

Northern Area Planning Sub- Committee

Date: **Wednesday, 13th February, 2008**

Time: **2.00 p.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Northern Area Planning Sub-Committee

To: Councillor JW Hope MBE (Chairman)
Councillor PM Morgan (Vice-Chairman)

Councillors LO Barnett, WLS Bowen, RBA Burke, ME Cooper, JP French, JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James, P Jones CBE, R Mills, RJ Phillips, A Seldon, RV Stockton, J Stone, JK Swinburne and PJ Watts

1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

2. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

3. MINUTES

To approve and sign the minutes of the meeting held on 16 January 2008.

Pages

4. ITEM FOR INFORMATION - APPEALS	21 - 24
To note the contents of the attached report of the Head of Planning Services in respect of appeals for the northern area of Herefordshire.	
APPLICATIONS RECEIVED	
To consider and take any appropriate action in respect of the planning applications received for the northern area of Herefordshire, and to authorise the Head of Planning Services to impose any additional and varied conditions and reasons considered to be necessary.	
Plans relating to planning applications on this agenda will be available for inspection in the Council Chamber 30 minutes before the start of the meeting.	
Agenda items 5, 6 and 7 are applications deferred for site inspections at the last meeting, and the remaining items are new applications.	
5. DCNW2007/3344/F - FIELD OPPOSITE THE POUND, WHITNEY-ON-WYE, HEREFORD, HEREFORDSHIRE, HR3 6EH	25 - 32
Change of use of agricultural field to camp site and erection of single storey equipment store/shower and toilet facilities. Ward: Castle	
6. DCNC2007/2669/O - LYNCROFT, BADLEY WOOD, WHITBOURNE, WORCESTER, WR6 5SJ	33 - 40
Erection of one bungalow for agricultural workers dwelling. Ward: Bringsty	
7. DCNC2007/3391/F - FORMER ORPHANS PRESS SITE, LAUNDRY LANE, LEOMINSTER, HEREFORDSHIRE, HR6 8JT	41 - 52
Proposed site for 10 dwellings. Ward: Leominster South	
8. DCNW2008/0084/F - FOUR WINDS, MOCKTREE, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LY	53 - 56
Proposed two storey extension. Ward: Mortimer	
9. DCNW2007/3767/O - LAND BETWEEN DARK LANE AND A4110, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LJ	57 - 68
Residential development for fifteen houses and garages. Ward: Mortimer	
10. DCNC2007/3946/F - LAND AT ST. BOTOLPHS GREEN, LEOMINSTER, HEREFORDSHIRE	69 - 80
Proposed erection of 27 dwellings. Ward: Leominster South	
11. DCNC2007/3464/F - LAND ADJACENT TO CHAPEL COTTAGE, WYSON LANE, BRIMFIELD, LUDLOW, HEREFORDSHIRE, SY8 4NL	81 - 86
Proposed new house and detached garage. Ward: Upton	
12. DCNE2007/1536/F - WITHERS FARM, BURTONS LANE, WELLINGTON HEATH, LEDBURY, HEREFORDSHIRE, HR8 1NF	87 - 102
"Whole farm application" for the erection (and re-erection) of polytunnels. Ward: Hope End	

13.	DCNE2007/3855/F - ASHDOWN HOUSE, HOMEND CRESCENT, LEDBURY, HEREFORDSHIRE, HR8 1AQ	103 - 108
	Removal of condition 6 of planning permission NE2003/1293/f to allow clear glass to be used for 2 windows. Ward: Ledbury	
14.	DATES OF FORTHCOMING MEETINGS	
	12th March, 2008	
	9th April, 2008	
	7th May, 2008	

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Northern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 16th January, 2008 at 2.00 p.m.

Present: Councillor JW Hope MBE (Chairman)
Councillor PM Morgan (Vice Chairman)

Councillors: RBA Burke, JP French, JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James, P Jones CBE, R Mills, RJ Phillips, A Seldon, RV Stockton, J Stone, JK Swinburne and PJ Watts

In attendance: Councillors

131. APOLOGIES FOR ABSENCE

Apologies were received from Councillors LO Barnett, WLS Bowen, ME Cooper, Brig P Jones, RJ Phillips and K Swinburne.

132. DECLARATIONS OF INTEREST

Councillor RBA Burke declared a personal interest Agenda item 9, Minute 139 (DCNC2007/3520/F - erection of offices and dwellings with associated demolitions and site works 40/42 West Street, Leominster)

133. MINUTES

RESOLVED: That the Minutes of the meeting held on 12th November, 2007 be approved as a correct record and signed by the Chairman, subject to the inclusion of "Councillor RV Stockton declared a prejudicial interest Agenda item 5, Minute 123 (Tree Preservation Order No 536, Colwall Cricket Ground) and left the meeting for the duration of the item.

134. ITEM FOR INFORMATION - APPEALS

The Sub-Committee noted the Council's current position in respect of planning appeals for the northern area of Herefordshire.

135. REPORTS BY THE HEAD OF PLANNING SERVICES

The Sub-Committee considered the following planning applications received for the Northern Area of Herefordshire and authorised the Head of Planning Services to impose any additional or varied conditions and reasons which he considered to be necessary.

136. DCNE2007/3286/F - ERECTION OF ONE DWELLING (REVISED PROPOSALS) ON SITE OF ROSE AND COMME COTTAGES, FLOYDS LANE, WELLINGTON HEATH, LEDBURY, HEREFORDSHIRE, HR8 1LR

The Senior Planning Officer said that the appeal referred to in his report regarding application NE05/3784/RM had recently been dismissed and he provided the Sub-Committee with the following updates about the drainage issues relating to the application:

One further consultee response to add following the further amended plans and drainage details. Mr Brian Lee, the Council's Land Drainage Engineer makes the following comments, detailed in full, from memorandum dated 4th January 2008:

'As with any site proposing a rainwater utilisation system, the main concern is whether the designed storage will be capable of containing the product of successive storms, particularly when usage is low or the property is unoccupied for long periods.

Information is required comparing rainfall figures and designed storage with the domestic greywater usage, and what factors of safety are included in the design. Also what controls will be put in place to ensure that any overspill is contained without affecting neighbouring properties.

There are no other concerns'.

The Senior Planning Officer said that the view of the Officers was that the proposed rainwater utilisation system has been designed at overcapacity. In addition, there were two x 2000litre storage tanks connected as an 'overflow' from the system designated tank, giving a capacity of 2000 litres for a single storm event. This in connection with the other drainage proposals had satisfied the concerns of the Council's Building Control Surveyor, who had engaged in significant discussions to help rectify the surface water and drainage issues. In light of the comments of the Council's Drainage Engineer, and to ensure that there were no doubts about the suitability of the surface water and drainage proposals, he proposed alterations to condition no.6 which were agreed by the Sub-Committee.

In accordance with the criteria for public speaking, Mr Blundell, an objector, spoke against the application and Mr Tufnell the agent acting on behalf of the applicant, spoke in favour of the application.

Councillor R Mills, the Local Ward Member said that a considerable amount of time had been spent by the Officers and the applicant to arrive at a scheme which would be acceptable on the site and he felt that the proposals were acceptable.

RESOLVED

That planning permission be granted 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 - Prior to the commencement of the hereby permitted development full written details and plans detailing the landscaping, boundary treatments and planting scheme, shall be submitted to the Local Planning Authority

for written approval.

Reason: To ensure the integration of the development within the landscape and locality, in accordance with Herefordshire Unitary Development Plan (adopted 2007) policies DR1 and H13.

- 3 - All planting, seeding and turfing in the approved details of landscaping, boundary treatment, and planting schedule, as approved in respect of Condition 2, shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the dwelling (whichever is the sooner). Any trees or plants which within a 5 year period from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with a replacement of the same species and size, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the integration of the development within the landscape and locality, in accordance with Herefordshire Unitary Development Plan (adopted 2007) policies DR1 and H13.

- 4 - H01 (Single access - not footway)

Reason: In the interests of highway safety.

- 5 - H13 (Access, turning area and parking)

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

6. Prior to the commencement of the hereby permitted development, full details and plans of the proposed surface water and drainage scheme detailed in this application, shall be submitted to Herefordshire Council's Building Control team for written approval. The approved surface water and drainage scheme shall be carried out in strict accordance with approved plans and thereafter maintained as such.

Reason: To ensure surface water and land drainage issues are addressed adequately, in accordance with Herefordshire Unitary Development Plan (adopted 2007) policies DR2, DR4, DR7 and H13. The drainage and surface water scheme detailed in the hereby approved development shall be implemented prior to the completion of the development or the occupation of the building, whichever is the sooner

7. Removal of development rights.

Reason: In accordance with Herefordshire Unitary Development Plan (adopted 2007)
Policy H6.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N19 - Avoidance of doubt
- 3 - HN01 - Mud on highway
- 4 - HN04 - Private apparatus within highway

5 - HN05 - Works within the highway

6 - HN22 - Works adjoining highway

137. DCNW2007/3633/F - CHANGE OF USE FROM AGRICULTURAL LAND TO 6 HOLIDAY LODGES (LODGE STYLE CARAVANS). PARK GATE FARM, LYONSHALL, HEREFORDSHIRE, HR5 3HY

The Principal Planning Officer reported the receipt of the following:

A letter from the agents was received on the 15th January 2008 noting various points relating to the report. A copy of this letter and enclosures has been sent to each of the NAPSC members.

Further to the letter from Animal Funeral Services, officers have consulted verbally with Environmental Health. On this basis, it is considered that as long as the applicant operates within the legislation and licences that it is currently bound by then the siting of lodges in this location should not affect the incineration / waste transfer business. Separate regulatory bodies and legislation that would react to any breach of this cover this operation.

Councillor RJ Phillips, the Local Ward Member was of the view that the applicant had made a considerable effort to overcome the objections to a previous proposal for twelve lodges and that the revised application for six had led to none being received. The site was in a secluded location and he felt that it would not have an adverse affect on the landscape; it would help with farm diversification; and it would assist with tourism in the area. He did not agree that any of the lodges should be used for residential purposes but felt that holiday lets would be acceptable as long as there were appropriate conditions carefully control occupancy. He also considered that there would need to be conditions imposed by the Officers about design, landscaping, drainage and vehicular access. The Sub-Committee was agreeable to this approach subject to all six of the units being accessible by the disabled.

RESOLVED:

That (i) The Northern Area Planning Sub-Committee is minded to approve the application subject the following conditions and any further conditions felt to be necessary by the Development Control Manager in consultation with the Chairman and Local Ward Member, provided that he does not refer the application to the Head of Planning Services.

- 1. the lodges to be for holiday lets only with any appropriate conditions to limit occupancy and times of opening as determined by the officers.**
- 2. design, landscaping, drainage and vehicular access**
- 3. all six of the units to be accessible by the disabled.**

(ii) If the Head of Planning Services does not refer the application to the Planning Committee, Officers named in the Scheme of Delegation to Officers be instructed to approve the application, subject to such conditions referred to above.

[Note: Following the vote on this application, the Development Control Manager advised that he would refer the application to the Head of Planning Services]

138. DCNW2007/3721/F - RESIDENTIAL DEVELOPMENT COMPRISING OF 35 DWELLINGS WITH CAR PARKING, NEW ACCESS ROAD AND LANDSCAPING ON LAND ADJACENT TO THE BIRCHES, SHOBDON, LEOMINSTER, HEREFORDSHIRE, HR6 9NQ

The Principal Planning Officer provided the Sub-Committee with the following updates which had been received:-

The Council's Transportation Manager recommended a condition with regards to Travel Plans, (condition number 14), to be attached to any subsequent approval notice issued. On reflection condition number 14 is considered unnecessary and therefore it is recommended that this condition is deleted from the list of recommended conditions.

Section 2 of the Draft Heads of Terms should read as follows:

'The developer or successor in title covenants with Herefordshire Council, to pay Herefordshire Council the sum of £56,000, which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council towards management and maintenance of the play area'.

Therefore deletion of the wording :

'In lieu of the provision of open space on the land to serve the development to pay.

Amended plans are awaited from the applicants, (who have agreed to the amendment in writing), with regards to re-positioning of the garage on plot 17, alongside the southern elevation of the application site, and revision to first floor windows on the eastern gable elevation, to indicate one opaque glazed non-opening window instead of two separate windows.

The applicants have also in a letter dated 9th January 2008 confirmed that they are prepared to offer the provision of a cycle/pedestrian route in the direction of The Grove, on land outside the application site, as referred to in Section 8 of the attached Heads of Terms. They have also in principle agreed to the payment of £56,000 towards maintenance and management of the on site play area and the obligation with regards to the over head power lines across the site. These latter three issues forming the basis of the refusal notice issued in respect of the previous application for development on site.

The Sub-Committee welcomed the proposals and felt that local people should be given priority in respect of the 'affordable' element of the development. The Sub-Committee agreed to the alterations suggested by the Principle Planning Officer.

RESOLVED

That the Head of Legal and Democratic Services be authorised to complete a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms set out in the report of the Head of Planning Services and any additional or amended matters which he considers to be necessary and appropriate.

Upon completion of the above-mentioned planning obligation agreement, officer named in the Scheme of Delegation 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 - B01 (Samples of external materials)

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

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

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

- 4 - C05 (Details of external joinery finishes)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

- 5 - No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system including the use of sustainable urban drainage systems, as detailed within the Flood Risk Assessment dated September 2007 RJZI/MS/2007-106 submitted in support of the application which includes drawing number 2002-106-ZRA-04 has been submitted to and approved in writing by the Local Planning Authority. Surface water generated from the site shall be limited to the equivalent greenfield run off rate for the site. The scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, in consultation with the Environment Agency.

Reason: To prevent the increased risk of flooding and provide water quality benefits by ensuring the provision of a satisfactory means of surface water disposal.

- 6 - 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 trapped gullies within an overall capacity comparable with the site being drained.

Reason: To prevent pollution of the water environment.

- 7 - Foul water and surface water discharges shall be drained separately from the site.

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

- 8 - No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

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.

- 9 - Land drainage run-off shall not be permitted to discharge, either directly or indirectly with the public sewerage system.**

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

- 10 - H13 (Access, turning area and parking)**

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

- 11 - H18 (On site roads - submission of details)**

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.

- 12 - H19 (On site roads - phasing)**

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.

- 13 - H29 (Secure covered cycle parking provision)**

Reason: To ensure that there is adequate provision for secure covered cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

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

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

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

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

- 16 - No plant, materials or equipment shall be deposited on site until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the LPA. This scheme shall include:**

- a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.**
- b) the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule.**
- c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational**

reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.

- d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.**
- e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).**
- f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.**
- g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).**
- h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).**
- i) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.**
- j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)**
- k) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of No-Dig construction.**
- l) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.**
- m) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.**
- n) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (para. 9.2.3 of BS5837).**
- o) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).**
- p) the timing of the various phases of the works or development in the context of the tree protection measures.**

17 - No plant, materials or equipment shall be deposited on site until a

specification of all proposed tree planting has been approved in writing by the LPA. This specification will include details of the quantity, size, species, position and the proposed time of planting of all trees to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. In addition all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape should be similarly specified. All tree, shrub and hedge planting included within that specification shall be carried out in accordance with that specification and in accordance with BS 3936 (parts 1, 1992, Nursery Stock, Specification for trees and shrubs, and 4, 1984, Specification for forest trees); BS4043, 1989, Transplanting root-balled trees; and BS4428, 1989, Code of practice for general landscape operations (excluding hard surfaces).

- 18 - If within a period of five years from the date of planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the LPA seriously damaged or defective), another tree of the same species and size originally planted shall be planted at the same place, unless the LPA gives its written consent to any variations.
- 19 - There shall be no further fencing erected alongside the northern boundary of the application site. (Adjacent to the B4362 public highway).

Reason: In the interests of the rural amenity of the surrounding landscape.

- 20 - 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 this building of [special] architectural or historical interest.

- 21 - The first floor window in the eastern elevation of the dwelling located on Plot Number 5 as indicated on the Planning layout - drawing number 13045/05/01G will be in opaque glazing and non-opening.

Reason: In order to protect the privacy and amenity of the adjoining dwelling to the application site.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N19 - Avoidance of doubt

139. DCNC2007/3520/F - ERECTION OF OFFICES AND DWELLINGS WITH ASSOCIATED DEMOLITIONS AND SITE WORKS. 40/42 WEST STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8ES

In accordance with the criteria for public speaking, Mr Jones the agent acting on behalf of the applicant, spoke in favour of the application.

RESOLVED

That planning permission be granted subject to:

- 1. The Head of Planning Services 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:-**

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

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

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

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

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

Reason: To protect the amenity of local residents.

- 6 - 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.

- 7 - Prior to the construction of any re-development on site details will be submitted to the Local Planning Authority 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.

- 8 - Prior to development on site details will be submitted to the Local Planning Authority and approved in writing of the office front design and the glazed units as indicated on the approved plans.**

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

- 9 - Prior to development on site details will be submitted and approved in writing to the Local Planning Authority of treatment of the boundary walls and fencing.**

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

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

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

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

Reason: To safeguard the character and appearance of the surrounding area.

- 12 - C05 (Details of external joinery finishes)**

Reason: To safeguard the character and appearance of the surrounding area.

- 13 - 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 area.

- 14 - C11 (Specification of guttering and downpipes)**

Reason: To safeguard the character and appearance of the surrounding area.

- 15 - H21 (Wheel washing)**

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

- 16 - H29 (Secure covered cycle parking provision)**

Reason: To ensure that there is adequate provision for secure covered cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

- 17 - 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.

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

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

- 19 - 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.

- 20 - 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.

- 21 - No building on the application site shall be brought into beneficial use earlier than April 2008, unless the upgrading of the public sewerage system (which the development shall drain into) has been completed and written confirmation of this has been issued by the Local Planning Authority.**

Reason: To mitigate the existing hydraulic overloading of the public sewerage system and ensure the local community and environment are not unduly compromised.

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

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

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

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

- 24 - D01 (Site investigation – archaeology)**

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

- 25 - 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.

- 26 - Prior to any development on site details will be submitted and approved in writing to the Local Planning Authority 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.

Informatives:

- 1. 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 01443 331155.**
- 2. N15 - Reason(s) for the Grant of PP/LBC/CAC.**
- 3. HN01 - Mud on highway.**
- 4. HN04 - Private apparatus within highway.**
- 5. HN05 - Works within the highway.**

6. HN22 - Works adjoining highway.

7. N19 - Avoidance of doubt

140. DCNC2007/3391/F - PROPOSED SITE FOR 10 DWELLINGS AT FORMER ORPHANS PRESS SITE, LAUNDRY LANE, LEOMINSTER, HEREFORDSHIRE, HR6 8JT

In accordance with the criteria for public speaking, Councillor Thomas of Leominster Town Council spoke against the application.

Councillor RC Hunt, a Local Ward Member shared the concerns which had been raised by Leominster Town Council and local residents regarding highway safety at the junction of Laundry Lane and Hereford Road. There was local residential parking along the latter which was likely to cause visibility problems for motorists exiting Laundry Lane. Also the lane was extremely narrow and he was of the view that the scheme would add to traffic congestion along it. There was also the problem that two-storey dwellings were not in keeping with the area and the drop in levels would lead them to tower over the existing bungalows causing loss of privacy and amenity. Councillor RBA Burke the other Local Ward Member also had reservations about the traffic flow and highway safety issues. Councillor JK Swinburne had some concerns about the proposed housing density and felt that the financial contribution £1,500 seemed low. The Northern Team Leader said that the density was approx 50 dwellings per hectare and the Principal Planning Officer advised that the financial contribution would be towards open space and sports recreational provision.

In view of the concerns which had been raised about the proposals, the Sub-Committee decided to defer consideration of the application and asked the officers to discuss those concerns with the applicants.

RESOLVED

That consideration of the application be deferred for the Officers to discuss the concerns which had been raised with the applicants.

141. DCNC2007/3365/F - CHANGE OF USE OF PROPERTY TO HOUSE OF MULTIPLE OCCUPATION AT SHAW'S HOUSE, 18 OLD ROAD, BROMYARD, HEREFORDSHIRE, HR7 4BQ

RESOLVED

That planning permission be granted 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 - H29 (Secure covered cycle parking provision)

Reason: To ensure that there is adequate provision for secure covered cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N19 - Avoidance of doubt

**142. DCNC2007/3420/F - PROPOSED 2 SINGLE STOREY EXTENSIONS
(AMENDMENT TO PREVIOUS APPROVED APPLICATION NC2006/0428/F) AT
ROWDEN MILL STATION, WINSLOW, BROMYARD, HEREFORDSHIRE, HR7
4LS**

The Principal Planning Officer provided the Sub-Committee with the following updates which had been received:-

Wacton Parish Council:

General support but a concern was raised with regard to the size of the extension in relation to the original building.

Officer Comments: The issue of the size of the extension and its comparison to the approved scheme is dealt with in the body of the report and the two are comparable.

Councillor TW Hunt the Local Ward Member welcomed the proposals and said that the applicant had developed a prestigious site of considerable local interest. He suggested that a further condition be added to prevent the previous applications from being implemented. Councillor RV Stockton asked that a further condition be added for the vintage postbox to be relocated and preserved so that it was not lost from the area and the Sub-Committee was agreeable to both requests.

RESOLVED

That planning permission be granted subject to planning permission NC06/0428/2006/F - Erection of a single storey extension approved on 10th April 2006 being not implemented, the post box on the site being moved and retained in a different location, and 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 - B01 (Samples of external materials)

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

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

Reason: To safeguard the character and appearance of this building of architectural and historical interest.

- 4 - C05 (Details of external joinery finishes)

Reason: To safeguard the character and appearance of this building of architectural and historical interest.

- 5 - 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 this building of architectural and historical interest.

6 - C11 (Specification of guttering and downpipes)

Reason: To safeguard the character and appearance of this building of architectural and historical interest.

Informatives:

1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

2 - N19 - Avoidance of doubt

143. DCNC2007/3460/O - SITE FOR PROPOSED VETERINARY CENTRE INCLUDING CAR PARKING AND LANDSCAPING. PLOT 15, LEOMINSTER ENTERPRISE PARK, LEOMINSTER, HEREFORDSHIRE

In accordance with the criteria for public speaking, Mr Devoy, a partner of the applicants, spoke in favour of the application.

Councillor RC Hunt, a Local Ward Member was of the view that because of its unique nature and the service, employment and training which would be provided, an exception could be made to the Council's Planning Policies and permission granted. Councillor RBA Burke the other Local Ward Member concurred with this view and felt that it fulfilled the criteria of the business park by providing employment opportunities. The Principal Planning Officer agreed that employment would be provided but pointed out that the business park was for B1, B2 and B8 use and that it did not fall into any of these classes. The Officers therefore felt that the proposal would not only result in the loss of employment land on the site, but would be a threat to the industrial and commercial nature of the site through the introduction of non B-class uses and as a result would not benefit the employment situation within Leominster.

