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| MEETING: | PLANNING COMMITTEE |
| DATE: | 19 FEBRUARY 2014 |
| TITLE OF REPORT: | 132374/O - PROPOSED ERECTION OF 15 NOS. DWELLINGS. AT LAND ADJACENT TO WILLOWCROFT, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, For: Mr & Mrs Chambers per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132374 |

Date Received: 27 August 2013

Ward: Sutton Walls

Grid Ref: 353485,245955

Expiry Date: 30 December 2013

Local Members: Councillor K S Guthrie

1. Site Description and Proposal

- 1.1 The application site lies on the eastern side of the C1125 immediately north of the defined settlement boundary of Sutton St. Nicholas and comprises an irregular shaped parcel of land that is 0.4 hectares in size with mature boundary hedges and trees to the north, east and west. A Public Right of Way also lies, outside of, but to the north of the site. To the south of the application site lies Willowcroft, a detached two-storey dwelling whose principal elevation faces south. Immediately east of Willowcroft is a terrace of three two-bedroom cottages erected under planning permission CW100542/F. These properties lie within the settlement boundary though the approved vehicular access from the north cuts across open countryside. More recently, Planning Committee approved a terrace of four dwellings (123110/O) that front onto the C1125 that lay outside of the defined settlement boundary.
- 1.2 Outline planning permission, with all matters reserved is sought for the erection of 15 dwellings. An indicative site layout plan has been provided with the application, along with a design and access statement and Ecological appraisal of the site. An updated draft heads of terms has also been agreed with the agent, and this is currently being considered by the Parish Council and Ward Member. Any additional comments will be reported via the committee updates.

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 |

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

2.2 Herefordshire Unitary Development Plan 2007 (UDP)

| | | |
|-----|---|---|
| S1 | - | Sustainable development |
| S2 | - | Development requirements |
| S3 | - | Housing |
| S6 | - | Transport |
| S7 | - | Natural and historic heritage |
| DR1 | - | Design |
| DR3 | - | Movement |
| DR4 | - | Environment |
| H4 | - | Main villages: Settlement boundaries |
| H7 | - | Housing in the countryside outside settlements |
| H9 | - | Affordable Housing |
| H13 | - | Sustainable residential design |
| T8 | - | Road hierarchy |
| T11 | - | Parking provision |
| LA2 | - | Landscape character and areas least resilient to change |
| LA5 | - | Protection of trees, woodlands and hedgerows |
| LA6 | - | Landscaping |
| NC1 | - | Biodiversity and development |

2.3 Herefordshire Local Plan – Draft Core Strategy

| | | |
|-----|---|--|
| SS1 | - | Presumption in favour of sustainable development |
| SS2 | - | Delivering new homes |
| SS3 | - | Releasing land for residential development |
| SS4 | - | Movement and transportation |
| SS6 | - | Addressing climate change |
| RA1 | - | Rural housing strategy |
| RA2 | - | Herefordshire's villages |
| H1 | - | Affordable housing – thresholds and targets |
| H3 | - | Ensuring an appropriate range and mix of housing |
| OS1 | - | Requirement for open space, sports and recreation facilities |
| OS2 | - | Meeting open space, sports and recreation needs |
| MT1 | - | Traffic management, highway safety and promoting active travel |
| LD1 | - | Local distinctiveness |
| LD2 | - | Landscape and townscape |
| LD3 | - | Biodiversity and geo-diversity |
| SD1 | - | Sustainable design and energy efficiency |
| SD3 | - | Sustainable water management and water resources |
| ID1 | - | Infrastructure delivery |

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

<https://www.herefordshire.gov.uk/local-plan>

3. Planning History

- 3.1 131499/RM - Reserved Matters application for landscaping details. Outline S123110/O for erection of 4 dwellings and construction of public footpath – Approved with Conditions – 5/8/2013
- 3.2 S123110/O – Site for erection of four dwelling and construction of four dwelling and construction of a public footpath – Approved with Conditions – 3/4/2013
- 3.3 S121667/O: Erection of five dwellings and construction of public footpath: Refused 1st August 2012 for reasons of design, appearance within the landscape and impact upon the amenity associated with Willow Croft.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water: Recommend standard conditions regarding the separate disposal of foul and surface water.

