

# DRAFT DECISION NOTICE

Town and Country Planning Act 1990  
Planning and Compensation Act 1991

## PLANNING PERMISSION

**Applicant:**

Asda Stores/Eign Enterprises Ltd.  
c/o Agent

**Agent:**

RPS Group Plc  
3rd Floor  
Park House  
Greyfriars Road  
Cardiff  
CF10 3AF

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Date of application: 29th November 2002

Application code: **CW2002/3441/F**

Grid ref: 50612,39257

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Proposed development:

**SITE:** Land to the west of the A49(T) and north of Belmont Avenue, Belmont, Hereford

**DESCRIPTION:** 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.

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THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

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

2. The development shall be carried out in all respects strictly in accordance with the approved plans (drawing nos. .), except where otherwise stipulated by conditions attached to this permission.

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

3. No development on the store or residential block shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Sample panels of the approved material shall be constructed and inspected on site and development shall be carried out in accordance with the approved details.

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

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4. No development or other site works shall take place until the applicants or their agents or successor in title, have secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicants and approved in writing by the local planning authority. This programme shall be in accordance with a brief prepared by the County Archaeology Service. Items of prior archaeological excavation required as part of this programme must be completed in the field to the satisfaction of the Archaeological Service before commencement of any development.

Reason: To ensure that the exceptional archaeological interest of the site is recorded and also to ensure that archaeological excavation can take place within an acceptable timescale that will not be compromised by other site works or factors.

5. The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside hours of 07.00 and 22.00 Monday to Saturday and 10.00 and 17.00 on Sundays.

Reason: To safeguard the amenities of the locality.

6. The retail use hereby permitted shall only be open to customers between 08.00 and 22.00 Monday to Saturday and between 10.00 and 17.00 on Sundays.

Reason: To safeguard the amenities of existing residential properties in the locality.

7. The sale of non food or non convenience goods shall not take place from more than 40% of the total net sales area of the supermarket hereby permitted.

Reason: In order to define the terms under which this permission is granted and having regard to policies in the Local Plan which seek to protect the vitality and viability of the city centre.

8. The A1 retail use hereby approved shall not include the provision of hairdressers, travel and ticket agencies or post office facilities unless specifically agreed in writing by the local planning authority.

Reason: In order to define the terms under which permission is granted and having regard to policies in the Local Plan which seek to protect the vitality and viability of the city centre. Retaining such uses within the city centre would also promote link trips from the development site in accordance with sustainable principles.

9. Before the development hereby permitted is occupied a scheme shall be agreed with the local planning authority which specifies the provisions to be made for the control of noise emanating from any plant equipment to be installed on site. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the amenity of occupiers of nearby properties.

10. The residential development hereby permitted shall not be begun until a scheme for protecting the proposed dwellings from noise from the adjoining highway network has been submitted to and approved by the local planning authority; and all works which form part of the scheme shall be completed before any of the dwellings are occupied.

Reason: To protect the residential amenities of the future occupiers of the properties.

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11. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times unless specifically agreed in writing by the local planning authority: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents.

12. Prior to the commencement of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use of any of the buildings hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided.

13. There shall be no, direct or indirect, discharge of surface water to the public foul sewer.

Reason: To safeguard the public sewerage system and reduce the risk of surcharge flooding.

14. Prior to the commencement of development a scheme for the diversion of the existing on site sewerage system has been submitted to and approved in writing by the local planning authority. No buildings hereby permitted shall be occupied until such improvements have been completed.

Reason: To prevent pollution of the water environment.

15. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

16. Prior to the first use of the development hereby permitted a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted and shall remain in use unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of amenity.

17. Details of any external lighting proposed to illuminate the development, including cowls, louvres or other shields to be fitted to reduce light pollution, shall be submitted to and approved by the local planning authority before the buildings are occupied. Development shall be carried out in accordance with the approved details with all shields retained in perpetuity and there shall be no other external illumination of the development.

