

MEETING:	PLANNING COMMITTEE
DATE:	4 March 2014
TITLE OF REPORT:	P142175/O - SITE FOR UP TO 120 DWELLINGS WITH ASSOCIATED OPEN SPACE AND LANDSCAPING AT LAND OFF PENCOMBE LANE, BROMYARD, HEREFORDSHIRE For: Gladman Developments, Gladman House, Alexandria Way, Congleton Business Park, Congleton, Cheshire CW12 1LB
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142175&search=142175
Reason Application submitted to Committee – Contrary to Policy	

Date Received: 18 July 2014

Ward: Bromyard

Grid Ref: 364360,254271

Expiry Date: 22 October 2014

Local Members: Councillors JG Lester & A Seldon

1. Site Description and Proposal

- 1.1 The site is located on the western edge of Bromyard, to the immediate south of Worcester Road (A44) and comprises around 4.7 hectares of agricultural/pastoral land divided into two fields by an established hedgerow boundary. The site boundaries are defined by established hedgerows and trees.
- 1.2 Existing residential areas lie to the north east of the site. To the east of the site are several residential properties fronting Panniers Lane, a cricket ground, Queen Elizabeth High School and established residential areas beyond. Established trees and hedgerows line Pencombe Lane, which forms the southern boundary of the site. A group of woodland trees line the western boundary.
- 1.3 The site lies within an area described by the Council's Landscape Character Assessment as a Timber Plateau Farmlands landscape type. Such areas are defined by the presence of field boundary hedgerows, linear woodland and medium scale open views and all of these features are evident on site. It is located in open countryside and has a rural setting to the south and west. However it also has a recognisable residential context due to inter-visibility with the edge of Bromyard to the north and east, and the more scattered development along Panniers Lane.
- 1.4 The site rises steadily in an approximate south to north direction, with the gradient increasing more considerably towards the northern boundary with the A44.
- 1.5 There are no listed heritage assets within the immediate context of the site. Bromyard Conservation Area lies approximately 1 km to the east of the site, and incorporates the town centre and its immediate surroundings.

- 1.6 The application seeks outline approval for development of the site for up to 120 dwellings, 35% of which are to be affordable. All matters apart from access are reserved for future consideration and this is to be achieved through the establishment of a single point of access onto the A44. This will require the removal of the existing roadside hedgerow in order to accommodate the required visibility splays. The submission indicates that these hedgerows will be set back and replanted in order to mitigate for their loss and to retain the landscape character of the road frontage.
- 1.7 A new footway is proposed along Worcester Road (A44) between the proposed access and the existing junction with Panniers Lane, providing a connection for pedestrians to the nearby bus stop and convenience store and linking into the site at its north eastern corner.
- 1.8 The application is supported by an indicative master plan. This demonstrates a housing density of approximately 30 dwellings per hectare and includes the provision of a public open space in the north eastern corner and an attenuation pond at the site's lowest point to the south west.
- 1.9 The application is submitted with the following documents:
- Design & Access Statement
 - Planning Statement
 - Affordable Housing Statement
 - Landscape and Visual Impact Assessment
 - Ecological Appraisal
 - Arboricultural Assessment
 - Archaeological Assessment
 - Framework Travel Plan
 - Transport Assessment
 - Flood Risk Assessment & Surface Water Drainage Strategy
 - Noise Impact Assessment
 - Statement of Community Involvement
- 1.10 Since the original submission of the application the applicant's agent has also commissioned a Stage 1 Road Safety Audit. This has been completed in response to concerns raised about the capability of the existing road network to safely accommodate the proposed vehicular access to this site and a separate access to serve the proposed strategic housing allocation that is being promoted as part of the Core Strategy on land opposite known as Hardwick Bank.

2. Policies

2.1 National Planning Policy Framework:

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:

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement

2.3 Herefordshire Core Strategy:

The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3 July. At the time of writing an Independent Inspector is in the process of examining the Core Strategy in order to determine its soundness. The majority of the Core Strategy policies were subject to objection and, as the examination in public is not yet complete, can be afforded only limited weight for the purposes of decision making.

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

2.4 Neighbourhood Planning

Bromyard and Winslow Town Council are not producing a Neighborhood Plan.

- 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 None identified

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water – No objections subject to the imposition of conditions to ensure that foul and surface water are discharged separately.

Internal Council Consultations

- 4.2 Transportation Manager

Has considered the content of the Stage 1 Road Safety Audit submitted to support the notion of separate accesses to serve the development and the strategic housing site at Hardwick Bank. Its conclusions are accepted and, subject to minor revisions the access arrangements shown for the site are acceptable.