Internal Consultations

- 4.2 The Transportation Manager makes the following comments:

Has no objection to the grant of permission as there are no highway implications provided that the development meets all highway standards for car and cycle parking (including level external accessibility to the road for cycles); visibility splays at junctions (to be determined by 24hr/7 day speed survey); garage internal dimensions being at least 6m by 3m.

- 4.3 Conservation Manager (Ecology) raises no objections to the Ecology Report.

- 4.4 Team Leader – Waste Operations makes the following comments: The layout of this development looks accessible and suitable for a refuse collection. The only concern would be that plot 15 would need to bring their refuse/recycling to the end of their driveway, adjacent to the main road due to the distance that the property is positioned away from the main road

- 4.5 The Housing Manager makes the following comments:

The application meets the requirement to provide 5 affordable dwellings. The agent has been in contact with the Housing Needs and Development Team and support is given for the mix of 2 x 1 bed houses and 1 x 2 bed house for social rent and 1 x 2 bed house and 1 x 3 bed house for intermediate tenure.

The Draft Heads of Terms confirms that the units will be built to HCA Design and Quality standards, Lifetimes Homes standards and Code 3 for Sustainable Homes as well as local connection to the parish of Sutton St Nicholas.

I note that section 12.2 of the Draft Heads of Terms is incomplete and I can confirm that the cascading parishes are Marden, Moreton-on-Lugg, Pipe and Lyde, Holmer, Withington and Preston Wynne.

Whilst this is outline permission, I am assuming from the site plan provided that the affordable units will be plots 1-5 inclusive. Housing Needs and Development have no objection to a group of five units together but would like to see the gardens for the 1 bed houses to be split to enable the individual households to have their own amenity space.

5. Representations

5.1 Sutton St Nicholas Parish Council state:

Resolved to object as it is outside the village envelope and the Parish Council is waiting for its Neighbourhood plan to be developed.

5.2 Letters of concern / objection have been received from:

- Mr and Mrs Dove, The Paddock, Millway, Sutton St Nicholas
- Mr Smith, 11 Ethelbert Close, Sutton St Nicholas
- Mr Jones, Tilton House, Sutton St Nicholas
- Mr Houghton (email address)
- Mrs A Powell, The Old Chapel, Sutton St Nicholas

These letters raise the following issues:

- Proposed development is too large
- The development is outside of the defined settlement boundary, UDP policies should not be ignored with policy H4 supporting development within the settlement and H7 restricting development outside of the settlement.
- The development is premature having regard to the Sutton St Nicholas Community Plan / Neighbourhood Plan and to allow this now would make a nonsense of the consultations inherent to the development of the neighbourhood plan.
- The Core Strategy supports redevelopment of brownfield.
- There has been no consultation within the village.
- The development will be visually intrusive due to the site being on rising land at the edge of the village (photos were included from view from the Bodenham Road to the East which is a popular walking route) and the view back to Sutton Hill Fort would be impaired.
- The character of the village will be altered by raising the roofline within the village.
- Impact upon the character of the bridleway.
- Additional traffic movements onto the highway and through the village (suggested by the applicant as being around 377 per week from the 15 dwellings).
- There are very few facilities in the village.
- Highway safety issues in respect of visibility, high traffic speeds and collisions.
- The village is flood susceptible and increased run off would exacerbate the situation.

5.3 Six letters of Support have been received from:

- Vicky Benson, 2 Willowcroft Cottages
- Mr J Murray, (email)
- Mr D Powell, 1 Willowcroft Cottages
- Mr R Hodges, 17 Burmarsh Cottages, Sutton St Nicholas
- Coral Mann, 2 Willowcroft Cottages, Sutton St Nicholas
- Ms Gibbs, 78 Seymour Avenue

These letters raise the following issues:

- The proposal offers a range of diverse properties and addresses the needs of smaller family units.
- Whilst outside village boundary there are three properties to the north of the development and this can be considered infill.
- The development will complement the dwellings that have already been approved

- Believe this is the only area in the village that was identified as suitable for development.
- Provide opportunities for people to move back to a village and for those on lower wages.

