

MEETING:	PLANNING COMMITTEE
DATE:	24 AUGUST 2016
TITLE OF REPORT:	161486 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 21 DWELLINGS WITH MEANS OF ACCESS AT LAND AT PINFARTHINGS, OFF NORTH MAPPENORS LANE, LEOMINSTER, HEREFORDSHIRE. For: Cabot Trustees per Mr David Jones, Albany House, High Street, Hindon, SP3 6DP
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=161486&search=161486
Reason Application submitted to Committee - Redirection	

Date Received: 13 May 2016

**Ward: Leominster
West**

Grid Ref: 348989,259358

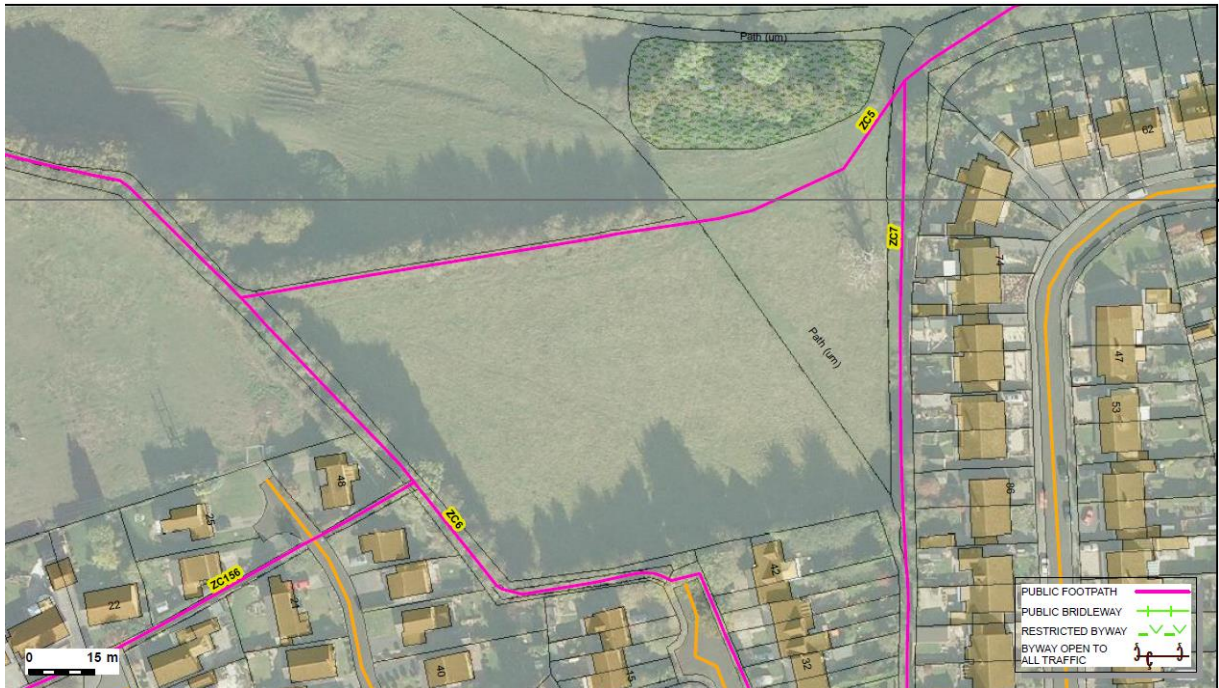
Expiry Date: 16 August 2016

Local Member: Councillor FM Norman

1. Site Description and Proposal

- 1.1 The application relates to an irregularly shaped site measuring approximately 0.86 hectares in area. It is currently used for rough grazing. It is crossed by two separate public footpaths; one running north/south along the eastern boundary and the second east/west along the northern boundary. A third footpath runs along the western boundary, but is outside of the site. Their definitive routes are shown on Figure 1 below.
- 1.2 The site slopes from south to north with a drop of approximately 9 metres from the respective boundaries. The topography continues to drop beyond the site to the Kenwater approximately 40 metres beyond the northern boundary. Another public footpath runs along its southern bank, with the Bridge Street playing fields to the north. These can be accessed via a pedestrian footbridge a short distance to the north east.
- 1.3 The site is surrounded on three sides by existing residential development; Mappenors Lane to the south, The Meadows to the east and The Rugg to the west. The boundaries are a mix of native hedgerow and trees to the north, south and west, whilst remaining open to the east. This means that the site is readily visible from the properties bounding on The Meadows.
- 1.4 The application is for outline planning permission for the erection of up to 21 dwellings, with all matters apart from access reserved for future consideration. The plans propose to utilise the location of an existing field gate on Mappenors Lane as the means of access.

Figure 1: Definitive routes of public footpaths



1.5 The application is accompanied by a number of supporting documents which are listed as follows:

- Design & Access Statement
- Planning Statement
- Transport Statement
- Ecological Assessment
- Landscape & Visual Character Evaluation

1.6 During the course of the assessment of the application officers have sought to agree Heads of Terms with the applicant's agent for the completion of a Section 106 Agreement. These are appended to the report. In summary they include contributions towards highway and cycleway improvements on Green Lane, improvements in off site play facilities, improvements in sports facilities and a mechanism to ensure the delivery of 25% affordable housing in accordance with Policy H1 of the Herefordshire Local Plan – Core Strategy.

