

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<p><b>P140285/O - HYBRID APPLICATION - PART OUTLINE FOR 76 DWELLINGS (35% AFFORDABLE) AND A BUSINESS CENTRE FOR B1 USES, WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED. PART FULL, FOR THE DEVELOPMENT OF A SINGLE B1 BUSINESS UNIT AND THE MEANS OF ACCESS THERETO AT LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ</b></p> <p><b>For: Mr Harrison per Mr John Wilson, 66 Stratford Road, Shirley, Solihull, West Midlands B90 3LP</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140285">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140285</a>

**Date Received: 3 February 2014**

**Ward: Bromyard**

**Grid Ref: 365195,255414**

**Expiry Date: 6 May 2014**

Local Members: Councillors JG Lester and A Seldon

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

- 1.1 The application site is on the eastern side of Tenbury Road (B4214) at the northern end of Bromyard. The boundary of the site, adjacent to Tenbury Road, is largely characterised by a roadside hedge of indigenous species. Within or immediately to the rear of this hedge are seven trees of amenity value. These trees are protected by a Tree Preservation Order (TPO).
- 1.2 An industrial estate is located to the south-east, with the Polytec factory; a general industrial premises, being closest. The application site and industrial estate are separated by a bund and an extant planning permission for it to be re-modelled has been granted under application reference DMN111900/N. The eastern boundary of the site largely follows the line of the former railway in a general arc. The land slopes down from west to east towards the River Frome. Between the application site and the River Frome is an attractive riverside meadow.
- 1.3 The site is located approximately 500 metres from the town centre. Beyond the application site on the western side of the Tenbury Road and to the north built development is of a sporadic nature. To the north beyond the River Frome is the Bromyard Rugby Club.
- 1.4 The proposal is a hybrid application for a mixed use development of 76 dwellings; 35% of which will be affordable, and B1 commercial. This is submitted in outline with all matters except access reserved for future consideration. The proposal does however, include detailed plans for the erection of one business unit. The plans show a building with a footprint of 150 square metres with a hipped roof and a height to the ridge of 6.7 metres.

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

1.5 The plans show two proposed points of access to the site. The first is located at its south western corner and will require the removal of one of the trees that are covered by a TPO. This is intended to serve the commercial element of the proposal. The second access is located 120 metres further north and will serve the residential element of the scheme.

1.6 The application is submitted with the following documents:

- Design & Access Statement
- Planning Statement
- Ecology Survey
- Flood Risk Assessment
- Noise Assessment
- Transport Assessment
- Tree Survey Report
- Draft Heads of Terms Agreement

A copy of the Draft Heads of Terms Agreement is appended to this report.

## 2. Policies

### 2.1 National Planning Policy Framework

The following sections of the NPPF are considered to be relevant to this proposal:

Introduction	-	Achieving Sustainable Development
Section 3	-	Supporting a Prosperous Rural Economy
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

### 2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
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
DR7	-	Flood Risk
DR10	-	Contaminated Land
DR13	-	Noise
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H2	-	Hereford and the Market Towns: Housing Land Allocations
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density

H19	-	Open Space Requirements
E8	-	Design Standards for Employment Sites
T6	-	Walking
T7	-	Cycling
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Regard for and Retention of Biodiversity
NC6	-	Protection and Enhancement of Herefordshire's Biodiversity Action Plan Priority Habitats and Species
NC7	-	Habitat Mitigation and Compensation Measures
NC8	-	Habitat Creation, Restoration and Enhancement Measures

### 2.3 Supplementary Planning Guidance

Supplementary Planning Document - Planning Obligations (April 2006)

### 2.4 Herefordshire Local Plan Core Strategy – Deposit Draft

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 Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure delivery

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

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

## 3. **Planning History**

3.1 The site has a long planning history. The following applications are considered to be of particular relevance to this application:

130907/O – Outline application for up to 127 dwellings – Refused 11<sup>th</sup> July 2013

111900/F - Retrospective planning application for the retention of an existing bund and its remodelling with appropriate engineering works and landscaping of the remodelled bund – Approved 4<sup>th</sup> April 2012

111899/O - Outline application for up to 127 dwellings – Refused 2<sup>nd</sup> July 2012 on grounds relating to noise, lighting and land use. The applicant appealed against the Council's decision and the Inspector concluded that all three reasons for refusal were unreasonable and that the

proposed development was NPPF compliant. Whilst the Inspector was entirely satisfied with the package of noise mitigation measures, which included mitigation measures at source, it was concluded that an effective legal mechanism was not in place to secure their provision and long-term maintenance upon the Polytec site.