The Sub-Committee noted the points made by the Officers. Councillor TM James felt that the nature of employment providers had changed since the business park was built and the type of firms originally envisaged to go there had not yet materialised. He therefore felt that the site was ideal for expanding local businesses such as this one and supported the proposal. Councillor Mrs J French pointed out that relocation would enable the business to expand from a restricted town centre location, be more accessible for the public and also provide some thirty jobs, a veterinary hospital and a training centre for veterinary nurses. Taking these factors into consideration, the Sub-Committee felt that there were sufficient material planning considerations to enable an exception to be made to the policies. It was however felt that the application was fairly unique and that a precedent should not be set for any other non B-class uses on the enterprise park.

RESOLVED:

That (i) The Northern Area Planning Sub-Committee is minded to approve the application subject to any appropriate conditions felt to be necessary by the Development Control Manager provided that he does not refer the application to the Head of Planning Services.

- (ii) **If the Head of Planning Services does not refer the application to the Planning Committee, Officers named in the Scheme of Delegation to Officers be instructed to approve the application, subject to such conditions referred to above.**

[Note: Following the vote on this application, the Development Control Manager advised that he would not refer the application to the Head of Planning Services]

144. DCNC2007/3639/F - PROPOSED CONVERSION TO 3 BED DWELLING, LINLEY GREEN CHAPEL, LINLEY GREEN, NR BROMYARD, HEREFORDSHIRE

The Principal Planning Officer provided the Sub-Committee with the following updates which had been received:-

E-mail received from neighbour Mrs Allen who has previously objected. She has noted the planning officers recommendation and has stated again her and her husbands objections relating to loss of privacy and also the problems of surface water on the road due to lack of drainage in area which during freezing conditions is a hazard to highway safety.

In accordance with the criteria for public speaking, Mr Lord spoke in favour of his application.

RESOLVED

That planning permission be granted 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 - The new rooflights should be of "conservation type" i.e. flush with the roof slopes and have slender framed metal lights with a glazing bar unless otherwise first agreed in writing by the local planning authority.**

Reason: In the interests of conserving the visual appearance and character of the building.

- 3 - The stained glass windows shall be retained, unless otherwise first agreed in writing by the local planning authority.**

Reason: In the interests of conserving the visual appearance and character of the building.

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

Reason: To ensure that the character and appearance of the original conversion scheme is maintained.

- 5 - E18 (No new windows in specified elevation)**

Reason: In order to protect the residential amenity of adjacent properties.

- 6 - The recommendations set out in the ecological report by Landscape Science Consultancy Ltd, dated October 2007, shall be followed in full, unless otherwise first agreed in writing by the local planning authority. Prior to development, a full working method statement, to include bat roost enhancement measures, shall be submitted to the local planning authority for prior written approval and implemented as approved. An appropriately qualified and experienced ecological Clerk of Works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Reason: To ensure all species of bat and their roosts are protected and to conserve/enhance potential habitat and maintain the foraging area for protected species, in accordance with the Wildlife and Countryside Act 1981 and Conservation (Natural Habitats and Conservation) Regulations 1994 (as amended).

- 7 - G01 (Details of boundary treatments)**

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

- 8 - H01 (Single access - not footway)**

Reason: In the interests of highway safety.

- 9 - H04 (Visibility over frontage)**

Reason: In the interests of highway safety.

- 10 - H05 (Access gates)**

Reason: In the interests of highway safety.

- 11 - H13 (Access, turning area and parking)**

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

- 12 - Before the new dwelling is first brought into use, details of the top surface of the new access, parking and turning area shall first be submitted to and be subject to the prior written approval of the local planning authority.**

Reason: In the interests of highway safety and visual amenity.

- 13 - Unless otherwise first agreed in writing by the local planning authority, the existing wall along the road frontage shall be retained in full, except for the section shown to be altered on the approval drawings, which shall match in materials and height the existing wall.**

Reason: In the interests of visual amenity.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC**

- 2 - N03 - Adjoining property rights
- 3 - The applicant should be aware that the planning permission does not override any civil/legal rights enjoyed by adjacent property owners. If in doubt, the applicant is advised to seek legal advice on the matter.
- 4 - HN01 - Mud on highway
- 5 - HN04 - Private apparatus within highway
- 6 - HN05 - Works within the highway
- 7 - HN10 - No drainage to discharge to highway
- 8 - N19 - Avoidance of doubt

145. DCNC2007/3541/F - REDEVELOPMENT OF LAMBOURNES, RYELANDS ROAD COMPRISING 26 DWELLINGS (3 NO 1/BED FLATS. 9 NO 2/BED FLATS, 3 NO 2/BED HOUSES AND 11 NO 3/BED HOUSES. RYELANDS ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NZ

In accordance with the criteria for public speaking, Mrs Comfort, an objector, spoke against the application and Mr Pearce, the agent acting on behalf of the applicant, spoke in favour of the application.

Councillor RC Hunt, a local Ward Member felt that the application was for an innovative scheme but he shared the concerns of the objector that the pond area should have safeguards to prevent it being a danger to children. The Sub-Committee felt that this could be dealt with by appropriate conditions.

RESOLVED

That planning permission be granted subject appropriate conditions regarding the pond to be determined in consultation with the Local Ward Members and the Chairman, and 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 - B01 (Samples of external materials)

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

- 3 - E16 (Removal of permitted development rights)

Reason: In order that the local planning authority can assess the impact of any further development on this specifically designed scheme.

- 4 - F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

- 5 - F48 (Details of slab levels)

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

6 - G01 (Details of boundary treatments)

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

7 - G04 (Landscaping scheme (general))

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

9 - G05 (Implementation of landscaping scheme (general))

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

10 - G13 (Landscape design proposals)

Reason: In the interests of visual amenity.

11 - G18 (Protection of trees)

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

12 - G19 (Existing trees which are to be retained)

Reason: In order to preserve the character and amenity of the area.

13 - H11 (Parking - estate development (more than one house))

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

14 - W01 (Foul/surface water drainage)

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

15 - W02 (No surface water to connect to public 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.**

16 - W03 (No drainage run-off to public system)

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

Informative(s):

- 1 - HN07 - Section 278 Agreement**
- 2 - HN10 - No drainage to discharge to highway**
- 3 - HN22 - Works adjoining highway**
- 4 - N15 - Reason(s) for the Grant of PP/LBC/CAC**
- 5 - N19 - Avoidance of doubt**

146. DATES OF FUTURE MEETINGS

13th February, 2008

12th March, 2008

9th April, 2008

7th May, 2008

The meeting ended at 2.20 p.m.

CHAIRMAN

ITEM FOR INFORMATION - APPEALS

APPEALS RECEIVED

Application No. DCNW2007/0980/O

- The appeal was received on 20th December 2007
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mrs. Edmonds
- The site is located at 13 The Birches, Shobdon, Leominster, Herefordshire, HR6 9NG
- The development proposed is Site for the erection of a proposed three bedroom dwelling.
- The appeal is to be heard by Written Representations

Case Officer: Kelly Gibbons On 01432 261781

Application No. DCNE2007/1105/F

- The appeal was received on 15th January 2008
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr. & Mrs. C Jones
- The site is located at 35 Jubilee Close, Deer Park, Ledbury, Herefordshire, HR8 2XA
- The development proposed is Construction of two-storey extension to front of existing dwelling.
- The appeal is to be heard by Written Representations

Case Officer: Carl Brace on 01432 261795

Application No. DCNE2007/2937/O

- The appeal was received on 21st January 2008
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr M Hollins
- The site is located at Northcroft, Lower Eggleton, Ledbury, Herefordshire, HR8 2TZ
- The development proposed is Site for erection of six new dwellings and demolition of small outbuilding and removal of lorry containers.
- The appeal is to be heard by Written Representations

Case Officer: Carl Brace on 01432 261795

Application No. DCNW2007/0603/F

- The appeal was received on 29th January 2008
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Border Oak Design & Construction
- The site is located at Land adjacent to Weobley Methodist Chaple Weobley.
- The development proposed is Proposed erection of 12 dwelling units and ancillary garages.
- The appeal is to be heard by Hearing

Case Officer: Philip Mullineux on 01432 261808

APPEALS DETERMINED

Application No. DCNE2007/0448/F

- The appeal was received on 6th August 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Fair-Sky Ltd
- The site is located at Monksbury Court Barns, Monkhide, Ledbury, Herefordshire, HR8 2TU
- The application, dated 4th January 2007, was refused on 26th March 2007
- The development proposed was Retrospective application for formation of bay window and provision of new porch to units 1,2, & 5.
- The main issue is the effect of the scheme on the character and appearance of the existing buildings.

Decision: The appeal was DISMISSED on 26th November 2007

Case Officer: Carl Brace on 01432 261795

Application No. DCNC2007/2442/A

- The appeal was received on 31st October 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mrs. Patel
- The site is located at 12 - 24 Bengry Motors Ltd, The Bargates, Leominster, Herefordshire, HR6 8EY
- The application, dated 30th July 2007, was refused on 11th September 2007
- The development proposed was a single sided free standing display unit
- The main issue is the impact including the cumulative impact of the proposed poster unit on the character and appearance of the site and the surrounding conservation area.

Decision: The appeal was DISMISSED on 4th January 2008

Case Officer: Julia Shields on 01432 261560

Application No. DCNW2006/1693/F

- The appeal was received on 6th December 2006
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Downton Estate
- The site is located at Nacklestone Farm, Nacklestone, Leintwardine, Craven Arms, Shropshire.
- The application, dated 19th May 2007, was refused on 18th July 2007
- The development proposed was Change of use from agricultural to storage and warehousing (B8)
- The main issues are whether the location of the appeal site is suitable for the use proposed, with particular regard to the principles of sustainable development and the nature of the surrounding road network and the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Decision: The appeal was DISMISSED on 8th January 2008

Case Officer: Philip Mullineux on 01432 261808

Application No. DCNE2005/3784/RM

- The appeal was received on 15th March 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Ms H Kent
- The site is located at Site of Rose & Coome Cottages, Floyds Lane, Wellington Heath, Ledbury, Herefordshire, HR8 1LR
- The application, dated 22nd November 2005, was refused on 7th December 2006
- The development proposed was Erection of one dwelling
- The main issue is the effect of the proposed development on the living conditions of the occupiers of the adjacent property known as Hillside, to the east of the appeal site.

Decision: The appeal was DISMISSED on 14th January 2008
An application made by the appellant for the award of costs against the Council was DISMISSED

Planning Permission for an alternative scheme on the same site was approved at the Northern Area Planning Sub Committee on 16th January 2008

Case Officer: Ed Thomas on 01432 261961

Application No. DCNW2006/3338/F

- The appeal was received on 12th April 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Haywood Developments Ltd
- The site is located at Former Keeble Timber Yard, Kinnersley, Hereford, HR3 6QD
- The application, dated 14th October 2006, was refused on 14th December 2006
- The development proposed was Conversion and alteration of offices and workshop to create four live/work units including demolition of factory sheds.
- The main issue is the former timber yard lies in open countryside as defined by the UDP, with poor access to public transport facilities.

Decision: The appeal was DISMISSED on 29th January 2008

Case Officer: Philip Mullineux on 01432 261808

Enforcement Notice EN2007/0116/ZZ

- The appeal was received on 4th December 2007
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by S& A Soft Fruits Ltd
- The site is located at Brierley Court Farm, Brierley, Leominster, Herefordshire
- The breach of planning control alleged in this notice is:
Without planning permission the erection of polytunnels (to be rotated around fields within the land as required by crops under cultivation)
- The requirements of the notice are:
 - i) *Demolish the polytunnels*
 - ii) *Remove any materials that arise from the demolition of the polytunnels from the land*
- The main issue is the impact of the development upon the landscape

Decision: The appeal was WITHDRAWN on 31st January 2008
The Council has withdrawn the Enforcement Notice served upon those with an interest in the land, and will re-issue a new Enforcement Notice in light of the recent appeal decision at Pennoxstone Court, Kings Caple, Herefordshire

Case Officer: Mark Tansley on 01432 261956

If members wish to see the full text of decision letters copies can be provided.

5 DCNW2007/3344/F - CHANGE OF USE OF AGRICULTURAL FIELD TO CAMP SITE AND ERECTION OF SINGLE STOREY EQUIPMENT STORE/SHOWER AND TOILET FACILITIES AT FIELD OPPOSITE THE POUND, WHITNEY-ON-WYE, HEREFORD, HEREFORDSHIRE, HR3 6EH

**For: Mr & Mrs R Taylor per Warren Benbow Architects
21 Mill Street Kington Herefordshire HR5 3AL**

Date Received:
26th October 2007

Ward:
Castle

Grid Ref:
26926, 47316

Expiry Date:
21st December 2007

Local Member: Councillor J Hope

Introduction

This application was considered by Committee at its meeting on 12th December 2007 when Members decided to support it subject to receipt of a satisfactory response to the application from the Environment Agency.

The Environment Agency has subsequently further responded to the application with a recommendation for refusal based on the information submitted by the applicants in consideration of the site being in Zone 3b, (functional floodplain).

The Environment Agency advise that a Sequential Test is a key consideration of this proposed development in order to look at other sites within the applicants control that may be considered more suitable and at less risk of flooding, as an alternative site for the proposed development.

The applicants have no further sites that are considered at less of a risk of flooding and therefore the site subject to this application is the only available site. The applicants own dwelling and the adjacent public house are both nearer to the river than the application site.

The applicants have offered to put in place a flood evacuation plan for the campsite in the event of potential flooding, should this stretch of river be issued with a flood warning the campsite would be closed.

In consideration of the fact that the application is for a campsite primary for use by kayakers, who use the river, which in the event of potential flooding would not be available for such use, and the fact that the applicants are connected to the Environment Agency's automatic flood warning system, it is considered that with appropriate worded conditions this application can be supported.

The original report to Committee with necessary amendments follows:

1. Site Description and Proposal

- 1.1 The application site is a flat field located between the A438 public highway and the unclassified 90607 public highway, from which, access into the site is obtained.
- 1.2 The site is located directly opposite the applicants home known as 'The Pound' and the Boat Inn, a public house also the ownership of the applicants. Located alongside the application site's eastern boundary is a dwelling known as 'The Agents House', (formally Wyelands).
- 1.3 The application proposes change of use of land to a campsite and erection of a single storey timber constructed equipment store, shower and toilet facilities, which will also accommodate a 'drying facilities', for patrons of the campsite.

2. Policies

2.1 Herefordshire Unitary Development Plan 2007

S1 – Sustainable Development
S2 – Development Requirements
S8 – Recreation Sport and Tourism
DR1 – Design
DR2 – Land Use and Activity
DR3 – Movement
DR4 – Environment
DR7 - Flood Risk
E11 – Employment in the Small Settlements and Open Countryside
E13 – Agricultural and Forestry Development
E15 – Protection of Greenfield Land
LA2 – Landscape Character and Areas Least Resilient to Change
NC4 – Sites of Local Importance
RST12 – Visitor Accommodation
RST14 – Static Caravans, Chalets, Camping and Touring Caravan Sites
CF2 – Foul Drainage

3. Planning History

- 3.1 NW07/1494/F – Proposed dual use agricultural equipment store/WC shower block and drying area – Refused 4th July 2007 due to insufficient justification for construction of the building as proposed and the need for change of use of the land to camping use.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency – No objections raised to the proposed development, as the proposed development is defined as 'less vulnerable development' which within Zone 3 is not considered inappropriate in respect of the proposed equipment store/drying room.

Internal Council Advice

- 4.2 The Transportation Manager raises no objections stating the proposal has 'no significant highway implications.'

5. Representations

5.1 Whitney-on-Wye Parish Council have responded to the application stating:-

'There are concerns about flooding and an increase in traffic/noise from the proposed change of use'.

5.2 Letters of objection have been received from the following:-

- Alan and Helen Harrhy, Bramley House, Whitney-on-Wye
- Tim and Emma Rawlings, The Agents House, (formally named Wyelands), Whitney-on-Wye

The key issues raised in the letter of objection refer to:-

- Intensity of current use of site by campers.
- Impact on adjacent public highways.
- Use of the proposed building on site.
- Location of the proposed building on site and services.
- Flooding on site.
- Amenity of local residents.

5.3 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The main issues in relationship to this application refer to:

- Impact of the proposed development on the surrounding area
- Use of the site
- Flooding on site

Impact of the proposed development on the surrounding area

6.2 The site for the proposed development is a flat field, easily noticeable from the adjacent A438 public highway and the immediate surrounding landscape. The applicants home known as 'The Pound' and the 'Boat Inn' Public House, also in the ownership of the applicants, is directly opposite the southern side of the site on opposite side of the unclassified 90607 public highway. The proposed timber-constructed building providing on-site facilities is proposed on a site directly in front of the applicants home, known as 'The Pound'. This location abuts the eastern boundary of the application site, to the other side of which, is the residential curtilage of the property now known as 'The Agents House'.

6.3 Use of the site for camping will have minimal detrimental impact on the surrounding landscape and the proposal in consideration of the surrounding landscape is therefore considered acceptable, it is noted the location of the site is directly opposite the applicants home and the 'Boat Inn' Public House, directly behind of which, is the River Wye, and an access point to the river surface used by canoeists. No dwellings outside the control of the applicants look directly into site and it is noted the Council's Transportation Manager raises no objections to the proposed development.

Use of the site

- 6.4 The site is currently classed as agricultural land and planning legislation allows the applicants to use the site for up to 28 days of the year in relationship to camping use. Letters of objection received indicate the site is being used in excess of this amount of time in relationship to camping activities.
- 6.5 The site is well located for access to the river by canoeists. The Design and Access Statement submitted in support of the application indicate the existing site is used predominantly by tourists who are canoeing between Glasbury and Hereford, along the River Wye, and use the site as an overnight stop.
- 6.6 In order to accommodate these canoeists the applicants propose a modest timber constructed building, under a slate roof, to provide, on site shower and WC facilities, along with a 'drying rack' area, for use in summer, and this area to be used as a farm equipment store in winter.
- 6.7 The proposed timber structure is considered acceptable in scale and design, and will have minimal impact on the landscape, in consideration of its location, and its winter use, as storage area for farm equipment, such as a 'grass mowing machine', this also considered acceptable.
- 6.8 The application is for 'change of use of field from agricultural to campsite.' The Design and Access Statement submitted in support of the application indicating use of the site as a campsite, which will be predominantly used by canoeists using the adjacent River Wye.
- 6.9 As such the proposal is considered acceptable in relationship to a campsite, with easy access to the adjacent A438 public highway. 445 and 446 bus routes and the adjacent public house, therefore the development is sustainable.
- 6.10 The site is relatively open, although reasonably well screened by a surrounding low boundary, use of the site as a 'caravan site' would be considered contrary to Policy RST14: Static Caravans, Chalets, Camping and Touring Caravan Sites of the Herefordshire Unitary Development Plan 2007, in that they would appear far more conspicuous than tents and therefore have a detrimental impact on the surrounding landscape. Therefore if members are minded to approve the application, it is recommended that a condition be attached to any subsequent approval notice issued indicating no caravan be allowed on site.

Flooding on site

- 6.11 Concerns have been raised by objectors and the Local Parish Council, about flooding on site. The Environment Agency does not object to the proposed equipment store/drying facilities development. In consideration of the proposed use of the site in relationship to 'camping', concerns raised are not considered substantial enough to warrant refusal to the application, in consideration of its primary use by kayakers, who use the river within easy access of the application site, who in the event of a flood warning would not be using the river in any case, and the fact that campers can use the site for up to 30 days in any case, under current planning legislation.

Amenity of local residents.

- 6.12 The site for the proposed development is not immediately overlooked by any dwelling's outside the control of the applicants, and the only dwelling that adjoins the application site boundary is that of the dwelling known as 'The Agents House,' alongside the eastern elevation. This dwelling is located approx. 25 metres from the boundary with neither its frontal or rear elevation looking into the site. The boundary on this elevation of the site is also considered to be adequately screened by a timber close boarded fence and natural vegetation in the form of trees and a hedgerow.
- 6.13 Also proposed is the construction of a dual use building, alongside the eastern side of the application site. The building is considered acceptable in design and scale and is a much more modest sized structure than the one subject to application ref: NW07/1494/F for a dual use agricultural equipment store/WC shower block and drying area refused planning permission on 4th July 2007.
- 6.14 Therefore in consideration of amenity of surrounding dwellings the proposed development is considered acceptable.

RECOMMENDATION

That planning permission be granted 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 - The development hereby approved shall be used in relationship to overnight camping only and no caravan shall be allowed on site.**

Reason: In the interests of the visual amenity of the surrounding area and in the interests of public highway safety.

- 3 - Prior to any development on site the applicants will submit to the Local Planning Authority details of a flood evacuation plan for the campsite in the event of a flood warning being issued that would include the stretch of the River Wye within close proximity to the application site.**

Reason: In order to protect users of the campsite, in the event of a flood warning being issued for the river within close proximity to the application site.