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

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

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

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 The key issues for consideration are as follows:

- Principle of development
- Landscape Impact and character of the area
- Highway safety
- Ecology
- Drainage
- Section 106 agreement
- Conclusion and Planning Balance

Principle of Development

6.2 The application seeks outline planning permission with all matters reserved for the erection of 15 dwellings on land outside of but immediately adjacent the village settlement boundary of Sutton St Nicholas. The application, in common with many considered by Planning Committee recently, is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (2012).

6.3 In response to the acknowledged deficit the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the UDP. For proposals of 5 or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).

6.4 This application site was assessed under the 2012 SHLAA (HLAA/237/001) as having low or minor constraints that could come forward for development in the 1- 10 year category. .

6.5 Very recently, the Council has received an appeal decision for Home Farm, Belmont (Application 122747). This appeal considered in detail the issue of whether the Council could demonstrate the existence of a 5-year housing land supply in the County. The Inspector's decision has now been received and the appeal has been dismissed. Housing land supply was a key part of this appeal and although the Inspector did not provide an indication of the

level of supply that he considered currently exists the decision provides a clear indication that the Council currently cannot demonstrate a 5-year housing position and that paragraph 49 of the NPPF is therefore relevant. An up-to-date position using the Inspector's advice in respect of the elements which should and should not be included within the County's land supply is being produced and it is intended that this will be available by the end of March 2014.

- 6.6 In accordance with paragraph 14 of the NPPF the Council should grant permission for *sustainable* housing development 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.*
- 6.7 The Government's position on this locally has also been confirmed by a recent appeal decision for 35 dwellings at Kingstone. The appointed Inspector made it clear that in the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.
- 6.8 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between any adverse impacts and benefits should be assessed against the policies in the NPPF as a whole. However, in terms of principle, if the development is acceptable in all other respects, officers consider that the conflict with UDP policy H7 is not a reason for refusal that could be sustained if subject to appeal.
- 6.9 As well as consideration of the principle of developing a green-field site the application raises a number of material considerations requiring assessment against saved UDP policies and guidance laid down in the NPPF. Firstly there is the assessment as to whether the development would represent sustainable development. The NPPF refers to the social, environmental and economic dimensions of 'sustainable development', but does not define the term. In this case the site is considered to represent a sustainable location for development, on the edge of a main settlement as defined in the UDP and a village identified within the Draft Core Strategy to accept proportionate growth under policy RA1. It is recognised that the site's location adjacent to the village means that it has good transport links to goods, services and employment opportunities located in Hereford city and its surrounding area. Other roles will be considered further in this report but as the application site is located immediately adjacent the existing settlement boundary, it is considered sustainable in terms of its location, meets the tests of the Interim Protocol in terms of location and 'in principle' should be supported.

Landscape Impact and character of the area

- 6.10 The site is located to the north of the village that is a mix of older, traditional dwellings and farmsteads, with more recent residential developments. The site levels rise in a northerly direction, and it is bounded by mature hedge and trees. In consideration of the reserved matters application, careful consideration to the siting, layout, design of the dwellings, and the need for retaining and providing additional land will be considered. The introduction of dwellings into this location will be visible from local viewpoints, the adjacent Public Right of Way and longer distance views. Nonetheless these will be seen in the context of existing development and as an extension of the village and it is officers' opinion that the development can be accommodated without a significant harmful visual impact on the setting of the village in accordance with the requirements of policies LA2 and LA3 of the Unitary Development plan and the guidance contained within the NPPF that seek to protect the landscape and address the environmental roles of sustainable development.