NC09/2844/O – Erection of 175 dwellings with garages, sports pavilion and pitches, community/ youth building, landscaping and associated works – Refused 17<sup>th</sup> March 2010

#### **4. Consultation Summary**

##### Statutory Consultations

4.1 Welsh Water – No objection subject to the imposition of conditions. They comment that there are no problems envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site.

4.2 Environment Agency – Comments awaited

##### Internal Council Consultations

4.3 Transportation Manager – Comments awaited

4.4 Conservation Manager (Ecology) – No objection subject to condition

4.5 Housing Manager – Supports the application but advises that housing need and demand has changed in Bromyard. There is now a greater demand for intermediate housing over social rented and the Draft Heads of Terms Agreement should be amended to reflect this.

4.6 Environmental Health and Trading Standards Manager

Contaminated Land – No objection subject to conditions.

Noise – It appears that proposed site of the dwellings will be subject to acceptable levels of noise if the separation distance and barrier as identified in the application are implemented. If planning permission is to be granted I would recommend that in addition to the above measures that there is a requirement that the single industrial unit included in this application is built prior to the commencement of the housing element of the application.

4.7 Parks & Countryside Manager - In accordance with Policy RST3 of the Unitary Development Plan 0.8ha per 1000 population of children's formal/informal play is required and 0.4ha per 1000 population of public open space is required. For the development proposed this would equate to a minimum standard of 0.14 ha (1400sq m) of children's play (formal and informal) and 0.07ha (700sq m) POS. It is noted that public open space is provided as a buffer and green corridor to separate the housing from the employment land and there is also an area shown off-site, including areas for a Sustainable Urban Drainage Scheme (SUDs) and a balancing pond. It is noted that at the Reserved Matters stage further landscape detail is required in order to help shape these areas.

4.8 Schools Organisation and Capital Investment Officer - The educational facilities provided for this development site are Bromyard Early Years, St Peters Primary School, Queen Elizabeth Humanities College, St Mary's RC High School and Bromyard Youth. With the exception of the Queen Elizabeth Humanities College, all schools currently have capacity issues in some of their year groups.

The Childcare Sufficiency Assessment highlights that within the Bromyard area 6% of parents are unable to seek work and 19% unable to take a better job due to childcare issues. Early mornings and evening were highlighted as gaps in childcare as is shift pattern timing.

The Bromyard Youth Service would like to continue to provide a service at the Heritage Centre and are working with Mobile Youth Led Opportunities (MYLO) to seek to expand its youth facilities to encourage more youth to attend.

## **5. Representations**

5.1 Bromyard & Winslow Town Council support the application.

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

## **6. Officer's Appraisal**

6.1 There are three key differences between the current proposal and those previously considered by the Council and these are as follows:

- The introduction of commercial B1 uses on land immediately adjacent to the bund.
- The scale of the residential development proposed. The number of dwellings has been reduced from 127 to 76.
- Changes in the noise mitigation measures proposed

6.2 Although they are distinctly separate issues, the three are inextricably linked to each other and their significance is considered in detail in the following paragraphs.

6.3 The proposal relates to a parcel of land allocated for housing by Policy H2 of the UDP. The use has been established as one that is acceptable by the Inspector's decision in relation to application reference 111899/O, and therefore the principle of residential development on the land is not in question.

6.4 As stated above, the site is allocated for housing and the provision of commercial development as part of the application is contrary to policy. However, there are a number of factors that are material to the determination of the application that may be considered to carry significant weight to allow a decision to be made that is, on face value, contrary to policy H2 of the UDP.

6.5 Policy H2 advises that the site has an estimated capacity of 87 dwellings and the supporting text to it is clear that, as a gateway to the town, development on the site should be of a high quality. The supporting text also advises that a landscaped buffer strip of 0.8 hectares should be designated between the existing industrial estate and any new development in order to mitigate any potential nuisance generated by industrial processes.