- 4.3 Conservation Manager (Ecology)

The ecological assessment has produced some fair conclusions and I think the bat and great crested newt appraisals are adequate. If this application is to be approved I would like to see significant habitat enhancement measures put in place to ensure commuting by bats and opportunities for other protected species exist. A habitat enhancement plan should be produced which integrates with the landscape plan together with any SuD system proposals for wetland creation.

- 4.4 Conservation Manager (Landscape)

The site slopes from the northeast to southwest from approximately 174m AOD to 157m AOD and forms part of a gently rolling plateau with an expansive area of pastoral land, defined by visually prominent boundary hedgerows and hedgerow trees. Views of open countryside extend westwards in the direction of Hegdon Hill.

- The site is considered to typify its Landscape Character Type; Timbered Plateau Farmlands: These landscapes are an upstanding version of Principal Timbered Farmlands and in Herefordshire occur in their greatest concentration on the Bromyard Plateau. They are varied agricultural landscapes of hedged fields, scattered farms, woods and wooded valleys associated with undulating relief. The dominant landform is one of the most prominent characteristics and tends to override the pattern of tree cover and field shape. Variations in topography within this landscape create a changing sequence of visual perspectives ranging from open vistas on plateau summits to more secluded scenes along valley bottoms.
- There are no statutory designations within the site. However the landscape is identified as being of High Sensitivity within the Urban Fringe Landscape Sensitivity Analysis (Jan 2010) due to its visual prominence. It is further referenced within the Green

Infrastructure Strategy Herefordshire (Feb 2010) as forming part of the BroLSC2 strategic corridor and part of BRoLEZ2 Enhancement Zone and BroFZ2 Fringe Zone because of its degree of visual sensitivity.

- Flaggoner's Green forms part of a gently rolling plateau, of open countryside, which contrasts with heavily incised slopes to the north and east of the settlement. This visually sensitive plateau contains the settlement of Bromyard. The open space forms part of the gateway to the settlement and serves to preserve its rural setting.

Visual and Public Amenity:

The visual envelope to the north and east is defined by the topography, to the west and southwest the gently rolling terrain affords views of open countryside.

- It is anticipated that a number of residential properties will experience a potential change in view as a result of the proposal. Properties adjacent to the site including Flaggoner's Green House, Chanctonbury, Winslow View and Cedarwood will experience unimpeded views. Those north of the proposal at Broxash Close, Winslow Road and Upper Hardwick Lane will experience second storey views and properties along Pencombe Lane partial filtered views. Partial middle distance views of the proposal are envisaged from existing development along Panniers Lane including Birchyfield, an unregistered historic park and garden, and users of Queen Elizabeth Humanities College.
- Clear views are envisaged along sections of Public Right of Way AV8 in addition to middle distance views along sections of PRoW WN7 where the proposal will be seen as part of a vista of open countryside against the backdrop of the Malvern Hills.
- Users of the A44 Worcester Road will experience clear views of the proposal as the road aligns with the northern boundary at the western approach to Bromyard. Road users of Pencombe Lane will experience a similar degree of change as the road aligns with the southern boundary. Further glimpsed transient views are anticipated from the southern approach along Panniers Lane.

Conclusions:

Whilst it is understood that the Urban Settlement Boundary runs close to the proposed site and existing development lies therein. The prominent nature of the landform is such that development on this site would be viewed in relative isolation, thus making it incongruous with the surrounding open countryside and in turn detrimentally affecting the rural setting of the settlement of Bromyard.

Summary Reason For Recommendation:

It is considered that the proposal is not in accordance with The Herefordshire Unitary Development Plan:

S1 Sustainable Development (2) respecting patterns of local distinctiveness and landscape character in both town and country and safeguarding landscape quality and visual amenity.

LA3 Setting of Settlements - Development outside the built up areas of Hereford, the market towns and rural settlements, which is acceptable in terms of other Plan policies will only be permitted where it would not have an adverse effect upon the landscape setting of the settlement concerned. Important visual approaches into settlements, views of key buildings open areas into development, green corridors ridgelines and surrounding valued open countryside will be particularly protected and where necessary enhanced.

4.5 Conservation Manager (Archaeology)

As the submitted assessment indicates, there are no significant archaeological issues in relation to this development. I therefore have no objections.

4.6 Parks & Countryside Manager

UDP Policy H19 requires schemes in excess of 60 to provide outdoor playing space to include children's play areas for all ages and outdoor sports pitches in accordance with standards provided in UDP Policy RST3.

A site of up to 120 dwellings at an average rate of 2.3 persons (276) in accordance with UDP Policy RST 3 would require the following:

- POS (0.4 ha per 1000 population) – 0.11 ha (on site)
- Play area provision (0.8 ha per 1000 population) - 0.22 a (on site)
- Outdoor sports provision (1.6ha per 1000 population) - 0.44 ha (off site)
0.77 ha in total

It is noted in the design and access statement the quantum on public open space will be met through the provision of 0.62ha SUDs area which will act as public open space in the south west corner and 0.29ha public open space / play in the north eastern corner. There is no mention of formal outdoor sports provision either on or off site, and whilst the offer on site does appear to meet the POS and Play provision adequately of 0.32ha, a contribution towards off site sports will still be required.