Highway Safety

- 6.11 Access is a matter that has been reserved for future consideration. The Transportation Manager is satisfied that safe access can be achieved into the site, but notes that there would be a requirement for a speed survey (24/7) to be undertaken to determine the exact extent and requirements for visibility splays in this location. This should be undertaken before submission to inform the proposals. There is an existing site access that serves the dwellings and hedgerow translocation / replanting is required as part of the last approval on the site, along with the provision of a footway connection to the village.
- 6.12 There are local concerns about intensification of traffic using the highway, speeds of traffic and visibility but it is officers' opinion the proposed development will be able to provide a safe and adequate provision for vehicular access from the highway network without detriment to highway safety or to pedestrians, cyclists or public transport. It is also possible to secure a safe pedestrian access through the site and into the village. The site is considered to be in a sustainable location on the edge of the settlement with good access to services, employment and alternative means of travel. As such it would comply with the requirements of policy DR3 of the UDP.
- 6.13 The highway network is capable of absorbing the additional traffic that may be generated by this relatively small scale development and officers are satisfied that, in having regard to the requirements of paragraph 32 of the NPPF, the residual cumulative impacts of the development are not severe and as such a refusal on this ground could not be sustained.

Ecology

- 6.14 The Councils ecologist requested that an ecological assessment be undertaken. This was subsequently submitted and considered in the context of the recommendations and mitigations included in the report. Many of these will need to be incorporated into the final layout and landscape designs and therefore this would comply with the requirements of those policies in the UDP and NPPF that seek to preserve and mitigate developments and meet the requirements of the environmental role of sustainability when taken in the context of the relevant sections of the NPPF.

Drainage

- 6.15 It is intended that a mains drainage connection will be secured and Welsh Water have raised no objection to this proposal. Comments about surface water drainage in the area have been made and surface water drainage would need to be accommodated through a technical solution with surface water being contained within the site. Officers are satisfied that this can be adequately dealt with by appropriately worded condition.

Section 106 agreement

- 6.16 A heads of terms is attached to this report that has been prepared having regard to the requirements of policy DR5 of the Unitary Development Plan and Supplementary Planning Document – Planning Obligations and in its current form is considered to comply with these policies. This revised Heads of Terms is currently being considered by the Ward Councillor and Parish Council and any comments on this will be reported through the updates to committee.
- 6.17 The Section 106 agreement also secures the 35% affordable housing in accordance with the requirements of policy H9 of the Unitary Development Plan. Comments from the Housing Manager have been noted and these will need to be reflected in the reserved matters submissions. Local connection criteria will apply to these dwellings.

Conclusion and Planning Balance

- 6.18 The consultation process has identified a number of concerns and these matters have been considered above. The application site's location is considered to be sustainable, and the development has been considered having regard to the roles of sustainable development that are identified in the NPPF. Acknowledging that the Council does not have a five year Housing Land Supply, paragraph 49 of the NPPF and in particular the requirements of paragraph 14 of the NPPF are an important and critical consideration.
- 6.19 The proposals would assist in addressing the shortfall in housing supply within Herefordshire and contribute towards achieving a five year supply of housing. It would also increase choice of housing and accord with the Government's objective to boost significantly the supply of housing. These are important matters which should be given considerable weight in the determination of this application. The development would assist in supporting local services and facilities, as well as the construction industry. These economic considerations should also be given significant weight in determining this application. The recent 'Home Farm' appeal decision also noted that residential development would also provide the Council with additional revenue via the New Homes Bonus. There are also acknowledged highway improvements that would be secured through the granting of planning permission.
- 6.20 These significant benefits must be weighed in respect of any identified harm arising from the development. In this instance, officers would consider that concerns in respect of landscape impact, highway safety and network capacity are negligible and that all potential impacts can be successfully mitigated, resolved and solutions secured through conditions or through a carefully considered Reserved Matters application. As such, there is a clear and overriding weight of evidence supporting approval of this application which is considered to comply with the requirements of the relevant saved Unitary Development Plan Policies and the National Planning Policy Framework.

