

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>5 AUGUST 2015</b>
<b>TITLE OF REPORT:</b>	<b>150812 - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT FOR 35 HOUSES AT LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG</b>  <b>For: Mr Bates per Miss Lorraine Whistance, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150812&amp;search=150812">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150812&amp;search=150812</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 19 March 2015**

**Ward: Leominster  
South**

**Grid Ref: 348629,258732**

**Expiry Date: 26 June 2015**

Local Member: Councillor PJ McCaull

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

- 1.1 The site comprises 1.28 hectares of relatively flat, overgrown rough pastureland that lies between residential properties on Barons Cross Road, Ropewalk Avenue and Westcroft. It is roughly rectangular in shape and is partially dissected by an overgrown hedgerow running through the middle of the site in an approximate east / west direction with a second hedgerow running roughly north / south, meaning that the site has three component parts.
- 1.2 The northern, eastern and southern boundaries all but residential properties, while a hedgerow forms the boundary to the west with agricultural land beyond. A small section of the eastern boundary is also shared with the play area on Ropewalk Avenue.
- 1.3 A pumping station in a fenced enclosure is located at the centre of the site with vehicular access gained via a gated entrance onto Westcroft, where the site has a road frontage of approximately 25 metres.
- 1.4 The application is made in outline with all matters apart from access reserved for future consideration, and is for the erection of up to thirty five dwellings, eight of which are to be affordable. The application includes an indicative layout to show how the dwellings might be accommodated on the site. This is based on a desire to retain much of the hedgerow that runs through the centre of the site. However, it should be noted that layout and landscaping are both matters that are reserved for future consideration.
- 1.5 The application is accompanied by the following documents:
  - Design & Access Statement
  - Transport Statement

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

- Flood Risk Assessment
- Ecology Survey & Mitigation Strategy
- Draft Heads of Terms Agreement

## 2. Policies

### 2.1 National Planning Policy Framework:

The following sections are of particular relevance:

Introduction	- Achieving sustainable development
Section 6	- Promoting sustainable transport
Section 6	- Delivering a wide choice of high quality homes
Section 7	- Requiring good design
Section 8	- Promoting healthy communities

### 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
H1	- Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H9	- Affordable Housing
H15	- Density
T8	- Road Hierarchy
LA5	- Protection of Trees, Woodlands and Hedgerows
NC1	- Biodiversity and Development
NC8	- Habitat Creation, Restoration and Enhancement

### 2.3 Herefordshire Core Strategy Deposit Draft:

SS1	- Presumption in Favour of Sustainable Development
SS2	- Delivering New Homes
SS3	- Releasing Land for Residential Development
SS4	- Movement and Transportation
LO1	- Development in Leominster
H1	- Affordable Housing – Thresholds and Targets
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 Geodiversity
ID1	- Infrastructure Delivery

### 2.4 Neighbourhood Planning

Leominster Town Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 27 July 2012. The Town Council will have the responsibility of preparing a Neighbourhood Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this

early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. In view of this no material weight can be given to this emerging 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 DCNC2003/0917/O – Erection of eight dwellings, demolition of existing pump house and construction of new station - Refused 20/05/03 for the following reason:

*The site is located outside the settlement boundary of Leominster as shown on Inset Map No. 1 in the Leominster District Local Plan (Herefordshire). Consequently, for policy purposes the site is located in open countryside where there is a presumption against further housing development unless there is an exceptional need for the dwellings. While the applicant has submitted evidence of affordable housing need, Policy A.48 of the Local Plan is considered inappropriate in this case in that this policy relates to development adjacent to villages only and not to Leominster. Accordingly, the proposal conflicts with Policies A.2 (D)(iv), A.48 and A.53 of the Leominster District Local Plan (Herefordshire), Policy H.20 of the Hereford and Worcester County Structure Plan.*

### **4. Consultation Summary**

#### Statutory Consultations

- 4.1 Welsh Water - No objections subject to the imposition of conditions to require that surface water is drained separately from the site and should not discharge to the main sewer. They also comment that the proposed development is within close proximity of a public foul sewerage pumping station and that no habitable buildings should be constructed within a 15m vicinity of the pumping station so as to minimise any effects of noise and odour nuisance.