6.6 The noise assessment submitted as part of the current application identifies two different noise sources from the Polytec site – production noise arising specifically from the factory, and yard and storage area noise from the movement of materials and finished goods to the storage area. The impact of the first noise source has used the noise measurements from the Polytec factory to create a model of noise exposure across the site, plotting this as a series of contours based on current conditions. Its impact is mitigated by ensuring the residential

development is located beyond the 40 dB contour that delineates an acceptable level of noise in a residential context.

- 6.7 The noise generated from yard noise is proposed to be mitigated by the erection of a 4.5 metre acoustic barrier along the shared boundary between the Polytec factory and the application site. Earlier applications indicated that this would need to be constructed to a height of 6 metres and the reduction in height is justified by the applicants noise consultant on the basis that dwellings are now proposed significantly further away from the noise source and that the intervening B1 commercial development will serve to further deaden this noise.
- 6.8 As a direct consequence of plotting the noise contours the buffer between the industrial estate and proposed residential development has increased from the 0.8 hectares envisaged by the supporting text of the UDP, to an area in the region of 1.6 hectares.
- 6.9 One of the concerns raised in the refusal of the most recent application (130907/O) related to the lack of employment land in Bromyard, and that the erection of dwellings on the site should be matched with the requisite provision of employment land. The current proposal provides a mix of residential and employment provision. The scheme is specific that the commercial units to be provided are for purposes defined by Class B1 of the Town & Country Planning Use Classes Order and it is accepted that such uses are compatible with residential uses.
- 6.10 Although the reason for refusal did not specify that employment uses should be provided within the site, the proposal as shown enables the provision of housing on the site and utilises the area of land that is less suited to residential use due to potential issues relating to noise nuisance. The scheme allows the requirements of policy H2 to be substantially met; the figure of 87 units is an estimated capacity and provides an acceptable employment use on the remaining land. This is not considered to compromise policy H2 and serves to address the reason for refusal based on the lack of employment land in the town.
- 6.11 In light of the constraints to development of the site and the previous concerns raised about the lack of employment land to support additional residential development in the area, the proposal represents a reasonable compromise. The commercial units proposed are compatible with the adjoining residential use and they provide an acceptable transition from the B2 uses on the existing industrial estate. The applicant has demonstrated a commitment to providing the employment element of the scheme by submitting a hybrid scheme with detailed plans of one of the commercial units and an agreement to the imposition of a condition to the effect that it will be constructed and available for use prior to the occupation of any of the dwellings permitted.
- 6.12 The provision of a mixed use scheme across the site is a sustainable form of development as it will offer the potential for people to live and work within the same locality. The small scale of the commercial units proposed will offer a real opportunity for new or developing local businesses to locate in the area and this is considered to represent a sustainable form of development that accords with the NPPF. The scheme also ensures that the housing provision required by policy H2 of the UDP is met and that the environmental concerns relating to proximity to neighbouring industrial uses are addressed.
- 6.13 Access has previously been considered in earlier applications and, albeit that the position of the access closest to the town centre has shifted slightly, the current proposal is otherwise the same. Although the loss of one of the seven trees covered by a TPO is regrettable, the revised access position has been determined by the commercial element of the scheme. It has enabled the development to move forward in a manner that is acceptable to all parties and its loss is considered to be acceptable to ensure the development of the site and the significant environmental benefits and the improvement to the setting of the town that this will bring about. Its loss can be mitigated through new planting elsewhere within the scheme – a

public open space is proposed between the commercial and residential areas and some specimen planting in this location could be accommodated.

- 6.14 In conclusion, the scheme is considered to represent a sustainable form of development that is compliant with the National Planning Policy Framework. It provides the level of housing required by policy H2 of the Herefordshire Unitary Development Plan, ensures that environmental impacts upon new dwellings are mitigated by distancing them from existing industrial processes in accordance with policies DR2 and DR4, whilst introducing new commercial uses in the intervening area that are more compatible with residential use. The Draft Heads of Terms Agreement accords with the Council's adopted Planning Obligations Supplementary Planning Document and, subject to the completion of a Section 106 Agreement based on its contents, the application is recommended for approval.