INFORMATIVES:

1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

2 - N19 - Avoidance of doubt

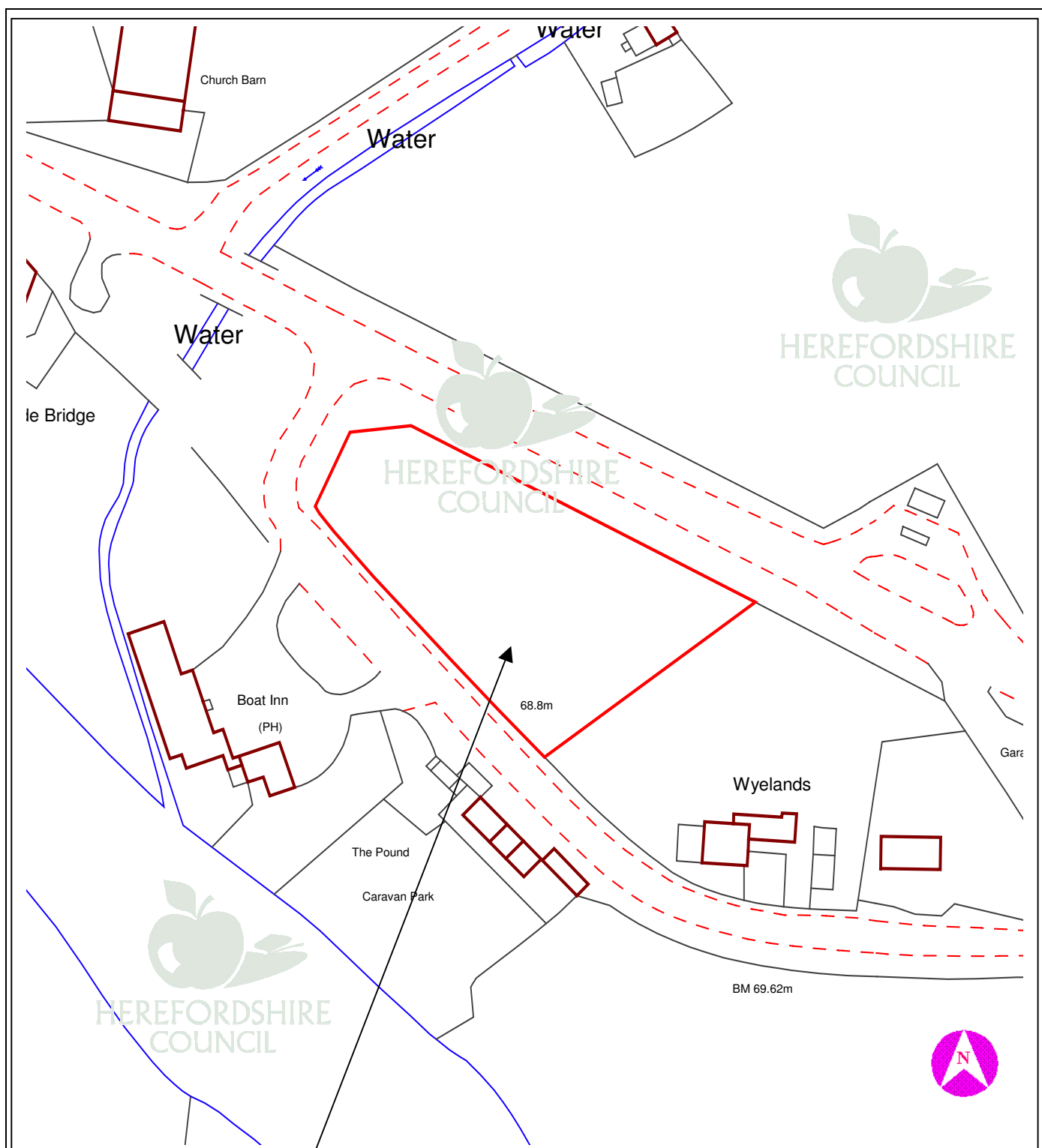
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2007/3344/F

SCALE : 1 : 1250

SITE ADDRESS : Field opposite The Pound, Whitney-On-Wye, Hereford, Herefordshire, HR3 6EH

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6 DCNC2007/2669/O - SITE FOR THE ERECTION OF ONE BUNGALOW FOR AGRICULTURAL WORKERS DWELLING AT LYNCROFT, BADLEY WOOD, WHITBOURNE, WORCESTER, WR6 5SJ**For: Mr L Roper per Mr R D Gurney, 56 Malvern Road, Powick, Worcester WR2 4RT****Date Received:**
15th August 2007
Expiry Date:
10th October 2007**Ward:**
Bringsty**Grid Ref:**
69446, 57366

Local Member: Councillor TW Hunt

Introduction

The application was originally deferred by the Northern Area Planning Sub-Committee on 14th November 2007 with a request that audited accounts be submitted, in accordance with the recommendation of the County Land Agent. These have been submitted and confirm that the net profit of the business is in excess of the minimum agricultural workers' salary of £13,716. The accounts also make provision for annual capital costs to build the proposed dwelling.

In light of the receipt and acceptance by the County Land Agent of the audited accounts, this issue is considered to have been addressed.

A further query was received from one of the objectors regarding the possible use of a building granted planning permission by Malvern Hills under application reference MH90/1768. This is some distance from the application site and would fail the test of PPS7 in terms of being within sight and sound of the premises that it is intended to serve.

The application was then reported back to Northern Area Planning Sub-Committee on 11th December 2007 but was deferred again with a request for further information regarding the extent of the business, what the hydroponics business actually entails and why this results in the need for a dwelling on site.

In response to this the applicant's agent has submitted the following additional information:

Hydroponics is science of creating a perfect growing condition for plants using water, without using soil during the 365 days of the year.

The basic system has been adapted for the site at Lyncroft to suit my requirements. The system is called NFT (Nutrient Film Technique), consists of plastic tubing built on a frame laid at a 1:40 slope. A tank is placed at lower end, where water with feed solution is pumped to the higher end to a manifold and is then allowed to flow back to the lower tank. This method produces 30% faster growth for consistently high quality produce and has easy general maintenance.

Small plants, for example lettuce, chard, spinach, pak-choi, are grown in units each consisting of 9 lengths of 11mtr tubing laid side by side; 38mm holes are drilled in the plastic

tubing, at 150 mm intervals, in which special pots containing vermiculite and a plant are placed. Each pipe is fed from manifold by a 4mm feed pipe; these pipes are subject to blocking and have to be constantly monitored. Cropping lasts for about one month during the summer months, after which the plants are replaced individually each month with young plants. The cropping period is a little longer during the rest of the year.

One heated unit covering an area of 13sq metres will contain 1000 pots producing and currently I have 4 of these for small plants and each unit will bring in some £1500 per year.

Larger plants, for example tomatoes, cucumbers French beans, are grown in units consisting of: 6 x 3inch plastic box section tube, which can only be got from New Zealand at £15 per metre. This is laid on the floor at one metre intervals, again 11 metres long, but only 3 of these to a unit. Each tube is fed by two 4mm pipes, again subject to blocking. I plant 25 tomato plants to each 11 metre tube, each plant is strung to the roof of polytunnel, very similar to hops.

There are variations to plant spacings ie:

Tomatoes	25 per 11mtrs (2units)
Cucumbers	12 per 11mtrs (2 units)
French beans	36 per 11 mtrs (3 units)

I have a small polytunnel (20ftx25ft) in which I grow American cress and herbs plus experiment with new plants, and this, along with the larger plants, accounts for a further £6,000 per annum.

The NFT system needs constant monitoring. There are over 140 4mm pipes which are very susceptible to blocking; power cuts can be a major problem also pump filters quite often clog up.

Picking produce is done either from 4.00am onwards or late evening, to prevent wilting during heat of the day. I currently produce 40% of what I could sell, having weekly to turn down new customers or deliver less than ordered by my existing customers.

The cost of setting up hydroponics has cost me about £45,000 but, having been expensive to establish, it is relatively cheap to run, the annual running costs for seed, feed, electric, oil for heating replacement pumps, vermiculite and water being less than £800.

I am hoping to build more units in open field (not polytunnels) for summer use and then heat more units in an existing polytunnel for winter production.

Officer's Comment

The siting of a mobile home has been accepted on the site since 1996 and planning permission has been granted on two separate occasions for its retention and effectively the local planning authority has accepted a continued residential presence on the site for a period of 12 years.

As stated in the original report, advice given in PPS7 suggests that local planning authorities should not normally grant successive extensions to temporary planning permissions. In the opinion of the case officer it is clear that the applicant has demonstrated the functional and financial viability of the business. The additional information provided endorses this and the recommendation made in the original report remains unchanged.

The original report now follows:

1. Site Description and Proposal

- 1.1 The application is made in outline and seeks permission for the erection of a single dwelling at Lyncroft, Whitbourne. The site falls outside of any settlement boundary, where there is a fundamental presumption against new build residential development unless it accords with the recognised exceptions outlined in UDP Policy H7.
- 1.2 All matters, with the exception of means of access, are reserved for future consideration. Outline applications are required to include information as to the scale of the proposal. In this instance a bungalow of 15 x 8m is proposed, into a ridge height not exceeding 6m. The location is as indicated on the 1:500 block plan.
- 1.3 The applicant is the owner of a hydroponics business growing a range of herbs and other crops. He also keeps a flock of 38 ewes and 8 Tamworth sows. Lambs and sows are eventually slaughtered every year with the meat being sold locally. A third element to the business is an egg packaging process whereby eggs are delivered to the site, re-packaged and sold on. This amounts to approximately 500 dozen eggs being sold each week.
- 1.4 The applicant currently resides in a mobile home shown adjacent to the application site on the 1:2500 site location plan. This was granted a temporary permission for a period of three years under the appeal allowed on 12th November 2001 and renewed by application reference NC2004/3875/F for a further three years. The temporary permission is set to expire in July 2008.
- 1.5 The application is supported by an agricultural appraisal which seeks to demonstrate that both a functional and financial need exist for permanent residential accommodation on the site.
- 1.6 The application site is located in open countryside with no immediate neighbour. A series of buildings and polytunnels are located on the site and serve the existing business. It sits in a natural hollow and is well screened from all directions by mature vegetation.

2. Policies

- 2.1 National Guidance
Planning Policy Statement 7 - Sustainable development in rural areas
- 2.2 Herefordshire Unitary Development Plan
H7 - Housing in the countryside outside settlements
H8 - Agricultural and forestry dwellings associated with rural businesses

3. Planning History

- 3.1 NC06/2022/O - Site for the erection of an agricultural workers dwelling - Refused 07/12/06. The application was refused for the following reasons:
 1. The local planning authority is not satisfied that the application demonstrates an overriding functional requirement for the provision of a permanent dwelling at this location. Accordingly the proposal is contrary to Policy H20 of the Hereford and Worcester County Structure Plan, Policies H7 and H8 of the emerging Herefordshire Unitary Development Plan and Planning Policy Statement 7.

2. The local planning authority is not satisfied, on the basis of the submitted trading accounts, that the enterprise can sustain the capital costs involved in erecting a new dwelling. As such the long-term financial viability of the holding is not proven in accordance with Annex A to Planning Policy Statement 7. The development is thus contrary to Housing Policies 7 and 8 of the emerging Unitary Development Plan.
- 3.2 NC2004/3875/F - Renewal of temporary consent for the siting of a mobile home - Approved 25/07/05
- 3.3 NC2004/3872/O - Site for the erection of an agricultural workers dwelling - Refused 29/09/05
- 3.4 NC2001/0174/F - Retention of mobile home, hen house, 2 portacabins and 2 garden sheds Refused 3/4/01 Appeal allowed
- 3.5 NC2000/1404/F - Retention of mobile home, hen house, 2 portacabins and 2 garden sheds - Refused 22/8/00
- 3.6 NC99/2294/F - Erection of an agricultural workers dwelling - Refused 24/11/99
- 3.7 MH96/0646 - Mobile home Approved 10/12/96
- 3.8 MH92/0694 - Portacabin, ancillary buildings for free range egg production - Refused 6/10/92

4. Consultation Summary

Statutory Consultations

- 4.1 None required

Internal Council Advice

- 4.2 Transportation Manager - No objections
- 4.3 County Land Agent - Has reported in detail on the proposals but concludes as follows:

In my opinion the hydroponics enterprise does need a worker on site on a full time basis, in that if there is a problem with water flow or electricity serious losses could arise. The business has a long term future and the potential to expand.

The stock enterprise is too small to justify residential necessity in that 16 farrowings and 38 lambings could be administered to from a temporary caravan, as could any animal welfare requirements in case of sickness.

The SMD and financial requirements are met. (The latter subject to the accounts provided being audited). The long term future of the stock enterprise needs to be secured by the obtaining of extra land for the pig enterprise as mentioned in (d) above.

Therefore subject to the above points being satisfactorily cleared up the application is satisfactory in my opinion.

5. Representations

- 5.1 Whitbourne Parish Council - No objections
- 5.2 Two letters of objection have been received from the following:
- Mr R Slater, Pat Brook, Badley Wood, Whitbourne
 - Mr & Mrs Galvin, Lincetter Farm, Badley Wood, Whitbourne
- 5.3 In summary, both letters question the economic viability of the business as it relies on activities that are not directly associated with the land and that the keeping of sheep and pigs do not require permanent on-site supervision.

Agricultural Appraisal

- 5.4 The appraisal opens with a brief description of the buildings and land controlled by the applicant. Owning just 8 acres, the remaining 18 acres are rented informally from neighbours.
- 5.5 The business has three arms and these have been described previously, but are basically hydroponic production of herbs and a range of other crops, livestock and egg re-packaging and sale.
- 5.6 As part of the history of the site the appraisal identifies the fact that a series of planning permissions have been granted on the site, including temporary permissions for mobile homes, first in connection with a free-range poultry business and later, after the flock contracted a serious disease and was destroyed in 1999, and latterly in connection with the hydroponics business. A temporary permission has therefore been granted since 1996 on three separate occasions.
- 5.7 The appraisal goes on to make an assessment of the business against national and local policies. It concludes that a functional need exists particularly in connection with the hydroponics part of the business as it is sensitive to emergencies arising, most commonly from fluctuations in temperature and electrical failures.
- 5.8 It also concludes that there are sufficient man-days generated by the day-to-day operation of the site to warrant the provision of permanent accommodation.
- 5.9 With regards to the financial aspect of the business, the appraisal highlights a continuing upward trend over the past four years. In the year ending 31st March 2004 a loss of £384 was made, with profits of £7,281, £12,781 and £16,963 for the corresponding periods in 2005, 2006 and 2007 respectively. It concludes that on the basis of these figures the financial test is met.
- 5.10 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The application seeks outline permission for the erection of a rural exceptions house at Lyncroft. The application falls to be considered against policies H7 and H8 of the UDP and advice contained within Planning Policy Statement 7 - Sustainable Development in Rural Areas. H7 (1) allows for development that is "clearly necessary in connection with agriculture or forestry and cannot be located in a settlement and complies with H8.

- 6.2 H8 offers further criteria against which applications for agricultural worker's dwellings should be assessed. Principally there must be a demonstrated that there is a long-term genuine need for the dwelling as an essential part of a financially viable business and that such need cannot be met in existing accommodation. PPS 7 also offers advice in this respect by stating that there should be:

"...a clearly established existing functional need;"

- 6.3 The policy goes on to describe development requirements where development is acceptable, together with the necessity for occupancy conditions and restriction of separate sale.
- 6.4 In this instance the business is established and it is appropriate to consider a proposal for a permanent dwelling, rather than a mobile home, particularly as temporary consent has previously been granted and PPS 7 makes it quite clear the local planning authorities should not normally grant successive extensions to a temporary permission over a period of more than three years.

Officer response to the agricultural appraisal

- 6.5 The loss of the poultry flock is significant in that the disease contracted requires that the land is not occupied by poultry for a number of years, although no time scale is given. It is this situation that has given rise to the importation, re-packaging and sale of eggs from the site. In allowing the appeal in 2001, the Inspector appeared to accept this as part of the diversification of the business.
- 6.6 A closer examination of the figures provided to substantiate the financial requirement for a dwelling indicate that the egg re-packaging accounts for approximately 60% of the gross income over the three year period 2004-06. By 2007 this is reduced to less than 50% of the gross income, but more significantly it is noted that the combination of income generated from the hydroponics, pig rearing and other produce amounts to £20,166. The figures demonstrate that the business is continuing an upward trend in terms of financial viability and moreover that there is less dependency upon the egg packaging aspect of the enterprise.
- 6.7 The County Land Agent highlights that there is a lack of information with regards to the labour requirements for hydroponics. However, he acknowledges that the water supply has to be checked on a four hourly basis, that crops have to be picked and packaged and delivered and that seedlings have to be pricked out into cups. All of these are labour intensive and time consuming jobs. Most particularly the picking and delivery of crops has to occur on the same day to ensure that they do not wilt.
- 6.8 The continued renewal of temporary permissions is somewhat unfortunate as it does not accord with current Government advice contained within PPS7. There may have been some justification for this given the exceptional changes in circumstances through the loss of the poultry flock to disease. Nevertheless this should not continue to influence planning decisions some seven years on and a decision must be taken based on the circumstances as they exist at this moment in time. Based on the fact that the financial viability has continued to develop over a four year period, and that it is clear that the hydroponics element is becoming increasingly prominent, is labour intensive and requires immediate on site supervision, it is concluded that the proposal meets the financial and functional tests set out by PPS 7. As a result it also accords with policies H7 and H8 of the Herefordshire Unitary Development Plan and the application is therefore recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 - **A02 (Time limit for submission of reserved matters (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 2 - **A03 (Time limit for commencement (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 3 - **A04 (Approval of reserved matters)**
Reason: To enable the local planning authority to exercise proper control over these aspects of the development.
- 4 - **A05 (Plans and particulars of reserved matters)**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 5 - **E28 (Agricultural occupancy)**
Reason: It would be contrary to Development Plan policies to grant planning permission for a dwelling in this location except to meet the expressed case of agricultural need.

Informatives:

- 1 - **N15 - Reason(s) for the Grant of PP/LBC/CAC**
- 2 - **N19 - Avoidance of doubt**

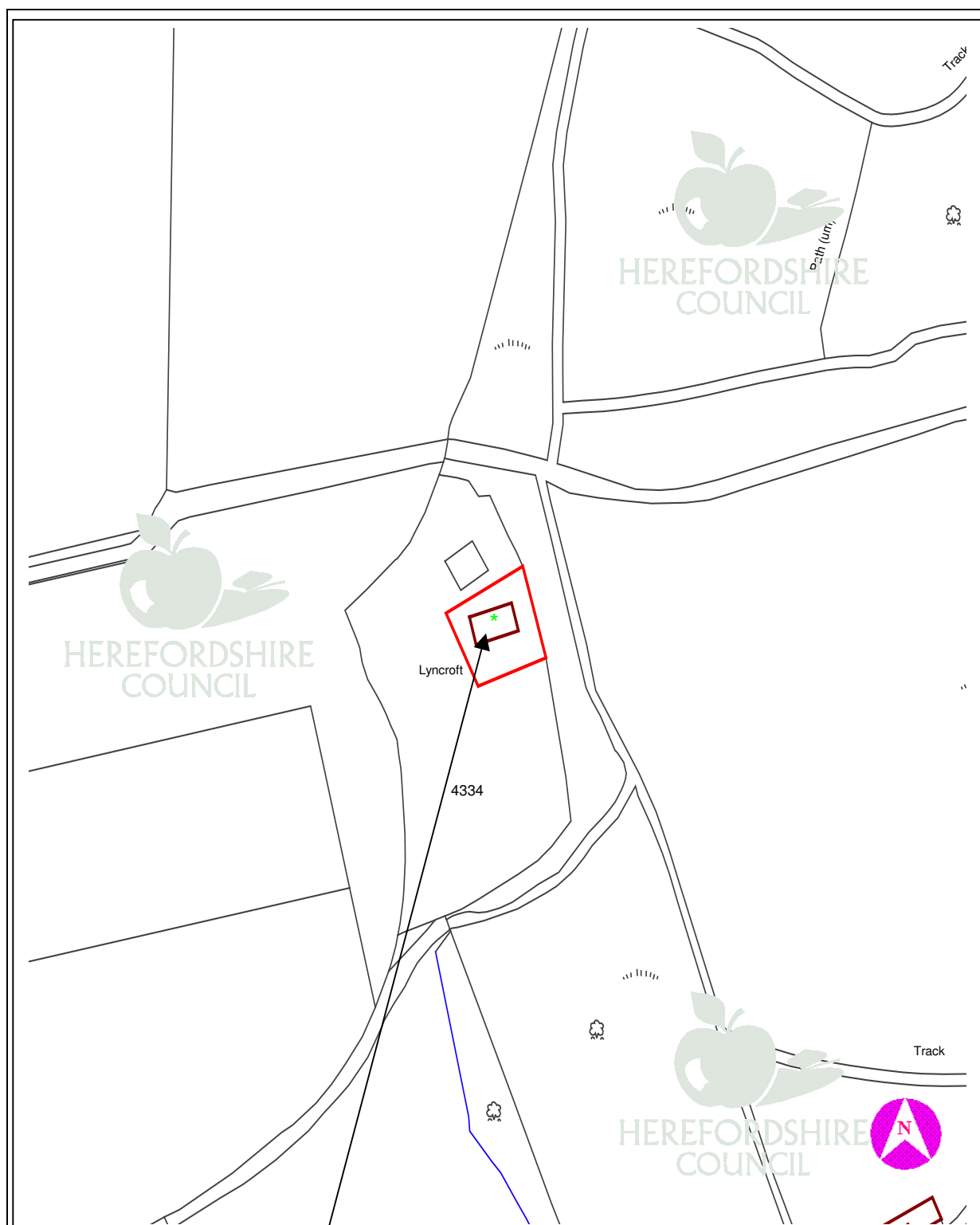
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2007/2669/O

SCALE : 1 : 1250

SITE ADDRESS : Lyncroft, Badley Wood, Whitbourne, Worcester, Herefordshire, WR6 5SJ

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7 DCNC2007/3391/F - PROPOSED SITE FOR 10 DWELLINGS AT FORMER ORPHANS PRESS SITE, LAUNDRY LANE, LEOMINSTER, HEREFORDSHIRE, HR6 8JT**For: Mrs M Ford per Mr N La Barre, Easters Court,
Leominster, Herefordshire, HR6 0DE****Date Received:**
30th October 2007**Ward:**
Leominster South**Grid Ref:**
49644, 58030**Expiry Date:**
29th January 2008

Local Member: Councillor RBA Burke & Councillor RC Hunt

Introduction

The application was deferred by the Northern Area Planning Sub-Committee on 16th January 2008 with a request for further information to be provided about the highway implications of the proposal and in order that a further assessment could be made of the levels of the proposed dwellings and the implications of this for the adjoining bungalow known as Lilacs.

As a result the applicant's agent has submitted further drawings demonstrating the relationship between dwellings on the site and Lilacs, and the same property and the existing buildings. The drawings also include a detail to show how both the existing situation and the proposals affect Lilacs in terms of shadowing.

The applicant's agent comments as follows:

Although Laundry Lane slopes gently down from West to East the site itself is relatively level with a drop at its eastern boundary of between 1.1m and 1.3m. Since the plans have been submitted and the owner of the bungalow immediately to the East (Lilacs) has extended the property close to the boundary. I have amended the existing and proposed 1:200 scale site plans to show the relative position of the bungalow and these plans also indicate shadow lines. Privacy and amenity to this property will be unaffected by the proposed development.

The recommended width for shared access roads to new developments is 4.5m and Laundry Lane is this width and the tarmac surface is in very good condition. I reiterate my previous comment that this proposal will result in a net reduction in traffic movements along Laundry Lane and this should be viewed as a positive improvement.

Egress from Laundry Lane on to Hereford Road could be improved if cars were prevented from parking on Hereford Road immediate to each side of the junction by way of double yellow lines.

During the committee meeting it was mentioned that 16 flats were being built down Laundry Lane, this is not the case. A long time ago Planning Permission was obtained for 12 flats and 8 of these were built about 20 years ago, the remaining 4 are now under construction.

Further comments have also been received from the Transportation Manager in respect of the possibility of making highway improvements. Three options were considered and his response is as follows:

1. The use a Traffic Regulation Order (TRO) to control on-street parking along Hereford Road on either side of Laundry Lane;
2. Reducing the current speed limit along Hereford Road;
3. Improved signing &/or traffic calming methods along Hereford Road to alert road users to the junction.

I would expect that the second and third options are unlikely to meet current guidance, so they should be ruled out. The exception would be if there are plans to institute a 20mph zone at the school that could be extended, although this is some distance from Laundry Lane and may be too far away.

This leaves the first option, which would certainly improve the poor visibility at the junction. However, it would also increase parking pressure at a place where there already exists considerable demand for parking. It could be achieved by TRO or constructing buildouts on Hereford Road.