#### Internal Council Consultations

- 4.2 Transportation Manager - The traffic uplift from the development is minimal and the highway network is easily capable of absorbing the traffic generated by the development. The proposal as presented is acceptable subject to the imposition of conditions.
- 4.3 Conservation Manager (Ecology) - No objection subject to the imposition of a condition to ensure that the recommendations as set out within the ecology report as submitted by the applicant are followed, and to require the submission of a habitat protection and enhancement scheme prior to the commencement of development.
- 4.4 Environmental Health Officer (Contaminated Land) - Records indicate part of the site was formerly partially occupied by land associated with a brick works. This area is later described as an area of 'unknown filled ground'. These may be considered potentially contaminative uses. Accordingly any planning permission should be conditioned to require further investigation and mitigation.
- 4.5 Housing Officer - I can confirm that in principal I support the above application to provide eight affordable dwellings on the above site. The applicant has been in discussion with Housing Partnerships and the suggested mix and tenure meets the needs of the local area.
- 4.6 Waste Operations Team Leader - No objection to the design and Swept path analysis is acceptable for a refuse collection vehicle. However, a concern over just how narrow the road

layout is remains in that if any vehicle were to park on the edges then access into the site will be difficult without causing damage.

## 5. Representations

5.1 Leominster Town Council – Objects to the application and makes the following comments:

- The proposal is premature to the emerging Local and Neighbourhood Plans which designate adequate land locally to support additional development allocated for Leominster. This site is not one of those designated sites;
- The proposal is sited outside the limits of built development and outside the settlement boundary which is supported in both the existing Core Strategy and the emerging Local Plan for Herefordshire;
- The existing and emerging Local Plan has designated this site as being located in open countryside and this designation is still valid and supported by the emerging Neighbourhood Plan;
- The proposal will result in the infilling of an important open space which has a diverse and valuable ecological system and is home to many species of plants and wildlife;
- The proposal will be detrimental to the privacy and quality of life of the existing residents whose properties surround the site. The proposed dwellings will be located very close to existing properties and will result in overlooking issues and loss of privacy;
- The proposal would significantly increase traffic movements on a daily basis in the area and the current highway infrastructure does not have the capacity to cope with approximately 200 extra vehicle movements per day;
- The majority of the traffic will egress on to Bargates which is already a failing EU air quality hotspot.

5.2 Leominster Civic Society - Objects to the application and makes the following comments:

- The application site is outside the settlement boundary as supported by the Core Strategy. It is not a site designated for housing in the Local Plan and Neighbourhood Plans currently emerging.
- Sites which are not designated for development need to be conserved as part of Leominster's open spaces and are important to the survival of wildlife.
- The site provides an important 'green lung' and a vista of grass and trees which is a significant amenity to neighbouring houses.
- The Civic Society is concerned about the effect of traffic generated by these houses on the local network of fairly narrow streets. Additionally this traffic can only increase the severe air pollution problem at Bargates.

5.3 30 letters of objection have been received from local residents. In summary the points raised are as follows:

### Policy Related Matters

- The site is outside of the existing settlement boundary.

- The reason for refusal given in 2003 is still valid. There have been no changes in circumstances since that time.
- The proposals are contrary to policy.
- The plans provide for access onto adjoining land to the west. The proposal represents piecemeal development.
- The application is opportunistic with weakened planning constraints.
- Housing should be in the right place at the right time. This might be the right place, but it is the wrong time.
- There is already sufficient development waiting to take place in the area.
- New development should take place on Brownfield sites such as the Barons Cross Camp site first.

### Amenity Concerns

- The indicative layout would be particularly detrimental to the amenities of 76 to 80 Westcroft, causing significant overlooking, loss of privacy and loss of daylight.
- Air quality problems at the Bargates junction will be made worse by further development.
- The proposal is overbearing and out of scale in terms of its appearance compared with existing development.
- There are no green spaces within the locality and children currently have to play in the streets
- Anti-social behaviour within the Ropewalk Avenue play area will be increased if it is linked to a new area within the application site.
- The proposed development may lead to a rise in criminal activity.

