'To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

121. 'Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part II A of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

122. In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

6.23 Having regard to the additional information provided in respect of the site, and technical advice and support from the professionally qualified Environmental Health Officer, who liaises directly with the Environment Agency on these matters, it is considered that there is sufficient information and understanding of challenges on the site and what potentially could be involved to recommend a condition that has the ability to ensure that the appropriate remediation is undertaken and completed to protect future occupants and other nearby landowners from risks to health or pollution. This strategy would have to be agreed prior to commencement. On this basis the proposal is considered to comply with the requirements of policies DR4 and DR10 of the UDP and with the guidance contained within the National Planning Policy Framework. A condition is recommended.

Landscape Impact

6.24 The site is located on the very northern edge of Holmer, to the north of Hereford and is, as identified as an important transitional site between the urban and rural edge of Hereford. The application site is previously developed land, and the existing large industrial buildings and associated structures together with the unmaintained landscape boundaries are not attractive features. The development of this site represents an opportunity to improve the visual amenity of the locality in general.

6.25 Notwithstanding this the introduction of dwellings in this location will have a visual impact and this needs to be considered having regard to policies LA2 and LA3 of the UDP. The main landscape change to this proposal is that the on site provision of a small play area (LAP) has been removed. This has led to the layout of proposed dwellings being altered along the northern boundary. The number of dwellings remains the same, however the gaps between them have increased. The new northern boundary when viewed across the open countryside,

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

will be of 8 detached houses set behind a combination of existing and proposed planting on the bank. The gaps between the houses will allow views further into the site, thus providing depth to the development, rather than a solid 'wall'. This is an attempt to be more in-keeping with the existing character of the edge of Holmer.

- 6.26 The relative height of the dwellings has been an on going concern throughout this process and as such a levels plan has been provided with the application. This clearly shows a finished ridge level of each dwelling with a datum point. This is therefore a fixed point, that any approved plans would refer to. In the preparation of this, and all other plans that form part of this application, the proposed cover layer has been considered and as such, the ridge heights shown on the submitted plans are those that can be achieved.
- 6.26 The other key consideration is the impact on the street scene as Attwood lane is traditionally viewed as a predominately rural street. On the approach from the South, The new Crest site at the Furlongs is currently under constructions, with dwellings being erected fronting Attwood Lane (albeit behind an existing hedge) the full extent of the east of this lane, until meeting with Holmer Court, that sits immediately adjacent the highway. The dwellings that form part of Wentworth Park are also a mix of fronting Attwood Lane, and having their rear gardens onto this lane. As such the street scene will be altering and becoming more urban in character on the approach toward the site from the south. Nonetheless the treatment of this street frontage has been given due care and attention and to assist in this photo images showing a photomontage for the new street scene along Attwood Lane are also welcome and show that the at that location the scale of buildings are suitable and the proposed boundary treatment will fit well with the character of the area.
- 6.27 As per the previous application officers remain of the view that this is a relatively high density scheme for an edge of city location, particularly in relation to the existing residential development on the north edge of Holmer. The boundaries will still present a new, built up edge in views across the open rural valley from the north and east and along the public footpath to the south. The existing brownfield site conditions and employment allocation, however, are not a positive contribution to the landscape character. However, on balance there is no landscape objection and the proposal would continue to comply with the requirements of policy LA2, LA3, LA5 and LA6 of the Unitary Development Plan.

Layout and Design

- 6.28 This revised scheme, through the removal of the play area, allows more spacious arrangements of dwellings that assist with the landscape impact. Members concerns in respect of the previous application focussed on the scale of the dwellings and impact of the street scene, both issues, that have addressed above.
- 6.29 The density of the development is 34 dwellings per ha, well within the threshold of policy H15 that seeks to establish a density of between 30 and 50 dwellings.
- 6.30 The site is predominantly 4 bed detached family homes, located at the entrance to the site and to the north, with the three and two bed units being located to the east and west. The dwellings represent a mix of house types, utilising a variation of materials such as render and brick and roofing materials, the precise details of which would be secured by condition. Dwellings are all two storey. The site layout introduces dwellings that front Attwood Lane, with landscaped boundaries to help retain the transition from the more urbanised part of the Lane towards the south and the more rural area to the west.
- 6.31 The road layout is a mix of formal traditional highway and more informal road surfacing, with trees and frontage planting to provide interest within the public spaces. Garden sizes are considered to be commensurate with the size of dwellings with parking provided within the curtilage of nearly all dwellings, thus avoiding courtyard parking.

