

**10 DCNC2006/1129/F - ERECTION OF SHOPS AND DWELLINGS WITH ASSOCIATED DEMOLITION AND SITE WORKS AT 40-42 WEST STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8ES**

**For: Mr M Thomas, Landmark, 8 Talbot Square, Cleobury Mortimer, Herefordshire, DY14 8BQ**

**Date Received:**

**10th April 2006**

**Expiry Date:**

**5th June 2006**

**Ward:**

**Leominster South**

**Grid Ref:**

**49498, 59035**

Local Members: Councillor RBA Burke, Councillor JP Thomas

**1. Site Description and Proposal**

- 1.1 The application site covers an area of approximately 0.1225 ha (1225 m<sup>2</sup>), and is located to the rear of 40/42 West Street (currently occupied by the 'Powerhouse' retail shop). The site is located within the Conservation Area.
- 1.2 Presently on site is a flat roof office block of steel and brick external construction. The floor space of which is mostly unoccupied with the exception of the dental practice. This particular structure is considered unattractive, as is the rest of the application site in relationship to the surrounding Conservation Area.
- 1.3 The site is adjoined by other 'backland development' chiefly comprising residential and office accommodation. To the south of the site from which public highway access is obtained in West Street, this street is primary in retail use, forming part of the town's central shopping and commercial area. To the east of the application site is a public car park.
- 1.4 The application is for re-development of the site comprising of 10 two-storey dwellings, and 2 retail shops, with a residential flat above. It is proposed to arrange the development in two terrace blocks, one facing east alongside the eastern boundary of the application site consisting of 7 residential two-storey units, 2 retail shops and a flat above. The other terrace is located within the north western section of the site, facing south, and consisting of three residential two-storey units of similar individual design to the two-storey dwelling units in the main terrace.
- 1.5 The internal layout of the two-storey residential units consists of a lounge, kitchen and W.C. on the ground floor and two bedrooms and a bathroom on the first floor. The proposed flat above the two retail units is also of similar proportions.
- 1.6 It is proposed to landscape the remainder of the site, providing a parking space for delivery vehicles to the proposed retail shops and the existing retail unit adjacent to the southern side of the application site which is adjacent to West Street, and also in the applicants ownership. Vehicle access is also proposed alongside the western boundary of the application site towards the terrace positioned in the north western

section of the site in front of which on the western boundary will be a re-positioned sub-station to which vehicle access is required.

- 1.7 The application is subject to a Section 106 Agreement under the Town and Country Planning Act 1990 for financial contribution towards public highway improvements, open space provision, local school improvements and compensation for the loss of four car parking spaces alongside the eastern boundary of the application site, alongside which it is proposed to have pedestrian access to the residential and retail units, (off an access road to the public car park from West Street direction). A Draft Heads of Terms proposal is attached to this report.
- 1.8 The scheme under relevant local policies does not require provision of affordable residential units, as the amount proposed is under the threshold for affordable house provision. However, the scheme proposes residential units of 'affordable type'. The two-storey dwellings having an externally measured floorspace of approximately 68 square metres.

## **2. Policies**

### **2.1 Central Government Guidance**

Planning Policy Statement 1 – Delivering Sustainable Development  
Planning Policy Guidance 3 – Housing  
Planning Policy Guidance 13 – Transport  
Planning Policy Guidance 15 – Planning and Historic Environment

### **2.2 Leominster District Local Plan**

Policy A1 – Managing the District's Assets and Resources  
Policy A2 – Settlement Hierarchy  
Policy A18 – Listed Building and their Setting  
Policy A21 – Development within Conservation Areas  
Policy A23 – Creating Identity and an Attractive Built Environment  
Policy A24 – Scale and Character of Development  
Policy A32 – Development within Town Centre Shopping and Commercial Areas  
Policy A52 – Primarily Residential Areas  
Policy A70 – Accommodating Traffic from Development  
Policy A72 – Parking within or adjacent to Central Shopping and Commercial Areas  
Policy A73 – Parking Standards and Conservation