RECOMMENDATION

That subject to the completion of a Section 106 agreement planning permission be granted subject to the following conditions:

- 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. C01 Samples of external materials**
- 7. H14 Turning and parking: change of use - domestic**
- 8. H18 On site roads - submission of details**
- 9. H19 On site roads - phasing**
- 10. H29 Secure covered cycle parking provision**
- 11. H27 Parking for site operatives**

- 12. I16 Restriction of hours during construction
- 13. I51 Details of slab levels
- 14. L01 Foul/surface water drainage
- 15. L02 No surface water to connect to public system
- 16. L03 No drainage run-off to public system
- 17. L04 Comprehensive & Integrated draining of site
- 18. K4 Nature Conservation - Implementation

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework
- 2. HN07 Section 278 Agreement
- 3. HN08 Section 38 Agreement & Drainage details
- 4. HN01 Mud on highway
- 5. N11C General
- 6. N02 Section 106 Obligation

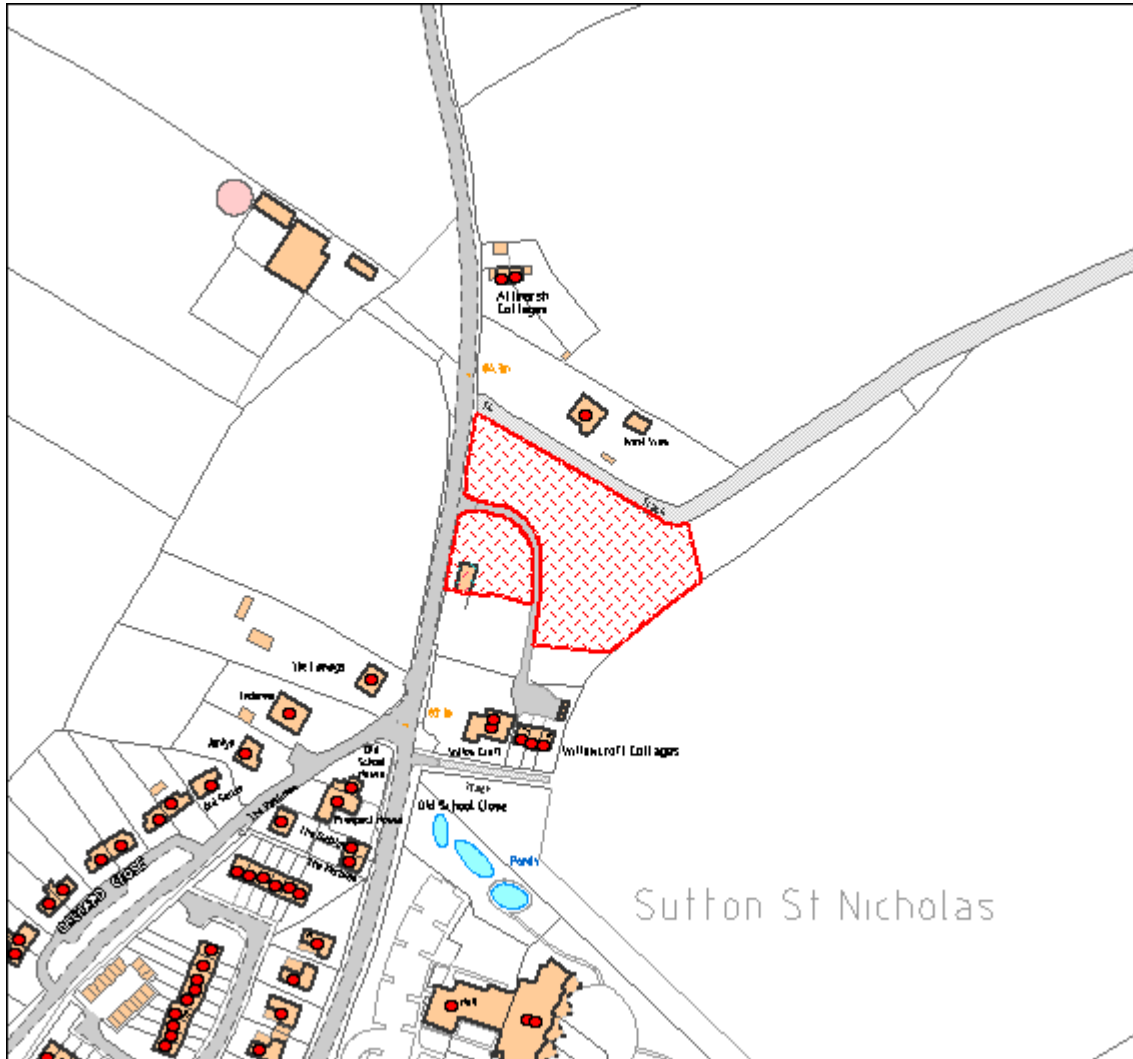
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 132374/O

