

MEETING:	PLANNING COMMITTEE
DATE:	25 JUNE 2014
TITLE OF REPORT:	P140056/O - LAND FOR RESIDENTIAL DEVELOPMENT AT LAND ADJACENT TO HARPACRE, CLEHONGER, HEREFORD For: Messrs Price & Boucher per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140056

Date Received: 13 January 2014 Ward: Stoney Street Grid Ref: 344831,237701

Expiry Date: 14 April 2014

Local Member: Councillor DC Taylor

1. Site Description and Proposal

- 1.1 Planning permission is sought in outline with all matters reserved for the erection of an originally unspecified number of dwellings on the 0.83ha site associated with Harpacre and Lansdown Villa, Clehonger. An indicative master-plan / layout has been provided showing 13 dwellings with access off the B4349. The land was rejected in the Herefordshire Strategic Housing Land Availability Assessment (SHLAA) due to "Inadequate visibility at the junction with B4349 and physical proximity to B4352 and B4349 junction".
- 1.2 The site lies on the north western edge of Clehonger, a Unitary Development Plan (UDP) main village about 4km south west of the outskirts of Hereford City. Much of Clehonger is a recently developed community south of the B4349 and B4352 roads, with the 'new' village sited some 1.2km from the church and the 'old' village. The 'new' village is situated on the south side of a 'triangle' of land formed by the B4352 to the north, leading north-westwards to Madley, and the B4349 leading south-westwards towards Kingstone; both these settlements are approximately 3km from Clehonger. Beyond the western side of this triangle is the open and rural, gently undulating landscape between Madley and Kingstone, characterised by commons and marshlands. The site is in an area known as Gorsty Common, which reflects its traditional landscape character, and that of the wider area.
- 1.3 The site is situated in a locally prominent position on a triangle of land at the junction of the B4349 and B4352. It is relatively well-integrated into the north western side of the village, and is close to the existing settlement boundary which lies on the east side of the B4349 to the east of the site, and also includes residential development on the north side of the B4352 to the north of the site. Outside the settlement boundary, to the north west is a large property with outbuildings; to the south west and south are Harpacre, also with outbuildings (and within the application site boundary), and Cherry Orchard. There is an area of orchard / paddock along the south west boundary.

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- 1.4 The site lies above the steep and densely-wooded, north-west-facing slope of the Cage Brook valley; Cage Brook is a tributary of the River Wye which lies approximately 2km to the north. The site is relatively flat although its north western side falls towards the brook. It is currently down to rough pasture. It comprises two fields separated by a hedge, with the existing built complex at Harpacre in the southern corner of the site along part of the B4349 frontage. The application site also has buildings in the north western corner. The site boundaries are mostly marked by hedges including a dense, 2 – 3m tall mainly hawthorn hedge along the north side of the B4349 which returns along the northern boundary / B4352. The smaller field has mature trees along the northern boundary, and as the road descends towards the brook, the site is considerably higher than the road, with a steep embankment between them.
- 1.5 There are some good, mature trees in the site boundary hedges and Harpacre's garden, but there are no free-standing trees in the fields. There is currently access into both fields from Harpacre from the B4349.

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

2.2 Herefordshire Unitary Development Plan 2007 (UDP) – Saved Policies

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
H13	-	Sustainable Residential Design
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
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement

2.3 Herefordshire Location 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
H3	-	Ensuring an Appropriate Range and Mix of Housing
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

2.4 The Parish Council is yet to commence work on the Neighbourhood Plan but will shortly apply for a Neighbourhood Plan area designation.

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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. Planning History

3.1 SH930608PO: Proposed plant equipment store and two dwellings on land adjoining Lansdown Villa: Withdrawn.

SH931249/O: Proposed dwelling and new access to serve Lansdown Villa: Refused.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water: The proposed development would overload the Waste Water Treatment Works. No improvements are planned within Dwr Cymru Welsh Water's Capital Investment Programme. We consider any development prior to improvements being made to be premature and therefore OBJECT to the development.

It may be possible for the developer to fund the accelerated provision of replacement infrastructure or to requisition a new sewer under Sections 98 - 101 of the Water Industry Act 1991. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

Internal Council Advice

4.2 Conservation Manager (Landscapes):

The site is in 'open countryside' outside the village settlement boundary. It has no landscape designation.

The site is relatively well-integrated into the north western side of the village, and is close to the existing settlement boundary. The site is not greatly sensitive to change and has the capacity to accept a certain amount of dwellings. Housing of this scale in this location would represent an acceptably modest extension to the village and would not result in coalescence. It would not be out of keeping with the local village-scape as, subject to good quality design, it should be able to be successfully integrated into the surrounding built form without adverse effects on its character.