Parking restrictions for approximately 15m either side of Orphan's Lane would be appropriate, paid for by the developer. It may, however, be difficult to condition this, as the TRO process is subject to consultation, and I anticipate some objections from residents affected by removal of the parking spaces. Most of the dwellings near the junction have no alternative than to park on the highway.

The buildouts would probably need dropped kerbs to assist pedestrians crossing Hereford Road and Laundry Lane, inviting vehicles to park on them if not very carefully designed and enforced.

In conclusion, there may be some merit in seeking a financial contribution towards highway improvements. In the first instance these contributions could be used to fund the consultation process for a TRO to restrict parking to either side of Laundry Lane. If this should fail as a result of local objection any remaining monies could be used for local highway improvement schemes or safe routes to schools.

On this premise a contribution of £1,500 per dwelling is recommended.

Officer's Comment

The comments from the applicant's agent regarding the planning history of residential development are not in doubt. They do not mention the fact that a further 7 dwellings were approved with access off Laundry Lane (NC1999/3052/F), but this permission has since lapsed. The land is subject of a current application for a further phase of development at St Botolphs that is to be serviced by the existing access to that residential estate.

I consider that the additional drawings show that the existing building is more dominant than the proposal. At 8.4 metres it is one metre taller than the proposed dwellings and the existing is actually closer than the dwelling on plot 4. The plans also indicate that there will not be a significant degree of overshadowing of Lilacs. A condition referring to levels has been included in the original report and it is concluded that the scheme is acceptable in terms of its impact on residential amenity.

The Transportation Manager has commented in detail about the likely success of any highway improvements around the Hereford Road/Laundry Lane junction. Any parking restriction will need to be subject to a TRO and the requirement for public consultation casts

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

doubt over the probability of this actually occurring. He does recommend the inclusion of a contribution towards highway improvements, but in the absence of a confirmed TRO this will not achieve the improvements that are at issue as far as this proposal is concerned. Given the anticipation of a net reduction in traffic along Laundry Lane, a request for a S106 contribution is not justified.

The original report to committee now follows:

1. Site Description and Proposal

- 1.1 The site to which this application relates is located on the southern side of Laundry Lane, Leominster and is the site of the former Orphans Press printing works. The company have since moved to a site on Leominster Enterprise Park.
- 1.2 The site is roughly rectangular and is approximately 50 metres in depth with a 40 metre frontage onto Laundry Lane. An electricity sub station is located in the north eastern corner but is not part of the application site. The plot is dominated by the former printing works building which is set back from the road with a tarmaced parking area in front. A smaller building defines the southern boundary of the site running almost along its entire length.
- 1.3 The site is flat but set at a higher level to the bungalow immediately to the east, the difference in ground level being approximately 0.75 metres. It is surrounded on all boundaries by private residential dwellings with buildings on the opposite side of Laundry Lane hard against the roadside.
- 1.4 The proposal is for the demolition of the existing buildings on the site and for its re-development with a scheme for 10 houses, comprising four 2 bed and six 3 bed dwellings. Two pairs of semi detached properties are positioned either side of an access onto Laundry Lane, being set back from the road edge by a minimum of 3 metres. A further pair of semis are positioned mid-way into the site on the eastern boundary with a terrace of four positioned along the southern boundary. Each dwelling is provided with two parking spaces and the submitted block plan also indicates the provision of secure cycle storage buildings. All dwellings have front and rear access and the block plan also indicates areas of landscaping.
- 1.5 The elevations of the dwellings take their lead from the buildings on the opposite side of Laundry Lane with 45 degree roof pitches and the use of dormer windows and gabled arrangements to break their mass. The application form indicates that external materials will be brick and tile.
- 1.6 The application is accompanied by a design and access statement and also a Desk Study Report into the potential contamination of the site.

2. Policies

2.1 Herefordshire Unitary Development Plan

DR1 – Design

DR2 – Land use and activity

DR3 – Movement

DR10 – Contaminated land

H1 – Hereford and the market towns: settlement boundaries and established residential areas

H13 – Sustainable residential design

H14 – Re-using previously developed land and buildings

H15 - Density

H16 – Car parking

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

H19 – Open space requirements
E5 – Safeguarding employment land and buildings

3. Planning History

3.1 None identified.

4. Consultation Summary

Statutory Consultations

4.1 None required

Internal Council Consultations

4.2 Transportation Manager - Whilst the access along Laundry Lane and its junction with Hereford Road are not consistent with current standards, I consider that the proposed development will not result in an increase of traffic over that existing, or indeed likely if the site was re-developed for commercial use. There are therefore no robust grounds to recommend refusal, and the development is likely to improve highway safety when compared with commercial proposals. Therefore I would raise no objection subject to the imposition of conditions.

4.3 Head of Trading Standards and Environmental Health - Comments as follows:

In general the Geo-environmental desk-study covers the main issues on site, however the following items will need to be addressed when any further submissions are made:

- The Conceptual model contained within the report does not appear to include the indoor/out door inhalation pathway from potential solvents or hydrocarbons that may be present within the soils. The conceptual model will need to be updated.
- Trading Standards and Environmental Health response was not included within the desk-study report, for completeness these responses should be incorporated in any additional reports.
- Prior to the site investigation works commencing, it is recommended that a detailed contaminated land site investigation proposal is submitted for comment.
- In terms of the planning application, I would recommend that a planning condition is attached to any planning permission granted to require the updating of the conceptual model contained within desk-study, a site investigation, recommendation of any necessary remediation actions and the implementation of the remedial actions.

4.4 Public Rights of Way Officer - A public footpath passes along Laundry Lane and this will be affected by the development, particularly during the construction phase.

The applicants should ensure that the future residents of the dwellings have lawful authority to drive over the public footpath. This is normally granted by the owner of the land over which the public footpath passes, and is often included in the Title Deeds.

The applicants should note that because the right of way has footpath status it will only be maintained by the highway authority to a standard suitable for use by pedestrians.

Because of the additional number of residents we would request a Section 106 contribution towards improvements in the public rights of way network in line with the emerging Supplementary Planning Guidance on Planning Obligations.

4.5 Landscape Officer - No objection subject to conditions

- 4.6 Parks, Countryside and Leisure Development Manager - Under current UDP Policy H19 a development of this size would require a small children's play area. No such provision is made on the site. This is supported as they offer little in terms of play value and the preference is for an off-site contribution towards a larger play area.

We would also ask for a contribution towards sports facilities provision in response to advice given by Sport England would require that development contributes towards increasing participation in active sports. Any contribution would be used towards improvements at the Leominster Leisure Centre's multi activity suite.

5. Representations

- 5.1 Leominster Town Council - Recommends refusal as the proposed development is out of keeping. It would place a strain on the infrastructure and in particular the sewerage system and has a hazardous access onto Laundry Lane, which already has high density housing.

- 5.2 Welsh Water - No objection subject to conditions.

- 5.3 Eight letters of objection have been received from local residents. In summary the points raised are as follows:

1. Concerns about highway safety at the junction of Laundry Lane and Hereford Road.
2. The proposal will exacerbate traffic congestion along Laundry Lane.
3. Two storey dwellings are not in keeping with the area. Any development should be single storey.
4. Loss of privacy and amenity.
5. Concerns over the capacity of the sewerage system.
6. Query over the ownership of Laundry Lane.

- 5.4 The applicant agent has submitted an additional statement in relation to concerns raised over highway safety and this reads as follows:

The previous occupants of the site (Orphans Press) employed 20 staff, many of whom drove to work. In addition the metal plating works at the rear had four employees.

The 15 dedicated parking spaces on site were generally fully occupied by employee's cars, some of whom would drive into the town centre during lunchtime.

In addition to staff traffic manoeuvres there were numerous clients visiting every day as well as daily deliveries of supplies and dispatches of finished goods generally by vans but sometimes by articulated lorries which had to reverse down the lane. Any other light industrial use on this site would probably generate similar traffic movements.

By comparison the traffic generated by the new dwellings would be considerably less than previously experienced given that there would be a maximum of 20 cars parked on site.

- 5.5 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The main issues are summarised by the objections raised by local residents and each will be dealt with in turn.

Highway Safety

- 6.1 The comments of the Transportation Manager and the applicant's agent deal with this matter in detail. In short, a valid industrial use remains on the site that falls within Class B2 of the Town and Country Planning (Use Classes) Order. If an alternative use falling within Class B2 were to be continued on the site it could generate a similar, or even greater, number of traffic movements without restriction. Therefore a comparison has to be drawn between the most recent use of the site and this proposal in terms of traffic generation and highway safety.
- 6.2 The Transportation Manager accepts that the junction of Laundry Lane and Hereford Road is not up to current standards, but concludes that the highway safety may actually improve as a result of the removal of commercial vehicles and their associated movements from the junction.
- 6.3 The plans ensure the provision of two spaces per dwelling. This exceeds the 1.5 space per dwelling requirement of Policy H16 of the UDP but this will help to ensure that there is no indiscriminate parking along Laundry Lane itself should planning permission be granted.
- 6.4 The current valid use of the site is an important material planning consideration in terms of highway safety and it is therefore concluded that, in a worst case scenario, there will be no change to it, but more likely that the removal of commercial traffic movements will actually result in an improvement to highway safety.

Design Issues

- 6.5 Notwithstanding the comments from the objectors, there is a mix of single and two storey development in the locality and there is no justification to withhold planning permission in design terms on the basis that this is for two storey accommodation.
- 6.6 The design is typical of a residential development and does pay some regard to the appearance of the buildings immediately opposite. The use of gabled wings and dormer windows, combined with the arrangement of the buildings, helps to break up the bulk and massing of the scheme as a whole. The scheme is generally well proportioned and laid out and affords each dwelling with its own parking and private amenity space. In order that this is maintained, it is recommended that permitted development rights are removed by condition.
- 6.7 The scheme is of an acceptable design and accords with the relevant policies in this respect.

Amenity Issues

- 6.8 Like the matters arising from the design, the key is whether a two storey development results in an unacceptable detriment to residential amenity, either as a result of overlooking or as a result of any domineering effect that it might have.
- 6.9 The only plots that potentially cause any detriment in either respect are plots 1 to 4. It is clear that the internal layout of them has been carefully considered both in terms of the dwellings opposite and the two bungalows either side (Chalgrove and The Lilacs). As a result there are no habitable room windows opposing the building on the opposite side of the road. Windows at first floor in the front elevation serve bathrooms whilst bedroom windows are in the side elevations. For plots 2 and 3 this means that windows look on to the centrally positioned access into the site. For plots 1 and 4 they

look on to the adjacent bungalows. With regard to Chalgrove this results in a window looking onto a blank side elevation. The Lilacs has a lower ground level and therefore the window looking across it looks over its roof and beyond. In both cases there is unlikely to be any demonstrable loss of privacy as a result of this proposal.

- 6.10 With regard to the dominance of the development, it has previously been stated that the massing is broken by the design of the buildings and the spacing afforded between them. The dwelling on plot 4 is some 7 metres from The Lilacs and, although the ground level is higher, it will not result in a domineering effect to any greater extent than the buildings currently on the site.
- 6.11 It is concluded that the scheme does not result in any demonstrable loss of residential amenity and therefore is acceptable in policy terms in this respect.

Land Ownership

- 6.12 Ultimately this is civil matter and not one to restrict the granting of planning permission in itself. It is accepted that there is a longstanding issue with the ownership and maintenance of Laundry Lane and this has never been satisfactorily resolved. However, planning permission has been granted elsewhere along Laundry Lane for residential development and the matter has been raised previously. It has not led to permission being refused before, nor should it in this instance. The Rights of Way Officer has offered a detailed response which has been summarised in this report in respect of the public footpath and the responsibility for its maintenance, and the applicant can be advised of this through the inclusion of a series of notes attached to any planning permission.

Other Issues

- 6.13 The applicants have advised that they are agreeable to paying a contribution towards open space and sports improvements, the details of which are appended to this report as a Draft Heads of Terms.
- 6.14 The loss of employment land is also a material planning consideration, and again this links in with other points of consideration examined earlier in this report. Policy E5 states that a loss of employment land will only be permitted if, amongst other things, there would be substantial benefits to residential amenity in allowing alternative forms of development. A B2 use in a primarily residential area is not at all desirable and it would be beneficial to amenity if this use were to be removed from the site.
- 6.15 It is therefore concluded that the proposal accords with policy and, subject to a Section 106 Agreement to secure contributions to open space and sports provision, the application is recommended for approval.

RECOMMENDATION

That the Legal Practice Manager be authorised to complete a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report and any additional or amended matters which he considers to be necessary or appropriate.

Upon completion of the above-mentioned planning obligation agreement Officer named in the Scheme of Delegation 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 - B01 (Samples of external materials)

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

3 - E16 (Removal of permitted development rights)

Reason: In order that the local planning authority can consider the implications of any future development.

4 - E18 (No new windows in specified elevation)

Reason: In order to protect the residential amenity of adjacent properties.

5 - F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

6 - F48 (Details of slab levels)

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

7 - G01 (Details of boundary treatments)

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

8 - G04 (Landscaping scheme (general))

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

9 - G05 (Implementation of landscaping scheme (general))

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

10 - H13 (Access, turning area and parking)

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

11 - H29 (Secure covered cycle parking provision)

Reason: To ensure that there is adequate provision for secure covered cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

12 - W01 (Foul/surface water drainage)

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

13 - W02 (No surface water to connect to public 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.

14 - W03 (No drainage run-off to public system)

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

15 - 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 an 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.**
- 16 - The Remediation Scheme, as approved pursuant to condition no. (1) 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.**

Informatives:

- 1 - HN02 - Public rights of way affected**
- 2 - HN03 - Access via public right of way**
- 3 - HN04 - Private apparatus within highway**
- 4 - HN05 - Works within the highway**
- 5 - HN10 - No drainage to discharge to highway**
- 6 - HN22 - Works adjoining highway**
- 7 - HN23 - Vehicular use of public rights of way**

8 - N15 - Reason(s) for the Grant of PP/LBC/CAC

9 - N19 - Avoidance of doubt

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

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

Planning Application – DCNC2007/3391/F
Proposed erection of 10 dwellings on land at former Orphans Press site, Laundry Lane, Leominster

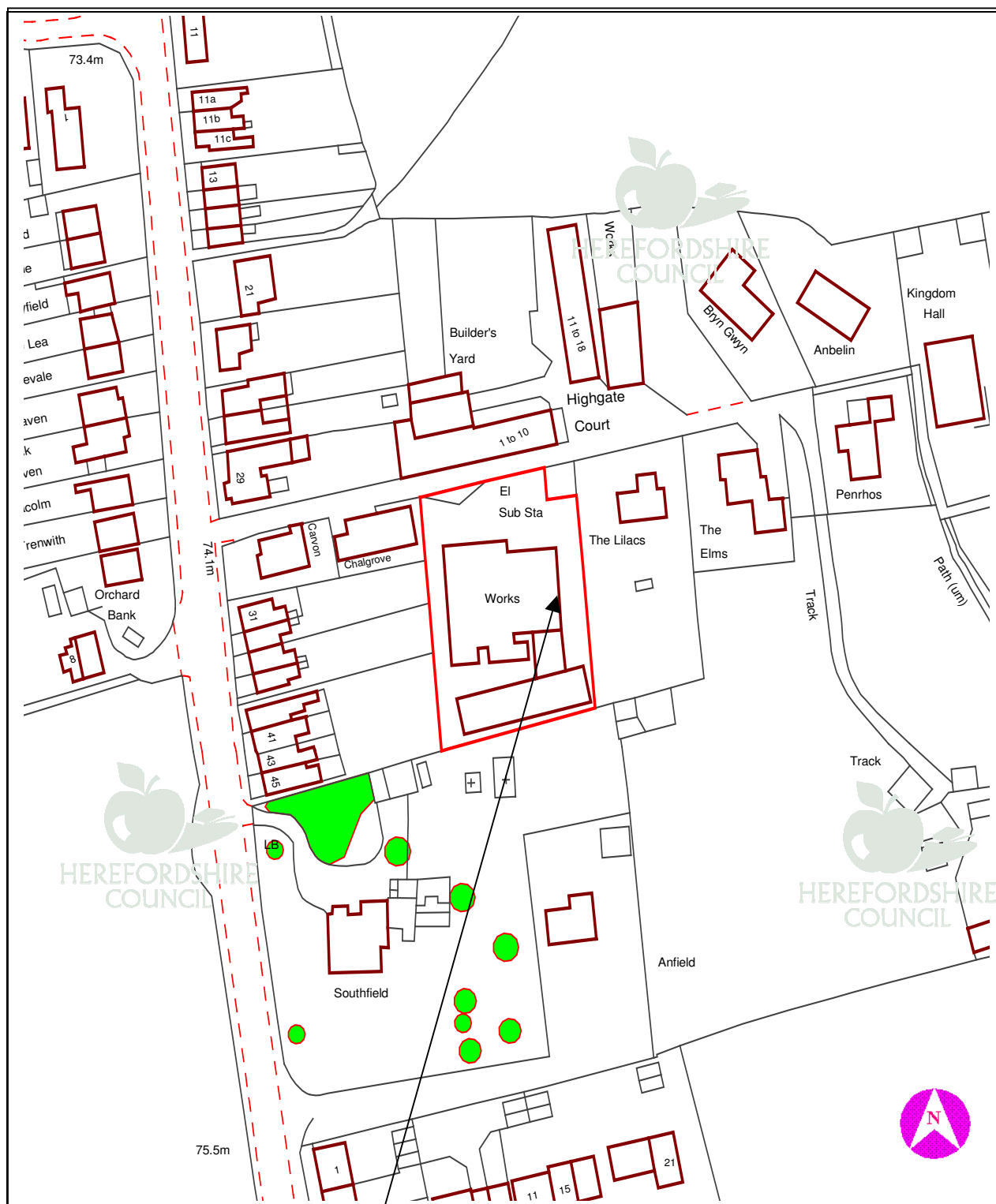
1. The developer covenants with Herefordshire Council, in lieu of the provision of open space on the land to serve the development to pay Herefordshire Council the sum of £9,000 which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

Improvements to the neighbourhood park at Sydonia, including its surrounding footpaths

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £6,300 (in accordance with the Sport England Sport Facility Calculator) for improvements at the Leominster Leisure Centre's multi activity suite which sum shall be paid on or before the commencement of the residential development.
3. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1 and 2 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.
 - a) The sums referred to in paragraphs 1 and 2 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.
 - b) 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.
 - c) The developer shall complete the Agreement by 28th January 2008 otherwise the application will be registered as deemed refused.

Andrew Banks – Principal Planning Officer
Peter Yates – Development Control Manager

3rd December 2007



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APPLICATION NO: DCNC2007/3391/F

SCALE : 1 : 1250

SITE ADDRESS : Former Orphans Press Site, Laundry Lane, Leominster, Herefordshire, HR6 8JT

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8 DCNW2008/0084/F - PROPOSED TWO STOREY EXTENSION AT FOUR WINDS, MOCKTREE, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LY

**For: Glenholme Developments Ltd per Mr J Needham
John Needham Associates 22 Broad Street Ludlow
Shropshire SY8 1NG**

Date Received:
11th January 2008

Ward:
Mortimer

Grid Ref:
42032, 75867

Expiry Date:
7th March 2008

Local Member: Councillor LO Barnett

1. Site Description and Proposal

- 1.1 A detached cottage in open countryside location, accessed via a track from the adjoining public highways.
- 1.2 The dwelling is externally constructed of stone, brick and render, all painted white under a tiled roof.
- 1.3 The dwelling is of relatively small proportions, mainly retaining its original character as there have been some small additions attached since original construction.
- 1.4 The original dwelling's internal habitable floor space measures approx 73.6 square metres. the later additions measure 35.69 metres (all measured externally).
- 1.5 The application proposes construction of a rear externally rendered two storey extension, to provide additional habitable accommodation measuring 46.4 square metres. Also proposed is an attached log store measuring 5.74 square metres.

2. Policies

- 2.1 Herefordshire Unitary Development Plan
 - S1 - Sustainable Development
 - S2 - Development Requirements
 - DR1 - Design
 - DR2 - Land Use and Activity
 - DR3 - Movement
 - DR4 - Environment
 - H7 - Housing in the Countryside Outside Settlements
 - H18 - Alterations and Extensions
 - LA2 - Landscape Character and Areas Least Resilient to Change

3. Planning History

- 3.1 NW2007/0898/F - Proposed two-storey extension. Refused 10th May 2007.
- 3.2 NW2007/2430/F - Two storey extension and log store. Refused 14th September 2007.

4. Consultation Summary

Internal Council Advice

- 4.1 The Transportation Manager raises no objections.

5. Representations

- 5.1 Leintwardine Parish Council recommend refusal stating: aesthetically undesirable, more sympathetic plans needed.
- 5.2 The full text of this letter can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The key issue with regards to this application is the impact of the proposed development on the existing dwelling.
- 6.2 Policy H18: Alterations and extensions in the Herefordshire Unitary Development Plan, states that extensions must be in keeping with the existing dwelling's character and its surroundings and that the original building, (not including any subsequent extensions) must remain the dominant feature.
- 6.3 Two previous applications for a similar proposal were refused planning permission by the Council under its scheme of delegation to Case Officers.
- 6.4 The applicants (Glenholme Developments) have amended the latest proposal reducing the proposed extension in length by 0.3 metres (1 foot) in order to try and overcome the concerns, that resulted in the previous two refusals for development on site.
- 6.5 The amendment is a marginal improvement to this situation. On balance it is now considered that the reduction in the size of the extension brings the scheme closer to the principles set out in Policy H18 of the UDP. It would still be open to Committee to refuse planning permission, if it felt that there continues to be a conflict with the principles of the policy.

RECOMMENDATION

That planning permission be granted 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 - B02 (Matching external materials (extension))**

Reason: To ensure the external materials harmonise with the existing building.