## **RECOMMENDATION**

**That officers named in the scheme of delegation be authorised to issue planning permission subject to:**

**The completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report.**

**The conditions set out in this report and any varied or additional conditions considered necessary by officers:**

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. C05 - A05 Plans and particulars of reserved matters**
- 5. C06 - B01 Development in accordance with the approved plans**
- 6. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**
  - Full details of foul sewerage disposal arrangements**
  - Full details of surface water drainage arrangements**
  - Full details of land drainage arrangements**

**The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved detail and thereafter maintained as such.**

**Reason: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.**

- 7. With regard the details required to be submitted pursuant to condition 6 above, no surface water or land drainage run-off shall be discharged, either directly or indirectly, to the public sewerage system.**

**Reason: To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the public sewerage system and ensure no detriment to the**

environment, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

8. With regard the details of foul sewerage disposal arrangements required to be submitted pursuant to condition 4 above, no more than 7 litres per second shall be discharged into the public sewerage system, thus requiring an on-site pumping station. The scheme shall be implemented with this restricted flow and thereafter maintained as such.

Reason: To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the public sewerage system and ensure no detriment to the environment, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

9. No development shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

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

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

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified.

Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health in accordance with policy DR10 of the Herefordshire Unitary Development Plan 2007.

10. The Remediation Scheme, as approved pursuant to condition number 7 above, shall be fully implemented before development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health in accordance with policy DR10 of the Herefordshire Unitary Development Plan 2007.

11. No building operation shall take place until the re-graded bund permitted by planning permission DMN/111900/N has been completed. Thereafter this bund shall remain in-situ and be maintained in accordance with the approved details.

Reason: To ensure that the occupiers of the dwelling houses enjoy a satisfactory level of amenity in compliance with policy DR13 of the Herefordshire Unitary Development Plan 2007.



12. The recommendations set out in the ecologist's reports dated February 2013 and June 2010 shall be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, an update assessment and full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

**Reasons:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

13. Prior to commencement of the development, a full habitat enhancement and management scheme, including reference to Herefordshire's Biodiversity Action Plan Priority Habitats and Species, including timescale for implementation, shall be submitted to and be approved in writing by the local planning authority. The work shall be implemented as approved.

**Reason:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

14. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.

**Reason:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

15. Prior to the start of construction of any dwelling house hereby permitted a detailed scheme for the future maintenance of a continuous and imperforate 4.5 metre high timber acoustic fence, sealed at the base, with a density of at least 15 kg/m<sup>2</sup> shall be submitted for approval to the Local Planning Authority. The fence shall then be erected prior to the first occupation of any dwellings along the alignment shown on the drawing number 0609\_11/d/2.02 and thereafter be retained and maintained in accordance with the approved scheme.

**Reason:** To ensure that the occupiers of the dwelling houses hereby permitted do not suffer an undue level of noise in accordance with policy DR13 of the Herefordshire Unitary Development Plan 2007.

16. No development shall take place until a Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of Herefordshire Unitary Development Plan.

17. The two new vehicular means of access hereby permitted shall be provided prior to commencement of any building operation hereby permitted.

Reason: In the interests of highway safety, in accordance with policies DR3, T6 and T7 of the Herefordshire Unitary Development Plan 2007.

18. Prior to the commencement of the development of the B1 commercial unit as shown on approved plan 0609\_11/d/3.01 details of the materials to be used externally on walls and roof shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surrounding area and that the development complies with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

19. The B1 commercial unit and its associated infrastructure as shown on approved plan 0609\_11/d/3.01 shall be constructed and capable of occupation for employment purposes prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that the employment use hereby permitted is brought into use and to secure a mixed form of sustainable development in accordance with Policy S1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

20. The commercial units shall be used solely for purposes within Class B1 of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to protect the residential amenity of the adjacent dwellings that are also permitted and to comply with Policy DR2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

#### **INFORMATIVES:**

1. A written Land Drainage Consent will need to be obtained from the Board under the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010.
2. The details of layout required to be submitted pursuant to condition 1 should follow the advice contained within 'Manual for Streets 2' and include the vehicle parking and cycle parking facilities as set out in the Herefordshire Council 'Highways Design Guide for New Development (July 2006)'.
3. N11C General