There is the potential for localised adverse visual effects and the amenity of local residents could be affected but there is potential for mitigation. Any proposals for landscape mitigation / compensation / enhancement should be well-designed, appropriate and in keeping with local landscape character.

If approval is granted, the scheme layout will need to be informed by various technical assessments, for example a Landscape Appraisal, an FRA (SuDS needs to be an integral element of the site arrangement and both hard and soft landscape), arboricultural (to BS5837:2012 standard) and ecological (to BS 142020:2013) assessments.

All existing vegetation, both on the boundaries and within the site (including the hedge between the fields) should be retained, protected, enhanced, and managed in the long term. The integrity of the steep embankment between the site and the B4352 needs to be maintained and I would not recommend building too close to this.

The indicative layout shows 13 dwellings but a lower density would be preferable and more in keeping with the rural village edge character. It could be that bungalows are most appropriate at the north eastern end of the site.

Any building on the junction needs to be very sensitively considered, both in terms of how it relates to the character of that vista as well as to views from the south and north west.

4.3 Conservation Manager (Ecology): No objection.

There is no evidence of protected species such as badger although there is some potential for bat foraging and use of the bounding hedges as flight lines for a number of species. I can see no possibility of the site being occupied by other protected species.

The hedgerow is moderately species rich in places but overall it would not appear that it falls within the purview of the Hedgerow Regulations. My opinion however, is that it should be retained as far as possible in its entirety.

The grassland is more valuable in that there are a number of species which indicate its origins as a lowland meadow. The sward has been cropped quite heavily. It is suspected many meadow species have little chance of maintaining themselves hence the diversity has been reduced somewhat. The field has had significant proportions damaged by storage of manure and perhaps supplementary livestock feeding patches which have caused the sward to become coarse and colonised by weed, scrub and coarse grasses. Overall, I think it might be classified as degraded semi-improved species rich grassland.

This pasture has potential for restoration and to enable some suppressed species to flourish under a different grazing regime. I would invite the applicant to investigate translocation of the better portion of the turf to another site. I would envisage approximately an area of between 0.1 - 0.2 ha if possible.

4.4 Traffic Manager:

Visibility Splays

The application is made in outline with all matters reserved, although an indicative layout plan has been produced. In the context of the SHLAA, the site has been revisited in more detail. The indicative plan shows the provision of a junction with the B4349 at a point south-west of the existing entrance to Harpacre at the furthest point from the B4349/4352 junction. The plan also shows the provision of a pedestrian crossing point.

A small section of hedge needs to be removed which will open up the visibility back towards the north-east and the junction of the B4349 and B4352. A tree to the south-west encroaches on highway land in the opposite direction and needs to be cut back to achieve visibility. The provision of a 2m verge around the site is required and will need to be maintained. This would address and safeguard the visibility achieved from the junction. The internal layout will be detailed in reserved matters, but as submitted requires further work in regards to service strips, car parking and accessibility.

Connectivity to Clehonger

The B4349 acts as a barrier between the site and the main body of the village. At 13 dwellings the scheme is considered of sufficient magnitude to require the provision of a pedestrian crossing of the B4349. A design which needs to be audited for visibility needs to be provided. The junction must be designed to Herefordshire Councils Design Guide for New Developments and will need to be adopted under a S38 Agreement and can be secured via condition and assessed as part of the Reserved Matters submission.

A S278 agreement will be required, with work to be completed at the developer's expense. This has been discussed and agreed with the developer.

- 4.5 Schools Capital & Investment: No objection. The primary school has one year group at capacity and a contribution towards additional capacity is required. There is surplus capacity at the catchment secondary school.
- 4.6 Housing Development: Support.

The housing needs survey for Clehonger identified a need for 36 affordable dwellings. Although slightly out-of-date, no affordable units have been delivered within the village since the survey was undertaken and the evidence of need is therefore considered robust. It is confirmed that the provision of two pairs of semi-detached units is acceptable.

Eligibility would be via the usual local connection criteria with priority given to those with a local connection to Clehonger is the first instance cascading out to the adjoining parishes of Eaton Bishop, Allensmore, Callow & Haywood, Belmont rural and Breinton. This control can be provided for within the S106 agreement.