### Highway Issues

- The proposal will add to existing traffic problems, particularly around the junction of Westcroft and Westfield Walk.
- There is a bus stop opposite the proposed access to the application site. This is likely to cause a conflict in vehicular movements that will be detrimental to highway safety.
- There have already been a number of near misses along Westcroft and opposite the application site.
- Visibility is poor at the site entrance.
- This application should not be approved until the 'bypass' is constructed.

### Ecology and Landscape Impact

- The woodland and grass paddock is an important landscape feature and a key component of the setting of Leominster. The proposal will erode this character.
- The area provides a valuable urban nature conservation feature and is a home for lots of local wildlife, including protected species such as bats and Barn Owls.

### Drainage

- Properties on Barons Cross Road that bound the application site are all on septic tanks and the proposed dwellings may suffer odour nuisance from them.
- Sewage and drainage systems will not be able to manage the additional dwellings.
- The site is very wet and serves as a natural drainage area.

### Other Matters

- Local services are already stretched; particularly the doctors surgery and local schools.
- There are inaccuracies on the application form, particularly with regard to flooding and the proximity of watercourses.

- 5.4 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

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

## 6. Officer's Appraisal

- 6.1 Leominster 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 a minimum of 2,300 new dwellings, of which approximately 1,500 will be provided on a strategic site on land to the south west of the town and the site to which this application relates.
- 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, having particular regard to the likely effects upon the character and appearance of the area, the scale of the development proposed, the residential amenity of existing dwellings bounding the application site, highway safety and the loss of a green space on the edge of the town, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### **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 may be 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 35 dwellings, including eight affordable units, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached and, should the application be approved, would provide the justification for reaching a different conclusion to the outcome of the application that was refused in 2003.
- 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 Leominster 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 is well positioned to access all of these facilities. Accordingly Leominster is considered to be a sustainable settlement and the delivery of up to 35 dwellings, including eight 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.
- 6.14 The site is not subject to any environmental designations and the Council’s Conservation Manager does not object to the scheme, subject to the imposition of an appropriately worded condition to mitigate the impacts of the scheme.

## Impacts on Residential Amenity

- 6.15 As stated previously, the application has been made in outline with all matters apart from access reserved for future consideration. The applicant's agent has submitted an indicative layout plan with the application to show how the site might be developed if permission is granted in outline. This has given rise to objections from residents bordering the site who are concerned that development will be detrimental to their residential amenity and will cause unacceptable levels of overlooking and loss of privacy.
- 6.16 The layout provided as part of the original submission would certainly give rise to unacceptable detriment to the amenity of 76 Westcroft and this has been brought to the attention of the applicant and their agent. As a result they have submitted an alternative layout that shows bungalows rather than two storey dwellings on the adjacent boundary. Whilst this may be a more appropriate approach and would certainly lessen the impact on no. 76 as it would remove a significant amount of overlooking from first floor windows, some concerns remain locally. However, the alternative layout does demonstrate that there are alternatives for the provision of dwellings on the site. It is acknowledged that there are amenity issues to be addressed in the detailed design stage, but these are not considered to be so fundamental to prevent the grant of an outline planning permission.
- 6.17 Some objectors have referred to a pre-existing problem of anti-social behaviour around the play area on Ropewalk Avenue, and that this will be increased if it is linked to an area of open space on the application site.
- 6.18 There is nothing to suggest that a larger play area will give rise to a greater degree of anti-social behaviour. The way to address this is through the detailed design of the scheme, ensuring that the area of open space is overlooked and well used, so as to reduce the opportunity for anti-social behaviour. Given that this is an outline application, such matters could be addressed at the reserved matters stage, should outline permission be granted.

## Highway Matters

- 6.19 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.'*(NPPF para. 32).
- 6.20 There are two elements to the objections received on highway safety grounds. First that the position of the access to the site is unsafe and that appropriate visibility cannot be achieved. Second is that the proposal will generate additional traffic movements that cannot be accommodated by the existing road network, particularly around the junction of Westcroft and Westfield Walk.
- 6.21 The application is supported by a Transport Statement (TS). This considers in detail the potential impacts of the development on the local road network, including Westfield Walk and its respective junctions with the A44 (The Bargates) and Ryelands Road). The TS uses TRICS data to determine the average traffic movements from the development proposed. It suggests that these will amount to 19 trips (a combination of arrivals and departures to and from the site) during the AM peak (between 08:00 and 09:00), and 18 trips during the PM peak (17:00 and 18:00). The TS concludes that the proposed trip generation of the site would have a minimal impact on the surrounding highway network.