- 6.32 Unitary Development Plan policies DR1 and H13 along with section 7 of the NPPF emphasise the importance of good design both in terms of the architecture of the buildings, the function of public and private spaces and integration with the wider environment. Paragraph 60 of the NPPF highlights that planning authorities should not stifle innovation, originality or initiative in design and having regard to the requirements of these policies, the proposed layout and house designs are considered to be acceptable.

Highways Issues

- 6.33 The application submission was accompanied by a transport assessment that identifies and addresses the sustainable location of the site. The application includes, within the Draft Heads of Terms the provision of a footway between the site and the existing footway on Attwood Lane, providing connectivity with Roman Road. This is considered to be necessary to make the development acceptable, and is achievable, albeit with some constraints. Issues relating to traffic calming and alterations to Attwood Lane are being progressed with the Planning Obligations Manager and Highways, in consultation with the Ward member and Parish Council alongside other appropriate contributions that were received from the Crest Nicholson site at The Furlongs. It has been agreed that this would be an appropriate mechanism for dealing with these proposals and that a comprehensive approach is needed.
- 6.34 The concerns of local residents about 'rat running' are acknowledged, and it is evident that this does occur through the figures and survey produced. Nonetheless the Traffic Assessment demonstrates that Attwood Lane is capable of accommodating additional traffic from this development and there is no objection to this in principle. The site is "previously developed" with lawful uses that generated significant traffic movements that would have included lorries and vans rather than domestic vehicles and this is a particularly relevant material consideration in the determination of this application. The comments of local residents in respect of traffic generation have been considered and the above additional data in respect of trip generation details a comparison in relation to the former use of the use (and its allocation) and demonstrates that there would not be a significant increase in traffic using the local road network. The proposal would comply with the requirements of policy DR3 of the UDP.
- 6.35 The design and layout of the development has included parking for the development at a near maximum provision, with two off road spaces, plus a garage for each of the four bed dwellings, and two spaces per unit for the three and two bed units. These garages are above standard size, ensuring space within for cycle storage (3m x 6.1m). As such this would meet with parking standards for the site in accordance with the requirements of policy H16 of the Unitary Development Plan.

Drainage infrastructure

- 6.36 The application included a drainage strategy that outlined the options for the developer and concludes that after negotiation with Crest Nicholson, the most appropriate drainage solution for this site would be a connection of both foul and storm drainage into the Crest Nicholson infrastructure associated with their 300 house development (known as The Furlongs) This is then pumped to the adopted pumping station on Roman Road which forms part of the adopted drainage network falling under the jurisdiction of Welsh Water. The new drainage network is also subject to a Section 104 Adoption Agreement with Welsh Water which is a contractual agreement for the new drainage infrastructure to be adopted. Technical information was provided as part of the Crest Nicholson applications on the adjoining sites. This demonstrated that the new network including the pumping station have adequate capacity to accommodate the development. The applicant also acknowledges that the key deciding factor to this decision were due to necessary technical and design considerations that had already been taken into account by the Crest design, that the solution was available for implementation and the amount of disruption within Attwood Lane was minimised. In refusing a recent application the Council has acknowledged that the lack of an adopted sewage system renders further residential

development unacceptable. Notwithstanding this, it remains the case that Welsh Water raises no objection subject to conditions, including those requiring that no surface water is discharged to the public drainage system and that the detailed drainage scheme is agreed prior to the commencement of development.

- 6.37 The issue of drainage capacity in the area has again been raised by a local resident. This concerns the adoption of the historic drainage network serving the nearby residential estate constructed in the 1990's and until very recently was maintained by Crest Nicholson. Whilst it was previously the case that the new drainage network connected to an unadopted section via a short length of pipe the position has now fundamentally changed since the responsibility for maintaining the system is now vested in Welsh Water following the withdrawal of Crest Nicholson's appeal to Ofwat. It therefore remains the case that to refuse the application on the basis of either inadequate drainage capacity and/or the lack of adopted network would be difficult to defend if challenged. It is noted that the previous application was not refused on this basis.

Other matters

Affordable Housing

- 6.38 The application makes provision for 35% of the dwellings to be affordable housing. The position of these dwellings has now been agreed with the Strategic Housing Officer. Of those Affordable Housing units, at least 6 shall be made available for rent with the remainder being available for either rent of intermediate tenure occupation. This tenure will be agreed via the Section 106 Agreement as would the local connection tenancy. Accordingly the proposal would comply with the requirements of policy H9 of the Unitary Development Plan.