- 4. **HN01 Mud on highway**
- 5. **HN04 Private apparatus within highway**
- 6. **HN05 Works within the highway**
- 7. **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.**

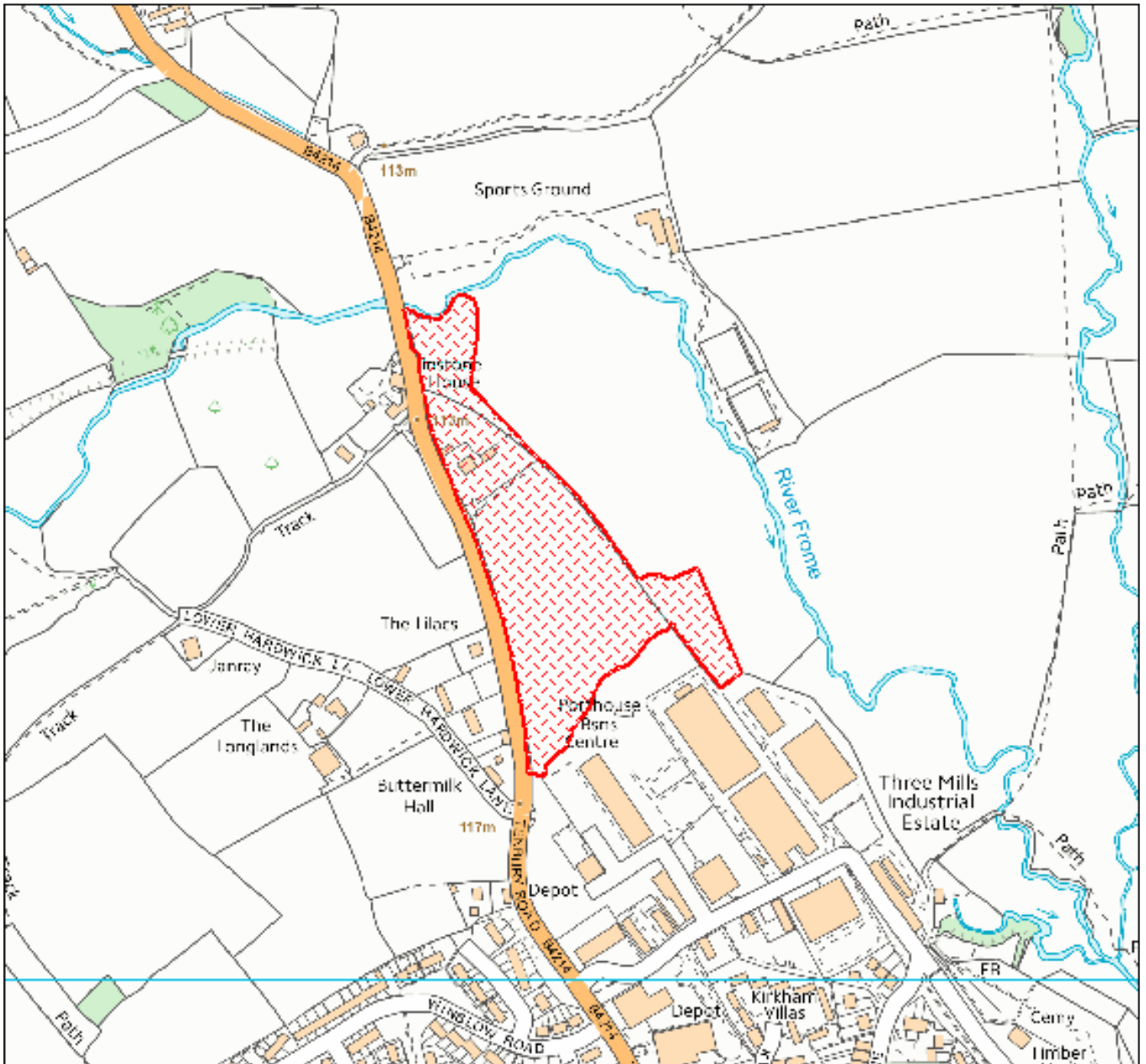
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140285/O

**SITE ADDRESS :** LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

**DRAFT HEADS OF TERMS**  
**Proposed Planning Obligation Agreement**  
**Section 106 Town and Country Planning Act 1990**

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

Planning Application: 140285/O

Proposal: Hybrid application – Part outline for 76 dwellings (35% affordable) and a business centre for B1 uses, with all matters except access to be reserved. Part full for the development of a single B1 business unit and means of access thereto.