In accordance with the NPPF, provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need. In this instance the Playing Pitch Assessment for the Bromyard Area 2012 and the draft Investment Plan currently being prepared have identified a number of deficiencies in provision to meet the current and future population needs.

Play Area Provision: On site provision should include a combination of both formal and informal play opportunities including natural play. Using the Fields in Trusts standards for play provision, this would equate to approx. 0.07ha formal (700 sq m) and 0.15 ha informal play which could include natural play opportunities and play and fitness trails for example.

Formal provision should ideally be one larger facility and a kick-about area to be located within easy access and surveillance of the residential areas. It is noted all detail will be reserved matters and at this stage we will be able to provide more details of the play requirement, value, size etc.

POS/SUDs areas: All on site provision, including play should be fully integrated and accessible and consider including community gardens and neighbourhood green spaces. If SUDs areas are to be provided on site, with careful design (to take account of health and safety issues of standing water) SUDs areas can be included as additional areas of POS providing natural play opportunities and valuable areas for wildlife and biodiversity.

4.7 Education

No objection subject to the provision of financial contributions as outlined in the Heads of Terms Agreement that accompanies this application.

4.8 Housing Development Manager

Whilst the application meets the requirement to provide 35% affordable and the local authority's required standards, the tenure mix does not reflect the need for Bromyard. In addition to this, Herefordshire Council's Tenancy Strategy does not support affordable rent as a tenure on S106 sites.

4.9 Forward Planning Manager

The current planning application proposes 120 dwellings on a 4.75 hectare site which delivers approximately 25 dwellings per hectare. It is noted from the plan that varying density levels will exist throughout the site. The matter of scale therefore must be looked at to determine whether or not there is an issue and if so, how might this prejudice the strategic site. Although the site is a large development for the town and a site of this size has not been completed for many years; it is not so great that it would prejudice the Core Strategy proposals or targets. There would continue to be a need to deliver further housing elsewhere around the town through existing commitments, windfall development or sites allocated through a Development Plan Document.

The A44 Leominster Road will provide the primary access for Hardwick Bank. This would therefore mean that two access points are needed along the A44 to serve sites on the northern and southern side of the road. The submission Core Strategy recommends the provision of a roundabout to serve potential development coming forward. However, it is noted that there is no such roundabout proposed on the accompanying plans for this application. The access is a straightforward T- junction that is slightly to the left of a property opposite known as 'Cedarwood'. The position of this access does not allow much room for manoeuvre for the creation of a second access (serving Hardwick Bank) to also exit at this point without encroaching on the garden of the property known as 'Cedarwood' which is best avoided if possible. This situation potentially prejudices the principal access into the strategic site as a further access to serve the urban extension on the A44 is unlikely to be acceptable in Highways terms. The best solution would be a roundabout that would serve both sides of the road without prejudicing the strategic site's primary access point. Should the proposal be acceptable in all other regards discussions should be held between the developers of this site and the urban extension to ensure a suitable solution is determined.

Conclusion

Based on the fact that the proposed access potentially prejudices the delivery of the Core Strategy strategic site at Hardwick Bank, the issue of prematurity would be relevant to this application. Unless the access arrangements for Pencombe Lane can be more sustainable in allowing subsequent developments, set out in emerging plans, to be delivered the proposal should not be permitted.

4.10 Land Drainage Engineer

Overall, for outline planning permission, we do not object to the proposed development on flood risk and drainage grounds. It is recommended that the surface water drainage system is provided in accordance with the Information provided in the FRA and that the Applicant submits the following information as part of the full planning application:

- Detailed drawing showing the proposed surface water and foul water drainage strategy, including SUDS, attenuation measures and pollution prevention measures;
- Demonstration that other SUDS techniques, specifically Infiltration of surface water runoff and the use of on-ground conveyance techniques, were considered further during detailed design and incorporated into the design where appropriate;

- Evidence that the attenuation storage is provided for up to and including the 1 in 100 year rainfall event with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Confirmation that Dwr Cymru Welsh Water are prepared to adopt the proposed foul and surface water drainage network (including the attenuation pond and discharge to the drainage ditch);
- Evidence that appropriate pollution prevention measures are in place prior to discharge.
- Prior to construction, evidence of infiltration testing in accordance with BRE365 at locations of proposed soakaways to support the design. Groundwater levels should also be provided as Standing Advice recommends the invert levels of soakaways are a minimum of 1m above the groundwater level.