2. Policies

2.1 National Planning Policy Framework:

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Transport
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 Local Plan - Core Strategy:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development

SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
LO1	-	Development in Leominster
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	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.3 Neighbourhood Planning – With regards to the Leominster Area Neighbourhood Plan and in line with para 216 of the NPPF, material weight will be dependent on the following:

- Progress of the plan - The Neighbourhood Area was designated on 27th July 2012. The plan has reached submission in January 2016 and the consultation was undertaken under Regulation 16 between 20 January and 2 March 2016. However that plan was not progressed to examination (15 March 2016) due to concerns regarding conformity with the adopted Core Strategy and the NPPF which would result in the plan not meeting the required 'Basic Conditions' to be successful at examination . A revised Leominster Area NDP has yet to be submitted to the Council.
- Outstanding objections to policies – 6 external and 5 Herefordshire Council internal comments were received during the consultation period. A number of these (both internal and external) expressed concerns regarding the Leominster Area NDP's compliance with both the NPPF and the adopted Core Strategy.
- Conformity with Core Strategy and NPPF - there are a number of policy concerns regarding the submission plan. The following issues are relevant to this application;
 - No further allocations to meet the requirements of policy LO1
 - Settlement boundary has not been revised since that designated in 2007, therefore difficult to see how only infill growth can occur in line with policy LO1
 - Settlement boundary does not acknowledge the urban extension area
 - Requirements on energy efficiency on all new development over and above that within national policy – contrary to NPPF, building regulations and viability testing
 - Open countryside policy does not conform with policy RA3
 - Designation of a large area of green space in conflict with the strategic urban expansion area – contrary to policy LO1 LO2 and the NPPF
 - Designation of open space on land with existing planning permission

With the requirements of para 216 in mind, at this stage only limited weight can be attributed to the Leominster Area Neighbourhood Plan.

2.4 The Herefordshire Local Plan Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

3.1 None identified

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water – No objection subject to the imposition of a condition requiring details of foul, surface and land water drainage to be submitted prior to the commencement of development. The response also confirms that no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges associated with the site and that there are no objections in terms of the adequacy of water supply.

Internal Council Consultations

4.2 Transportation Manager – Comments as follows:

Traffic Generation

The applicant has stated in section 5.2 of their transport assessment that 4.5 vehicle trips per house will be generated by this development. Vehicle trip generations during the morning and evening peak times are 5 and 9 vehicles respectively. In addition, this development generates some service vehicles trip as well. Approximately 200 person trips per day will be generated by the development.

Highway Capacity

Highway capacity is not an issue for this application. However, the applicant should demonstrate that the 'give way' junction of Green Lane with Radnor View will not be affected by during the morning and evening peak times.

Accessibility by Other Modes of Transport

There are bus services 400 m from the application site. The frequency of the bus services is low and there are no services on Sunday and very low services on Saturday as well. Therefore, the public transport accessibility level is low. The railway station provides frequent service to long distance travel such as Manchester, Picadilly and Carmarthen.

The applicant has proposed similar widths of foot path to the adjacent housing development. The proposed footpath should be continued right throughout the development. There are public rights of way around the development. Therefore, these public rights of way should be linked to the proposed foot ways of the development.

There is a lack of cycle infrastructure near the development. Therefore, the applicant should contribute to improve this.

The applicant has used the existing access from Mappenors Lane. The carriageway and footpath width are similar to the existing access road and it narrows down to 4.5 m within the proposed development. The applicant has stated in the transport assessment that they are proposed to provide 5.5 m wide carriage way - this is acceptable.

Road Safety

Only one accident was reported within the vicinity of the application site over the last five years. This accident was a slight accident. There were no major road safety implications for this application site.

Vehicle visibility splays are good. There are substandard pedestrian visibility splays for the proposed access as there are trees adjacent to proposed access. Pedestrian visibility of 2m x 2m should be provided. Pedestrian and driver can see each other.

Design

The applicant has proposed a 5.5 metre wide carriageway and 2 metre wide footway which is acceptable. The applicant should provide a drawing showing swept path envelopes for refuse vehicle and a fire engine right throughout the development. The applicant has proposed continuous crossover access to parking spaces which is not acceptable from pedestrian safety point of view.

Vehicle Parking Provision

Parking standard specifies less than one parking space per one bedroom flat, 2 car parking spaces for two bed room and three bed room units. The applicant has proposed 47 car parking spaces. Without classification of the housing units, it is difficult to ascertain the required parking spaces for the development. The applicant should provide only a maximum number of parking spaces. Transport has some concerns about the proposed five car parking spaces on the proposed street. These concerns are no footway, difficult to maintain and residents from outside the development could be able to park.

There is a haphazard parking on Mappenors Lane which leads to the proposed development. Residents have complained that there are instances refuse vehicle couldn't reach their properties. Therefore, some waiting restrictions are required on Mappenors Lane to access emergency service vehicles and refuse vehicle. .

The applicant should carry out a parking survey on the adjacent housing estate and make sure that there is no displaced parking onto this development.