- 6.22 The Transportation Manager has visited the site and assessed the Transport Statement completed by the applicant's highway consultant and has advised that he is satisfied that the highway network is capable of accommodating the additional traffic that is likely to be generated by the proposal. The site is well related to Leominster Town Centre and would have ready access to a range of facilities by foot. There are regular local bus services and the site is within walking distance of the railway station. Whilst it is acknowledged that there is localised congestion on Westfield Walk as a combined result of the lack of parking at the doctor's surgery and of drivers using it as a 'rat run', it is not considered that the cumulative impact of existing road conditions and the proposed development are such that it would result in severe highway impacts that would make the application unacceptable. It is therefore concluded that the proposal is compliant with Policies DR3 and T8 of the UDP and paragraphs 30 – 32 of the NPPF.

### **Air Quality at the A44 Bargates Junction**

- 6.23 The A44 Bargates junction is one of only three areas in the county that is the subject of an Air Quality Management Plan. Some objections have referred to this and have suggested that the proposed development will exacerbate the current situation and bring about a further decline in air quality at the junction.
- 6.24 The National Planning Policy Guidance (NPPG) contains information for practitioners about the type of information to be provided in a Transport Statement. It advises that statements should be proportionate to the development proposed and also makes specific mention of the need to consider likely environmental impacts of transport related development, particularly in relation to environmentally sensitive areas such as air quality management areas.
- 6.25 Accordingly the Transport Statement does include a section that considers the impact of the development on the Bargates junction. It identifies the fact that a management plan is in place and that some of its recommendations have been implemented; including the re-sequencing of the traffic lights, whilst other improvements are on-going. The annual traffic flow data from 2006 to 2013 has also been provided and demonstrates that movements through the junction have remained at a consistent level over the 8 year period, suggesting that air quality has not worsened over that time.
- 6.26 The issue to be considered here is whether the development will have a cumulative detrimental effect on air quality at the Bargates junction.
- 6.27 The traffic flow figures for the Bargates junction between 2006 and 2013 show an average annual daily flow of 16,000 vehicles. The proposed development is for up to 35 dwellings and is considered to be modest in terms of the traffic that it is likely to generate as confirmed by the Transportation Manager's comments, and is negligible in terms of the amount of traffic moving through the junction on a daily basis. Furthermore, drivers entering and leaving the application site would have a choice of turning left or right at the junction of Westcroft and Westfield Walk. Drivers turning left are more likely to turn left again onto the A44 rather than turning right and back towards the Bargates junction and therefore your officer would conclude that the proposed development would not have a demonstrable detrimental impact upon air quality.

### **Ecology and Landscape Impacts**

- 6.28 The application site is surrounded on three sides by residential development and it defines the character of the area. Residential development continues further along Barons Cross Road and is punctuated by the Morrisons supermarket on its southern side. The proposal represents a logical 'rounding off' of built development and it is not considered that the site makes any meaningful contribution to the wider landscape setting of Leominster. It is not considered that

the scheme is detrimental to the landscape character of the area and therefore the proposal is compliant with policies LA2 and LA3 of the UDP.

- 6.29 The site has been surveyed by an appropriately qualified ecologist and his report has been independently assessed by the Council's Ecologist. The conclusion of both is that the likely effects of the development upon the biodiversity of the site can be mitigated through the imposition of conditions.
- 6.30 The applicant's intention is to retain a tree and hedge line that runs through the middle of the site. This has particular value as a landscape feature and also as a 'green corridor' for wildlife, and therefore an integrated approach to landscaping and biodiversity enhancement is vital to ensure that the scheme complies with policy NC8 of the UDP.

### **Drainage**

- 6.31 Some of the letters of representation consider that there is insufficient capacity within the existing sewage system to accommodate the development. However, Welsh Water does not object to the application, subject to the imposition of conditions. In light of the response from a statutory undertaker, who are obligated to provide a connection to the mains sewer where available, your officers do not consider that there are grounds to refuse the application in this regard.
- 6.32 Objectors have also referred to a potential nuisance that might be caused to prospective residents arising from odours from existing septic tanks serving properties on Barons Cross Road. Your officers consider that this is likely to be a matter of maintenance and is not a justification for the refusal of this application.