4.11 Environmental Health & Trading Standards Manager

I have considered the Noise Screening report and the Air Quality Screening report and whilst I do not wish raise any issues as regards the Air Quality I would bring to your attention that traffic noise has been identified as a concern on proposed development land adjacent to the A44, to the east of Bromyard and mitigation measures including a noise barrier have been identified as being necessary. I would therefore propose that a noise survey having regard to the advice provided by the World Health Organisation Guidance on Community Noise and BS 8233:2014 be submitted with this application. Such an assessment should have regard to the recommended levels of noise for both inside and outside living areas including consideration of maximum noise levels, and indicate any likely mitigation works. If it is minded to approve this outline permission, as it stands, I would suggest that this should be conditional on the understanding that a full noise assessment as indicated above, and method statements for the construction phase identifying controls to be put in place to control noise and particulate emissions are provided for approval.

4.12 Waste Manager

I have a concern over the collection of refuse & recycling from many of the properties which look like they are located down private drives and over 30m from the primary street. Can it be confirmed what standard the secondary streets will be constructed to and whether these will be able to accommodate travel each week by the 26 tonne refuse collection vehicle?

The informal lanes will not be accessible therefore for those properties over 30m from the point on the highway that the vehicle will be able to travel to, collection points should be established with enough space available to position a bin for each property up to the dimensions of (665mm wide by 880mm deep).

5. Representations

5.1 Bromyard & Winslow Town Council

This Town Council appreciates that Herefordshire Council cannot currently demonstrate a Five year supply of housing land with a "buffer" upon which the applicant has heavily relied. Notwithstanding the above the Town Council resolved not to support this application for the following reasons:

- 1) The site proposed is not an area which can reasonable be considered to be a natural urban extension of Bromyard & Winslow.

- 2) The land available for housing within close connectivity of the Town Centre, much of it identified in the Core Strategy 2011-31 LDF, is more than sufficient to meet the additional housing provision of 500 dwellings over the plan period.
- 3) Given that the Core Strategy 2011-31 LDF has now been submitted for examination the Council regards this application as being "premature".
- 4) The land has been assessed as part of the Strategic Housing Land Assessment (SHLAA) and is considered to have significant landscape constraints and is not seen to have development potential during the Plan period.
- 5) Should a Planning Application come before Herefordshire Council's Planning Committee this Town Council will wish to be represented as an objector.

5.2 Avenbury Parish Council

After some discussion the Parish Council resolved not to support the application for the following reasons:

- 1) The Core Strategy indicates no new development to take place within the Avenbury Parish area.
- 2) The proposed development will be too visible within the landscape.
- 3) The proposed development is outside of the preferred boundary of Bromyard.
- 4) According to the Strategic Housing Land Assessment the land is very definitely unsuitable for development.
- 5) If this application comes before Herefordshire Council Planning Committee this parish wishes to be represented.

5.3 Letters of objection have been received from Bovis Homes and Mosaic Estates. Both parties are promoting the land at Hardwick Bank for residential development. In summary the points raised by both parties are as follows:

- The implementation of the proposed vehicular access arrangement would prejudice the ability to achieve a safe vehicular access into the draft strategic allocation at Hardwick Bank.
- With reference to paragraph 14 of the National Planning Policy Guidance (NPPG) the application at Pencombe Lane would pre-determine decisions about the scale and location of new development central to the emerging Core Strategy, which is at a significantly advanced stage.
- Whilst approval of the Pencombe Lane site could result in additional houses being built in Bromyard, these would not outweigh the loss of the strategic site, either in whole or in part.
- The potential negative effects of the application significantly and demonstrably outweigh the potential benefits of granting permission.

5.4 A letter of objection has been received from Bromyard & District Chamber of Commerce. In summary the points raised are as follows:

- Access to the major employment site at Porthouse on Tenbury Road is poor and the town suffers from large vehicles passing along narrow streets.

- Development at Hardwick Bank would, with a comprehensive scheme, provide the means to deliver a relief road.
- If this proposal is allowed much of the critical mass of development in the Hardwick Bank area would be lost. The application is therefore considered to be premature.
- Housing needs to be put in areas to promote employment and trade and therefore needs to be close to employment and town facilities. To develop on the outer reaches of the town is contrary to the needs and wishes of existing businesses.