6.39 Section 106 Agreement

Attached to this report is the latest and updated Section 106 Draft Heads of Terms. This provides details of the contributions payable towards the provision of new, and enhancement of existing community infrastructure in line with the adopted Planning Obligations Supplementary Document. This includes education, sustainable transport, off site play and sport and library contributions. The applicants have, at this stage, registered their concern about the viability of the site and have submitted a viability report which may need to be verified independently by the District Auditor is under consideration by the Planning Obligations Manager. The outcome of this, including an update in relation to a stated preference for financial contributions towards Holmer Primary School will be reported to Committee.

Biodiversity

- 6.40 An ecological survey has been completed concludes that there was no evidence of protected species found during recent surveys. The survey recommends enhancements, including planting to be undertaken. A condition is recommended that would ensure that these are undertaken and that the proposal would comply with the requirements of policies NC1 and NC8 of the Unitary Development Plan and guidance contained within chapter 11 of the NPPF.

Open Space Provision

- 6.41 In line with the requirements of policy H19 of the UDP a financial contribution is sort in lieu of the on-site equipped play area that was previously provided on the refused scheme. The distribution would be used to upgrade the play area at Wentworth Park and would therefore benefit the wider community. This policy also requires older children informal play space. An off site contribution for this element has been negotiated, and is detailed in the comments form the Parks and Countryside Manager above and within the Heads of Terms appended to this report.

Residential Amenity

6.42 The proposed development has also been considered having regard to the potential impact upon the amenities enjoyed by local residents. The most directly affected dwellings being those on Lytham Close within Wentworth Park and Attwood Court. This is the property to the west of the application site. This site is in an elevated position, and there is a significant landscape boundary to the front portion of the site that is not within the site boundary and that would continue to provide a significant screen between units 7 to 12 and Attwood Court. The dwellings to the rear of the site have been orientated in such a way that they avoid overlooking and loss of amenity. A landscape boundary is proposed, with close board fence, the majority of trees are in the ownership and control of Attwood Court, and care will need to be taken during construction to protect these (identified in the planting plan). Officers are satisfied that the proposed development would not adversely impact upon the amenities that Attwood Court or any other nearby residents enjoy, and would note that a residential use is likely to be a much more neighbourly use than the existing industrial use. As such the proposal would comply with the requirements of policies DR2 and H13 of the Unitary Development Plan. To protect amenity during construction, a working hours condition is also recommended.

Housing Land Supply and the National Planning Policy Framework

6.43 The Council has acknowledged that it is unable to demonstrate a 5 year supply of deliverable housing land. Members are aware of the significant pressure that the Council is now under to provide their 5 year supply. Paragraph 17 of the NPPF encourages the effective use and development of brownfield sites, that are located in sustainable locations, in preference to greenfield sites. The development of this site would support the Councils requirement to deliver housing growth in accordance with the NPPF requirements.

Conclusion

6.44 The proposed development has been carefully considered in respect of the saved policies of the UDP and in respect of the guidance contained within the NPPF. Whilst the site is partly allocated as an employment site, officers are satisfied that there is no reasonable prospect of this site coming forward for that purpose, and that, given the predominantly residential context of the locality, it would be more suited to and arguably more appropriate for residential development. Also relevant to this is the Councils current lack of housing land which is specific requirement of the National Planning Policy Framework.

6.45 The detailed design and layout of the proposed scheme, coupled with the inclusion of planting and landscaping proposals and having regard to the existing deleterious condition of the site would result in a built form that would be acceptable in respect of its landscape impact and its relationship with the neighbouring properties. Matters relating to highway safety have been carefully considered and no objection is raised subject to ensuring the provision of a footway by way of a financial contribution. As such, the proposal is considered to be acceptable subject to the imposition of conditions and a Section 106 agreement and is therefore recommended for approval.

RECOMMENDATION

That subject to final clarification in relation to the acceptability of the proposed S106 Obligation terms, officers named in the scheme of Delegation to Officers be authorised to grant planning permission subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**

3. **B07 Section 106 Agreement**
4. **C01 Samples of external materials**
5. **K4 Nature Conservation - Implementation**
6. **G11 Landscaping scheme - implementation**
7. **G15 Landscape maintenance arrangements**
10. **I50 Measures to deal with soil contamination**
11. **I55 Site Waste Management**
12. **I51 Details of slab levels**
13. **L01 Foul/surface water drainage**
14. **L02 No surface water to connect to public system**
15. **L03 No drainage run-off to public system**
16. **L04 Comprehensive & Integrated draining of site**
17. **F14 Removal of permitted development rights**
18. **I16 Restriction of hours during construction**
19. **H27 Parking for site operatives**
20. **M09 Land affected by contamination**
21. **H26 Access location**