### **2.3 Herefordshire Unitary Development Plan – Revised Deposit Draft**

Policy S1 – Sustainable Development  
Policy S2 – Development Requirements  
Policy S3 – Housing  
Policy S4 - Employment  
Policy S5 – Town Centres and Retail  
Policy S6 – Transport  
DR1 - Design  
DR2 – Land Use and Activity  
DR3 – Movement  
DR4 – Environment  
H13 – Sustainable Residential Design  
H14 – Re-using previously Developed Land and Buildings

H15 - Density  
H16 – Car Parking  
H19 – Open Space Requirements  
TCR1 – Central Shopping and Commercial Areas  
TCR2 – Vitality and Viability  
HBA6 – New Development within Conservation Areas  
ARCH1 – Archaeological Assessment and Field Evaluations  
ARCH6 – Recording of Archaeological Remains  
RST3 – Standards for Outdoor Playing and Public Open Space  
CF2 – Foul Drainage

### **3. Planning History**

- 3.1 NC05/3390/F - Proposed erection of shops and dwellings with associated demolition and site works - Withdrawn 2nd December 2005.
- 3.2 NC05/3386/L - Demolition of buildings at 40/42 West Street - Withdrawn 2nd December 2006.
- 3.3 NC06/1125/F - Proposed alterations to facade of existing building - Approved subject to conditions - 2nd June 2006.
- 3.4 NC06/1130/C - Demolition of buildings - Approved subject to conditions - 2nd June 2006.

### **4. Consultation Summary**

#### Statutory Consultations

- 4.1 Welsh Water object to the proposal unless appropriate conditions can be attached to any approval notice issued with regards to occupation of the site, and surface water and foul water discharge from the site.

#### Internal Council Advice

- 4.2 The Transportation Manager raises no objections subject to agreement to a Section 106 Agreement for financial contribution totalling 16,500 towards local sustainable transport measures and conditions attached to any subsequent approval notice issued regarding cycle parking.
- 4.3 The Parking Manager raises concerns about land ownership issues.
- 4.4 The Conservation Manager has no objection to the proposal and considers this proposal a welcome opportunity to enhance an important site in the Conservation Area.
- 4.5 Education request a contribution towards local education needs.
- 4.6 Forward Planning Manager states that the principle of a mixed-use development on this site could be supported, and that developing the site would improve the surrounding streetscape.
- 4.7 Property Services Manager raises concern about land ownership issues.

- 4.8 The Archaeological Manager requires an archaeological evaluation to be conducted on site prior to any development.
- 4.9 The Parks and Countryside Manager raises no objections in consideration of the location of the proposed development. However, a financial contribution of £500 per dwelling would be required towards improvements at the nearby Sydonia Open Space.

## 5. Representations

- 5.1 Leominster Town Council state in their response that the Council is minded to recommend approval to the application. However concerns are raised about the living accommodation in that the proposed lounges face the car park access road.
- 5.2 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officers Appraisal

- 6.1 The key issues for consideration for this application are:-
- Principle of the development
  - Land ownership
  - Section 106 Agreement
  - Surface and foul water disposal
  - Archaeological survey

### Principle of the development

- 6.2 The site for the proposed development is within the Central Shopping and Commercial Area and Conservation Area in accordance with policies in the Leominster District Local Plan and Herefordshire Unitary Development Plan – Revised Deposit Draft.
- 6.3 The aim of these policies is to maintain and enhance the attractiveness, vitality and viability of the town centre and encourage a mix of use including residential.
- 6.4 The proposal subject to this application is for demolition of existing structures on site which are mainly redundant office space and development consisting of two retail units and 11 residential units.
- 6.5 The site is presently an unattractive brown field site in a prominent position near the heart of the town overlooking a car park within the Conservation Area.
- 6.6 The Conservation Manager welcomes the proposal in that it will enhance this part of the town.
- 6.7 Leominster Town Council raises no objections. However, does raise concerns about orientation of the living accommodation. The living accommodation is positioned as such because of the design of the houses which represent two-storey 'Town Houses' of a high quality high density design on site with constraints and therefore Officers are of the opinion that this proposal represents the most appropriate in the circumstances. It is noted that no objections have been received from members of the public to this application.

- 6.8 The proposal complies with National Planning Guidance, in that it proposes residential accommodation within the town's centre, and the site is not located within the main shopping area, but on an important site leading to a car park that serves the town centre. Existing office accommodation on site is of poor quality and only contains a dentist, to whom the proposal subject to this application will not affect, as the business proposes to re-locate within the town.