- 3 - The 'open store area' as indicated on the east elevation of the approved plans shall remain open as indicated on the approved plans in perpetuity.**

Reason: In the interests of the character and scale of the dwelling.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC**

- 2 - N19 - Avoidance of doubt**

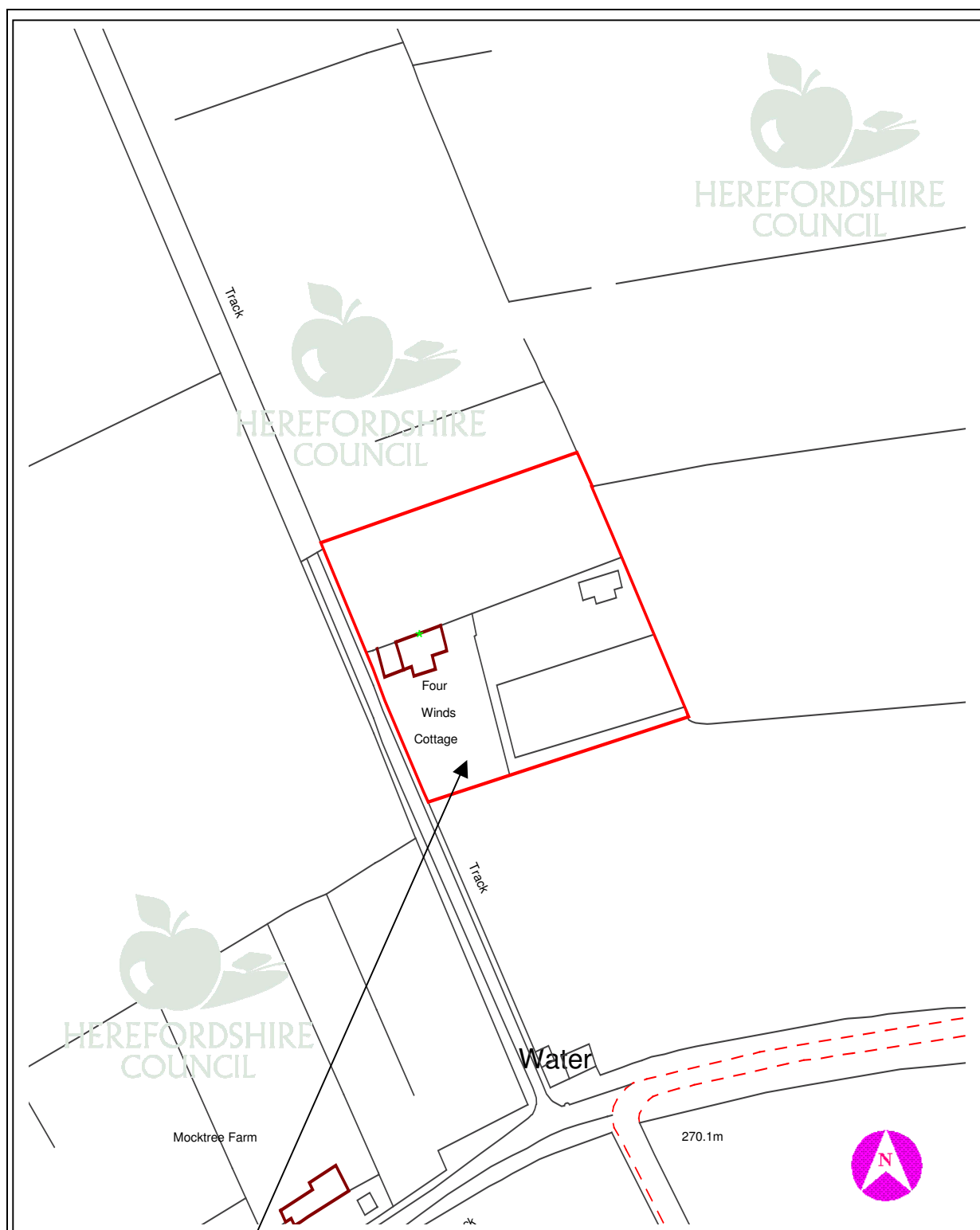
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2008/0084/F

SCALE : 1 : 1250

SITE ADDRESS : Four Winds, Mocktree, Leintwardine, Craven Arms, Herefordshire, SY7 0LY

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9 DCNW2007/3767/O - SITE FOR RESIDENTIAL DEVELOPMENT FOR FIFTEEN HOUSES AND GARAGES. LAND BETWEEN, DARK LANE AND A4110, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LJ

For: Mr M Kirby per McCartneys, The Ox Pasture, Overton Road, Ludlow, Shropshire SY8 4AA

Date Received:
5th December 2007

Ward:
Mortimer

Grid Ref:
40428, 74632

Expiry Date:
5th March 2008

Local Member: Councillor LO Barnett

1. Site Description and Proposal

- 1.1 The application site comprises a 0.78 hectare area of agricultural land at the Northern most point of the village of Leintwardine. The boundaries of the site are formed by Dark Lane to the East and High Street (A4113) to the West. These roads meet at the Northern tip of the site. The northern end and a strip of the eastern side of the site have been allocated in the Unitary Development Plan as 'Protected Open Space'.
- 1.2 The proposal is an Outline application which provides details of the access, scale and layout but reserves details of landscaping and appearance for consideration under any subsequent Reserved Matters application. The application is for 15 dwellings. This would comprise 8 three bed dwellings (3 Affordable), 2, four bed dwellings (1 affordable) and 5 two bed dwellings (1 affordable). The application submission includes:
- an existing Site plan detailing the levels and areas of protected open space, a mature oak tree and hedgerows
 - A proposed layout plan, including the new vehicular and pedestrian accesses as well as the Protected Open Space which is to be used as informal play space.
 - A plan detailing the scale parameters of the dwellings and garages (maximum eaves and ridge heights)
- 1.3 The dwellings would be sited in a cul-de-sac style. Each dwelling would have a garage and at least one additional off road car parking space. The indicative plans show either linked garages between dwellings or a lean to style garage to one side. Some of the dwellings would have dormer style windows. Those dwellings with dormers would have a maximum ridge height of 7m and eaves height of 4.2m. Those without dormers would have a ridge height of 7.15m and eaves height of 5m.

- 1.4 An access to serve the site would be to the West of the site off the A4113. The access is within the 30mph limited area of this road. Part of the hedge will need to be removed and replanted behind the visibility splays to ensure that the required 90m can be achieved in each direction. The footpath will be joined to the existing path on the High Street outside of Little Meadows. A footpath/cycle path is also detailed onto Dark Lane, utilising the position of the existing gate to negate any hedgerow removal on this boundary.
- 1.5 In response to concerns raised by local residents an amendment has been requested removing the cycle/footpath from between Little Meadows and the new dwellings. A reconsultation exercise has been undertaken on this basis. The proposed access road and footpath (2m wide) will suffice to allow access and egress on foot and by bike into this site. The lighting, drainage, construction and maintenance of these public footpaths and highways will be dealt with by way of the appropriate highways agreements and licences.

2. Policies

2.1 Herefordshire Unitary Development Plan (2007)

Policy S1 - Sustainable Developments
Policy S2 - Development Requirements
Policy S3 - Housing
Policy DR1 - Design
Policy DR4 - Environment
Policy DR5 - Planning Obligations
Policy H9 - Affordable Housing
Policy H13 - Sustainable Residential Design
Policy H15 - Density
Policy H16 - Car Parking
Policy H19 - Open Space Requirements
Policy T7 - Cycling
Policy HBA4 - Setting of Listed Buildings
Policy ARCH1 - Archaeological Assessment and Field Evaluations
Policy ARCH6 - Recording of Archaeological Remains
Policy RST3 - Standards for Outdoor Playing and Public Open Space
CF2 - Foul Drainage

2.2 Planning Policy Statement 3: Housing

Planning Policy Guidance Note 13: Transportation
Planning Policy Guidance Note 16: Archaeology and Planning
Planning Policy Guidance Note 15: Planning and Historic Environment

2.3 Supplementary Planning Guidance

Provision of Affordable Housing. November 2004

3. Planning History

- 3.1 97/0372/N - Erection of six dwellings - Refused

4. Consultation Summary

Statutory Consultations

- 4.1 Severn Trent water raises no objection subject to the imposition of conditions relating to the provision of and inclusion of sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, prior to the commencement of development.

Internal Council Advice

- 4.2 The Transportation Manager raises no objections but recommends the appropriate conditions in relation to visibility splays, parking provision and secure cycle storage. It confirms that the removal of the sycelway, and use of the proposed main access as the sole route to the A4113. This would depend on satisfactory access being made available for pedestrians, implying a footway of minimum width 2.0m. A financial contribution is also sought of 1,500 per dwelling (22,500) for pedestrian facilities, Improvements to public transport services and infrastructure and improvements to safer routes for schools.

I also note that there have been requests to provide a footway along Dark Lane from the site towards the school. Unfortunately, this would be very difficult to achieve, mainly because of land ownership constraints. The highway extents are not wide enough to allow construction of a footway - there are also mature hedges very close to the carriageway which make a significant contribution to the ambience of the lane. Given the narrowness and enclosed nature of the lane, re-inforcing its' rural nature, inherent traffic calming exists, making pedestrian travel along the lane reasonably safe.

- 4.3 The Conservation Manager notes that the proposal is in outline, but it can be seen that an appropriate development would not harm the setting of Plough Farmhouse and the conservation area to the south.
- 4.4 The Parks and Countryside and Leisure Development Manager makes the following comments:

The proposal is for 15 dwelling. Under existing UDP policy H19 a development of this size is expected to provide a LAP. Although it is noted that the protected area of open space now suggests the provision of a play area, we do not encourage LAPs as they provide very little in terms of play value. Therefore an off-site contribution is sought to provide improved facilities at the existing play area in the village at the Criftons, which the Council maintains.

Currently we ask for 500 per bedroom excluding the first bedroom towards an off-site contribution. Based on the proposed number of bedrooms this equates to 13,500.

As previously stated we would adopt the open space on the basis that it is used for informal open space and an off-site contribution is sought. We would require a commuted sum towards maintenance of the open space.

We also ask for a contribution towards sports facilities provision from all new development. This is in response to Sport England who required such developments to help contribute towards increasing participation in active sports. The calculation is based on Sport England's Sports Facilities Calculator and will be used towards much needed improvements at Leintwardine Football club. It equates to 630 per dwelling/apartment (figure agreed by Sport England). Therefore in this case based on 15 dwellings the total is 9,450.

4.5 The Strategic Housing Manager makes the following comments:

The units proposed are just as requested from McCartneys. The split between shared ownership and rented is (Rented 1 x 2 bed, 1 x 3 bed, 1 x 4 bed) and (shared ownership 2 x 3 bed)

We will be requiring local connection through a S106 agreement as follows:-

Initial connection to the Group Parish of Leintwardine, Burrington and Downton, then cascading out to adjoining parishes of Buckton & Coxall, Walford, Letton & Newton, Adforton, Leinthall Starks, Elton and Pipe Aston. Finally, if no applicant within those parishes, cascading out to Herefordshire.

Also required in S106 is the capping of shared ownership to 80% ownership (to keep units affordable in perpetuity).

4.6 The Forward Planning Manager makes the following comments:

The site in question, was considered too small to be identified as a plan proposal, but was included within the settlement boundary to allow small scale development, which may come forward as windfall. Landscape officers objected to the site being fully developed and a compromise was reached where the northern tip was protected under Policy HBA9, in order to retain the open nature of the approach to the village. Initial objections to exclusion of the site were then withdrawn, and the Inspector decided that no further action was necessary.

4.7 The Education Manager makes the following comments:

The provided schools for this site are Leintwardine Endowed Primary School and Wigmore High School.

The Children & Young People's Directorate request a contribution to be made towards education in this area. Additional children may also prevent us from being able to remove temporary classrooms that we would otherwise be able to do. A contribution of £2000 per dwelling would be sought. It should be noted that the Draft Supplementary Planning Guidance document that is currently out for consultation has a requirement for a contribution in the region of £6000 to be made per dwelling. Once this document has been ratified, the revised figure will be requested.

Unfortunately I am unable to predict the projected numbers of roll for individual schools.

Based on the Autumn 2007 census, Leintwardine Endowed Primary School is over capacity in 3 of its year groups and at capacity in 2. Based on the Autumn 2007 census the school has 103 pupils on roll, meaning that the school only has 2 surplus places (capacity 105). The following calculation shows that, should the development go ahead, the number of children potentially generated by the development would be as follows:

*15 dwellings = 15 * 0.3 children = 4.5 (5) children
 Primary = 7/12 * 4.5 = 2.6 (3) children
 Secondary = 5/12 * 4.5 = 1.9 (2) children*

From this calculation the school would not be able to accommodate the potential additional 3 children as, at October 2007, the school only had 2 places surplus within the school.

5. Representations

- 5.1 Leintwardine Parish Council makes the following comments - please copy from file
- 5.2 17 letters of objection have been received from local residents who raise the following issues:
- a) Increase of traffic onto the already busy A4113 would cause issues with highway safety
 - b) A new entrance onto the A4113 would be unacceptable
 - c) Pedestrian safety would be compromised
 - d) Although this is 30mph limit, this is frequently exceeded
 - e) Concerns relating to the capacity of the drainage and sewerage system
 - e) Density of development. This is more suited to an urban area than rural settlement
 - f) The density of development is not in keeping with the character of the surrounding area and will result in excessive noise
 - g) Impact on the services in the village such as the doctors and school that are already stretched
 - h) Encroachment onto agricultural land
 - i) Prominent location at the northerly approach to the village would detract from the character of Leintwardine
 - j) Overlooking and loss of privacy. Loss of day / sun light as the properties would be an impermeable barrier
 - k) The cramped form of development with height, scale and mass of the proposed buildings should respect the adjacent properties and immediate environment, which include spacious detached bungalows and listed timber framed thatched cottage
 - l) Why should the protect boundary hedge be within the garden area which could be easily abused by residents
 - m) The cycle track and footpath proposed through the new development is totally unnecessary and will result in noise and security problems
 - n) Who will be required to maintain the hedges along Dark Lane?
 - o) Will spoil the long views of the hills currently enjoyed
 - p) Ecological issues with the destruction of the wildlife
 - q) Who will maintain the open space provided. This idea should be abandoned and better use of the land made;
 - r) Lack of public transport.
- 5.3 One letter of support has been submitted that notes the difficulties faced by young local people have in renting and purchasing property that enables them to stay in the village. Villages like ours welcome older home owners but it must be recognised that young families are of equal importance to maintain school numbers and provide a workforce for local firms.
- 5.4 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The issues for consideration in the appraisal of this application are as follows:

- a) The principle of development
- b) Density and Character of development
- c) Access and Highway Safety
- d) Landscape Impact and Character of the area
- e) Scale Parameters
- f) Impact on neighbouring properties
- g) Drainage
- h) Section 106 contributions and Draft Heads of Terms

Principle of Development

- 6.2 The application site now lies within the settlement boundary of Leintwardine as defined in the Unitary Development Plan (2007). Part of the site is designated as Protected Open Space, including the Northern End of the site and a strip to the Eastern Boundary along Dark Lane. There is no objection in principle to the residential development of the site subject to meeting the requirements of the other relevant policies, as listed above.

Density and Character of Development

- 6.3 Due to the restrictions of the Protected Open Space areas, the developable area of land (including the strip to the east) has been calculated as 0.48 hectares in size. The remaining area (0.27 hectares) will be left as informal playing space, to be adopted by Herefordshire Council. The proposal of 15 dwellings on this site, equates to 30 dwellings per hectare. There has been significant objection to this development on this ground. Planning Policy Statement 3 – Housing notes the need to use land efficiently but also achieving high quality, well designed housing. It states that 30 dwellings per hectare (dph) new should be used as a national indicative minimum. Having regard to the surroundings and the layout of the dwellings, this density, with the dwellings sited in a relatively spacious manner around the cul-de-sac, and benefiting from off road parking, garages and gardens is considered to be an appropriate approach to the development of this site.

Access and Highway Safety

- 6.4 The only access to this site at present is by way of an agricultural field gate off Dark Lane. Having assessed the options, including the need to hedgerow removal and impact on each of the highways, an access is proposed from the A4113 (High Street). This will involve the removal of part of the hedgerow and replanting behind the required visibility splay. As this part of the road is within the 30mph zone, visibility of a minimum of 90m in each direction is required and can be achieved. The footpath into the site, extending from the existing footpath to the south will be 2m in width to provide safe pedestrian access to and from the site onto High Street. A pedestrian footpath has been shown from the site onto Dark Lane, utilising the existing field access to avoid any removal of this important hedgerow and access to the village. Adding a footpath from this exit into the village has been fully explored but land ownership issues and road width restrictions mean that this is not viable. Notwithstanding this the Transportation Manager is satisfied that additional pedestrian use would be reasonably safe due to the narrow and enclosed nature of the lane. Having regard to this the proposal is considered to comply with Policies DR3 and H13 of the Unitary Development Plan 2007.

Landscape Impact and Character of the area

- 6.5 Dark Lane has a significant character with Mature hedgerows giving this area its distinctive character. It is important that these are protected and an appropriately worded condition removing the permitted development rights for those dwellings whose gardens would be within the protected area and a maintenance agreement to ensure that the future of the hedge is protected. The Protected Open Space designation was also imposed to protect the distance views into the village from the North. This has been respected and the Open Space will be laid to an informal area to be adopted and maintained by Herefordshire Council. A new hedge will be planted behind the visibility splays to a specification agreed by the Local Planning Authority to replace the hedgerow lost.

Scale Parameters

- 6.6 The application includes details of the scale parameters. The surrounding area has a mix of dwelling styles. Those dwellings immediately adjacent to the site fronting High Street are Three large Dormer Style Bungalows with relatively high roofline. Immediately to the South are a terrace of 6 two storey dwellings and along Dark Lane are a variety of individual dwellings. The scale parameters suggested are quite minimal for two storey dwellings and will utilise roof spaces of some of the dwellings (one and a half storey style). The scale parameters have taken into account the surroundings buildings and are considered to be an acceptable set of parameters to be followed in the submission of any subsequent reserved matters application. A condition relating to Datum points and slab levels is also recommended.

Impact on neighbouring properties

- 6.7 A number of the objections raised concern relating to the impact of the proposed dwellings on the neighbouring properties, in particular towards the loss of privacy and the potential for anti-social behaviour along the public footpath / cycle path. The cycle path has been removed from the scheme to alleviate this concern.
- 6.8 With regard to the overlooking, loss of privacy and overbearing nature of the development, in particular to the dwellings at the North of the Cul-de-sac of the Criftings. The gardens of these properties are at least 17m in length and the dwellings would have back-to-back distance of at least 25m. This is an acceptable distance, especially when having regard to the heights of the dwelling. There is also a fairly significant landscape boundary in this location. As such the proposal complies, in principle with policy H13 of the Unitary Development Plan 2007.

Drainage

- 6.9 Objectors raise concerns over the capacity of the drainage system. Severn Trent have not raised an objection but do request some specific conditions be imposed.

Section 106 Agreement

- 6.10 A draft heads of terms is attached to this report covering the various requirements and reasons. The above consultation responses have expanded on these points. I am awaiting confirmation of the amount of commuted sum required by Parks and Countryside in relation to Maintenance contributions and this will be updated verbally. To ensure that the commuted sum will cover any planting that may undertaken advice is being sought from the various sections to provide a brief of their requirements.

Archaeology

- 6.11 Archaeology has identified the site as having potential importance. Archaeological studies and trial pits have been undertaken and the findings of these will be reported verbally.

RECOMMENDATION

That the Legal Practice Manager be authorised to complete a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report and any additional or amended matters which he considers to be necessary or appropriate.

Upon completion of the above-mentioned planning obligation agreement the Officer named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-

1 - A02 (Time limit for submission of reserved matters (outline permission))

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

2 - A03 (Time limit for commencement (outline permission))

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

3 - A04 (Approval of reserved matters)

Reason: To enable the local planning authority to exercise proper control over these aspects of the development.

4 - A05 (Plans and particulars of reserved matters)

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

5 - B01 (Samples of external materials)

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

6 - G01 (Details of boundary treatments)

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

7 - G04 (Landscaping scheme (general))

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

8 - G05 (Implementation of landscaping scheme (general))

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

9 - G32 (Landscaping to include amenity land)

Reason: To ensure a reasonable standard of amenity for future occupants of the development.

10 - E16 (Removal of permitted development rights)

Reason: [Special Reason].

11 - F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

12 - Development shall not begin until grainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

13 - (Details of Slab Levels)

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

14 – G27 (Landscape maintenance arrangements)

Reason: In the interests of visual and residential amenity.

Informatives:

1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

2 - N19 - Avoidance of doubt

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

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

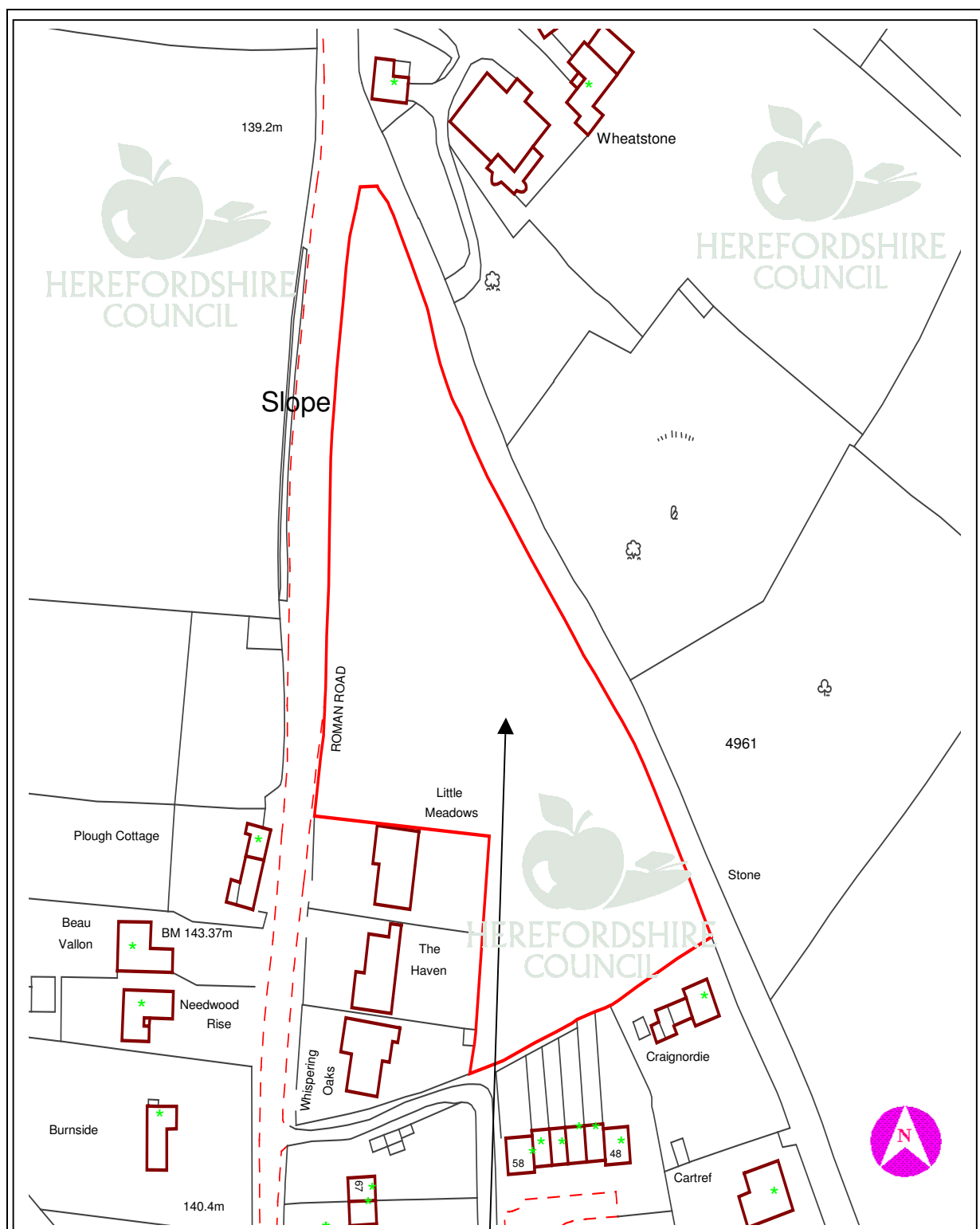
Planning Application – DCNW2007/3767/O
Site for residential Development for Fifteen Houses and Garages on Land Between Dark
Lane and the A4113 (A4110), Leintwardine

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 £13,500 which 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 purpose:
3.
 - (i) Improvement of facilities at the existing play area at The Criftins, Leintwardine
4. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purposes specified in the agreement in Clause 2 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.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £30,000.00 to provide education facilities and improvements at Leintwardine Endowed Primary School and Wigmore High School which sum shall be paid on or before the commencement of development.
6. 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.
7. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £22,500.00 to provide transportation facilities to serve the development which sum shall be paid on or before the commencement of development.
8. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - a) Improvements to Pedestrian Facilities
 - b) Improvements to Safer Routes for Schools
 - c) improvements to public transport services and infrastructure
9. In the event that Herefordshire Council does not for any reason use the said sum of Clause 7 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.
10. The Developer shall provide 5 “Affordable Housing” units which meet the criteria set out in Section 5.5 of the Unitary Development Plan 2007 and related policy H9

or any statutory replacement of those criteria and that policy. None of the Affordable Housing shall be occupied unless the Herefordshire Council has given its written agreement to the means of securing the status and use of these units as Affordable Housing. These 5 units shall be identified by reference to a site layout plan to be agreed in writing by the Herefordshire Council. All the affordable housing units shall be completed and made available for occupation prior to the occupation of more than 50% of the other residential units on the development.