5.5 Four letters of objection from local residents have also been received. In summary the points raised are as follows:

- This is a speculative application that seeks to take advantage of the Council's lack of a five year housing land supply.
- If permission is granted for 120 on this site the reduction in housing for Hardwick Bank will mean developers of the site would not be able to afford to construct a relief road.
- Approval could damage the ambition to build a link road between the A44 and Tenbury Road.
- 500 new houses have been identified for Bromyard in the emerging Core Strategy and it identifies Hardwick Bank as the preferred location. If 500 homes are built here then developers will also build the much needed relief road.
- The application is premature. Granting planning permission would undermine the plan making process as the access to the draft strategic allocation site would be compromised.
- The site was considered for housing development under the SHLAA and was found to be unsuitable for development due to its landscape impact.
- The site is isolated and does not relate well to the rest of the town.
- The application site is Grade 2 agricultural land. The proposal is contrary to paragraph 112 of the NPPF as it will result in the loss of good quality and versatile agricultural land and the applicant has not demonstrated that the development is necessary.
- Access to public transport from the site is limited. There is no regular bus service along the A44 and the bus stop is on the northern side of the A44, requiring pedestrians to cross the road.
- The proposal does not represent a sustainable form of development.
- The Hardwick Bank site is much closer to shops, services and employment sites. It would have greater access to local bus services and is considered to be more sustainable.
- The proposal will significantly increase flood risk from surface water run off to a property immediately to the south west of the site.
- The public consultation undertaken by the applicant was misleading and fundamentally flawed.

5.6 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 Bromyard is one of the county's market towns and the extent of its residential area is defined by Policy H1 of the HUDP. In the emerging Core Strategy it is anticipated that the town will accommodate approximately 500 new dwellings, with 250 of these to be provided on a strategic housing site at Hardwick Bank.

6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development, and whether the development is premature and prejudices the delivery of the strategic housing allocation at Hardwick Bank, particularly due to the access arrangements that are proposed.

The Principle of Development in the Context of 'saved' UDP Policies, the National Planning Policy Framework (NPPF) and Other Material Guidance

6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that maybe given)."

6.6 The practical effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.

6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.9 In this context, therefore, the proposed erection of up to 120 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

Assessment of the Scheme's Sustainability Having Regard to the NPPF and Housing Land Supply

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and movement towards a low-carbon economy.
- 6.13 Bromyard is one of the county's market towns and, in the hierarchy of settlement pattern, is accordingly a main focus for population. It has a good range of shops, services and employment opportunities and the site lies on the south western fringe of the developed area; the residential environs of Winslow Road located on the opposite side of the A44. It is your officers view that the site is sustainably located where the delivery of up to 120 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. The site is not subject to any environmental designations and the Council's Conservation Manager observes that the scheme has the potential to deliver ecological enhancement in accordance with saved UDP policy and NPPF objectives.

Impact on Landscape Character

- 6.14 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposals for any development on or affecting protected wildlife or geo-diversity sites or landscape areas will be judged. It also confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing

the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), and LA3 are broadly consistent with chapter 11 of the NPPF.

- 6.15 The application site has no formal landscape designation. It lies in open countryside outside but adjacent to Bromyard's settlement boundary and is considered to be of High Sensitivity within the Urban Fringe Landscape Sensitivity Analysis (Jan 2010) due to its visual prominence and importance in providing a transitional gateway between town and countryside. Accordingly it was classified as a site with significant landscape constraints in the SHLAA. The Conservation Manager (Landscape) has maintained this opinion in her consultation response, objecting to the application on the basis that the development would be relatively isolated in relation to the rest of the town and would consequently be detrimental to its setting, contrary to policies S1 and LA3 of the HUDP.
- 6.16 It is accepted that the site is at the fringes of the town and that development in this location will undoubtedly change the character of the immediate locality from countryside to a more urban environment. The site is opposite the strategic allocation of Hardwick Bank and the areas of this site adjacent to the A44 are on land at a higher level than this application site. It is your officers' view that when the area is viewed from public vantage points to the south; particularly Panniers Lane, the land at Hardwick Bank is most prominent and not the site to which this application relates. Indeed, the site at Hardwick Bank is similarly constrained in landscape impact terms and is also considered to have Medium to High Sensitivity in the Urban Fringe Landscape Sensitivity Analysis. The development of the strategic site will change the character of the area and on this basis it is not considered that this proposal would cause such harm in its own right to warrant the refusal of this proposal. As noted previously, the site does not have any specific landscape designation and the landscape impacts that will arise are not considered to outweigh the council's lack of a five year housing land supply.
- 6.17 On the basis that conditions will be imposed requiring the protection of hedgerows where possible and the formulation of a detailed planting regime and in the context of the housing supply situation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.

Pedestrian and Public Transport Access to Local Facilities

- 6.18 Saved UDP policy DR3 and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where *'the residual cumulative impacts of development are severe.'*
- 6.19 The application shows the provision of a single point of vehicular access directly onto the A44 and this will be considered later in the report. It also indicates the provision of a footway extension along the southern side of the A44 from the point of access to the site for approximately 170 metres in an easterly direction to link to an existing controlled pedestrian crossing. Bus stops are located on either side of the A44 a further 50 metres further east. The plan also shows a further pedestrian link from the site at the junction of Pencombe Lane / Panniers Lane and a further extension of an existing footway on the eastern side of Panniers Lane. This provides a direct pedestrian link to the Queen Elizabeth Humanities College.
- 6.20 Your officers are satisfied that the proposed footway improvements create satisfactory links to the existing pedestrian network and would provide future residents of the site with genuine opportunities to access services by foot and public transport. The improvements can be

secured through a Section 278 Agreement and the imposition of an appropriately worded condition should planning permission be forthcoming.