5. Representations

- 5.1 Clehonger Parish Council: Support the application.
- 5.2 Two letters of objection and one letter of support have been received from local residents. The content is summarised as follows:-

Objections

- Concern is expressed in relation to the number of dwellings proposed in relation to highway safety and the impact on foul and surface water drainage.
- There is the potential for subsidence if dwellings are placed at the top of the bank above the B4352.
- There is no pedestrian link to the village, meaning this is not a suitable site in terms of connection to village amenities.
- The proposals will result in the loss of view and amenity at adjoining properties.

Support

- The village needs modest size new housing developments to meet local need.

- The village is well-placed to support new housing with good amenities, including a primary school, shop, post-office, pub and village hall.
- The site is well-related to existing development.

5.3 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 application seeks outline planning permission for the erection of 13 dwellings, including 4 affordable units on land outside but immediately adjacent the settlement boundary for Clehonger (Policy H4 of the UDP). All matters bar access are reserved for future consideration.
- 6.2 The application is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (NPPF) (2012). The Council has recently published an interim statement on housing land supply. This concludes that the Council can only demonstrate between 2.09 and 2.60 years' worth of supply – the figure dependent upon whether housing requirements are assessed using the now outdated Regional Spatial Strategy Phase 2 review panel figures (18,000 dwellings) or the emerging Core Strategy requirement (16,500).
- 6.3 In response to this 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 In the light of this for the purposes of housing delivery the relevant policies of the UDP can be considered out of date. As such, and 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.*
- 6.5 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.
- 6.6 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 adverse impacts and benefits should be assessed against the policies in the NPPF as a whole.
- 6.7 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'. In this case the site is considered to represent a sustainable location for development. Although officers recognise that the village does not provide the range of goods and services necessary to sustain a typical household, Clehonger is a UDP main village and identified as a centre for proportionate growth in the emerging Local Plan. The village is served by a shop, post office, pub, village hall and primary school and has reasonable public transport provision to Hereford and beyond.

- 6.8 The Conservation Manager concludes, moreover, that the site integrates well with the existing built form and can accommodate development without undue adverse impact on the village-scape or any identified features of historic or cultural significance. In this respect the scheme is considered to comply with saved UDP policies LA2 and LA3.

Vehicular and pedestrian access

- 6.9 The Traffic Manager's comments at 4.4 above serve to illustrate that a safe and appropriate means of pedestrian and vehicular access can be provided into the site and the original rejection under the SHLAA is overcome. The junction with the B4349 will afford the necessary visibility and allow for retention of hedgerow. The pedestrian crossing will require removal of some of the existing hedgerow opposite to enable provision for pedestrian visibility and waiting room. The detail will be subject to safety audit and presented at the Reserved Matters stage. Officers are content that subject to the imposition of conditions the proposal is acceptable in terms of highway safety, capacity and connectivity to village amenities. As such the proposal is considered to comply with saved UDP policy DR3 and NPPF guidance.

Impact upon residential amenity

- 6.10 The application is made in outline with all matters reserved for consideration at the Reserved Matters stage. Although the submitted layout is indicative, and not necessarily reflective of the detailed proposal that may come forward at the Reserved Matters stage, it does demonstrate that 13 dwellings and the retained Harpacre can be laid out on site without requiring undue proximity to the nearest affected dwellings, although careful consideration would be required so as to ensure that the relationship between proposed plot 1 and the neighbouring dwelling Cherry Orchard is acceptable.
- 6.11 Officers are content that the scheme would comply with 'saved' policy H13 and guidance laid out in paragraph 17 of the NPPF.

Drainage

- 6.12 Welsh Water has imposed a holding objection to the development citing a lack of capacity at the waste water treatment plant. Officers recognise that this will need to be resolved prior to planning permission being granted and the wording of the recommendation reflects this. Negotiations are on-going with Welsh Water.

Ecology

- 6.13 The Ecological Advisor has identified a comparatively species rich grassland, the better portion of which is suggested for relocation to a location where it can recover. This approach is acceptable to the applicants, who have land within their control that could act as recipient for the relocated grassland. Officers are content that this, in conjunction with the retention of the road side hedgerow minimise the impact on biodiversity in accordance with NPPF guidance.

Affordable housing provision

- 6.14 The Housing Development Officer is content with the number of units provided, but confirms that the housing mix and tenure type will have to be agreed formally via the S106 agreement.

The provision of four affordable units, in the context of current unmet need, is a material consideration to which weight should be attached. The affordable housing would be allocated on the basis of local connection to Clehonger in the first instance as per the draft Heads of Terms attached to this report.

Neighbourhood Planning

- 6.15 The Parish Council has not yet designated a Neighbourhood Plan Area, although an application is expected shortly. At this stage, therefore, there is no neighbourhood plan to consider. The Parish Council has, however, expressed its support for the proposal.