### **Summary and Conclusions**

- 6.33 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.
- 6.34 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.
- 6.35 The site lies outside but adjacent to the settlement boundary for Leominster and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. It is within walking distance of a range of local services and although only an outline application, it is evident that there are opportunities to ensure pedestrian permeability and connectivity. These opportunities 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).
- 6.36 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. In providing a greater supply of housing and breadth of choice, including the provision of affordable housing, and in offering an amount of open space in excess of policy requirements, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

- 6.37 Officers conclude that there are no landscape, highways, drainage, ecological or other environmental 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.
- 6.38 It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation in accordance with the Heads of Terms appended to this report and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 35 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Town Council and local community as regards the detail of any forthcoming Reserved Matters submission, paying particular regard to the concerns raised throughout the determination of this application with regard to residential amenity.

## **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. **A01 Time limit for commencement (full 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 35 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. **H02 Single access – footway**
8. **H03 Visibility splays**
9. **H06 Vehicular access construction**
10. **H11 Parking – estate development (more than one house)**
11. **H18 On site roads – submission of details**
12. **H20 Road completion**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**

15. **H29 Covered and secure cycle parking provision**
16. **The recommendations for species and habitat enhancements set out in the Preliminary Herptofauna Mitigation Strategy from Nigel Hand dated June 2015 should be completed as approved before development commences on site. On completion of the mitigation measures, confirmation of the translocation should be made to the local planning authority in writing together with photographic evidence of the measures implemented.**

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

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

**To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

17. **G04 Protection of trees/hedgerows that are to be retained**
18. **G09 Details of boundary treatments**
19. **G10 Landscaping scheme**
20. **G11 Landscaping scheme - implementation**
21. **L01 Foul/surface water drainage**
22. **No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - a) **a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice**
  - b) **if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors**
  - c) **if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.**

**Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.**

23. The Remediation Scheme, as approved pursuant to condition 22 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

24. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

25. L02 No surface water to connect to public system
26. L03 No drainage run-off to public system
27. 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. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN01 Mud on highway
7. HN24 Drainage other than via highway system
8. HN05 Works within the highway
9. HN28 Highway Design Guide and Specification
10. HN05 Works within the highway

11. **The assessment required by condition 22 should be undertaken in accordance with good practice guidance and should be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012. The assessment must also include asbestos sampling and analysis and this should be included with any submission.**