#### Land Ownership

- 6.9 The Council's Property Services Manager has raised concerns about the proposed development encroaching onto land in the ownership of the Council.
- 6.10 The application proposes slight encroachment onto Council owned land in front of two of the proposed dwellings, alongside the eastern elevation of the site as well as pedestrian access to the proposed properties frontages alongside the eastern elevation of the site and a pedestrian access route to the rear of the development into the car park itself. The proposal would also result in the loss of 4 car parking spaces alongside the eastern elevation of the site which adjoins a public car park.
- 6.11 The applicants have served notice on the Council as landowner of their intentions in respect of the proposal. The loss of car parking spaces has been addressed through financial compensation via a Section 106 Agreement, to which the Property Services Manager and the Parking Manager raise no objections. The issue with regards land ownership is not a direct planning issue with regards planning determination of this application, but an issue that would need resolving post planning determination with the Council as land owner. Members need to be aware and take into consideration the applicants agreement to pay £20,000 via a Section 106 Agreement compensation for loss of car parking spaces to which both the Property Services Manager and the Parking Manager consider acceptable.

#### Section 106 Agreement

- 6.12 The Section 106 Agreement will facilitate the financial contributions required for education, play/park space, public highway improvements and loss of car parking spaces. A Draft Heads of Terms is attached to this report which provides an outline of the requirements of the Section 106 Agreement.

#### Surface and foul water disposal

- 6.13 Welsh Water initially objected to the proposed development unless appropriate conditions could be attached to any approval notice issued to prevent occupation prior to the completion of essential works and foul water and surface water being drained separately from the site.
- 6.14 Conditions can be attached to any approval notice, if Members are mindful to approve, ensuring separate drainage and run-off etc. It is noted Welsh Water did not raise any objections in respect of the proposed Herefordshire Unitary Development Plan, with regards to this issue in Leominster. The applicants and Welsh Water have been in discussion with regards resolving the issue and it is considered appropriate conditions will address this issue.

Archaeological Survey

- 6.15 The proposed development site is located within the heart of historic Leominster and although this is a brownfield site, where significant development has previously taken place, there is the possibility that the proposal may result in disturbance of below ground archaeological deposits and features. Officers are of the opinion that this issue must be shown consideration and therefore consider it essential that conditions are attached to any approval notice subsequently issued in order to protect any possible archaeological remains. The Council's Archaeological Manager has confirmed that this is acceptable.

Conclusion

- 6.16 The proposal represents a significant opportunity to improve the visual impact of this area of Leominster that is located within close proximity to the heart of Leominster within its Conservation Area. The proposal is in-line with National Government Guidance and local policies. No objections have been received from members of the public and the Council's Conservation Manager approves of the application stating it is a welcome opportunity to enhance an important site in the Conservation Area. The applicant has indicated agreement to the Draft Heads of Terms that will form the basis of a Section 106 Agreement.

**RECOMMENDATION**

**That planning permission be granted subject to:**

- 1. The Legal Practice Manager be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 to (set out heads of agreement) and any additional matters and terms as he considers appropriate.**
- 2. Upon completion of the afore mentioned planning obligation that the Officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions:-**

- 1 - A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

- 2 - A07 (Development in accordance with approved plans )**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.**

- 3 - B01 (Samples of external materials )**

**Reason: To ensure that the materials harmonise with the surroundings.**

- 4 - F16 (Restriction of hours during construction )**

**Reason: To protect the amenity of local residents.**

- 5 - No materials or substances shall be incinerated within the application site during the construction phase.

Reason: To protect the residential amenities of the neighbouring properties.

- 6 - Prior to the construction of any re-development on site details will be submitted to and approved in writing of additional noise insulation to the bedrooms of units 1, 2 and 3.

Reason: In order to protect the amenity of residents of these dwellings within close proximity to a licensed premises/pool hall.

- 7 - Prior to development on site details will be submitted and approved in writing of the shops front design and the glazed units as indicated on the approved plans.

Reason: In the interests of the amenity of the surrounding Conservation Area.

- 8 - Prior to development on site details will be submitted and approved in writing of treatment of the boundary walls.