Site: Porthouse Farm, Tenbury Road, Bromyard, Herefordshire

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

**£1,809.00** (index linked) for a 2 bedroom open market unit

**£2,951.00** (index linked) for a 3 bedroom open market unit

**£4,953.00** (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure at Bromyard Early Years, St Peters Primary School, St Marys RC High School, Bromyard Youth Service and the Special Education Needs Schools.

The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwelling house, and may be pooled with other contributions if appropriate.

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

**£ 2,092.00** (index linked) for a 1 bedroom open market unit

**£ 2,457.00** (index linked) for a 2 bedroom open market unit

**£ 3,686.00** (index linked) for a 3 bedroom open market unit

**£ 4,915.00** (index linked) for a 4 bedroom open market unit

**£ 6,143.00** (index linked) for a 5 bedroom open market unit

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling house 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:-

- Dropped crossings in the Town. All along routes used by residents of the development to shops and schools.
  - Improved cycle parking in the town centre and schools.
  - Improvements to the junction from the B4214 into Porthouse Industrial Estate. The footway to be diverted to the open grass area on the town side. This is on the route from the development to town/schools.
  - Provision/improvements to proposed Greenway along old railway.
  - Old Road Footway
  - Extension of footway on the A465 towards the garage and Panniers Lane
  - Enhancement of southerly visibility at junction of Winslow Road with Tenbury Road (B4214)
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£627.00** (index linked) per head of population (the population shall be calculated by multiplying the total number of open market and affordable dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent for the enhancement / provision of outdoor sports facilities in consultation with local sports clubs. The sums shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling. The monies may be pooled with other contributions if appropriate.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£292.00** (index linked) per head of population (the population shall be calculated by multiplying the total number of open market dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent to support the existing indoor sports provision in Bromyard and surrounding area. The sums shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling. The monies may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of
- £120.00** (index linked) for a 1 bedroom open market unit
  - £146.00** (index linked) for a 2 bedroom open market unit
  - £198.00** (index linked) for a 3 bedroom open market unit
  - £241.00** (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Bromyard. The sum shall be paid on or before the occupation of the 1<sup>st</sup> 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 £120.00 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Bromyard. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £100.00 per open market dwelling which will be used to provide for public art within the development or within the vicinity of the development. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

8. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
9. Of those Affordable Housing units, at least 24% shall be made available for social rent with the remainder 76% being available for intermediate tenure.
10. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
11. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 11.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 11.2 satisfy the requirements of paragraphs 12 & 13 of this schedule
12. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
  - 12.1 a local connection with the parish of Bromyard; or
  - 12.2 in the event there being no person having a local connection to the parish of Kingsland a person with a connection to or Grendon Bishop, Bredenbury, Wacton, Edwyn Ralph, Norton, Linton, Avenbury, Stoke Lacy, Little Cowarne, Pencombe and Grendon Warren
  - 12.3 in the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 or 12.2 above.
13. For the purposes of sub-paragraph 12.1 or 12.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 13.1 is or in the past was normally resident there; or
  - 13.2 is employed there; or
  - 13.3 has a family association there; or
  - 13.4 a proven need to give support to or receive support from family members; or
  - 13.5 because of special circumstances

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a 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. 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.
16. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
17. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
18. 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.
19. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
20. The Children's Play Area and amenity public open space area shall be provided on-site prior to the occupation of 50% of the open market dwellings. The Children's Play Area and public open space shall either be;
  - 20.1 maintained by the developer for a period of one year and then transferred to Herefordshire Council at a cost of £1 provided that the play area and open space are to an acceptable standard as agreed by Herefordshire Council. At the time of transfer the developer shall pay Herefordshire Council a 15 year maintenance sum in accordance with the Tariff for Calculation of Commuted Sums 2011or;
  - 20.2 maintained by the developer though a Management Company Arrangement