Land Drainage and Flood Risk

- 6.21 Neither Welsh Water nor the Council's Land Drainage Manager have any objection to the development subject to the imposition of planning conditions. The site lies wholly with Flood Zone 1 and is at low risk of flooding from fluvial sources. Whilst objection letters have expressed concern at surface water drainage and the absence of detailed design from the current submission, there is no objection in principle to the development of the site as proposed on the provision that detailed drainage proposals are formulated and agreed prior to commencement of development. The Land Drainage consultants comments set out the detailed information that should be incorporated at the detailed design stage and this will be reflected in the imposition of a planning condition to require the submission of a fully integrated foul and surface water drainage system for agreement prior to the commencement of development, with completion of the scheme prior to first occupation of any of the dwelling houses approved. This scheme would be subject to a further round of consultation at the Reserved Matters stage.

Impact on Ecological Interests

- 6.22 The Council's Conservation Manager (Ecology) concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests, but actually has the potential to enhance biodiversity. Subject to the imposition of conditions as set out below, which include tree and hedgerow protection measures, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

Prematurity and Prejudicial Impacts of the Development

- 6.23 Paragraph 14 of the National Planning Policy Guidance (NPPG) offers some useful advice on this matter. It advises that refusals on the grounds of prematurity will usually be limited to circumstances where both:

- a) *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
- b) *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

- 6.24 The objections raised on the grounds of prematurity and prejudice are made on the basis of two presumptions; that the creation of an independent access to the application site will compromise the provision of a new roundabout access on the A44 to serve the strategic site and that the erection of 120 dwellings will affect the deliverability of 500 homes and the provision of a link road between the A44 and Tenbury Road at Hardwick Bank.

- 6.25 In response to the concerns raised about the impact of the proposed access, the applicant has commissioned the completion of a Stage 1 Road Safety Audit, based on a presumption that the development would be served by its own access as shown on the plans originally submitted, and that the development of the strategic site would be provided for by a separate roundabout further to the west.
- 6.26 The Audit represents an independent assessment of the assumption that the two sites would be served by independent accesses. It identifies a number of issues to be addressed through the detailed design of each junction and makes a number of recommendations as to how this would be achieved. It does not conclude that the approach is unviable or that it would unduly compromise the highway safety of road users. The Council's Transportation Manager has considered the contents of the Audit and, whilst he does not consider the provision of two separate accesses to be an ideal solution, he concurs with its findings. Therefore it is your officers' view that the proposed access arrangements would not prejudice the delivery of the Council's strategic allocation at Hardwick Bank.
- 6.27 Policy BY1 of the Herefordshire Local Plan – Core Strategy sets out the requirements for residential development in Bromyard and advises that it should provide around 500 new homes during the plan period. Policy BY2 then deals specifically with the strategic allocation at Hardwick Bank and advises that around 250 dwellings will be provided on the site – approximately half of the total allocation for the town.
- 6.28 Contrary to the inference of the objections received, the emerging policies for Bromyard do not require the entire 500 dwelling allocation to be provided at Hardwick Bank. The presumption of the objection letters seems to be that a development of 500 dwellings would fund the creation of a link road between the A44 and Tenbury Road. This is not substantiated with any viability assessment to demonstrate that a development of 500 dwellings would provide adequate funding for a link road, nor does Policy BY2 envisage that a residential development will provide it in isolation, stating the following:
- The development areas should also be serviced by a residential road which would allow for opportunities to extend development beyond the plan period and serve as a future link road to other parts of the local highway network*
- 6.29 Policy BY1 envisages that the remainder of the allocation would be provided through a combination of existing commitments, windfall developments and sites allocated through a Neighbourhood Development Plan. Seventy six dwellings have been granted in outline at the Porthouse Farm site and, combined with the strategic allocation of 250 at Hardwick Bank, this leaves a shortfall of 184 dwellings during the plan period. The current application provides a significant proportion of this shortfall.
- 6.30 The Town Council have not stated their intention to complete a Neighbourhood Development Plan and the preference to allocate all of Bromyard's housing to the Hardwick Bank site is a view expressed only in the letters of objection received and the comments of the Town Council. The ambition to create a formal link road between the A44 and Tenbury Road will not be prejudiced should planning permission be granted here and, given the Council's stated position with regard to housing land supply and the lack of any other significant material planning objections to the proposal, it is not clear that this proposal would prejudice the plan-making process. Your officers' view is therefore that the proposal is neither premature or prejudicial.