Cycle Parking Provision

Herefordshire Highways Design Guide for New Developments 2006 specifies a minimum one long stay cycle space is required per bed room and a short stay cycle parking space is required for each unit, therefore the required short stay cycle bays are 21. The required long stay parking depend on the number bedrooms, which will be proposed for each proposed house.

In a further response following the submission of further information, the following additional comments have been received:

- Curtins have stated that a number of the issues raised by my predecessor should be considered at the reserved matters stage. I agree with this.
- I second the initial evaluation that the "highway capacity is not an issue for this application" and as such support the submitted access to the site in principal.

- Section 106 agreement contributions to be linked to the junction improvement /updating of the junction at Ginhall Lane and Green Lane and associated Cycle Path facility/public right of way surfacing in line with the Rights of Way officer's request.
- Reserved matter stage must include that, should planning permission be granted and the development be taken forward, that a condition will need to be made to evaluate the present condition of Mappenors Lane and the impact of the construction traffic will have on the condition/deterioration of the road and footpaths
- As discussed, Clarity on the drainage proposals for the development will be needed. Welsh water do not currently permit discharge of new developments surface water to their network, but the Outline planning app states it will discharge to Welsh Water.

4.3 Conservation Manager

Landscape - I have visited the site and have read the submitted Evaluation of Landscape and Visual Character (dated April 2016). I am satisfied that the site is well contained visually by an extensive landscape buffer extending along the western and northern boundary. The proposal will not extend northwards beyond the existing dwellings and any views of the development will be seen in the context of what is already in existence.

I note that a number of PROW circumnavigate the site which are addressed within the indicative conceptual landscape strategy plan within the report and it is recommended when the landscaping is addressed at the reserved matters stage this is adhered to.

Detailing of the trees and vegetation to be preserved indicating RPAs and appropriate methods of protection should be provided in conjunction with a landscape plan and management strategy at the reserved matters stage.

Ecology - Having read the ecological report I am happy that subject to appropriate surface water management to avoid pollution of the Kenwater (and hence downstream the River Lugg SSSI/SAC) then with appropriate mitigation and the opportunities for the enhancement of bat roosting, bird nesting and hedgehogs within the new build the development is unlikely to have a negative impact on the local Biodiversity. The important features of the sites are the boundary features/hedgerows as these are key elements in the local network of green corridors used by wildlife and these should be subject to a detailed assessment when preparing the detailed landscaping plan and where being retained should have appropriate protection in place during the build

- 4.4 Public Rights of Way Manager - The design and access statement states that rights of way will be unaffected by the development, however, public footpath ZC5 has not been marked on plans. This footpath would be affected by the new hedge. PROW object until this can be resolved.
- 4.5 Environmental Health & Trading Standards Manager - According to our records, a portion of the proposed development site seems to fall within 250 metres of Leominster closed landfill site which will require consideration by the applicant. As such I would recommend the imposition of conditions should planning permission be granted, in order to consider this risk.
- 4.6 Education - The educational facilities provided for this development site are Leominster Primary School and Earl Mortimer High School.

Leominster Primary School has a planned admission number of 90. As at the schools Spring census 2016 all year groups have spare capacity and therefore no contribution is requested.

Earl Mortimer Secondary School has a planned admission number of 140. As at the schools Spring census 2016 all year groups have spare capacity and therefore no contribution is requested.

- 4.7 Housing Manager - Supports the application. I can confirm that there is a need for affordable housing in the market town of Leominster. The developer is proposing to provide 5 units which meets the requirements of the Core Strategy.

The proposed two and three bed units would be acceptable, however, I would be looking for 2 x 2 bed houses, 2 x 3 bed houses and 1 x 3 unit to be built to wheelchair standard to meet the needs of people requiring a wheelchair adapted property.

With regards to the market housing, the greatest need in Leominster is for 3 bed houses, then 2 bed houses and finally 4 bed houses. When submitting the reserved matters in order to provide a mixed community that would meet the needs of Leominster the above mix would be desirable.

- 4.8 Parks & Countryside Manager – Comments as follows:

In accordance with Core Strategy OS1 and OS2, open space provision will be sought from all new residential development and considered on a site by site basis in accordance with all applicable set standards of quantity, quality and accessibility. Where on-site provision is not appropriate off-site contributions may be sought on an equally beneficial basis for the local community. In this instance there is no “on-site” provision and given the size of development and location, this is supported. A contribution towards off-site provision in lieu of on-site facilities will therefore be required.

An off-site contribution is therefore requested which could be used towards any of the three play areas at Oldfields, Sydonia and the Grange or on improving the Public Rights of Way to allow greater access to the wider countryside and Bridge Street sports park. Priorities would be identified at the time of receiving the contribution and in consultation with the local community and the Town Council.