Reason: To ensure a satisfactory form of development in the interest of amenity and highway safety.

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

Reason: To safeguard residential amenity and prevent pollution.

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19. Prior to the commencement of development, a detailed plan, showing the levels of the existing site, the proposed slab levels of the buildings approved and a datum point outside of the site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.

20. No development hereby permitted shall be occupied until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before any of the buildings are occupied. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

21. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and any necessary tree surgery. All proposed planting shall be clearly described with species, sizes and planting numbers.

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

22. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

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

23. No development hereby approved shall be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved before the first use of the store. These details shall include proposed finished levels or contours and gradients; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting, etc.); proposed and existing functional services above and below ground (eg. drainage power, communications, cables, pipelines, etc. indicating lines, manholes, supports, etc.); retained historic landscape features and proposals for restoration, where relevant.

Reason: In the interests of visual amenity.

24. No development shall be commenced on the site or machinery or materials brought onto the site for the purpose of development until adequate measures have been taken to prevent damage to those trees which are to be retained. Measures to protect those trees shown must include:

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(a) Fencing, of a type and form agreed in writing with the local planning authority, must be erected around each tree or group of trees. This fencing must be at least 1.25 metres high and at a radius from the trunk defined by the canopy spread.

(b) No excavations, site works, trenches, channels, pipes, services, temporary buildings used in connection with the development or areas for the deposit of soil or waste or for the storage of construction materials, equipment or fuel or other deleterious liquids shall be sited within the crown spread of any tree without the prior written consent of the local planning authority.

(c) Any alteration of soil levels under the crown spread of any tree or group of trees to be retained shall be agreed in writing by the local planning authority prior to the work commencing.

Reason: To ensure adequate protection to existing trees which are to be retained, in the interests of the character and amenities of the area.

25. No development shall be occupied until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason: In the interests of visual and residential amenity.

26. With the exception of the bowling club element of the scheme, no development may commence until arrangements for temporary access to the development and for temporary traffic management has been submitted to the local planning authority for approval in consultation with the Highways Agency. Thereafter all temporary access to the site and temporary traffic management shall be in accordance with the approved plans.

Reason: To enable the A49 trunk road and A465 trunk road to continue to be an effective part of the system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by avoiding the disruption to the flow on those routes by traffic excepted to be generated by the development and to protect the interests of road safety on the trunk road.

27. No part of the development may be occupied until the local planning authority in consultation with the Highways Agency has certified the highway works for the proposed site access and gyratory junction as completed in writing. This shall be in accordance with details to be submitted to and approved in writing prior to the works commencing.

Reason: In the interests of highway safety and to enable the A49 trunk road and A465 trunk road to continue to be an effective part of the system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by avoiding the disruption to the flow on those routes by traffic excepted to be generated by the development and to protect the interests of road safety on the trunk road.

28. Development shall not begin until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved.

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

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29. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

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.

Reason: To minimise the risk of flooding in the interests of a satisfactory form of development.

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

Reason: To ensure a satisfactory form of development that preserves or enhances the character and appearance of the Conservation Area and to reduce risk associated with potential flooding of the application site.

32. The development hereby permitted shall not be brought into use until areas for the manoeuvring, parking, loading and unloading of vehicles have been laid out, consolidated, surfaced and drained in accordance with a scheme to be submitted to and approved in writing by the local planning authority and such areas shall thereafter be retained and kept available for those uses at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

33. Prior to the commencement of development a detailed Badger Management plan including a working and method statement shall be submitted to and approved in writing by the local planning authority in consultation with English Nature. The agreed timetable for works shall be implemented on site to ensure the established badger setts are managed during the construction phases.

Reason: In the interests of nature conservation and to ensure adequate measures in place for this protected species.

34. A Green Transport Plan containing measures to promote alternative modes of transport for staff and visitors of the retail store including a schedule for its implementation shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any building on site. A detailed written record shall be kept of the measures undertaken to promote green transport initiatives and shall be made available for inspection by the local planning authority upon request.