Reason: In the interests of the amenity of the surrounding area.

- 9 - No meter boxes will be sited on public facing elevations.

Reason: In the interests of the amenity of the surrounding Conservation Area.

- 10 - C04 (Details of window sections, eaves, verges and barge boards )

Reason: To safeguard the character and appearance of the surrounding Conservation Area.

- 11 - C05 (Details of external joinery finishes )

Reason: To safeguard the character and appearance of the surrounding Conservation Area.

- 12 - C10 (Details of rooflights )

Reason: To ensure the rooflights do not break the plane of the roof slope in the interests of safeguarding the character and appearance of the surrounding Conservation Area.

- 13 - C11 (Specification of guttering and downpipes )

Reason: To safeguard the character and appearance of the surrounding Conservation Area.

- 14 - H21 (Wheel washing )

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety.

**15 - H29 (Secure cycle parking provision )**

**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.

**16 - E16 (Removal of permitted development rights )**

**Reason:** To protect the character of the area and ensure any further development of the site is controlled by the local planning authority.

**17 - Foul water and surface water discharges must be drained separately from the site.**

**Reason:** To protect the integrity of the public sewerage system.

**18 - No surface water shall be allowed to connect (either directly or indirectly) to 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 detriment to the environment.

**19 - No land drainage run-off will be permitted either directly or indirectly to discharge into the public sewerage system.**

**Reason:** To prevent hydraulic overload of the public sewerage system and pollution of the environment.

**20 - G04 (Landscaping scheme (general) )**

**Reason:** In order to protect the visual amenities of the area.

**21 - G05 (Implementation of landscaping scheme (general) )**

**Reason:** In order to protect the visual amenities of the area.

**22 - D01 (Site investigation - archaeology )**

**Reason:** To ensure the archaeological interest of the site is recorded.

**23 - D04 (Submission of foundation design )**

**Reason:** The development affects a site on which archaeologically significant remains survive. A design solution is sought to minimise archaeological disturbance through a sympathetic foundation design.

**24 - Prior to any development on site details will be submitted and approved in writing of any street furniture and means of artificial lighting within the application site and alongside the eastern side of the application site.**

**Reason:** In the interests of the amenity of the surrounding Conservation Area.



**Notes**

If a connection is required to the public sewerage system, the development is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on Tel No: 01443 331155.

**Informatives:**

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - HN01 - Mud on highway
- 3 - HN04 - Private apparatus within highway
- 4 - HN05 - Works within the highway
- 5 - HN22 - Works adjoining highway