11. The developer covenants with Herefordshire Council, in support of local sports provision for improved local facilities, namely Leintwardine Football Club, to pay Herefordshire Council the sum of £9,450.00 which sum shall be paid on or before the commencement of development.
12. 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.
13. The developer shall complete the Agreement by 4th March 2008 otherwise the application will be registered as deemed refused

K.Gibbons, 31st January 2008



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APPLICATION NO: DCNW2007/3767/O

SCALE : 1 : 1250

SITE ADDRESS : Land between, Dark Lane and A4110, Leintwardine, Craven Arms, Herefordshire, SY7 0LJ

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10 DCNC2007/3946/F - PROPOSED ERECTION OF 27 DWELLINGS LAND AT ST. BOTOLPHS GREEN, LEOMINSTER, HEREFORDSHIRE**For: Persimmon Homes (South Midlands) per Pegasus Planning Group 6-20 Spitalgate Lane Cirencester Glouc. GL7 2DE****Date Received:**
21st December 2007
Expiry Date:
21st March 2008**Ward:**
Leominster South**Grid Ref:**
49728, 57977

Local Member: Councillor RBA Burke and Councillor RC Hunt

1. Site Description and Proposal

- 1.1 The application relates to a parcel of land to the north of the third phase of development at St Botolphs in Leominster.
- 1.2 The site amounts to 0.68 hectares of land roughly rectangular in shape. It is bounded to the south by the third phase of development referred to above and this is currently under construction. Existing residential development lies beyond a strip of land to be retained by the current landowner to the north and also to the west, and commercial development to the east, although this boundary is immediately defined by a public footpath that runs from Southern Avenue to Laundry Lane.
- 1.3 A series of tin clad buildings are contained within the application site and it is understood that the current landowner also resides there, although access was not available to this area when a site inspection was conducted. The land is overgrown with coarse grass and brambles and an overgrown hedge lies between the site and phase 3. There is a general fall of approximately 3 metres across the site from a westerly to easterly direction.
- 1.4 The application is for the erection of 27 dwellings comprising 6 two bed, 18 three bed and 3 four bed units. Nine of the dwellings are to be transferred to a housing association as affordable dwellings with the remaining 18 being sold on the open market.
- 1.5 Access to this site is to be gained via the existing residential road of St Botolphs which in turn emerges onto the B4361 Hereford Road. The layout and design of the dwellings continues that of the most recently approved scheme (phase 3) and equates to a density of 40 per hectare.
- 1.6 The existing hedgerow running along the southern boundary of the site is to be managed and retained and the public footpath running along the eastern boundary is to be improved and realigned.
- 1.7 Dwellings are generally arranged in 4 clusters. All of them have individual parking provision, some within the curtilage of the dwellings and others by way of shared

parking courtyards. Each has its own private garden, the average length being approximately 10 metres, and the plans indicate the provision of landscape planting in shared areas.

- 1.8 The application is supported by an ecological assessment, a highways statement, a drainage report, design and access and planning statement, as well as a statement of consultation and community involvement.

2. Policies

2.1 National Guidance

Planning Policy Guidance Note 3 - Housing

2.2 Herefordshire Unitary Development Plan

S1 - Sustainable development

S2 - Development requirements

S3 - Housing

DR1 - Design

DR2 - Land use and activity

DR3 - Movement

H1 - Hereford and the market towns: settlement boundaries and established residential areas

H9 - Affordable housing

H13 - Sustainable residential design

H15 - Density

H16 - Car parking

H19 - Open space requirements

E5 - Safeguarding employment land and buildings

T6 - Walking

3. Planning History

- 3.1 The following references are considered to be relevant to this application:

NC2007/1642/F - Alterations and extension of existing road layout including the omission of plot 3 and the re-positioning of plots 4 & 5 of Phase 3 - Approved.

NC2005/2349/F - Residential development of 44 dwellings including affordable housing (phase 3) - Allowed on appeal.

NC1999/3052/F - Erection of 7 bungalows with garages and access via Laundry Lane - Approved. (Although approved this permission was never implemented and is now considered to have lapsed)

96/0661/O - Erection of 7 bungalows - Approved.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water - No objection subject to the imposition of conditions. In summary these relate to the separate treatment of foul and surface water and the submission of an integrated drainage scheme detailing how foul and surface water and land drainage will be dealt with.

Internal Council Consultations

- 4.2 Transportation Manager - No objection subject conditions relating to the provision of cycle parking, the submission of a travel plan and the improvement of the public footpath running along the eastern boundary. These detailing are to include its widening, surfacing and lighting. Any permission should also require a financial contribution to highway improvement works to be secured through a Section 106 Agreement.
- 4.3 Public Rights of Way Manager - No objection subject to the improvements outlined in the Transportation Manager's comments. Notes that the intention is to re-align the footpath in order that a dog-leg in it is straightened and that this will, in effect, move it within the application site and will result in a requirement for a diversion order to be applied for and completed.
- 4.4 Housing Development Officer - Advises that the mix, tenure and build standards of the affordable housing are all acceptable. Comments raise a query about the concentration of all of the affordable housing in one location within the site. Also advise that any permission should be subject to a Section 106 Agreement to secure the affordable housing and should detail the following:
1. Shared ownership units should be capped at 80% ownership.
 2. All units to be advertised through Homepoint.
 3. Units should be built to Housing Corporation's Design and Quality Standards.
 4. All units to be let to applicants who have a local connection with the administrative area.
- 4.5 Education - No objection subject to the provision of a financial contribution to be used for the improvement of existing education facilities at Leominster Infants and Leominster Junior Schools and the Minster College.
- 4.6 Ecologist - No objection but recommends that a biodiversity enhancement scheme is submitted prior to the commencement of development. This could include measures such as planting of native species as part of the landscaping scheme (to include hedges along boundaries where possible) and the provision of bird boxes and bat tubes.
- 4.7 Parks, Countryside and Leisure Development Manager - Notes that no provision is made for a small play area as is required by Policy H19 of the Unitary Development Plan. However, this is supported as they are costly to maintain and offer little in the way of play value. To compensate for this it is recommended that a financial contribution be made towards the improvement of local play facilities. A contribution is also required that a further contribution is made towards improving facilities for the participation in active sports.

5. Representations

- 5.1 Leominster Town Council - Object to the proposal on the basis that it represents over-development. Concerned at the lack of amenity space and do not approve of the design of the Chichester, considering that it over-powers the adjacent dwelling. Also concerned that such a large estate is served by a single dwelling.

- 5.2 River Lugg Drainage Board - Note that the developers intend to use the same surface water discharge system provided on phase 3. However the intention is ultimately not to increase discharge from phase 3, but to implement works to ensure only the previously agreed rate of discharge is permitted. It is understood that attenuation of the additional flows will be contained on site through the improvement of existing or installation of new systems.
- 5.3 On this basis no objection is raised to the proposal.
- 5.4 As stated earlier in this report a series of documents have been submitted as part of this application by the applicant's agent. In particular the Planning Statement considers the policy implications of the proposal. It acknowledges that a small sliver of land forming part of the site is allocated through the Unitary Development Plan as 'Safeguarded Employment Land' (Policy E5), but points out that this is the remainder of a much larger area of undeveloped that was allocated for employment use but was granted permission for residential development on appeal. It concludes that the remaining land has no meaningful use for employment purposes and that its release in conjunction with the land to the north that fall within the recognised residential area of Leominster would ensure the delivery of an appropriate use.
- 5.5 It then goes on to consider the proposal in light of policies relating to affordable housing and concludes that the site is sustainable and therefore accords with the Unitary Development Plan.
- 5.6 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 This proposal represents a continuation of the development previously approved, originally along the road frontage of Hereford Road and now known as St Botolphs, and latterly the development referred to as 'phase 3' which was allowed on appeal and is currently under construction. Therefore in simple design terms it is considered to be acceptable as it allows a continuity in terms of appearance, rather than the introduction of alternative building designs that may ultimately give the completed residential development a disjointed feel. This follows the general advice given in Policy H13 of the Unitary Development Plan.
- 6.2 The layout and density is similarly acceptable. The dwellings are well spaced and the density is not unduly high at 40 per hectare. This is reflected by the fact that each is afforded its own parking and reasonably sized gardens. Contrary to the conclusion of the Town Council the proposal is not considered to represent over-development. The application is accords with Policy H15 of the Unitary Development Plan and advice given in Planning Policy Guidance Note 3 in this respect.
- 6.3 The issue of vehicular access to the site is a matter that was considered through the earlier application, and ultimately by an Inspector for the most recent part of the St Botolphs development. At that time the possibility of creating an access onto Southern Avenue was not an option as the applicant's did not own the strip of land between their site and the public highway. Whilst the landowner has granted them a temporary right of passage across the land during construction work, he is not willing to allow this to be permanent and therefore, notwithstanding the fact that it is not part of the application site itself, this application has to be considered as it stands. It is the opinion of the Transportation Manager that the existing access on to Hereford

Road is of a sufficient standard to accommodate the additional traffic movements associated with a further 27 dwellings and raises no objection to the proposal. It therefore accords with policy in terms of highway safety.

- 6.4 The improvement of the public footpath is seen as a positive improvement. It is currently a rather enclosed and uninviting footpath that does not provide what might be considered to be a suitable pedestrian link to the rest of the town. Its general improvement, and particularly its lighting, will create a link that gives a greater sense of security and will give permeability to the application site and the phase of development currently under construction. This is seen as a positive gain from the scheme, improving footpath links in accordance with Policies H13 and T6 of the Unitary Development Plan and the improvement works can be secured through the imposition of a suitably worded condition.
- 6.5 The scheme provides affordable housing at a percentage of 35% in accordance with Policy H9 of the Unitary Development Plan. The Housing Development Officer has raised a query about the grouping of the affordable units as they are all concentrated in one part of the site. The applicant's agent has advised that this has been a conscious decision in consultation with their preferred Housing Association and results from a desire to ensure that the affordable and open market houses do not share parking areas as this would cause management difficulties. The site also has to be looked at in the context of the residential development as a whole which amounts to over 100 dwellings, and in this respect a group of 9 affordable dwellings is not considered to be unduly excessive.
- 6.6 The issues raised by both Welsh Water and the River Lugg Drainage Board can be addressed through the imposition of a series of conditions and this is reflected in the recommendation.
- 6.7 If approved, any permission will be subject to the completion of a Section 106 Agreement to secure financial contributions towards education, highway improvements, off-site play space and leisure provision, public service improvements and waste recycling. An agreement will also be used to ensure that affordable housing is retained in perpetuity. The details of this are included in a Draft Heads of Terms Agreement that is attached as an appendix to this report. The applicant's agent has confirmed that his client is willing to agree to its requirements.
- 6.8 In conclusion, the proposal is considered to represent an appropriate continuation of the development at St Botolphs. It accords with Unitary Development Plan policies in respect of design, layout and density, and the provision of the appropriate levels, type and tenure of affordable housing. The improvements to be made to the public footpath are a positive enhancement and the biodiversity of the site can be secured through the retention of the hedge forming the southern boundary of the site and through further planting to be required as part of a conditioned landscaping scheme.
- 6.9 The application is therefore recommended for approval subject to conditions and the completion of a Section 106 Agreement.

RECOMMENDATION

That the Legal Practice Manager be authorised to complete a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report and any additional or amended matters which he considers to be necessary or appropriate.

Upon completion of the above-mentioned planning obligation agreement Officer named in the Scheme of Delegation 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 - B01 (Samples of external materials)

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

3 - F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

4 - F40 (No burning of material/substances)

Reason: To safeguard residential amenity and prevent pollution.

5 - F48 (Details of slab levels)

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

6 - G02 (Landscaping scheme (housing development))

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

7 - G03 (Landscaping scheme (housing development) - implementation)

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

8 - The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. No construction works shall be carried out on the site unless the measures set out in the approved Construction Traffic Management Plan are in operation.

Reason: In the interests of residential amenity.

9 - H13 (Access, turning area and parking)

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

10 - H17 (Junction improvement/off site works)

Reason: To ensure the safe and free flow of traffic on the highway.

11 - H18 (On site roads - submission of details)

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.

12 - H27 (Parking for site operatives)

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

13 - H28 (Public rights of way)

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

14 - H29 (Secure covered cycle parking provision)

Reason: To ensure that there is adequate provision for secure covered cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

15 - H30 (Travel plans)

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.

16 - H31 (Outline Travel Plan)

Reason and Informative Notes as above.

17 - W01 (Foul/surface water drainage)

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

18 - W02 (No surface water to connect to public 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 - W03 (No drainage run-off to public system)

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

20 - No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul, surface and land drainage will be dealt with. The scheme shall be submitted to and approved in writing by the local planning authority and development shall be completed in accordance with the approved scheme.

Reason: To ensure that effective drainage facilities are provided for the proposed development, and no adverse impacts occur to the environment or the existing public sewerage system.

- 21 - The recommendations set out in the ecologist's report dated September 2007 should be followed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure all species of bat and their roosts are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats & Countryside) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan.

Informatives:

- 1 - HN01 - Mud on highway
- 2 - HN02 - Public rights of way affected
- 3 - HN04 - Private apparatus within highway
- 4 - HN05 - Works within the highway
- 5 - HN08 - Section 38 Agreement details
- 6 - HN09 - Drainage details for Section 38
- 7 - HN10 - No drainage to discharge to highway
- 8 - HN25 - Travel plans
- 9 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 10 - N19 - Avoidance of doubt

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

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

Planning Application – DCNC2007/3541/F

Proposed erection of 26 dwellings on land at Lambournes, Ryelands Road, Leominster

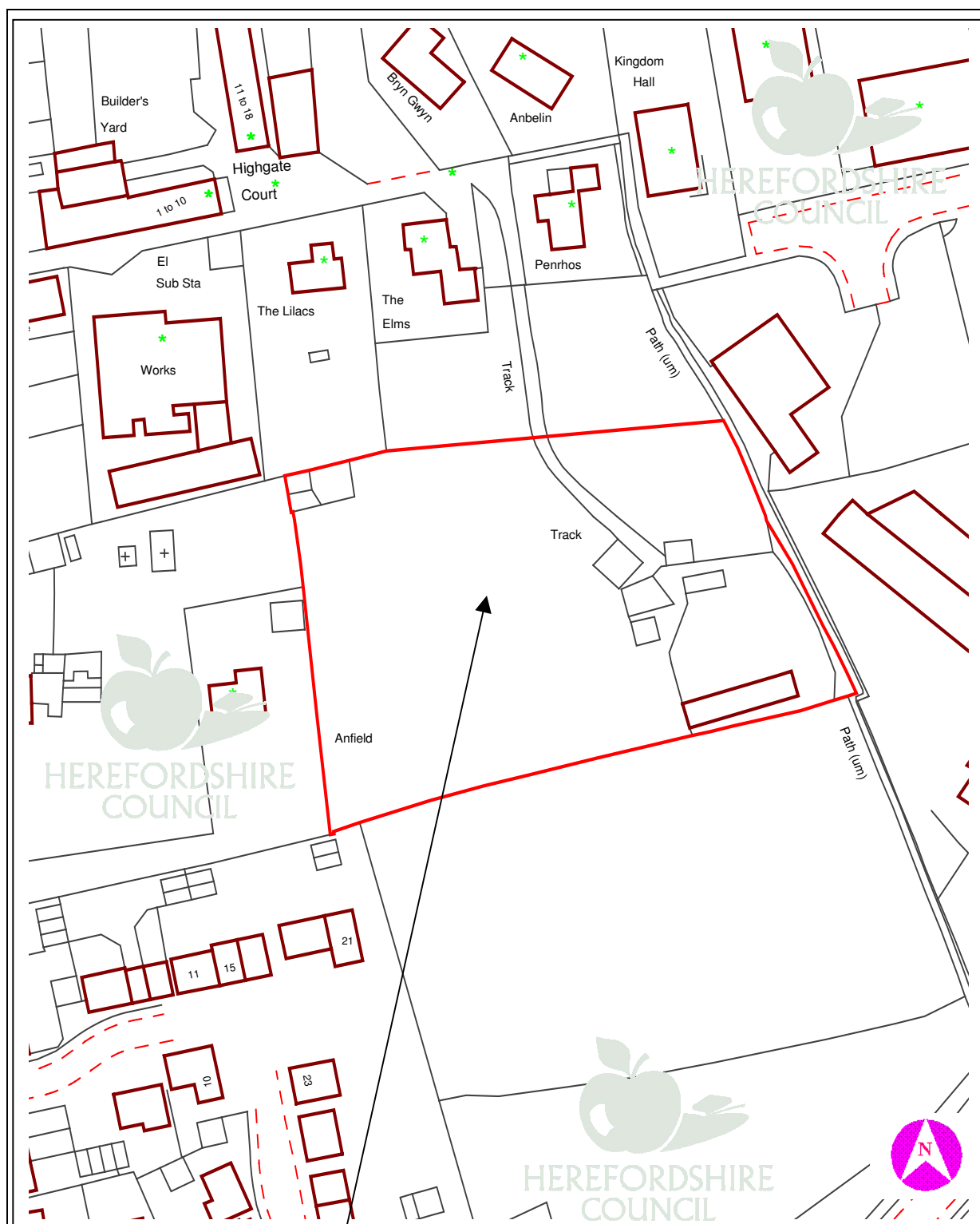
1. The developer shall provide 9 affordable housing units which meet the criteria as set out in section 5.5 of the Unitary Development Plan, Herefordshire, in the locations indicated on plan ref. 0757-11 Rev. J submitted as part of the application. The affordable housing units will comprise of six rented units, three of which shall be 2 bed dwellings and three 3 bed dwellings, and three shared ownership dwellings, one of which shall be a 2 bed dwelling and two 3 bed dwellings in accordance with the information as stated on the approved plans. The applicants or successors in title shall procure the construction of the affordable housing in accordance with the current Housing Corporation Scheme Development Standards and Lifetime Home Standards with no affordable housing grant input.
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 £25,500 which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

Improvements to the neighbourhood park at Sydonia, including its surrounding footpaths
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £17,010 (in accordance with the Sport England Sport Facility Calculator) for improvements at the Bridge Street Sports Centre which sum shall be paid on or before the commencement of the residential development.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £105,471 to provide education improvements to Leominster Infants School, Leominster Junior School and The Minster College. This sum shall be paid on or before the commencement of development.
4. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £40,500 to provide sustainable transport measures in Leominster. The sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - a) Improvements to pedestrian and cycle facilities within Leominster.
 - b) Improvements to public transport provision within Leominster
 - c) Improvements to safe routes to local schools within Leominster
5. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £5,387 to provide for library services in Leominster. The sum shall be paid on or before the commencement of development.

6. The developer covenants with Herefordshire Council, in lieu of the provision of recycling facilities on the land to serve the development to pay Herefordshire Council the sum of £3,240 which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option to either improve existing or provide new recycling facilities within Leominster.
7. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 2, 3, 4, 5, 6 and 7 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.
 - a) The sums referred to in paragraphs 2, 3, 4, 5, 6 and 7 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.
 - b) 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.
 - c) The developer shall complete the Agreement by 19th March 2008 otherwise the application will be registered as deemed refused.

Andrew Banks – Principal Planning Officer
Peter Yates – Development Control Manager

25th January 2008



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APPLICATION NO: DCNC2007/3946/F

SCALE : 1 : 1250

SITE ADDRESS : Land at St. Botolphs Green, Leominster, Herefordshire

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11 DCNC2007/3464/F - PROPOSED NEW HOUSE AND DETACHED GARAGE. LAND ADJACENT TO CHAPEL COTTAGE, WYSON LANE, BRIMFIELD, LUDLOW, HEREFORDSHIRE, SY8 4NL**For: Mr & Mrs Sellers per Mr N La Barre, Easters Court
Leominster Herefordshire HR6 0DE****Date Received:**
2nd November 2007**Ward:**
Upton**Grid Ref:**
51986, 67953**Expiry Date:**
28th December 2007

Local Member: Councillor J Stone

1. Site Description and Proposal

- 1.1 The site flanks the western side of Wyson Lane and is located within the approved village boundary for Brimfield. The site itself forms part of the applicant's garden which serves their existing cottage. The cottage is positioned within the northern part of the garden and has its own parking and vehicular access. There is an existing tree lined hedgerow on the roadside boundary. The site itself is set amongst other dwellings with a Methodist Chapel/Hall on the opposite side of road.
- 1.2 The proposed development is a full application for a two storey dwelling house with a detached garage in the southern half of the applicant's garden. A new vehicular access will be created onto the highway at the south eastern corner of the site to serve the proposed new dwelling. There will be parking and turning facilities within the site and a 30 metre visibility splay created in each direction. This will entail removing the hedgerows along the road frontage of both the applicant's property and that of the neighbours property to the south i.e. 'Cornerpost' and planting new hedgerows behind the visibility splay lines.

2. Policies**2.1 Planning Policy Guidance/Statements:-**PPS1 – Delivering sustainable development
PPG3 – Housing**2.2 Herefordshire Unitary Development Plan:-**Policy S2 – Development requirements
Policy DR1 – Design
Policy DR3 – Movement
Policy DR7 – Flood risk
Policy H4 – Main villages: settlement boundaries
Policy H16 – Car parking

2.3 Supplementary Planning Guidance (Herefordshire Council)

Design and development requirements.