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Reason: To clarify the terms of the permission and to ensure that a range of sustainable transport alternatives are available and promoted to users of the site in accordance with sustainable objectives of Herefordshire Council and Central Government.

35. Development shall not begin until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority.

Reason: To ensure an adequate and acceptable means of access is available before the first use of the site.

36. A detailed car park management plan shall be submitted to and approved in writing by the local planning authority prior to the first use of the retail store hereby permitted. The agreed car parking policy shall be implemented prior to the first use of the store and shall only be varied if agreed in writing by the local planning authority.

Reason: To ensure the car parking facilities operate in an effective and efficient manner and enable linked trips to the city centre in accordance with sustainable objectives of Herefordshire Council and Central Government.

37. There shall be no insertion of any additional retail floor space including a mezzanine floor within the retail unit hereby approved.

Reason: To protect the vitality and viability of the city centre.

38. Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interests of highway safety.

39. Development shall not begin until an Order has been made to allow the existing public right of way crossing the application site to be diverted or stopped up.

Reason: To ensure the public right of way is not obstructed.

40. Before the development is first occupied a scheme for the provision of 110 cycle stands, plus separate cycle parking for the residential development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and be available prior to the first use of the site.

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.

41. Flood warning notices shall be erected and maintained in numbers, positions and with wording all to be approved by the local planning authority prior to commencement of the development. The notices shall be kept legible and clear of obstruction.

Reason: To minimise the flood related danger to people in the flood risk area.

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42. Prior to the commencement of development, an Evacuation Management Plan (EMP) for the retail, creche, and community/health facilities shall be submitted to and approved in writing by the local planning authority in consultation with the LA Emergency Planning Officer and Emergency Services. The Plan shall include full details of proposed awareness training and procedures for evacuation of persons and property (including vehicles), training of staff; and method and procedures for precautionary timed evacuation. It shall also include a commitment to retain and update the Plan and include a timescale for revision of the Plan. Thereafter the approved plan/s shall be adhered to by the facility occupiers, for the lifetime of the facilities/buildings, unless otherwise agreed in writing by the local planning authority.

Reason: To minimise the flood related danger to people in the flood risk area.

43. Prior to commencement of development details of the surface water drainage arrangements from the service yard areas shall be submitted and approved by the local planning authority in consultation with the Environment Agency. The approved scheme shall be completed in accordance with the approved details prior to use of the retail store.

Reason: To prevent pollution of the water environment due to the proximity of the service yard to the River Wye cSAC.

44. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

45. Prior to the first use of the retail unit hereby approved a full specification of the fixtures and fittings for the community health centre and creche facilities shall be submitted to and approved in writing by the local planning authority. The approved specification shall be installed in accordance with a timetable to be agreed prior to their first use.

Reason: To ensure a satisfactory form of development that provides adequate community facilities.

### Informatives:

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
2. 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.

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3. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations to Mr. A. Byng, Section 38 Manager, Engineering Services, PO Box 236, Hereford, HR1 2ZA. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.
4. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Unless adequate storm water disposal arrangements can be provided, Herefordshire Council, as Highway Authority, will be unable to adopt the proposed roadworks as public highways.

The applicant is, therefore, advised to submit the engineering details referred to in this conditional approval to Mr. A. Byng, Section 38 Manager, Engineering Services, PO Box 236, Hereford, HR1 2ZA at an early date to enable surface water disposal arrangements to be assessed.