Summary and Conclusions

- 6.31 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater

the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.

- 6.29 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that in the absence of significant and demonstrable adverse impacts, the application should be approved.
- 6.30 The site lies outside but adjacent to the settlement boundary for Bromyard and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. The site includes improvements to pedestrian facilities beyond the extent of the application site and these will ensure that prospective residents have a genuine choice of transport modes. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.31 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable and in offering enhancements to footways in the locality, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.32 The Conservation Manager (Landscapes) has objected to the development on landscape impact grounds. However, the Council's strategic housing allocation at Hardwick Bank is similarly constrained and parts of it are, in your officer's opinion, more visually prominent. The site has no landscape designation and impacts can be mitigated through detailed design and the imposition of conditions to retain and protect existing landscape features where possible. There are no designated heritage assets within the locality and the site is not subject to any of the other restrictive policies that footnote 9 of the NPPF refers to.
- 6.33 The development proposed is not considered to be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development on the strategic housing site at Hardwick Bank. It has been demonstrated that separate access arrangements can be provided for the application site and the strategic housing site at Hardwick Bank without compromising highway safety and therefore the proposal is neither premature or prejudicial.
- 6.34 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits.
- 6.35 It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 120 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish and Town Council and local community as regards the detail of any forthcoming Reserved Matters submission.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further 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. **A05 – Plans and particulars of reserved matters**
5. **C01 – Samples of external materials**
6. **The development shall include no more than 120 dwellings and no dwelling shall be more than two storeys high.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

7. **The development shall not begin until a scheme for the provision of affordable housing as part of the development on the site, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:**
 - 1) **The numbers, type, tenure and location on the site of the affordable housing provision to be made;**
 - 2) **The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing, if no Registered Social Landlord is involved;**
 - 3) **The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
 - 4) **The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

Reason: To secure satisfactory affordable housing provision in accordance with saved Policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

8. **H03 Visibility splays**
9. **H11 Parking – estate development (more than one house)**
10. **H17 Junction improvement/off site works**
11. **H18 On site roads – submission of details**
12. **H19 On site roads - phasing**
13. **H20 Road completion**

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

14. H21 Wheel washing
15. H27 Parking for site operatives
16. H29 Covered and secure cycle parking provision
17. H30 Travel plans
18. The recommendations set out in the ecologist's report from fpcr dated July 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a habitat enhancement plan should be submitted to, and be approved in writing by the local planning authority and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation 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, and to comply with Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

19. G04 Protection of trees/hedgerows that are to be retained
20. G09 Details of boundary treatments
21. G10 Landscaping scheme
22. G11 Landscaping scheme - implementation
23. L01 Foul/surface water drainage
24. L02 No surface water to connect to public system
25. L03 No drainage run-off to public system
26. L04 Comprehensive and integrated draining of site

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. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
3. N11C General
4. HN04 Private apparatus within highway

- 5. **HN28 Highways Design Guide and Specification**
- 6. **HN05 Works within the highway**
- 7. **HN07 Section 278 Agreement**
- 9. **HN10 No drainage to discharge to highway**
- 10. **HN08 Section 38 Agreement & Drainage details**
- 11. **HN01 Mud on highway**
- 12. **HN25 Travel Plans**