3. **Planning History**

- 3.1 DCNC2005/1457/F - Erection of a detached dwelling and garage - Withdrawn 24th June 2005
- 3.2 DCNC2006/1067/F - Erection of new detached dwelling and garage - Refused 26th May 2006
- 3.3 DCNC2007/2575/F - Proposed dwelling and detached garage - Withdrawn 8th October 2007.

4. **Consultation Summary**

Statutory Consultations

- 4.1 None.
- 4.2 The Traffic Manager recommends that any planning permission granted includes certain conditions.

Internal Council Advice

5. **Representations**

- 5.1 The applicant's agent states that a previous application DCNC2006/1067/F for a similar proposal was refused on highway grounds only and this current application seeks to resolve those concerns. The proposed new dwelling will be situated at a point midway between Chapel Cottage and Cornerpost. The scale and style of the proposal reflects that of the cottage and Church. A new vehicular access will be formed by removal of existing roadside hedgerows and planting new hedges behind the visibility splay lines for both the applicant's property and 'Cornerpost'.
- 5.2 The Parish Council states - Objection - our previous comments stand. We would argue that visibility remains a danger to all road users at this location. As per DR7 it lies within the flood plain.
- 5.3 There have been seven letters of objection received from:

Mrs S Battersby, Eldin, Wyson, Brimfield, Ludlow, SY8 4NL
Mr J Lucas, Welland House, Wyson, Brimfield, Ludlow, SY8 4NN
S L Clarke, Elm Lea, Wyson, Brimfield, Ludlow, Shropshire , SY8 4NL
Ms S C Read, Bredon, Wyson, Brimfield, Ludlow, Shropshire , SY8 4NL
Mrs S M Kean, Meadowlands, Wyson, Brimfield, Ludlow, Shropshire , SY8 4NL
Mr P Darby, Pendelfin, Wyson, Brimfield, Ludlow, Shropshire , SY8 4NL
Mrs D Lines, Cornerstones, Wyson, Brimfield, Ludlow, Shropshire , SY8 4NN

The main points being:

1. The proposed new vehicular access is at narrow part of lane which takes just one vehicle at a time. Lane used by school buses, farm vehicles and private vehicles and as such anymore traffic will make use of lane more difficult and dangerous.
- 2,. Lane is in poor condition and additional traffic will make condition worse.
3. Construction traffic and lorries delivering building materials will cause problems in a narrow lane.
4. The proposed turning and parking facilities too small and will result in cars reversing onto lane causing a hazard to safety.
5. Many children and elderly people attend functions at Chapel opposite. Site near to pick up/drop off place for school coaches. The proposal will make it more dangerous for them to walk along the road.
6. The proposed dwelling is too large for site.
7. The new dwelling will result in overlooking and loss of privacy to nearby dwelling.
8. Questions accuracy of drawings.
9. Concern over possible damage to trees on site especially a mature yew tree.
10. Loss of hedgerow could increase noise from farm vehicles using road.

The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The main issues relate to:

- a. The principle of erecting a new dwelling on this site
- b. The size and design of the dwelling
- c. Its effect on the residential amenities of neighbouring dwellings
- d. Highway safety

6.2 The proposed dwelling is situated within the approved main village boundary for Brimfield and as such the principle of erecting a new dwelling on this site is considered to be acceptable. The size and design of the proposed dwelling and the use of facing brick and tiles for external materials are also considered to be acceptable and in accordance with planning policies and guidance. In addition the proposed dwelling will not result in any adverse overlooking or loss of privacy to any of the adjacent dwellings/properties.

6.3 A previous application on the site for the erection of a new dwelling was refused for reasons of highway safety due to the inability of the applicants to provide the required visibility splays over land in their control and the lack of any proposed turning provision within the site. The current application has now got suitable parking/turning provisions

within the site and the required visibility splays can now be achieved. The applicants have entered into a legal agreement/deed of mutual covenant with the owners of the existing dwelling immediately to the south 'Cornerpost' which requires the existing roadside hedgerow in front of 'Cornerpost' to be removed and a new hedgerow to be planted behind the visibility splay line and also the visibility splay area to be kept free of any obstruction. This deed of mutual covenant has recently been formally agreed and signed between both parties. Consequently it is now considered that the proposed new access/parking arrangements are now acceptable and will not result in a hazard to highway safety. Also it is considered that the erection of one new dwelling will not cause any significant increase in traffic which will be detrimental to highway safety.

- 6.4 The proposed development will not result in the loss of any of the existing large mature trees on the site. Also the site is not within a designated flood plain.
- 6.5 The proposed development is therefore considered to be acceptable and in accordance with the relevant planning policies and guidance, in particular Policies S2, DR1, DR3, H4 and H16 of the Herefordshire Unitary Development Plan.

RECOMMENDATION

That planning permission be granted 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 - B01 (Samples of external materials)**

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

- 3 - H03 (Visibility splays)**

Reason: In the interests of highway safety.

- 4 - H13 (Access, turning area and parking)**

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

- 5 - The whole of the splayed entrance shall have a sealed surface and shall remain unobstructed at all times.**

Reason: In the interests of highway safety.

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

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

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

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

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N03 - Adjoining property rights
- 3 - The applicants should be aware that this planning permission does not over-ride any civil/legal rights enjoyed by adjacent property owners. If in doubt the applicants are advised to seek legal advice on the matter.
- 4 - N14 - Party Wall Act 1996
- 5 - The development should be carried out in accordance with the requirements of the Deed of Mutual Covenant formally agreed between the current owners of Chapel Cottage and Cornerpost, which was submitted with the application.
- 6 - HN04 - Private apparatus within highway
- 7 - HN05 - Works within the highway
- 8 - HN22 - Works adjoining highway
- 9 - N19 - Avoidance of doubt
- 10 - HN10 - No drainage to discharge to highway

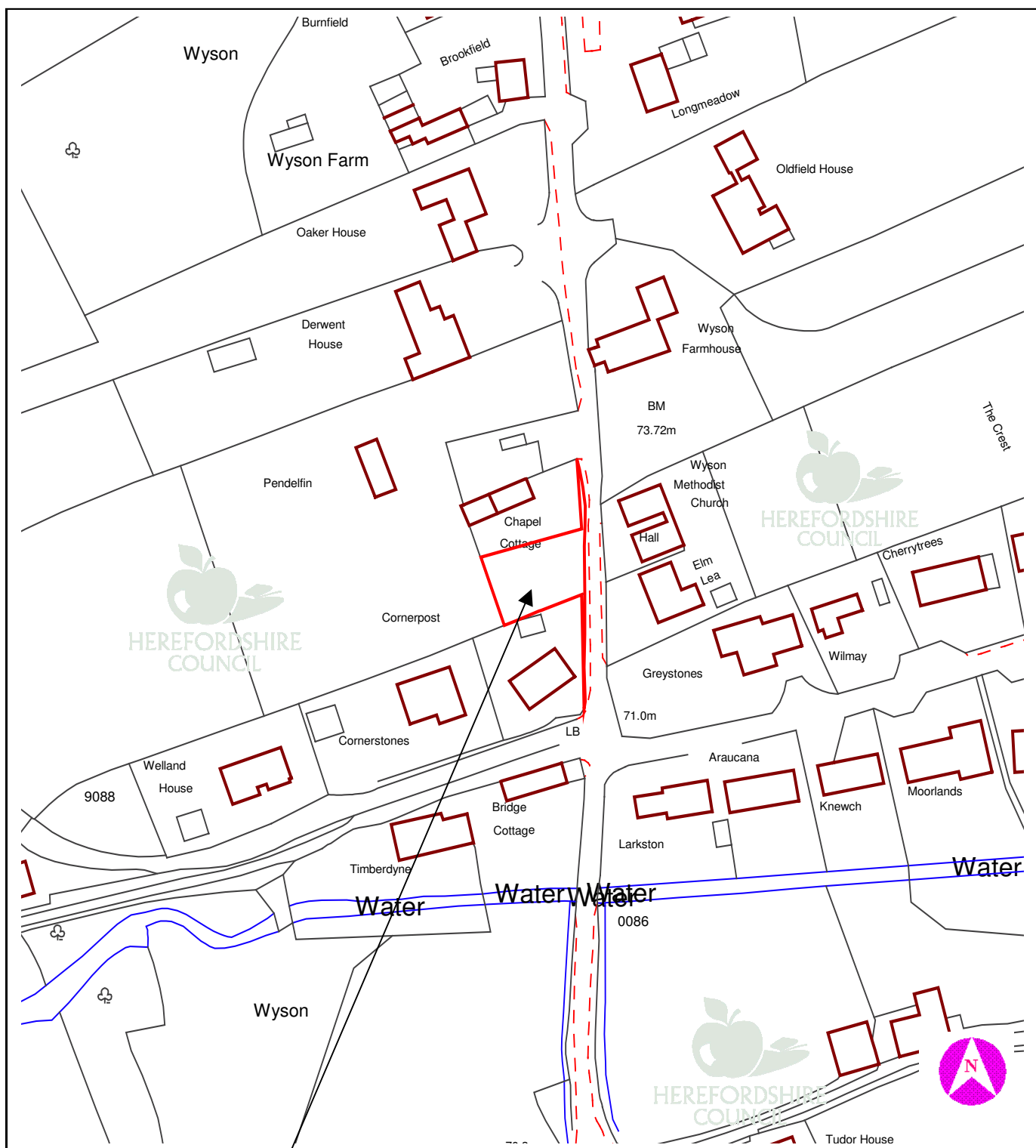
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2007/3464/F

SCALE : 1 : 1250

SITE ADDRESS : Land adjacent to Chapel Cottage, Wyson Lane, Brimfield, Ludlow, Herefordshire, SY8 4NL

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12 DCNE2007/1536/F - "WHOLE FARM APPLICATION" FOR THE ERECTION (AND RE-ERECTION) OF POLYTUNNELS AT WITHERS FARM, BURTONS LANE, WELLINGTON HEATH, LEDBURY, HEREFORDSHIRE, HR8 1NF**For: Mr G. Leeds Antony Aspbury Assoc. Ltd 20 Park Lane Business Centre Park Lane Basford Nottingham NG6 0DW****Date Received:**
14th May 2007**Ward:**
Hope End**Grid Ref:**
70202, 40440**Expiry Date:**
13th August 2007

Local Members: Councillor RV Stockton & Councillor R Mills

1. Site Description and Proposal

- 1.1 The application site relates to the entirety of 'Withers Farm'. This Farm is located to the north of Ledbury, east of the B4214. The total area of the Farm amounts to some 152.01 hectares. To the north, the Farm is bounded by Hollow Lane. To the south the Farm straddles Burtons Lane. The safeguarded route of the Herefordshire and Gloucestershire Canal runs through the site in a south to north direction. There are a series of public rights of way through the site.
- 1.2 There are a series of dwellings set off Hollow Lane and Burtons Lane. The pattern of their development is sporadic in nature. Several of these dwellings are important listed buildings.
- 1.3 The River Leadon lies to the west of the B4214 at the southern end but does cross the north-western section of the site.
- 1.4 The topography of the Farm is basically such that the land rises from south-west to north-east. The Farm is easily sub-divided into three distinct zones. Zones 1 and 2 are located to the north of Burtons Lane and are separated by the safeguarded route of the canal (Zone 1 being to the west of the canal and Zone 2 being to the east of the canal). Zone 3 lies to the south of Burtons Lane.
- 1.5 Soft fruit, comprising of strawberries and blueberries, are grown under polytunnels at Withers Farm. As Members will be aware, the Council operated a voluntary code of practice for soft fruit producers between 2003 and 2006, under which growers submitted annual checklists and plans indicating the areas where polytunnels would be used. That voluntary code of practice has now been discontinued and the law with regard polytunnels has been clarified. It is considered that, taking into account the three critical factors of size, permanency and physical attachment, the polytunnels at Withers Farm represent buildings or structures as defined by Section 55 of the Town and Country Planning Act 1990 (as amended). This is not disputed by the applicant or his agent.

- 1.6 In response to a request from the Council, the applicant seeks to regularise the position at Withers Farm.
- 1.7 The maximum height of any polytunnel at Withers Farm is 4.25 metres.
- 1.8 The application submitted is a "whole farm application" which seeks permission in respect of the whole farm holding. In other words it seeks to clarify where the applicant can and cannot erect polytunnels and under what restrictions. The application has been the subject of negotiations over a nine month period and has evolved. The resultant proposals will be described in the appraisal section of the report with reference to the coloured plan that accompanies this Agenda.

2. Policies

- 2.1 The Central Government advice of relevance to consideration of this application is:-

Planning Policy Statement 1 - 'Delivering Sustainable Development'
 Planning Policy Guidance Note 4 - 'Industrial, commercial development and small firms'
 Planning Policy Statement 7 - 'Sustainable Development in Rural Areas'
 Planning Policy Statement 9 - 'Bio-Diversity and Geological Conservation'
 Planning Policy Guidance Note 13 - 'Transport'
 Planning Policy Guidance Note 15 - 'Planning and the Historic Environment'
 Planning Policy Statement 25 - 'Development and Flood risk'

- 2.2 The Regional Spatial Strategy for the West Midlands is of relevance – Policy PA15

- 2.3 The following policies of the Herefordshire Unitary Development Plan are considered to be of relevance to consideration of this planning application:-

S1 – Sustainable Development
 S2 – Development Requirements
 S4 – Employment
 S6 – Transport
 S7 – Natural and Historic Heritage
 DR1 – Design
 DR4 – Environment
 DR6 – Water Resources
 DR7 – Flood Risk
 E13 – Agricultural and Forestry Development
 LA2 – Landscape character
 NC1 – Bio-Diversity and development
 NC5 – European and nationally protected species
 NC6 – Biodiversity Action Plan priority habitats and species
 NC7 – Compensation for loss of biodiversity
 NC8 – Habitat creation, restoration and enhancement
 NC9 – Management of features of the landscape important for flora and fauna
 HBA4 – Setting of listed buildings
 RST9 – Herefordshire & Gloucestershire Canal

3. Planning History

- 3.1 Whilst Withers Farm has an extensive planning history the only applications to be considered of relevance to this case are:-

DCNE/2007/1540/F - Retention of a block of permanent polytunnels to be used for plant propagation - Permitted

DCNE/2007/1544/F - Retrospective application for the retention of a seasonal agricultural workers hostel - Undetermined

4. Consultation Summary

Statutory Consultations

- 4.1 English Heritage has no objections to the development
- 4.2 Ledbury Town Council object to the development on the following summarised grounds: -

Visual impact and resultant harm to the landscape

- 4.3 Wellington Heath Parish Council has not objected to the development but has made the following comments: -

- a) The surface water drainage issue requires addressing
- b) Additional landscaping is required
- c) The extent of polytunnel coverage must be controlled, the Parish Council recommend a limit of 40 hectares
- d) Issues of ecological impact, adequacy of the local highway network to cater with the amount & type of traffic generated, impact upon residential amenity and impact upon Public Rights of Way need addressing

- 4.4 The Environment Agency has no objections to the negotiated development subject to the imposition of recommended conditions.

Internal Council Advice

- 4.5 The Transportation Section has no objections to the development subject to the provision of an appropriately sited passing bay along Burtons Lane.
- 4.6 The Environmental Health Section has no objections.
- 4.7 The Council's Land Drainage Engineer does not raise objections to the negotiated scheme
- 4.8 The Planning Ecologist has no objections to the negotiated scheme subject to conditions that are recommended.
- 4.9 The Conservation Section has no objection to the development subject to the setting of the listed buildings known as 'Uplands' and 'Pegs Farm' being satisfactorily safeguarded.

5. Representations

5.1 The occupiers of four dwellings in the vicinity object to the development on the following summarised grounds:-

- a) The visual impact of the development especially when sunlight is upon the polytunnels
- b) The impact upon the setting of listed buildings
- c) The ecological impact
- d) Surface water flooding
- e) Impact upon residential amenity
- f) Impact upon Public Rights of Way
- g) Impact upon tourism
- h) Inadequacy of local highway network to cater with the amount and type of traffic generated.

5.2 The occupiers of four dwellings in the vicinity have stated that whilst they do not object to the development they have the following summarised concerns:-

- a) Additional landscaping is required
- b) Impact upon residential amenity
- c) Adequacy of Burtons Lane to cater with the quantity and type of traffic generated
- d) Surface water drainage problems in Hollow Lane

5.3 Occupiers of two dwelling in the local vicinity have written in support of the development, as have sixteen local firms that supply services to Withers Farm. These letters stress the employment benefits and the other economic benefits that accrue to the local rural economy.

5.4 The Herefordshire & Gloucestershire Canal Trust have not raised objections to the development.

5.5 The Council for the Protection of Rural England express concern as to the visual impact of the development and would not wish the Council to approve this application unless they are satisfied that this matter has been satisfactorily addressed.

5.6 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 It is considered that when considering any application for the erection of polytunnels one needs to balance the economic benefits against the environmental impacts. Normally the main environmental impact is the visual impact upon the landscape.

Economic Benefits

6.2 Polytunnels have enabled greater quantities and better quality of soft fruit to be produced. The success and viability of businesses such as that at Withers Farm have made a positive contribution to the rural economy.

6.3 Planning policies at national, regional and local levels recognise the importance of the agricultural sector. Planning Policy Statement 7 advises authorities to support development proposals that enable farming to become more competitive, sustainable and environmentally friendly and to adapt to changing markets. Herefordshire is part

of a Rural Renaissance Zone defined in the Regional Spatial Strategy for the West Midlands. Policy PA15 seeks to promote agriculture and farm diversification, including new and innovative crops, on-farm processing and local marketing.

- 6.4 Policy E13 of the Unitary Development Plan deals with agricultural development and the supporting text refers to the need to balance landscape impact against the operational needs of agriculture, recognising that necessary developments are often prominent in the rural landscape.
- 6.5 Polytunnels have two main benefits to British growers:-
- They protect developing fruit from rain damage, thereby greatly reducing losses from rot and fungus whilst allowing continual picking at harvest-time, unconstrained by the weather; and
 - They extend the growing season, allowing fruit to be harvested from May to November instead of being limited to the traditional June / July period. No additional heating or lighting is used to extend the growing season.
- 6.6 According to the national soft fruit trade association and a fruit marketing company, British strawberry and raspberry production has increased more than five-fold since 1996; most of that growth being attributed to the use of polytunnels. Ninety per cent of strawberries and 98% of raspberries are now grown under polytunnels, compared with no raspberries and 4% of strawberries ten years ago. The use of polytunnels has allowed the applicant and other growers to supply a growing demand for fresh fruit in response to national healthy eating campaigns.
- 6.7 A further indication of the transformation that has taken place in British soft fruit growing is that in 1996, 60% of UK sales were supplied by domestic growers, whereas in 2007, 95% of all berries sold in the UK were grown in the UK. The substitution of local fruit for imported fruit has therefore resulted in significant sustainability benefits of reducing the international transportation of fruit by air and road (the food miles issue). For instance, until recent years fruit was air-freighted from California as the main source of late summer and early autumn soft fruit, but those imports have been eliminated. Nationally, it is calculated that import substitution in 2007 is valued at £110 million. The contribution of Withers Farm must be a small percentage of this national figure, but nonetheless, it is considered that weight can be attributed to its share to the overall success.
- 6.8 Soft fruit picking and packing is a labour intensive activity, and it is accepted that the expansion of the business at Withers Farm has made a positive contribution to the rural economy. The Farm currently employs some 290 staff, of which 10 are permanent positions and 280 are seasonal jobs from March to November. Clearly such employment levels could not be generated by, say, arable farming. Seasonal labour is recruited mostly from Eastern European Countries under the Home Office approved Seasonal Agricultural Workers Scheme. The seasonal workers are accommodated in a purpose built hostel which is the subject of an undetermined planning application. It would be premature to determine that application in advance of this one as the need for seasonal worker accommodation only arises from the polytunnels. Clearly the seasonal workers spend a proportion of their wages locally making a positive contribution to the local economy.
- 6.9 In addition, to the above it is clear that the business at Withers Farm must purchase goods and services in the UK, helping to support jobs in supplier companies. Whilst some of these suppliers may be national businesses, the planning application is

accompanied by letters of support from local agricultural suppliers that benefit directly from the success of the soft fruit at Withers Farm.

- 6.10 Therefore it is concluded on the first issue that the benefits of polytunnels, in enabling the production of increased quantities and qualities of soft fruit; the sustainability benefits of reducing food miles and the positive contribution to the rural economy are all matters to which considerable weight should be accorded in the balance of considerations. This conclusion is supported by the comments of the Inspector on the recent appeal decision on a soft fruit enterprise at Kings Caple who stated that: “the benefits of the polytunnels is enabling the production of increased quantities and quality of soft fruit; the sustainability benefits of reducing food miles, and the positive contribution made to the rural economy are all matters to which considerable weight should be accorded in the balance of considerations”.

Environmental Impacts

- 6.11 Although it is considered that economic benefits accrue, this does not mean that polytunnel developments should be allowed at any environmental costs. The various planning considerations need to be balanced.
- 6.12 In assessing the environmental impacts and to assist in the negotiation process the case officer dealing with this application applied what is best described as a “sieve map analysis” to this site. Again Members attention is drawn to the coloured plan that accompanies this Agenda.
- 6.13 The first issue that has been considered is whether the site has any special landscape designation which means that priority would normally be given to the landscape over other planning considerations. The site is not within a designated Area of Outstanding Natural Beauty.
- 6.14 The second issue that has been considered is whether there are any fields upon the holding in which polytunnels should not be sited. In this respect, it is considered that the answer to this question is yes. These areas are highlighted on the coloured plan accompanying this Agenda and explained below:-
- It has been concluded in discussions with the Environment Agency that due to potential flood risk from the River Leadon there should be no polytunnels sited on land lower than 55 metres above ordnance datum. This not only takes into account the historic flood zone but also models in climate change predictions. This approach ensures compliance with policy DR7 of the Herefordshire Unitary Development Plan 2007. This area is cross-hatched with blue lines on the plan.;
 - When walking Public Rights of Way across the Farm particularly good views are obtained of the listed houses known as ‘Pegs Farm’ and ‘Uplands’. When walking along footpath WH8 in a north-westerly direction and public footpath WH4 in a northerly direction a particularly good public view of the front façade of Pegs Farm which is sited on the northern side of Hollow Lane is achieved. The open agricultural setting of ‘Pegs Farm’ is maintained and it is considered that this area should be kept devoid of any polytunnels. Similarly when walking along footpath WH7 in a north - westerly direction and footpath LR16 in a northerly direction a particularly good public view of the front façade of ‘Uplands’ which is sited on the northern side of Burtons Lane is achieved. The open agricultural setting of ‘Uplands’ is maintained and it is considered that it should be kept devoid of polytunnels. It must be recognised that

the Local Planning Authority has a statutory duty to safeguard the setting of listed buildings in addition to the provisions of policy HBA4 of the Herefordshire Unitary Development Plan 2007. These areas are cross-hatched in red on the plan;

- Other than when walking on public rights of way across the site, Withers Farm is not that visible from short distance public vantage points. The immediately surrounding roads are relatively well landscaped with roadside hedges and / or are sunken. However, Withers Farm is readily visible from long-distance public vantage particularly from the south-west (e.g. the A438 in the vicinity of the Verzons Hotel), the west, the north-west and the north (e.g. in the vicinity of Fox Hill, Bosbury). When viewed from long-distant public vantage points certain fields are highly visible due to their open nature and / or elevated positions. It is considered that these fields should not accommodate any polytunnels due to the visual impact of such development and to comply with policy LA2 of the Herefordshire Unitary Development Plan 2007. This issue is referred to as the individual landscape impact. These areas are cross-hatched in green on the plan.
 - It is considered that there should be no polytunnels within 2 metres of the centre line of any Public Right of Way upon the Farm. This not only ensures that the public rights of way are not obstructed but ensures a development free corridor either side. This ensures compliance with policy T6 of the Herefordshire Unitary Development Plan 2007. The Public Rights of Way are shown with black dots on the plan.
 - To ensure compliance with policy with policy RST9 of the Herefordshire Unitary Development Plan 2007 there should be no polytunnels sited upon the safeguarded route of the Herefordshire and Gloucestershire Canal. This route is shown with blue dots on the plan.
 - The grey cross-hatched areas on the plan are those areas where the applicant is not wishing to erect any polytunnels either for operational reasons or due to private agreements that he has with local residents in the vicinity.
- 6.15 The above leaves a considerable number of fields and a considerable area where it is considered that polytunnels could be satisfactorily accommodated. However, this does not mean that they should all accommodate polytunnels, as it is considered that whilst individually each field may be able to satisfactorily accommodate polytunnels, if they all did at the same time the cumulative visual impact would be too great. It is considered that a “sea of polythene” should be avoided and that such polytunnels should appear in the landscape as a “series of spordic ponds or lakes”. In this regard it is considered that a limit should be imposed with regard the total area of the entire application site / Farm that can accommodate polytunnels. It is considered that a limit of 50.7 hectares should be imposed. This amounts to 33% of the application site / Farm. It must be stressed that this is a limit considered appropriate to this particular site and should not be regarded as a universal rule to be applied to all sites.

