

**11 CW2002/3441/F - DEMOLITION OF EXISTING BUILDINGS AND DEVELOPMENT OF MIXED-USE SCHEME COMPRISING ASDA FOOD STORE, COMMUNITY USES, RESIDENTIAL DEVELOPMENT, REPLACEMENT BOWLING GREEN/CLUB HOUSE, RETAINED TRAMWAY AND FLOOD DEFENCE WALL, PARKING, SERVICING, LANDSCAPING, NEW ACCESSES AND OTHER HIGHWAYS INFRASTRUCTURE IMPROVEMENTS AT LAND TO THE WEST OF THE A49(T) AND NORTH OF BELMONT AVENUE, BELMONT, HEREFORD**

**For: Asda Stores/Eign Enterprises Ltd. per RPS Group Plc, 3rd Floor, Park House, Greyfriars Road, Cardiff, CF10 3AF**

**Date Received: 29th November, 2002    Ward: St. Martins &    Grid Ref: 50612, 39257  
Hinton**

**Expiry Date: 21st March, 2003**

Local Members: Councillors Mrs. W.U. Attfield, A.C.R. Chappell and R. Preece

### **UPDATED REPORT**

Members will recall that this planning application was considered at its meeting on 1st December, 2003 where it was resolved that

“It was the decision of the Members of the Central Area Planning Sub-Committee that they were minded to grant planning permission for the proposal on the grounds that there were significant local benefits in the form of new investment in jobs, urban regeneration of the conservation area, improvements to the local road infrastructure and provision of community facilities. Members considered that these benefits outweighed the policy concerns outlined in the report. In addition, Members placed considerable weight on the financial contribution being offered by the developer to the Environment Agency towards the cost of the Hereford Flood Alleviation Scheme.”

Subsequently the planning application was referred to the Government Office for the West Midlands (GOWM) for consideration of the ‘call-in’ procedure. On the 25th May 2004 the GOWM informed the Council that the Secretary of State was satisfied that the issues raised did not relate to matters of more than local importance and that the planning application should be decided by Herefordshire Council.

In considering this decision the Secretary of State had regard to:

- i) sustainable development as set out in Planning Policy Guidance Note 1 (Revised): general Policy and Principles;

- ii) sustainable and enhancement of the vitality and viability of existing centres; as set out in Planning Policy Guidance Note 6 Town Centres and Retail Developments;
- iii) inappropriate development on undeveloped and undefended (functional) flood plains as set out in Planning Policy Guidance Note 25: Development and Flood Risk.

Since this resolution Officers have been preparing the detailed Section 106 Agreement and draft Decision Notice. In accordance with Paragraph 65 of PPG25 (Development and Flood Risk) the Environment Agency have been further advised of the Council's decision to grant planning permission. They have been furnished with the proposed Section 106 Agreement and the draft planning conditions. The Environment Agency response has necessitated this report. They have raised the following issues:-

### **Section 106 Agreement**

The developers have offered a £2 million contribution towards the Hereford Flood Alleviation Scheme (HFAS) and it is proposed that the contribution is available for a five year period. The Environment Agency consider that this period is too short as there is no guarantee that the scheme would be progressed within that timescale. Members will be aware that the developer's contribution to the HFAS formed a material consideration when they resolved to support the application. Members may consider that the five year period is warranted to drive through the delivery of the scheme.

### **Draft Conditions**

The Environment Agency have raised concerns regarding the following conditions.

#### **Condition 30**

**“The development hereby approved shall not be occupied until a full detailed specification of the on site flood protection scheme has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first use of the retail store hereby approved.”**

The Environment Agency do not want the development commenced until a full specification, including timetable of the on-site flood protection scheme, including defence structure, flood storage, flood proofing and wider site construction programme has been submitted to and approved by the Local Planning Authority in consultation with the Environment Agency. Your Officers have recommended that the submission and consideration of the above details including their installation is undertaken before occupation of the buildings and that the approved scheme is completed prior to the first use of the retail store. This is considered reasonable, it allows the development of the site and Flood Defence Scheme but restricts occupation until the on site works are completed.

#### **Condition 32**

**“The retail unit hereby approved shall not be brought into use until the crèche, community and health centre, and residential block have been constructed on site in accordance with an agreed construction timetable. The occupation of the crèche, community centre, health centre and residential elements hereby approved shall be in**

**accordance with the timetable to be submitted to and approved in writing by the local planning authority.”**

The Environment Agency are not willing to agree to the occupation of the crèche, community and health centre and residential block until the completion of the alleviation scheme flood defences on the south bank downstream of Greyfriars Bridge. These developments formed a fundamental material consideration when the application was supported by Members.

Your Officers have recommended that ‘a timetable be agreed’. This timetable when submitted will be discussed with the Environment Agency. They consider that this is not robust enough to ensure that the occupation is in accordance with the flood defence scheme.

### **Conclusions**

Full compliance with the Environment Agency’s requirements carries with it a real risk that the developer will construct the retail store whilst delaying the construction of the housing and community facilities until there is a firm prospect of the Hereford F.A.S. being constructed.

The environmental benefits and community facilities were considered by Members to be key considerations in deciding to approve the development. Officer advice is that the wording of the conditions above provides sufficient flexibility to allow the full development to proceed whilst going some way to addressing the continuing objections of the Environment Agency.

### **RECOMMENDATION**

**That the Environment Agency be informed that it is the Council’s intention to issue planning permission in accordance with the details as set out above.**