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. **HN10 No drainage discharge to highway**
3. **HN08 Section 38 Agreement and Drainage details**
4. **HN07 Section 278 Agreement**
5. **HN04 Private Apparatus within the highway**
6. **HN1 Mud on the highway**
7. **HN28 Highways design guide**

8. **HN13 Protection of visibility splays on private land**
9. **HN05 Works within the highway**

Reason for Approval

1. **The application site lies within the urban settlement of Hereford City, within which residential development is supported by policy H1 of the UDP. Whilst the site is allocated as an employment site, the Local Planning Authority is satisfied that there is no reasonable prospect of this site coming forward for that purpose, and that, given the predominantly residential context this would be a suitable site for residential development. As such the proposal would comply with the requirements of policy H1 and the guidance contained within the NPPF.**

The detailed design and layout of the proposed scheme, coupled with the inclusion of planting and landscaping proposals would represent a form of development that would be acceptable in respect of landscape impact, design and layout in accordance with policies DR1, H13, LA2, LA3 and LA6 of the UDP.

The developments relationship with neighbouring properties has been considered and subject to ensuring that landscaping and boundary treatments are undertaken, the proposal is considered to be acceptable in accordance with the requirements of policies DR2 and H13 of the UDP.

The proposed development would not adversely impact upon the local highway network in terms of capacity or highway safety. The site lies in a location that is considered to be sustainable, with good access to alternative means of transport and the proposal makes provision of a new footway to serve the development and provide connectivity with Roman Road. As such the proposal is considered to comply with the requirements of policy DR3 of the UDP.

It is considered that the proposed development, subject to a condition, can be served by an acceptable and adopted drainage system in accordance with policy DR4 and CF2 of the UDP.

Provision has been made, through a Section 106 agreement or the appropriate contributions having regard to the requirements of policy DR5 and the SPD – Planning Obligations. The appropriate affordable housing provision and play space provision has also been provided and secured by way of the Section 106 agreement in accordance with Policies H9, H19 and DR5 of the UDP.

DRAFT HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

Planning Application 130426/F

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

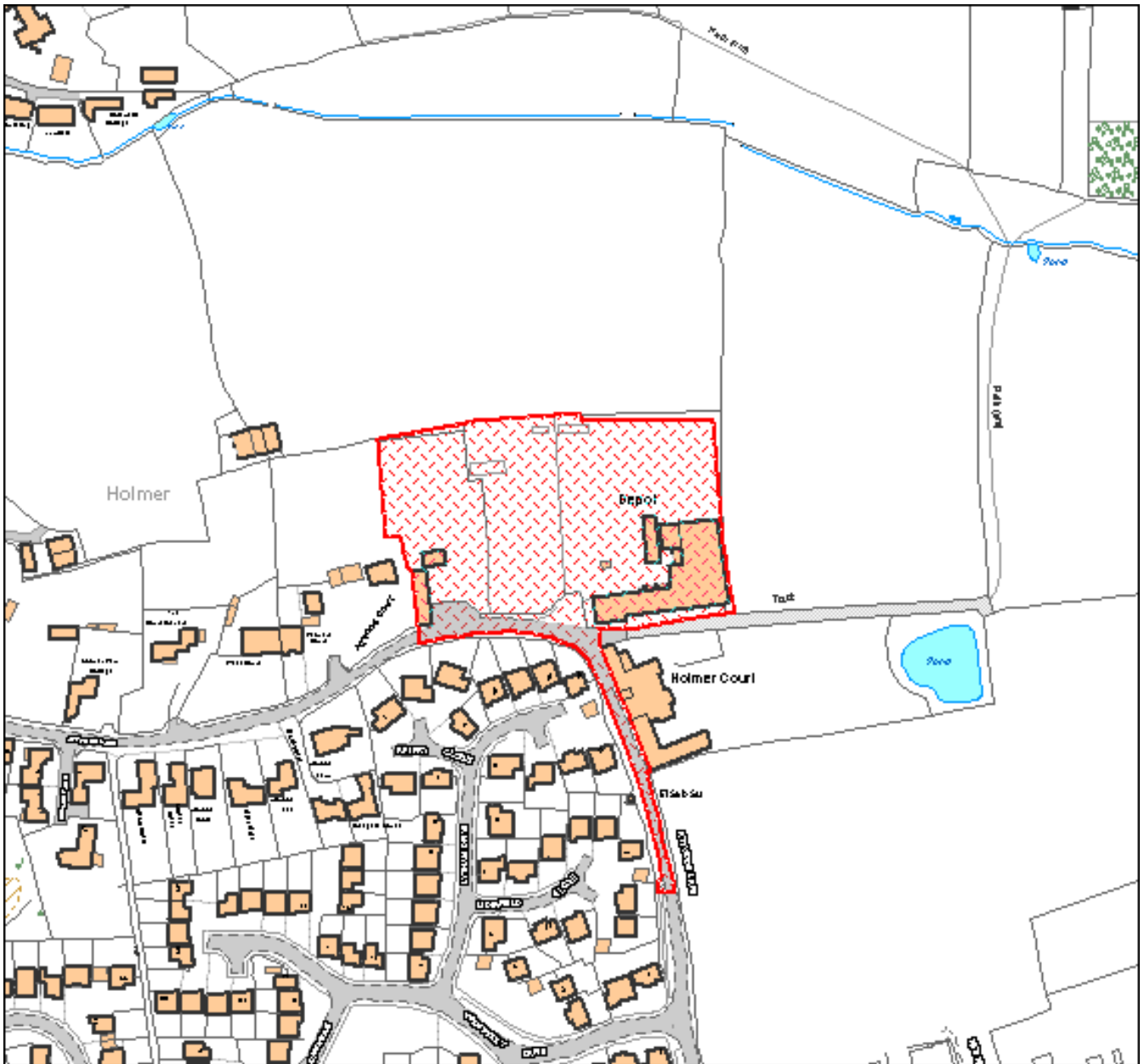
Demolition of existing building and erection of 34 dwellings (22 x open market dwellings and 12 x affordable dwellings) and garages together with roads, sewers and associated external works on land off Attwood Lane, Holmer Park, Hereford (Lioncourt Homes)