Based on market housing only and in accordance with the SPD on Planning Obligations a contribution is asked for as follows:

- 2 bed: £965
- 3 bed: £1,640
- 4+bed: £2,219

Based on evidence from the Playing Pitch Assessment for the Leominster Area 2012, the Outdoor Sports Investment Plan provides up to date information (2016) on existing facilities and clubs and has been prepared by a partnership of Herefordshire Council, the relevant National Governing Bodies for Sport, (NGBs) Sport England (SE) and the County Sports Partnership (CSP). The investment plan is considered to be robust providing details of both quantity and quality projects (football, and hockey) for Leominster which are considered to be sustainable and deliverable and required in support of improving existing outdoors sports facilities to meet the needs of the future populations up to 2031. Contributions are calculated as follows for market housing only. (Contributions sought from new housing will only contribute approximately 75% of the total investment required for the projects):

- £350,000: Total Outdoor Sports Investment project costs (costs calculated using Sport England's Facility Kitbag)
- 2,300 new houses (Core Strategy Leominster housing requirements)
- £152: Cost per market house: (Total investment costs divided by the number of houses required over the Plan Period)

- Note: all project costs include development costs, contingency and maintenance costs x 15 years and are based on Sport England's Facility Costs Kitbag as of 2012 and associated maintenance costs

5. Representations

5.1 Leominster Town Council - Recommend refusal for the following reasons:

- The proposal would create unacceptable traffic hazards in Green Lane and Bargates;
- The proposal would exacerbate the poor air quality at the Bargates junction;
- The number of traffic movements would be too great for the current low level of highway infrastructure, especially on Green Lane and Bargates;
- The junction of Green Lane and Ginhall Lane is unsuitable for any additional traffic movements.

5.2 West Mercia Police - I note that this application does not make reference to crime reduction measures within the Design Access Statement. There is a clear opportunity within the development to achieve the Secured by Design award scheme and by doing so address the new Approved Document Q requirements.

The development appears to have good access control and natural surveillance already built into the design. The principles and standards of the award give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction which should enhance community safety for this development within its location in Leominster.

5.3 Leominster Civic Society - Object to this application. The land on which this development is proposed is an important part of the green corridor along Ginhall Lane. It provides a green space for walkers with two footpaths crossing it, one of which it would appear to be destroyed by the proposals despite it being an ancient route. It is also close to a site of special scientific interest which would be inevitably adversely affected.

Herefordshire Council have failed to address the issues of adverse air quality on the A44 at Bargates. The proposal will add to that problem.

There are still a number of brownfield sites for suitable housing. These should be developed before greenfield sites are considered.

5.4 Ninety eight letters of objection have been received from local residents. In summary the points raised are as follows:

Highway Impacts

- There would be an unacceptable increase in traffic on already congested roads; particularly Mappenors Lane, Green Lane and Pierrepoint Road.
- The increased levels of traffic will make it dangerous for children playing in the area.
- There will be an increased number of traffic movements along Green lane. It is already used as a 'rat run' and is not suitable for two lanes of traffic.
- Increased traffic movements on the local road network will be detrimental to pedestrian safety.
- In bad weather, Mappenors Lane is difficult to travel because of the incline.

Loss of Amenity Space/Field and Footpaths

- The proposal will result in the loss of public footpaths that cross the site.

- The scheme will result in the loss of an important green space. The field is used as an amenity area where people walk dogs and children play.
- Development would result in the loss of agricultural land.
- Social, health and wellbeing implications associated with the loss of an amenity area.
- The area has been identified as a green corridor and should be left as such.
- Loss of privacy for adjoining dwellings.

Landscape Impacts

- The scheme requires the loss of mature trees in order to provide access to the site.
- Development would have a huge visual impact and would result in the conspicuous loss of green space when the area is viewed from the northern approaches to Leominster.

Ecological Impacts

- The site is close to a SSSI and development will have an adverse effect upon it.
- Development will result in the loss of valuable habitats for wildlife.
- The loss of biodiversity conflicts with the principles of sustainable development
- Potential negative impact on water quality in the River Lugg which is already suffering high concentrations of nitrate pollution.

Sustainability

- The development would increase pressure on already overloaded services, particularly in relation to drainage and sewage.
- There are better sites available that are closer to local shops and other services such as the doctors surgery.
- There are not enough employment opportunities in the town.
- More suitable brownfield sites are available, particularly the site at Barons Cross, and should be used before development on a greenfield site is permitted.

Other Matters

- It is more logical to build new houses on the southern side of Leominster where employment sites are.
- The disruption caused during the construction phase will be detrimental to the amenity of local residents.
- Increased traffic will add to air pollution problems along Bargates.
- The scheme proposes too many dwellings on a small parcel of land.
- The scheme is an unnecessary development as there are already many unsold properties on the market in Leominster.
- Contradictory in respect of timescale for development shown in Herefordshire Council's SHLAA.
- The description of the site as 'infill' is misleading.
- If the application is approved it will undoubtedly bring about increased pressure for further development in the locality.

5.5 The consultation responses can be viewed on the Council's website by using the following link:-

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

Policy Context

6.1 Section 38 (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."

6.2 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to at section 2.1, are relevant to development of this nature. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

6.3 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed needs is a central Core Strategy theme. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *"where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."*

6.4 Equally it is clear that failure to maintain a robust NPPF compliant supply of housing land will render the housing supply policies of the Core Strategy out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completions fall below the trajectory set out in Core Strategy Appendix 4.