5. The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system.
6. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
7. This permission does not extinguish any rights of way which may exist over the site nor does it imply that such rights of way may be diverted or otherwise altered.
8. This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992.
9. The applicant is reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built. It is also an offence to take or destroy an egg of any wild bird even where that is done pursuant to lawful authority or requirement if the taking or destroying could reasonably have been avoided in carrying out the prescribed or authorised work on the hedge. The applicant is further reminded that Part 1 of the Wildlife and Countryside Act 1981 sets out the statutory protection which is afforded to wild animals and plants. Some animals are also protected under their own legislation (for example the Protection of Badgers Act 1992).
10. You are advised to contact English Nature (Herefordshire and Worcestershire Team), Bronsil House, Eastnor, Ledbury, Herefordshire to obtain the relevant licence for undertaking work on or adjacent to an existing badger sett.
11. Flood proof construction is outlined in the Agency's booklet "Damaging Limitation - How to make your Home Flood Resistant" and ODPM guidance for improving the flood resistance of domestic and small business properties, "Preparing for Floods" on [www.safety.odpm.gov.uk/bregs/floods](http://www.safety.odpm.gov.uk/bregs/floods).

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## DRAFT DECISION NOTICE

12. The decision to grant planning permission has been taken having regard to the policies and proposals in the Hereford Local Plan set out below, and to all relevant material considerations including Supplementary Planning Guidance:

Hereford Local Plan:

ENV1 - Land Liable to Flood  
ENV2 - Flood Storage Areas  
ENV3 - Access to Watercourses  
ENV4 - Groundwater  
ENV7 - Noise  
ENV8 - Contaminated Land  
ENV9 - Energy Conservation  
ENV11 - Infrastructure  
ENV14 - Design  
ENV15 - Access for All  
ENV16 - Landscaping  
ENV17 - Safety and Security  
ENV18 - External Lighting  
H3 - Design of Residential Development  
H4 - Residential Roads  
H6 - Amenity Open Space Provision in Small Schemes  
H7 - Communal Open Space  
H12 - Established Residential Areas - Character and Amenity  
H14 - Established Residential Areas - Site Factors  
H21 - Compatibility of Non-residential Uses  
S1 - Role of Central Shopping Area  
S11 - Criteria for Large Scale Retail Development  
CON12 - Conservation Areas  
CON 13 - Conservation Areas - Development Proposals  
CON14 - Planning Applications in Conservation Areas  
CON16 - Conservation Area Consent  
CON17 - Conservation Area Consent - Condition  
CON18 - Historic Street Pattern  
CON19 - Townscape  
CON20 - Skyline  
CON21 - Protection of Trees  
CON23 - Tree Planting  
CON35 - Archaeological Evaluation  
NC1 - Sites of National Importance  
NC2 - Sites of International Importance  
NC5 - Wildlife Network  
NC6 - Criteria for Development Proposals  
NC7 - Development Proposals - Habitat Creation and Enhancement  
NC8 - Protected Species  
NC9 - Infrastructure Works  
NC10 - Management Agreements  
NC11 - Access to Wildlife Site  
NC12 - Community Involvement  
T2 - Highway and Junction Improvement  
T3 - Traffic Calming  
T5 - Car Parking - Designated Areas  
T6 - Car Parking - Restrictions

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T7 - Car Parking - Short Stay  
T8 - Park and Ride  
T11 - Pedestrian Provision  
T12 - Cyclist Provision  
T13 - Pedestrian and Cycle Routes  
R2 - Deficiencies in Public Open Space Provision  
R11 - Urban Open Space  
R13 - Public Rights of Way  
SC1 - Health Care  
C4 - Day Nurseries  
SC7 - Hunderton Infant School

This informative is only intended as a summary of the reasons for grant of planning permission. For further detail on the decision please see the application report by contacting Reception at Blueschool House, Blueschool Street, Hereford (Tel: 01432-260342).

Central Planning Services  
PO Box 230  
Blueschool House  
Blueschool Street  
Hereford  
HR1 2ZB

**Decision Date:**

**2004**

**DRAFT DECISION NOTICE**

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

## NOTES

**This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.**

### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 3 months of the date of the Council's decision if the date of the application is on or after 05/09/03 or 6 months of the date of the Council's decision if the date of the application was before 05/09/03. Both the date of the decision and the date of the application are clearly shown on the front of this notice. Forms are available from the Planning Inspectorate at Room 3/08B Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.