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£109,915.00** to provide enhanced educational infrastructure at North Hereford City Early Years, Broadlands Primary School, St Xavier Primary School, (and Holmer C o E Academy) – as requested by Committee / Ward Councillor) Hereford City Youth Service with 1% allocated for Special Education Needs. 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.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£73,960.00** to provide a sustainable transport infrastructure to serve the development, plus **£37,131.00** towards the cost of the footway along Attwood Lane, which 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. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - 2.1. Traffic calming and improved signage
 - 2.2. Localised highway improvements including a footpath from Attwood Lane to Roman Road
 - 2.3. Contribution to Safe Routes for Schools
 - 2.4. Public and community transport facilities, including improved bus service
3. The developer covenants with Herefordshire Council to pay Herefordshire Council a sum to be agreed to provide localised highway improvements to include a footpath along Attwood Lane from the development site to the Roman Road, which 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.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum **£34,730.00** in lieu of play provision towards off site contributions, **£8190.00** off site contribution to Older Children's Play Area (or connection to) and **£17,704** for sports (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator).
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 including but not limited to the provision of new open space, play, sport and recreational facilities including new green routes/infrastructure in Hereford City principally at Wentworth Park and the adjacent housing areas. The sums shall be paid on or before the commencement of development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council a 15 year commuted sum for the future maintenance of the on-site open space and play facilities assessed against the tariff applicable at the time of adoption.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£5216.00** towards the provision of enhanced Library facilities. 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.
8. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2760.00** towards the provision of new or the enhancement of existing waste and recycling facilities in Hereford City if appropriate provision/facilities are not provided on site. 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.

9. 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.
10. Of those Affordable Housing units, at least (6) shall be made available for rent with the remainder being available for either rent of intermediate tenure occupation. For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.
11. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
12. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
 - 12.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 12.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
13. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
 - 13.1. a local connection with the parish of Hereford City; or
 - 13.2. in the event of there being no person with a local connection to any of the above parish 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 11.1 above.
14. For the purposes of sub-paragraph 11.1 or 11.2 of this schedule ‘local connection’ means having a connection to one of the parishes specified above because that person:
 - 14.1. is or in the past was normally resident there; or
 - 14.2. is employed there; or
 - 14.3. has a family association there; or
 - 14.4. a proven need to give support to or receive support from family members; or
 - 14.5. because of special circumstances;
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency ‘Design and Quality Standards 2007’ (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation ‘Lifetime Homes’ standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the ‘Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes’ or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

17. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
18. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
19. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
20. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

April 2013



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APPLICATION NO: S/130426/F

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