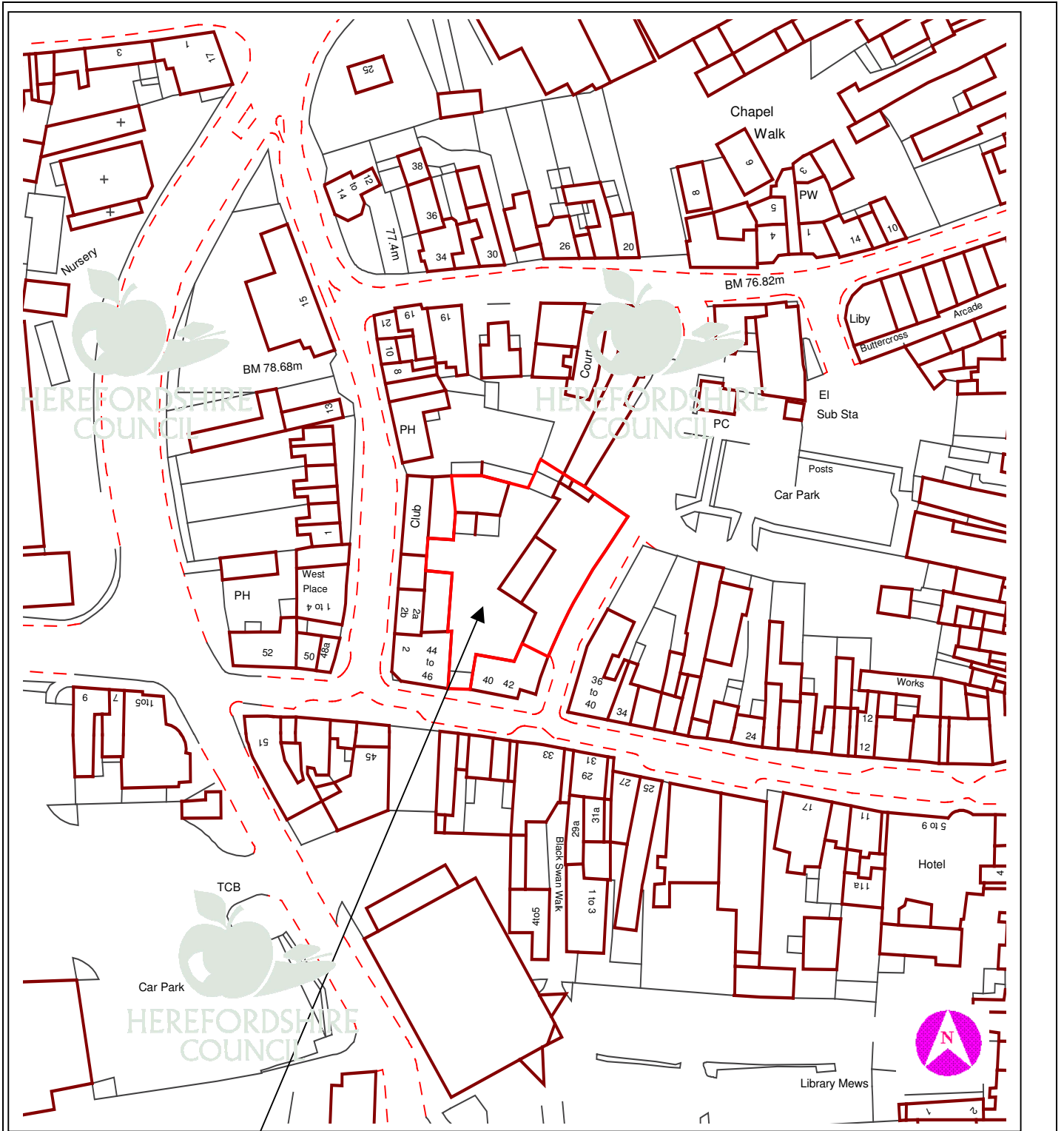
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNC2006/1129/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** 40-42 West Street, Leominster, Herefordshire, HR6 8ES

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DRAFT HEADS OF TERMS  
Proposed Planning Obligation Agreement  
Section 106 Town and Country Planning Act 1990

Planning Application – DCNC06/1129/F  
Erection of shops and dwellings with associated demolition and site works  
At 40/42 West Street, Leominster, Herefordshire

1. The developer covenants with Herefordshire Council, in lieu of the provision of open space on the land to serve the development to pay Herefordshire Council the sum of £5,500 which sum shall be paid on or before the commencement of development.
  2. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
    - (i) Infrastructure improvements in relationship to Sydonia Open Space and access paths to the play area.
  3. In the event that Herefordshire Council does not for any reason use the said sum, 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.
  4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £5,500 to provide education improvements to Leominster Infants School and Leominster Junior School which sum shall be paid on or before the commencement of development.
  5. In the event that Herefordshire Council does not for any reason use the said sum of Clause 4 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.
  6. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £16,500 to provide sustainable transport measures in Leominster. The sum shall be paid on or before the commencement of development.
  7. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
    - a) Pedestrian improvements in Burgess Street, Broad Street.
    - b) Town Centre pedestrian improvements and/or signing.
    - c) Town centre cycle parking provision.
    - d) Contribution to safe routes to schools.
    - e) Contribution to National Cycle Network, (Sustrans) provision and signing.
  8. In the event that Herefordshire Council does not for any reason use the said sum of Clause 6 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.
  9. The Developer shall pay to Herefordshire Council the sum of £20,000 as compensation for the loss of income for the car parking spaces, which will be lost in order to accommodate the proposal. The sum shall be paid prior to commencement of development on site.
  10. The sums referred to in paragraphs 1, 4, 6 and 9 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.
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- 11 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.
- 12 The developer shall complete the Agreement by 1<sup>st</sup> November 2006 otherwise the application will be registered as deemed refused

P. Mullineux, P. J. Yates 31<sup>st</sup> July 2006

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