6.5 The matter of housing land supply has been the subject of particular scrutiny in a number of recent appeal inquiries and it has been consistently concluded that that the Council is not able to demonstrate a 5 year supply of housing land. Therefore, policies relevant to the supply of housing are, in accordance with paragraph 49 of the NPPF, out-of-date. However, this does not render such policies an irrelevance and they may still be afforded some weight. For the avoidance of doubt, Inspectors have determined that CS policies SS2 and SS3 are both relevant to the supply of housing. Although it has not been tested at appeal, Policy LO1 (Development in Leominster) is also relevant to the supply of housing. It sets out the requirement to deliver a minimum of 2,300 new homes in Leominster over the plan period. With a minimum of 1,500 of these to be provided by a strategic housing site, the remainder are envisaged to be provided by smaller sites within the existing built up area; either coming forward through the Leominster Neighbourhood Development Plan (the NDP), or sites that have been judged to have development potential through the Strategic Housing Land Availability Assessment (SHLAA).

6.6 Irrespective of the weight to be ascribed to the Core Strategy housing supply policies, it is useful to review the application in context. The site has been assessed for its suitability as a site for housing by the SHLAA. This identifies the site as greenfield and Grade 2 agricultural land. It is also considered to be suitable for development and available; the site having been promoted by the landowner. SHLAA also considers that development of the site is achievable. However, it places a 16-20 year timescale on development due to the considered high to medium sensitivity of the landscape and the highway implications for Green Lane resulting from intensification in its use by vehicular traffic.

- 6.7 This proposal would contribute to Leominster's growth. The site is immediately adjacent to the built environs of Leominster and has been assessed as being appropriate for development through the SHLAA. It would comply with the aims Policy LO1 and it is your officer's view that, notwithstanding the lack of a five year housing land supply, weight can continue to be attributed to the policy.
- 6.8 It is clear from the comments of the Council's Neighbourhood Planning Team Leader at paragraph 2.3 that; although the Leominster NDP had reached submission stage and consultation under Regulation 16 took place earlier in the year, there are concerns about its compliance with the Core Strategy and NPPF. At the time of writing, these concerns remain unresolved and it is therefore the view of your officers that it can be afforded very limited weight. Paragraph 184 of the NPPF is clear that neighbourhood plans must be in general conformity with strategic policies of a Local Plan if they are to progress.
- 6.9 In the absence of a five year housing land supply or a sufficiently advanced NDP, Policy LO1 of the Core Strategy advises that small non-strategic developments will be provided by sites which are identified in the SHLAA. The site meets this basic criterion and therefore it stands to be assessed in the context of paragraph 14 of the NPPF – that planning permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so when assessed against the policies of the NPPF when taken as a whole. The following paragraphs outline the potential impacts of granting planning permission and consider whether they outweigh the presumption in favour of sustainable development.

Highway Safety and Accessibility

- 6.10 Policy MT1 of the Core Strategy 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). The first criteria of Policy MT1 of the Core Strategy takes a similar approach, requiring that development can absorb traffic impacts without adversely affecting the safe and efficient flow of traffic on the network.
- 6.11 Access to the site is currently gained via a field gate onto Mappenors Lane. The application proposes to utilise this as the sole point of vehicular access and this is a matter to be determined at outline stage. The carriageway will measure 5.5 metres in width, which is compliant with Manual for Streets and the Council's Highway Design Guide. Mappenors Lane is a residential estate road and is subject to a 30mph speed limit. It connects with the surrounding road network via a priority T-junction with The Rugg, located some 150 metres south-west of the application site, and in turn with a priority T-junction with Green Lane.
- 6.12 The calculated trip generation of the proposed development indicates a defined peak in line with the traditional network peak times of 08:00–09:00 and 17:00–18:00. The Transport Statement supporting the application estimates that 12 weekday morning trips (3 inbound/9 outbound) would result from a development of up to 21 dwellings, with 14 weekday evening trips (9 inbound/5 outbound).
- 6.13 This equates to approximately one additional trip (arrival/ departure) every 5 minutes for the morning peak period and approximately one additional trip every 4 minutes in the evening peak period, on a weekday. The Council's Transportation Manager has assessed the impact of the

proposed development on the local highway network in this context and has concluded that there is sufficient capacity in the highway network to accommodate the proposed development.

- 6.14 Visibility at the junctions of Mappenors Lane/The Rugg, and The Rugg/Green Lane is considered to be acceptable. Whilst it is accepted that development will have some impact in terms of increased traffic movements, the cumulative impacts are not considered to be severe. The Transport Statement does demonstrate that traffic can be absorbed.
- 6.15 The plans indicate the provision of footways along either side of the extension of Mappenors Lane and will continue throughout the proposed development. As referred to earlier in this report, the site is served by a network of public rights of way. These offer the opportunity for good connectivity to nearby local services and amenities by non-car travel modes.
- 6.16 There are also opportunities to improve and encourage the local cycle network. An existing route along Green Lane/Ginhall Lane could be improved to foster links through to Buckfield Road and on to Morrisons Supermarket. The Council's Transportation Manager has identified this is a potential improvement to benefit from Section 106 contributions.
- 6.17 It is therefore concluded that the proposal is acceptable in terms of highway safety and accessibility. The supporting Transport Statement demonstrates that the impact of the development will not be severe, and that there are opportunities for improvements; particularly in terms of pedestrian and cycling connectivity, that would mitigate any impacts. The proposal is therefore considered to be compliant with policy MT1 of the Core Strategy and paragraph 32 of the NPPF.

