

DRAFT HEADS OF TERMS

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

Application Reference No – 150437

Site address:

Land to the south of Chapel Lane, Bodenham Moor, Herefordshire

Planning application for:

Proposed residential development of 49 dwellings, including affordable housing, associated parking and landscaping

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st 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 general 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):

£1,084.00 (index linked) for a 2 bedroom open market dwelling

£1,899.00 (index linked) for a 3 bedroom open market dwelling

£3,111.00 (index linked) for a 4+ bedroom open market dwelling

to provide enhanced educational infrastructure at enhanced educational infrastructure at St Michaels Bodenham Primary School, and shall be paid in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

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

£1720.00 (index linked) for a 2 bedroom open market dwelling

£2,580.00 (index linked) for a 3 bedroom open market dwelling

£3,440.00 (index linked) for a 4+ bedroom open market dwelling

to provide a sustainable transport infrastructure to serve the development, and shall be paid in accordance with a phasing programme to be agreed in writing with Herefordshire Council, 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:

- Improvements to the pedestrian facilities in Bodenham
- Improvements to the cycling facilities in Bodenham
- Improvements to the bus passenger facilities in Bodenham
- Improvements to the public right of way network in Bodenham within the vicinity of the development

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 in accordance with a phasing programme to be agreed in writing with Herefordshire Council
4. The developer covenants with Herefordshire Council to provide 0.24 hectares of on-site green infrastructure comprising;

0.095 (950m²) of Children's play is required (@ 0.8ha per 1000 pop) of which

0.03ha (300m²) should be formal play (@ 0.25ha per 1000 pop Fields in Trust guidance)

The on-site green infrastructure shall be made available on or before the occupation of the 1st open market dwellinghouse.

Note: There is an existing play area which is within acceptable distances from the proposed development but difficult to access due to lack of footways. The existing facility only caters for infants and juniors and given accessibility issues the Parish Council has confirmed the preference for on-site play provision.

5. The maintenance of the on-site green infrastructure 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 sum calculated in accordance with the Council's tariffs over a 60 year period

6. The developer covenants with Herefordshire Council that 35% (17 on basis of a gross development of up to 49 units) 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.
7. All the affordable housing units shall be completed and made available for occupation 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 9 & 10 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 Bodenham
 - 9.2. in the event of there being no person with a local connection to Bodenham 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.
10. 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:
 - 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. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3 and 4 above, for the purposes specified in the agreement within 10 years of the date of the final payment being made, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 12. 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.
 13. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
 14. 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.

Peter Clasby
Planning Obligations Manager

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