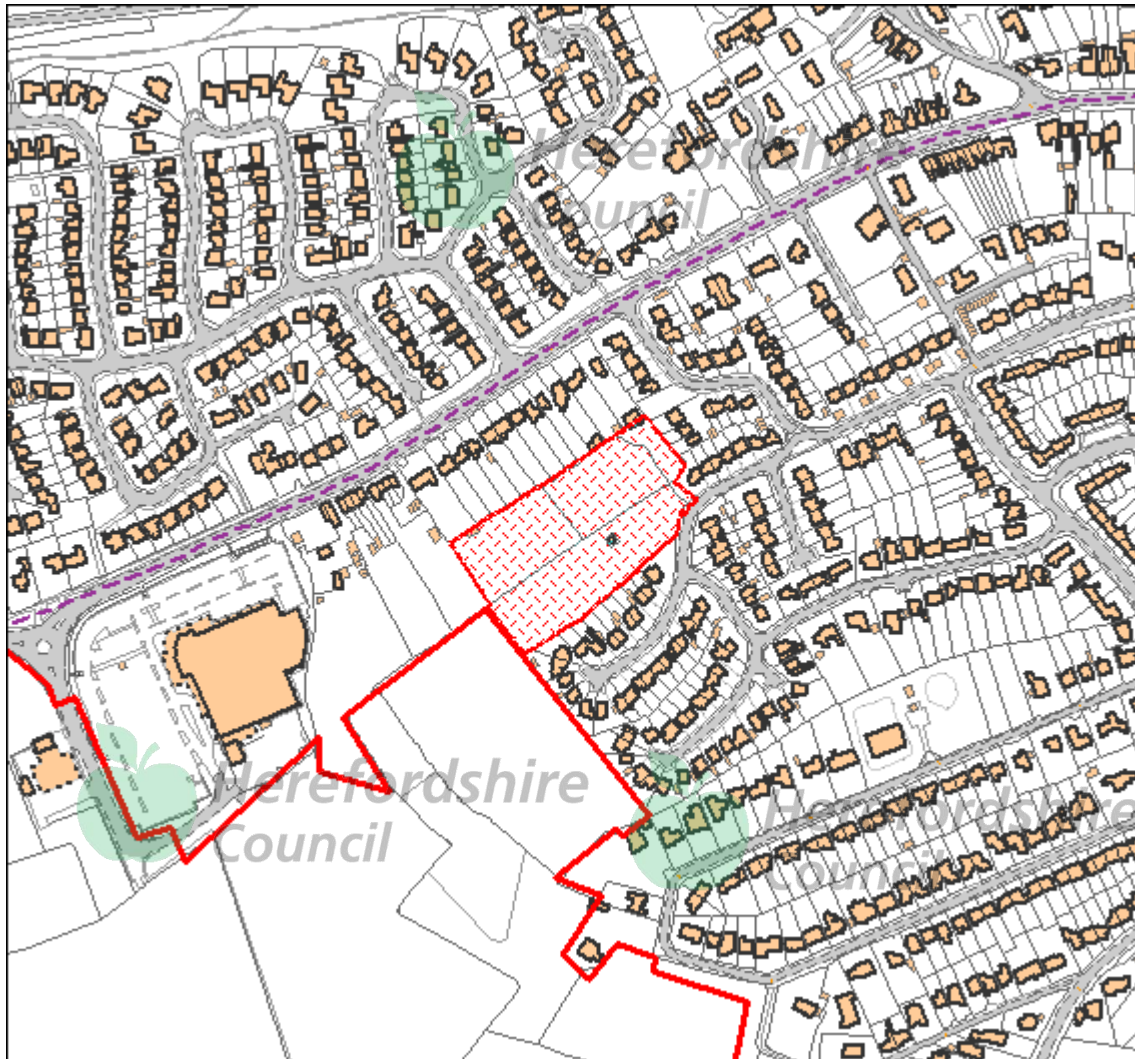
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 150812

**SITE ADDRESS :** LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG

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

# DRAFT HEADS OF TERMS

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

### Planning Application – 150812

Site address:

**Land at Westcroft, Leominster**

Planning application for:

**Residential Development for the erection of 35 dwellings and associated infrastructure**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). All contributions in respect of the residential development are assessed against open market units only except for item 3 which applies to all new dwellings.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

£1,084 (index linked) for a 2 bedroom apartment open market unit

£1,899 (index linked) for a 2/3 bedroom open market unit

£3,111 (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Leominster Primary School. 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):

£1,721 (index linked) for a 2 bedroom open market unit

£2,583 (index linked) for a 3 bedroom open market unit

£3,442 (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) Provision of and enhancement of existing localised bus infrastructure
- e) Public initiatives to promote sustainable modes of transport
- f) Safer routes to school

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling.
4. The maintenance of any 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 and/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.

***NOTE: Any attenuation basin and/or SUDS which may be transferred to the Council will require a commuted***

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



*sum calculated in accordance with the Council's tariffs over a 60 year period*

5. The developer covenants with Herefordshire Council that 25% (8 units – on basis of development of 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.
6. Of those Affordable Housing units, at least four shall be made available for social rent with the remainder being available for intermediate tenure occupation.
7. 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.
8. 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:-
  - 8.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 8.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
9. 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:-
  - 9.1. a local connection with the parish of Leominster
  - 9.2. in the event of there being no person with a local connection to Leominster 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.
10. 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:
  - 10.1. is or in the past was normally resident there; or
  - 10.2. is employed there; or
  - 10.3. has a family association there; or
  - 10.4. a proven need to give support to or receive support from family members; or
  - 10.5. because of special circumstances;
11. 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.
12. 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.

13. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5, 6 and 7 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
14. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
15. 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.
16. 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.

**Andrew Banks**  
**Principal Planning Officer**