Conclusion

- 6.16 The site is immediately adjacent the settlement boundary (H4) and Clehonger is identified as a main village in Policy RA1 of the emerging Core Strategy. The site is considered sustainable in terms of its location and although not previously developed, the principle of development can be accepted in the context of the housing land supply deficit. There are no site specific constraints to suggest conflict with the over-arching thrust of the NPPF so far as housing land supply is concerned and no identified significant and demonstrable adverse impacts outweighing the benefits associated with the scheme. The applicants have also agreed to the translocation of the existing grassland of most value and are thus mitigating the effects on biodiversity. The recommendation is one of approval subject to the conditions specified below. The wording of the resolution reflects the need to complete the S106 agreement and overcome the existing Welsh Water holding objection.

RECOMMENDATION

That subject to the completion of a S106 agreement and resolution and removal of Welsh Water's holding objection, officers named in the scheme of delegation be authorised to issue planning permission subject to the conditions below and any other conditions considered necessary:-

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. **H04 Visibility over frontage**
5. **H08 Access closure**
6. **H09 Driveway gradient**
7. **H11 Parking - estate development (more than one house)**
8. **H13 Access, turning area and parking**
9. **H17 Junction improvement/off site works**
10. **H20 Road completion in 2 years**
11. **H21 Wheel washing**
12. **H27 Parking for site operatives**
13. **I51 Details of slab levels**

- 14. **G04 Protection of trees/hedgerows that are to be retained**
- 15. **G10 Landscaping scheme**
- 16. **G11 Landscaping scheme - implementation**
- 17. **Development shall not commence until details of the scheme for translocation of an agreed area of existing grassland on site (between 0.1-02ha) has been submitted to and approved by the local planning authority. The scheme shall include detailed proposals for the removal, storage, transportation and re-laying of the grassland at a location that shall also be agreed in writing.**

Reason: To ensure that the ecological interest associated with the site is preserved so as to comply with Unitary Development Plan Policies NC1 and NC7 and the National Planning Policy Framework.

- 18. **I18 Scheme of foul drainage disposal**
- 19. **I20 Scheme of surface water drainage**

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. **HN01 Mud on highway**
- 3. **HN04 Private apparatus within highway**
- 4. **N16 Welsh Water Informative**
- 5. **HN05 Works within the highway**
- 6. **HN22 Works adjoining highway**
- 7. **HN08 Section 38 Agreement & Drainage details**
- 8. **HN07 Section 278 Agreement**

Decision:

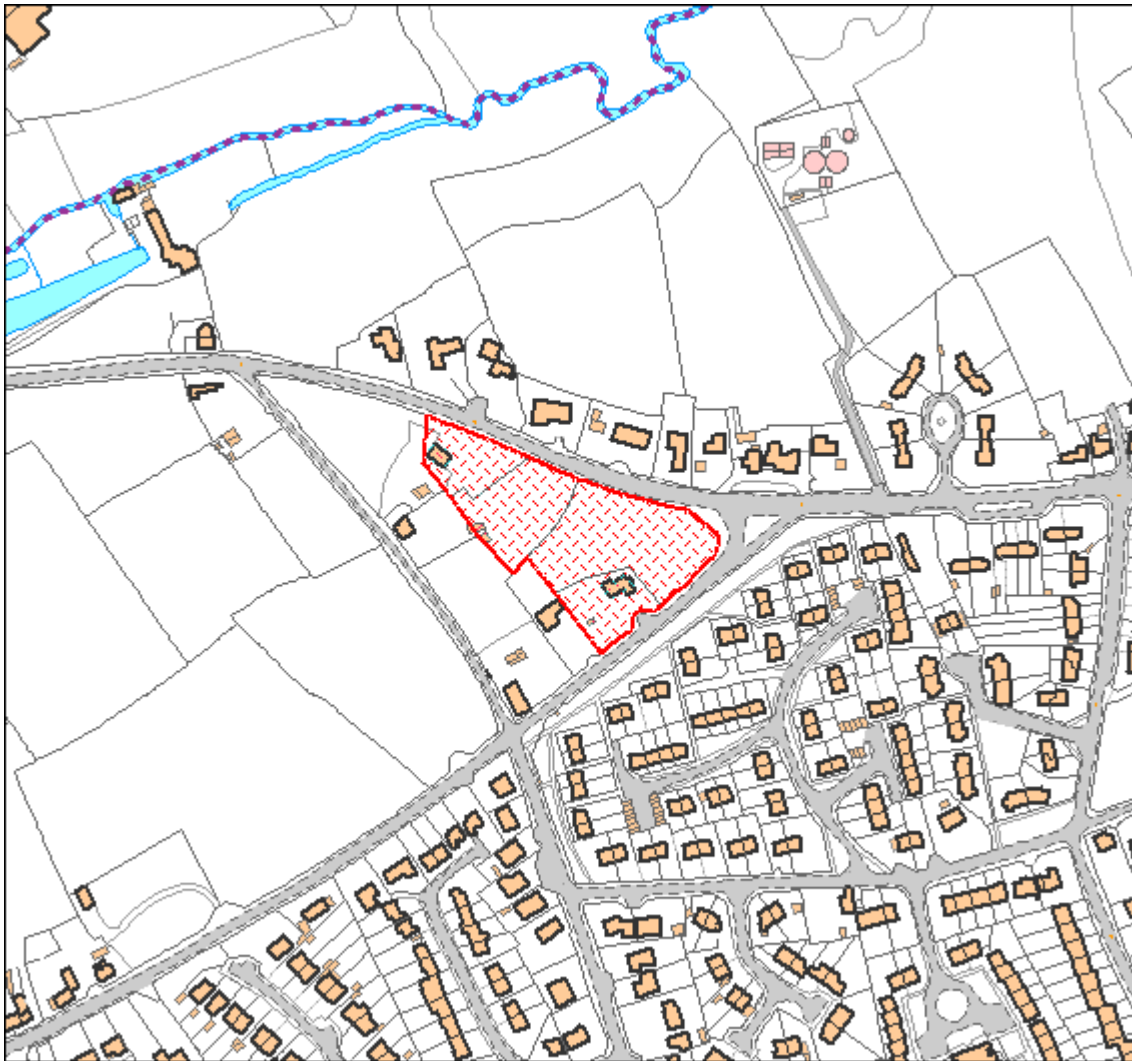
Notes:

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Background Papers

Internal departmental consultation replies.

Further information on the subject of this report is available from Mr E Thomas on 01432 260479



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APPLICATION NO: 140056/O

SITE ADDRESS : LAND ADJACENT TO HARPACRE, CLEHONGER, HEREFORD

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HEADS OF TERMS

Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Application Number: 140056/O

Proposal: Land for residential development on land at Harpacre, Clehonger, Herefordshire

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 against on general market units only.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):
£3,106 (index linked) for a 2/3 bedroom open market unit
£5,273 (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at South Hereford City Early Years, Clehonger Primary School, a proportionate contribution towards St. Mary's High School St Francis Xavier R.C Primary School and Hereford City Youth with 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
£1966.00 (index linked) for a 2 bedroom open market unit
£2949.00 (index linked) for a 3 bedroom open market unit
£3932.00 (index linked) for a 4+ bedroom open market unit

to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, 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. The provision of a
- 2.2. Pedestrian improvements

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
£965.00 (index linked) for a 2 bedroom open market unit
£1,640.00 (index linked) for a 3 bedroom open market unit
£2,219.00 (index linked) for a 4+ bedroom open market unit

To provide enhanced off-site play infrastructure within the locality of the application site. The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is an existing small neighbourhood play area in the village which is in need of refurbishment in places as some of the equipment is now at the end of its life. A village of the size of Clehonger requires a neighbourhood play area therefore investment at the existing facility will help ensure that a quality facility is provided.

4. The developer covenants with Herefordshire Council to pay the sum of:
£408.00 (index linked) for a 1 bedroom open market unit
£496.00 (index linked) for a 2 bedroom open market unit
£672.00 (index linked) for a 3 bedroom open market unit
£818.00 (index linked) for a 4+ bedroom open market unit

for sports (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.

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
£241.00 (index linked) for a 4+ bedroom open market unit

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 £120.00 (index linked) per open market 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.
7. 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.
8. Of those Affordable Housing units, an agreed percentage shall be made available for social rent with the remainder being available for intermediate tenure occupation.
9. 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.
10. 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:-
- 10.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
- 10.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
11. 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:-
- 11.1. a local connection with the parish of Clehonger
- 11.2. in the event of there being no person with a local connection to Clehonger 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 above.
12. For the purposes of sub-paragraph 13.1 of this schedule ‘local connection’ means having a connection to one of the parishes specified above because that person:
- 12.1. is or in the past was normally resident there; or
- 12.2. is employed there; or
- 12.3. has a family association there; or

12.4. a proven need to give support to or receive support from family members; or

12.5. because of special circumstances;

13. 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.
14. 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.
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.

June 2014