Landscape and Ecological Impacts

- 6.18 The site is currently used as rough pasture and is set within a mature landscape with trees and hedgerows surrounding. It is at the fringe of Leominster's built form and its character is already influenced by the fact that it is bounded by residential development on three sides. It provides an attractive green space adjacent to dwellings but has no national or local designation either in terms of landscape or ecological significance.
- 6.19 The proposed development would have its most obvious impacts from the public footpaths that cross the site, and from those lying beyond to the north and west. The site is also visible from Bridge Street Leisure Centre. The landscape report that accompanies the application considers that the existing vegetation will filter views of the development. The report also considers that the introduction of infill planting will further ameliorate any visual impacts, particularly when the site is viewed from locations to the north. Notwithstanding this, the report also highlights the fact that the site is less sensitive due to the human influences over it – the fact that there is an assortment of domestic boundaries shared with the site.
- 6.20 No objections have been raised to the application by either the Council's Landscape Officer or Ecologist, subject to the imposition of conditions. Although in outline, the scheme offers the potential to include measures to mitigate the impacts of the development, including the retention of existing hedgerows and areas of new planting. The Landscape Officer has recommended the submission of further information in respect of Root Protection Areas (RPAs) around existing trees and this is a matter that can be dealt with through the imposition of an appropriately worded condition. Similarly the Council's Ecologist has recommended the imposition of conditions to ensure that development is carried out in accordance with the recommendations in the ecology report submitted with the application.
- 6.21 Development of any sort will inevitably have impacts both in terms of landscape and ecology. In both cases however it is considered that the impacts of the development can be mitigated. The site has no national or local designation in either regard and on this basis, the proposal is sustainable and considered to accord with policies LD1, LD2 and LD3 of the Core Strategy.

Impacts on Public Rights of Way and Loss of Amenity Space

- 6.22 Many of the objections received have referenced the public footpaths that cross the site. They also refer to it as an 'amenity space' that is used by dog walkers and by local children as a play space. It should be pointed out that, whilst this might be the case, the land is privately owned and is not a public amenity area.
- 6.23 The footpaths that cross the site offer the public a right of passage across the site and, should planning permission be granted, the definitive lines of the footpaths would be protected through discussion with a developer in respect of a detailed layout. This would include ensuring that none of the footpaths are obstructed either by built development or by additional planting that might be proposed along the northern boundary; a matter which has been raised by the Council's Public Rights of Way Officer who has objected on the basis that footpath ZC5 would be obstructed by proposed hedgerow planting. Landscaping is a matter reserved for future consideration and the details shown are purely indicative. The concerns raised by the PROW Officer are not justification for the application to be refused and can be dealt with at reserved matters stage.
- 6.24 It is therefore concluded that the proposal accords with Policy MT1(5) which seeks to ensure that existing local and long distance footways, cycleways and bridleways are protected.

Drainage

- 6.25 Some letters of objection have raised concerns about the impact of the development on existing infrastructure and local residents refer to recent events where heavy rainfall has caused the sewage system to overflow.
- 6.26 The application suggests that surface water created by the development would be drained to the mains sewer. This is contrary to the advice of Welsh Water who state that it should be dealt with separately. The reason for this is the evidence referred to by local residents that existing combined arrangements for foul and surface water drainage cause the system to become overloaded during periods of heavy rainfall.
- 6.27 By ensuring that surface water is dealt with through a sustainable urban drainage scheme this situation would not be exacerbated by the development and therefore is not considered to be justification for the refusal of the application. Notwithstanding the information contained on the application form, the imposition of conditions to advise that surface water should be dealt with separately and required detailed drainage arrangements to be submitted at a reserved matters stage is considered to address the concerns raised by local residents and reflects the advice given by Welsh Water. As the application is made in outline and is for up to 21 dwellings it can be reasonably concluded that SuDS can be accommodated within the site. The proposal is therefore considered to be compliant with Policy SD3 of the Core Strategy.

Loss of Agricultural Land/Use of Brownfield Sites

- 6.28 The application site is acknowledged to be Grade 2 agricultural land. The NPPF advises that, where the development of agricultural land is necessary, area of poorer quality should be used in preference to that of a higher quality.
- 6.29 Some objections consider that brownfield sites should be used in the first instance, with many referencing the site at Barons Cross Camp.
- 6.30 Whilst the site at Barons Cross does have the potential to deliver around 400 dwellings, there remains a considerable shortfall in terms of the growth intended for Leominster over the plan period. Your officers are not aware of other large brownfield sites and it should be noted that

the strategic housing site, which will deliver around 1,500 homes, is located on similar grade agricultural land. Many of the sites identified through SHLAA are also currently agricultural land and it is inevitable that a market town, with few brownfield sites, will rely on agricultural land to meet its housing growth targets.