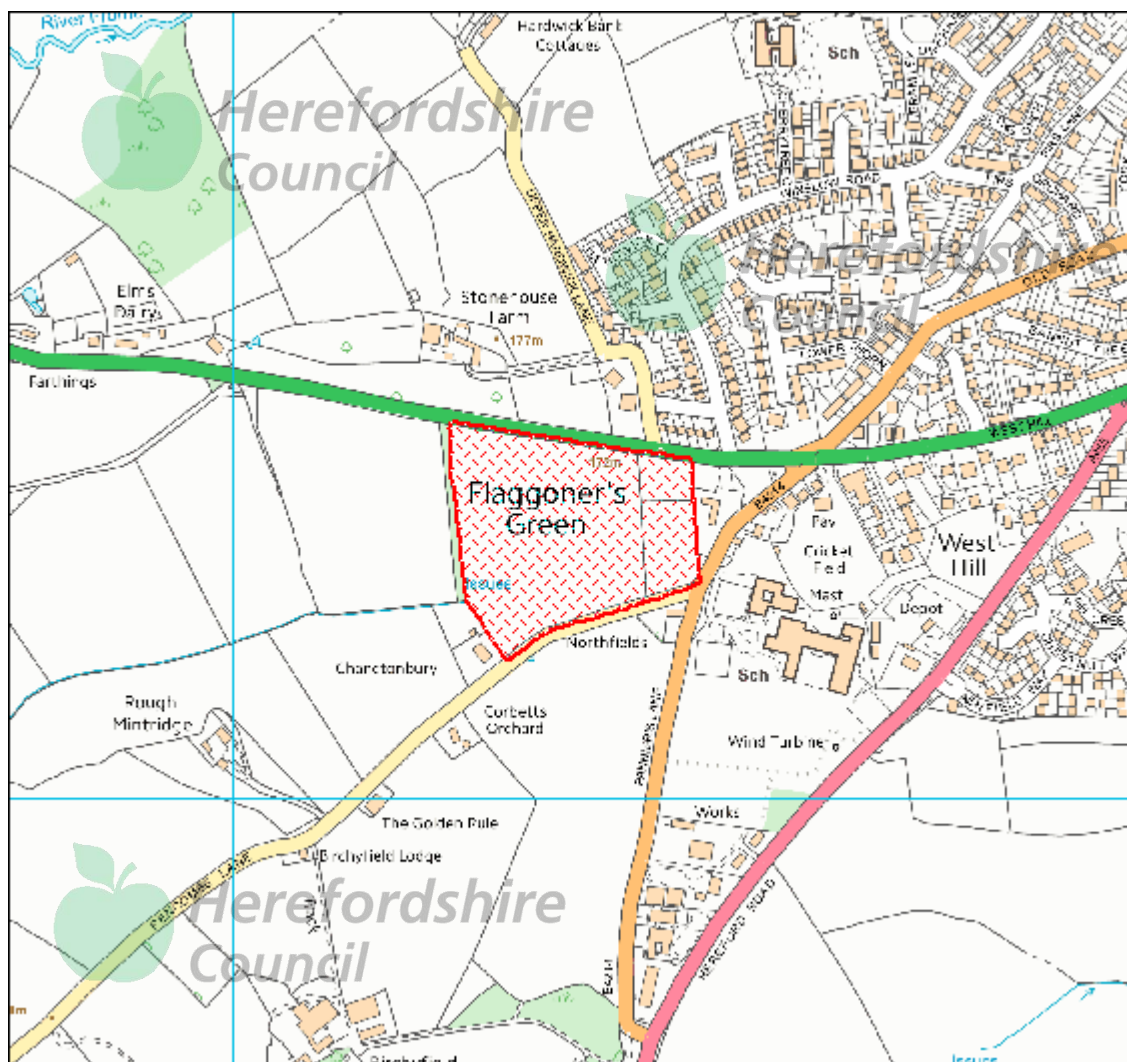
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 142175/O

SITE ADDRESS : LAND OFF PENCOMBE LANE, BROMYARD, HEREFORDSHIRE

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DRAFT HEADS OF TERMS

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

Planning Application – P142175/O

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.

Site for residential development of up to 120 dwellings with associated open space and landscaping
– Land off Pencombe Lane, Bromyard, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council a contribution of £184,507 (index linked) towards providing improved education facilities at Bromyard Early Years, St Peters Primary School, St Marys RC High School, Post 16, Youth and Special Education Needs. The contribution will be spent according to the need at the schools at the point of receipt of the monies. The sums shall be paid on or before first occupation of the 1st open market dwellinghouse, 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):

£2,458	(index linked) for a 2 bedroom open market unit
£3,690	(index linked) for a 3 bedroom open market unit
£4,917	(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:

- a) Traffic calming and traffic management measures in the locality
 - b) New pedestrian and cyclist crossing facilities
 - c) Creation of new and enhancement in the usability of existing footpaths and cycleways connecting to the site
 - d) Public initiatives to promote sustainable modes of transport
 - e) Safer routes to school
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £124,320. The contributions will provide for off-site outdoor sport facilities at to be spent at either Bromyard Cricket Club, Bromyard Rugby Club or Bromyard Football Club, or on priorities at the time of receiving the contribution. The contribution will be sought in consultation with the local parish council, community and club. The sum may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to either pay Herefordshire Council a 15 year commuted sum for maintenance of the on-site Public Open Space (POS) and Attenuation Basins, if to be adopted by the Council. Such sums to be calculated in accordance with the Council's tariffs. Alternatively, the maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

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. 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 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 1st open market dwelling, and may be pooled with other contributions if appropriate.

7. The developer covenants with Herefordshire Council to pay the sum of £10,000 towards community infrastructure improvements at the Queen Elizabeth Humanities College. The contribution will provide new audio visual housing facilities that will be used for community activities. The sum shall be paid on or before the occupation of the 39th open market dwelling.

8. The developer covenants with Herefordshire Council that 35% (42 units – on basis of development of 120) 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. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% 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 9 & 10 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 Bromyard

11.2. in the event of there being no person with a local connection to Bromyard 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 9.1 above.

12. For the purposes of sub-paragraph 9.1 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 4 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, 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.

16. The sums referred to in paragraphs 1, 2, 3 and 4 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

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

reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Andrew Banks
Principal Planning Officer

23rd February 2015