SITE ADDRESS : LAND ADJACENT TO WILLOWCROFT, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE

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HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

.Application number: 132374

Proposal: Proposed Erection of 15 nos dwellings.

Location: Land adjacent to Willowcroft, Sutton St Nicholas.

(Outline application specifies 10 x 3 bed open market dwellings and 5 affordable dwellings).

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:
 - £ 2,951.00 (*index linked*) for a 2/3 bedroom open market unit

(Contribution based on 10 x 3 bed open market units £29,510)

to provide enhanced educational infrastructure at Sutton Primary School, St Frances Xavier Primary School, Youth Service with 1% allocated for Special Education Needs (SEN). 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:
 - £1,720 (*index linked*) for a 2 bedroom open market unit
 - £2,589 (*index linked*) for a 3 bedroom open market unit

(Contribution based on 10 x 3 bed open market units £25,890)

provide new highway and sustainable transport infrastructure to serve the development, including improvements of pedestrian / cycling facilities in the area including extension of the off road cycle route and improvements to public transport facilities in the area.

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.

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:
 - £ 965.00 (*index linked*) for a 2 bedroom unit
 - £ 1,640.00 (*index linked*) for a 3 bedroom unit

(Contribution based on 10 x 3 bed open market units £16,400)

for the use towards improvements at the village recreation ground / play area which is owned and maintained by the Parish Council and provides a neighbourhood facility for local residents. The

Parish Council have a vision to make further improvements as identified in the Play Facilities Study, action Plan and emerging Investment Plan.

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.

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

- £ 496.00 (index linked) for a 2 bedroom open market unit
- £ 672.00 (index linked) for a 3 bedroom open market unit

(Contribution based on 10 x 3 bed open market units £6,720)

(contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). The money shall be used by Herefordshire Council to provide enhanced indoor sports facilities in Hereford City. Priorities would be identified nearer the time or receiving the contribution in accordance with the findings of the Indoor Facilities Strategy

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

- £146.00 (index linked) for a 2 bedroom open market unit
- £198.00 (index linked) for a 3 bedroom open market unit

(Contribution based on 10 x 3 bed open market units £1,980)

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

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120 (index linked) per dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

(Contribution based on 10 x 3 bed open market units £1,200)

7. The developer covenants with Herefordshire Council that five (5) 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.

8. The tenure split would be 54% Social rented and 46% intermediate (shared ownership, intermediate rent or low cost market). (The unit sizes to be broken down as 36% (2) 1 beds to look like a house, 38% (2) 2 beds and 24% (1) 3 bed.)

9. The units would need to be built to Homes and communities Design and Quality standards, Lifetimes homes and Level 3 of the Code for Sustainable Homes.

10. All the affordable housing units shall be completed and made available for occupation prior to the

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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 9 & 10 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 Sutton St Nicholas;
 - 12.2. in the event of there being no person having a local connection to the parish of Sutton St Nicholas, a person with a local connection with the parishes of Marden, Moreton-on-Lugg, Pipe and Lyde, Holmer, Withington and Preston Wynne.
 - 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 1.5.1 or 1.5.2 above.
13. For the purposes of sub-paragraph 9.1 or 9.2 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, 3, 4, 5 and 6 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has

not been used by Herefordshire Council.

16. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
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.

KG – January 2014