Summary and Conclusions

- 6.31 Both Policy SS1 of the Core Strategy and paragraph 14 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that development should be approved where they accord with the development plan. The site is on the urban fringe of Leominster and has been identified by the SHLAA as one that is appropriate for development. Notwithstanding the concerns raised, there are not considered to be matters of such weight to warrant the refusal of the application.
- 6.32 In assessing the three indivisible dimensions of sustainable development as set out in the Core Strategy and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. 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 and social roles. Likewise S106 contributions as outlined in the draft heads of terms agreement appended to this report should also be regarded as a material consideration when making any decision.
- 6.33 The development will have some impacts in environmental terms as a field will be lost to development. The nature of the public footpaths that cross the site will also be changed and they would run through a residential area rather than an area of open countryside as they presently do. There will also be some impacts in terms of biodiversity through the loss of existing vegetation and habitats. Whilst these impacts can be mitigated through new planting and landscaping schemes they are not necessarily environmental benefits. However, the area is not afforded any national or local designation and your officers do not consider these impacts to outweigh the presumption in favour of sustainable development.
- 6.34 To conclude, the proposed development is considered to represent a sustainable development for which there is a presumption in favour of and, as such, the application is recommended for approval subject to conditions and the completion of the Section 106 agreement in accordance with the heads of terms attached to this report.

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 and as appended, 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 by officers

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - a. Wheel cleaning apparatus which shall be operated and maintained during**

- construction of the development hereby approved.**
- b. Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
- c. A noise management plan including a scheme for the monitoring of construction noise.**
- d. Details of working hours and hours for deliveries**
- e. A scheme for the control of dust arising from building and site works**
- f. A scheme for the management of all waste arising from the site**
- g. A travel plan for employees.**

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. CAE - H06 – Vehicular access construction

- 6. Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.**

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7. Prior to the first occupation of any of the dwellings hereby approved a Travel Plan which contains measures and targets to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the Local Planning Authority upon reasonable request.**

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8. In this condition ‘retained tree/hedgerow’ means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.**

No development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to retained trees/hedgerows. Measures to protect

retained trees/hedgerows must include:

a) Root Protection Areas for each retained tree/hedgerow must be defined in accordance with BS3998:2010 – Tree Work - Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.

b) Temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each retained tree/hedgerow. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each retained tree/hedgerow.

c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any retained tree/hedgerow without the prior written consent of the Local Planning Authority.

d) No burning of any materials shall take place within 10 metres of the furthest extent of any retained hedgerow or the crown spread of any retained tree.

e) There shall be no alteration of soil levels within the Root Protection Areas of any retained tree/hedgerow.

Reason: To safeguard the amenity of the area and to ensure that the development conforms to Policies SD1, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

9. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

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

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

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

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

10. The Remediation Scheme, as approved pursuant to condition no. 9 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.

- 11. 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.

- 12. No development shall commence until a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwellings approved and a datum point outside of the site, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 13. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the national Planning Policy Framework.

- 14. The work and construction methodologies and recommendations as set out in section 6 of the ecological report (Star Ecology 17th May 2016) should be followed in relation to the identified species unless otherwise agreed in writing by the local planning authority.**

Reason: The proper consideration of potential impacts on protected species and biodiversity assets is a necessary initial requirement before any demolition and/or groundworks are undertaken in order to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 15. No development shall commence on site until, based on the mitigation recommendations in the ecology report (Star Ecology 17th May 2016) with details of**

enhancements for bat roosting, bird nesting and hedgehog homes, a detailed habitat & biodiversity enhancement scheme, including type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan, landscape & planting proposal and an associated 5 year maintenance and replacement plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. The landscaping/enhancement scheme should take in to account Chalara Ash Dieback Disease that is now endemic to the UK and widespread across Herefordshire. With a 95-98% ash mortality consideration should be given as to the management of existing ash trees on site and ensure appropriate additional mitigation planting of future standard hedgerow trees of alternative species (eg Oak, Small-leaved Lime and Hornbeam) is included in the scheme submitted for approval. With a much better take up by wildlife the enhancement scheme should also see the inclusion of bat roosting opportunities within the houses (see Bat Conservation Trust website for details of appropriate ‘bat bricks’ raised ridge tiles and bat boxes) and the use of woodcrete bird nesting boxes including sparrow terraces. The lighting plan is needed so as to ensure bats and other nocturnal animals and the wider landscape are not impacted by any additional lighting and support the objectives of the ‘dark skies initiative’.
4. A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.
5. I 09 Private apparatus within the highway
6. I 11 Mud on the highway
7. I 35 Highways Design Guide
8. I 41 Travel Plans
9. I 45 Works within the highway

10. It is possible that unforeseen contamination may be present on the site as a result of its former agricultural/orchard use. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should there be any concern about the land.

11. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com.

12. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

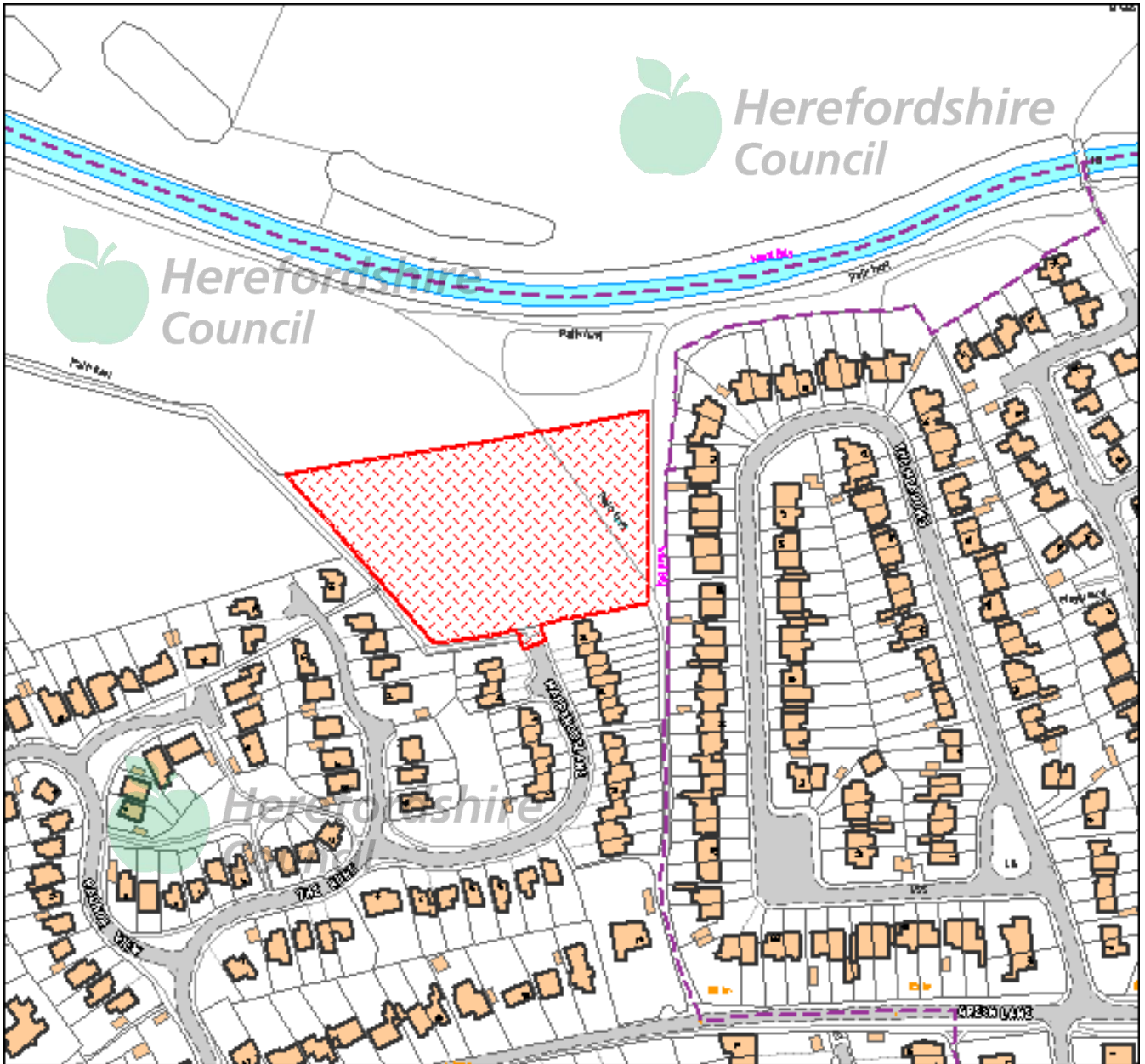
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 161486

SITE ADDRESS : LAND AT PINFARTHINGS, OFF NORTH MAPPENORS LANE, LEOMINSTER, HEREFORDSHIRE

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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 – P161486/O

Site address:

Land at Pinfarthings, off North Mappenors Lane, Leominster, Herefordshire

Planning application for:

Outline application for residential development of up to 21 dwellings with means of access.

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 open market units only except for item 2 which applies to all new dwellings.

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

£ 1,720.00 (index linked) for a 2 bedroom open market unit

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

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

to provide sustainable transport infrastructure to serve the development. The 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, in consultation with the Parish Council, at its option for any or all of the following purposes:

- a) Junction improvement/updating of the junction at Ginhall Lane and Green Lane and associated cycle path facility at the junction

NOTE: A Sec278 agreement may also be required depending on the advice of the local Highways Authority

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80.00 (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 the commencement of the development

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

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

- £ 965.00 (index linked) for a 2 bedroom open market dwelling
- £ 1,640.00 (index linked) for a 3 bedroom open market dwelling
- £ 2,219.00 (index linked) for a 4 bedroom open market dwelling

The contributions will be used for off site play at Oldfields, Sydonia and The Grange or on improving the Council's Public Rights of Way to allow greater access to the wider countryside and Bridge Street Sports Park. The priority for expenditure will be decided at the time of receiving the contribution and in consultation with the local parish council.

The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £152.00 (index linked) per open market dwelling towards off-site sports facilities. The contributions will be used for off site football and hockey provision at Bridge Street Sports Park or football provision at Earl Mortimer Cottage. The priority for expenditure will be decided at the time of receiving the contribution and in consultation with the local parish council.

The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

6. The developer covenants with Herefordshire Council that 25% (5) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

NOTE: the mix of tenure and unit size of the affordable units shall be agreed with Herefordshire Council:

NOTE: For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.

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 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

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

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, 4 and 5 above, for the purposes specified in the agreement within 10 years of the date of payment, 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, 4 and 5 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.

Yvonne Coleman
Planning Obligations Manager