In addition, it is considered that this 33% coverage of the entire holding / Farm should not be concentrated in one particular area. Therefore it is recommended that the local planning authority should place an individual limit upon each of the three landscape zones outlined above (see Zones 1, 2, and 3 shaded with small green, yellow and blue dots respectively on the plan). The respective limits recommended are: -

- Zone 1 – limit of 16.2 hectares;
- Zone 2 – limit of 25.9 hectares; and

- Zone 3 limit of 8.6 hectares.

In this way the cumulative landscape impact can be satisfactorily controlled.

Other Matters

- 6.16 Additional landscaping – notwithstanding the recommendation that the application site can satisfactorily accommodate a certain level of polytunnel coverage their visual impact still needs to be mitigated. In this respect landscaping proposals have been submitted which include the planting of wet woodland areas, the enhanced planting of existing hedgerows, new hedgerows /planting belts and the planting of a woodland copse. Species have been agreed. This will assist in mitigating any adverse impact on the landscape qualities of the area.
- 6.17 Residential Amenity - The siting of polytunnels in close proximity to neighbouring residential dwellings tends to give rise for concern. This is not only due to their visual impact but also due to noise and disturbance associated with the activity. In this regard and having regard to this specific case, it is considered there should be no polytunnels within 30 metres of any residential dwelling house that lies outside the confines of the application site / farm;
- 6.18 Surface Water Drainage – There is concern locally that both Hollow Lane and the B4214 frequently suffer from flooding due to surface water run-off. Both the Council's Land Drainage engineer and the drainage consultant engaged by the applicant have spent considerable time addressing this issue. There is no doubt that these roads have suffered from flooding associated with surface water run-off. It is not possible to directly attribute the entirety of flooding problems with the polytunnels at Withers Farm. However it is considered that on the balance of probability the polytunnels at Withers Farm are contributory factors. As a consequence the drainage engineer for the agent for the applicant has produced a comprehensive surface water mitigation and management scheme which includes the following measures: -
- The installation of a further underground field drainage pipe in the field opposite Pegs Farm to ensure flow into the pond rather than the road
 - The clearance of the Hollow Lane drainage ditch of unwanted sediment accumulation and blockages together with its subsequent monitoring and clearance;
 - Opposite Priors Court in Hollow Lane it appears that flows leave the site and join the adjacent road before entering the River Leadon. There is also a minor element of sediment near the road / field entrance. It is proposed to construct a drainage ditch incorporating a sediment trap directly to the River Leadon. This would by-pass the road ditch and would be down-gradient and downstream when any flooding occurs.
 - The flow from the disused canal area to culvert would be largely restricted or cut-off and the canal used to re-cycle water for irrigation purposes. This would attenuate storm run-off from the upper catchments and allow run-off down catchments of the canal to be handled sufficiently by the under road culvert. The use of water for irrigation purposes would be controlled by a pump and level control.

The Council's Land Drainage Engineer and the Environment Agency are satisfied with the proposed surface water mitigation and management strategy. A condition requiring its full implementation within a reasonable timescale is recommended.

- 6.19 Highway Matters – The local highway network is relatively good in that the distance of the Farm from the B4214 is limited. However, Hollow Lane and Burtons Lane are narrow country lanes. The vehicle movements associated with the employees are limited and the seasonal workers tend to be transported by mini-bus, if not walking or cycling. Deliveries of soft fruit to Wye Fruits, which is located along the Bromyard Road in Ledbury, tends to be way of tractors with trailers. Larger service vehicles deliver to the site. Visits to the site by the case officer over the last nine months and representations from local residents have highlighted a problem that occurs when one large motor vehicle meets another vehicle along Burtons Lane in the stretch between the main entrance to the Farm and the B4214. It is considered that this could be mitigated by providing an appropriately sited and designed passing bay. It appears that there may be a suitable location on the south side of Burtons Lane east of the property known as 'Uplands' and west of the property known as 'Burtons Bungalow'. This matter is dealt with by way of a recommended planning condition.
- 6.20 Ecological Issues – a full ecological appraisal has been submitted by an appropriately qualified ecologist engaged by the applicant. The Council's Planning Ecologist is satisfied with the proposed development subject to conditions that are reflected in the recommendation.
- 6.21 Water Resources – A Water Resources Risk Evaluation has been submitted and the Environment Agency is satisfied that the annual water abstraction rates from the River Leadon will not increase over that currently taken. They are also satisfied flow rates and volume will remain acceptable without adversely affecting flora and fauna. The Environment Agency supports the applicant's water efficient growing methods, which match irrigation to the plant requirements and his intentions to employ further rainwater harvesting techniques.
- 6.22 Tourism – Whilst the erection of polytunnels is a controversial issue within the County of Herefordshire, proportionally little of the County is covered with them. Having liaised with the Tourism Section of the Council there is no evidence to support the view that the growth in the number of polytunnels has led to a decline in tourists staying within the County and visiting its attractions.

Conclusion

- 6.23 It is recognised that the provision of polytunnels upon this site creates benefit to the local rural economy and that their environmental impact can be adequately controlled by way of a series of planning conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 - There shall be no polytunnels sited on land lower than 55 metres above ordnance datum.**

Reason: To maintain conveyance of flood flows and to prevent the increased risk of flooding elsewhere in compliance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

- 2 - There shall be no polytunnels sited upon the areas cross-hatched in red and annotated as "No polytunnels: Setting of a listed building" as shown on the plan attached to this decision notice.**

Reason: To safeguard the setting of the listed buildings known as 'Pegs Farm' and 'Uplands' in accordance with policy HBA4 of the Herefordshire Unitary Development Plan 2007.

- 3 - There shall be no polytunnels sited within those areas cross-hatched in green and annotated as "No polytunnels: Landscape impact" as shown on the plan attached to this decision notice.

Reason: To ensure a satisfactory visual appearance of the development hereby permitted within the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 4 - No polytunnels shall be sited within 2 metres of the centre line of any public right of way.

Reason: To ensure that no public right of way is obstructed and to ensure that their enjoyment is safeguarded in accordance with policy T6 of the Herefordshire Unitary Development Plan 2007.

- 5 - No polytunnels shall be sited upon the safeguarded route of the Herefordshire and Gloucestershire Canal marked with blue dots and annotated as 'Safeguarded route of canal' on the plan attached to this decision notice.

Reason: To ensure that the safeguarded route of the Herefordshire and Gloucestershire Canal is safeguarded from development in accordance with policy RST9 of the Herefordshire Unitary Development Plan 2007.

- 6 - No more than 50.7 hectares of the application site shall be covered with polytunnels at any one time.

Reason: To ensure that the cumulative visual impact of the development within the landscape is satisfactorily controlled in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 7 - Notwithstanding the above conditions, no more than 16.2 hectares of Zone 1 shaded with small green dots on the plan attached to this decision shall be covered with polytunnels at any one time.

Reason: To ensure that the cumulative visual impact of the development within the landscape is satisfactorily controlled in accordance with Policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 8 - Notwithstanding the above conditions, no more than 25.9 hectares of Zone 2 shaded with small yellow dots on the plan attached to this decision notice shall be covered with polytunnels at any one time.

Reason: To ensure that the cumulative visual impact of the development within the landscape is satisfactorily controlled in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 9 - Notwithstanding the above conditions, no more than 8.6 hectares of Zone 3 shaded with small blue dots on the plan attached to this decision notice shall be covered with polytunnels at any one time.

Reason: To ensure that the cumulative visual impact of the development within the landscape is satisfactorily controlled in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 10 - No polytunnel shall be sited within 30 metres of the boundary of any residential curtilage of any dwelling house that lies outside the confines of the application site.

Reason: To safeguard the amenities of the occupiers of dwelling houses in the immediate vicinity in accordance with policy DR1 of the Herefordshire Unitary Development Plan 2007.

- 11 - No polytunnel shall exceed 4.25 metres above existing ground level.

Reason: To control the visual impact of the impact of the development within the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 12 - Notwithstanding the above conditions, the landscaping scheme detailed upon drawing number 1196/09 and species mix detailed within Section 6 of the Davies Light Associates Landscape and Visual Appraisal dated 1/12/06 shall be fully planted prior to 1st March 2009. Prior to 1st October 2008 the density (i.e. number of plants/trees, precise locations and spacings) of the proposed planting shown upon a metric scaled plan of at least 1:7,500 must be agreed in writing with the Local Planning Authority. Any trees or plants which prior to 1st March 2019 die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No polytunnels shall be sited upon these landscaped areas.

Reason: To ensure that the development hereby permitted is satisfactorily integrated into the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 13 - Within three months from the date of this planning permission a scheme for the provision of a motor vehicle passing bay along Burtons Lane between its junction with the B4214 and the main vehicular entrance to Withers Farm shall be submitted to the Local Planning Authority for their written approval. Such a scheme must be agreed and approved in writing by the Local Planning Authority within four months of the date of this permission. The approved passing bay scheme shall be implemented by 1st September 2008 and thereafter maintained free of obstruction.

Reason: To ensure the free flow of traffic along Burtons Lane.

- 14 - All surface water and mitigation management measures detailed in the Surface Water Mitigation and Management Report prepared by JDIH Envireau and received by the Local Planning Authority on 5th November 2007 shall be fully implemented prior to 1st January 2009 and thereafter maintained. Surface Water generated from the site shall be limited to the equivalent Greenfield run-off rate.

Reason: To safeguard against surface water flooding of both Hollow Lane and the B4212.

- 15 -** The recommendations for habitats and protected species set out in the Ecological Appraisal dated 07/10/07 prepared by Davies Light Associates shall be followed unless otherwise agreed in writing by the Local Planning Authority. The implementation of the ecological mitigation works shall be overseen by an appropriately qualified and experienced ecological clerk of works.

Reasons: To ensure the protection of all species covered under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended), the Badger Act 1992 and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007.

To ensure that the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007.

To comply with Herefordshire council's Unitary Development Plan policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and Geological Conservation and the NERC Act 2006.

To conserve and enhance protected habitats and to maintain the foraging area for protected species in accordance policies NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 and Planning Policy Statement 9.

- 16 -** Within three months of from the date of this permission, a habitat creation, enhancement and management scheme, to include specified timescales for implementation, based upon the FWAG Report dated 17th October 2007 and to include a nature conservation buffer zone along the northern section of the eastern side of the canal shall be submitted to the Local Planning Authority for their written approval. The approved scheme shall be fully implemented as approved and the implementation of the ecological mitigation works shall be overseen by an appropriately qualified and experienced ecological clerk of works.

Reasons: To ensure the protection of all species covered under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended), the Badger Act 1992 and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007.

To ensure that the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007.

To comply with Herefordshire Council's Unitary Development Plan policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and Geological Conservation and the NERC Act 2006.

To conserve and enhance protected habitats and to maintain the foraging area for protected species in accordance policies NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 and Planning Policy Statement 9.

- 17 - There shall be no buildings, structures (including polytunnels, gates, walls and fences) or raised ground levels within 8 metres of the top of bank of the River Leadon (Main River) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain access to the watercourse for maintenance or improvements.

- 18 - All existing trees and hedgerows upon the land shall be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development hereby permitted is satisfactorily integrated into the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 19 - In the event of the polytunnels hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnels which includes the supporting structures shall be removed from application site within a period of twelve months.

Reason: To ensure that buildings / structures that are redundant for agricultural purposes do not remain in the landscape unnecessarily.

- 20 - None of the polytunnels hereby permitted shall be covered with polythene from 15th November until 31st December in any calendar year nor during the month of January in any calendar year, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing periods in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

- 21 - There shall be no polytunnels sited within the areas cross-hatched grey and annotated as 'No Poly tunnels: Proposed by applicant' as shown on the plan attached to this decision notice.

Reason: These areas do not form part of the proposal hereby permitted and as such the merits of siting polytunnels upon these areas of land have not been considered.

- 22 - Prior to the 1st February in each calendar year following the date of this permission, a plan to a metric scale of at least 1:7,500 shall be submitted to the Local Planning Authority showing the 50.7 hectares (maximum) of land to be covered with polytunnels and distributed in accordance with conditions 7, 8 and 9 above requiring maximum coverages in Zones 1, 2 & 3 of 16.2 hectares, 25.9 hectares and 8.6 hectares respectively.

Reason: To enable the Local Planning Authority to practically monitor the development.

Informatives:

- 1 - The reason for granting planning permission in respect of the development is that it is considered by the Local Planning Authority that the development gives rise to benefits to the local rural economy and that the environmental impacts can satisfactorily be overcome by way of the imposition of appropriate conditions in compliance with the relevant Development Plan policies.

The documents to which the decision notice relates are: -

The plan attached to the decision notice

Drawing number 1196/09 and species mix detailed within Section 6 of the Davies Light Associates Landscape and Visual Appraisal dated 1/12/06

Surface Water Mitigation and Management Report prepared by JDIH Envireau and received by the Local Planning Authority on 5th November 2007

Ecological Appraisal dated 07/10/07 prepared by Davies Light Associates

FWAG Report dated 17th October 2007

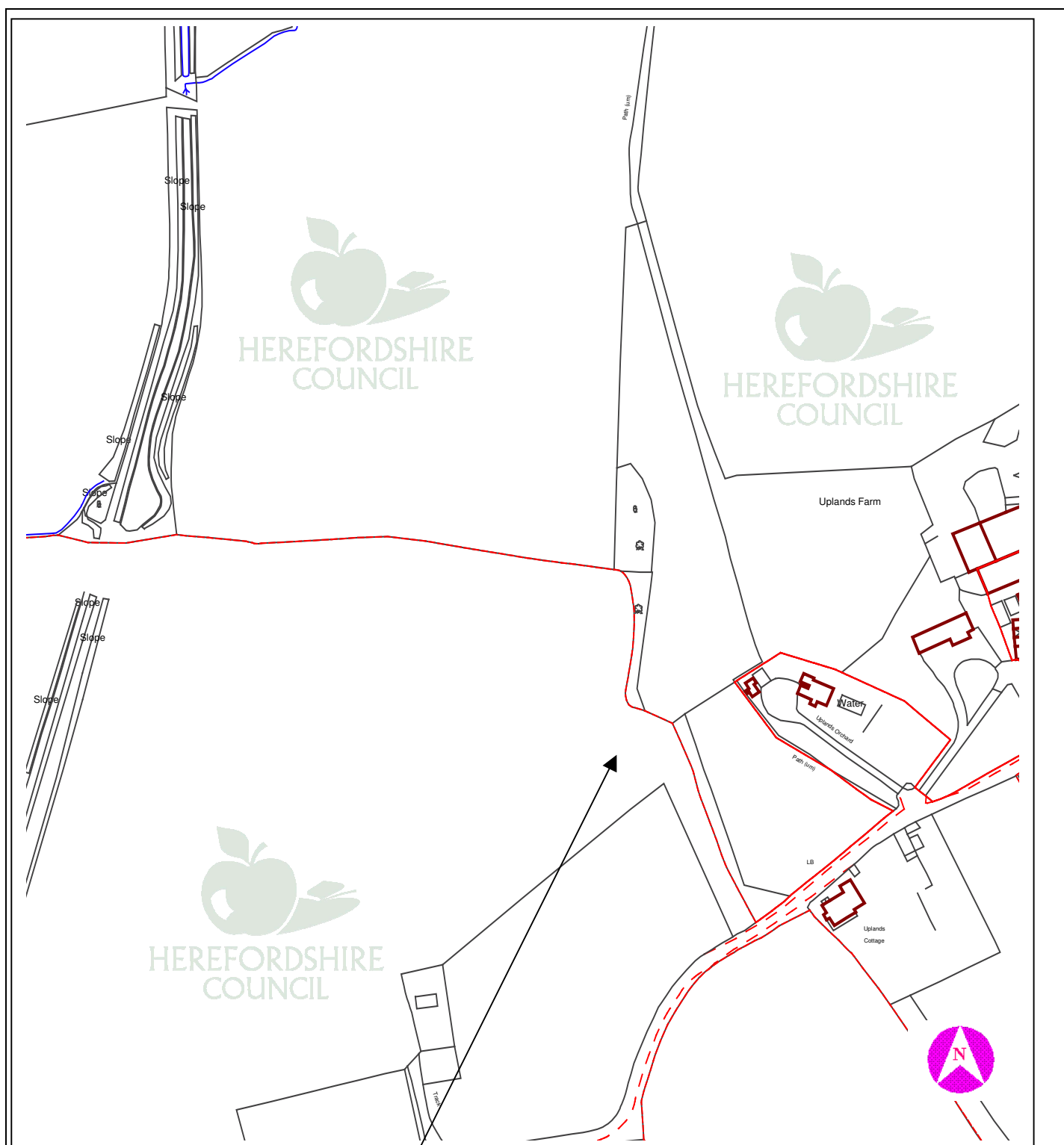
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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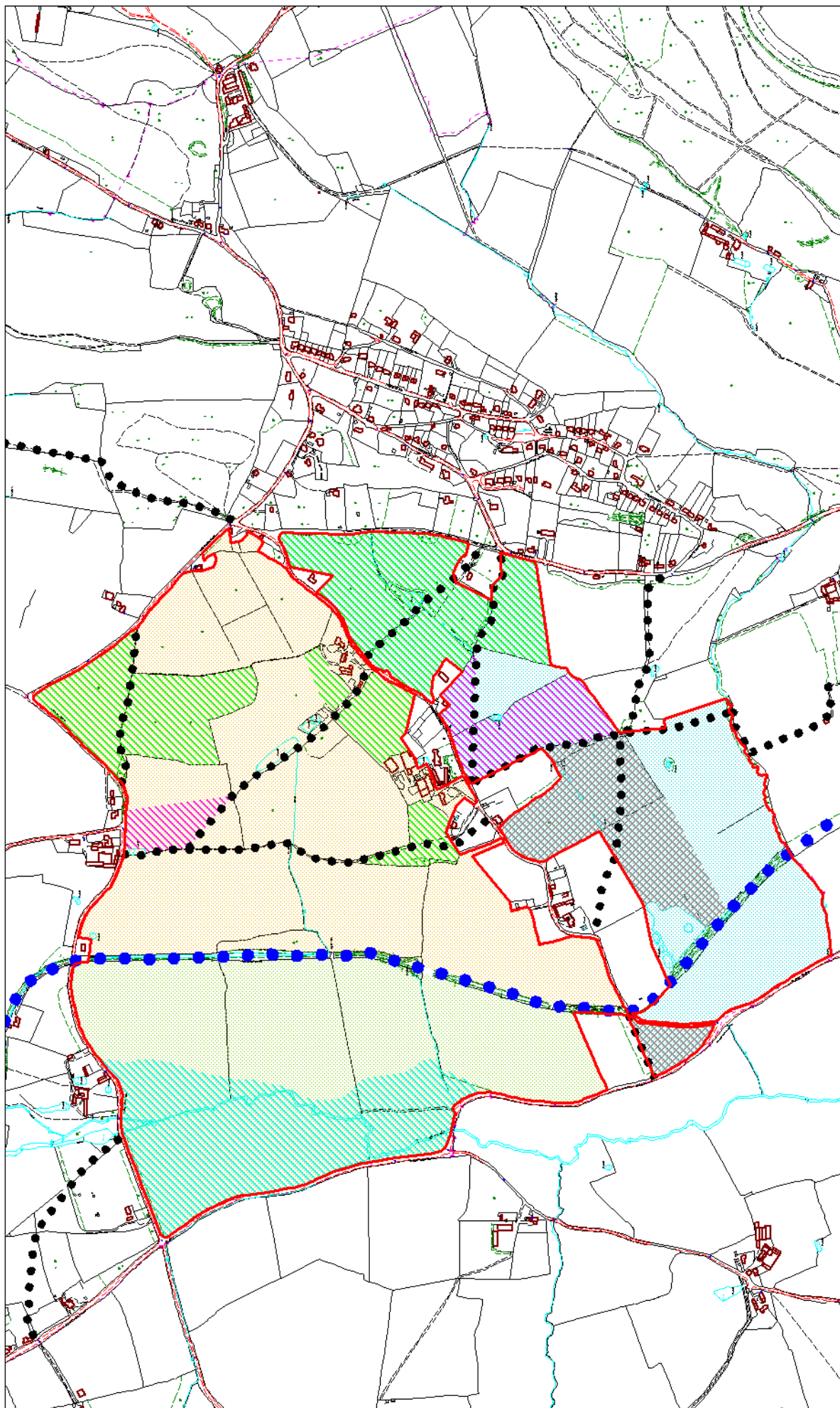
APPLICATION NO: DCNE2007/1536/F

SCALE : 1 : 2500

SITE ADDRESS : Withers Farm, Burton's Lane, Wellington Heath, Ledbury, Herefordshire, HR8 1NF


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Further information on the subject of this report is available from Mr R Close on Tel: 01432 261803













Withers Farm, Wellington Heath, Ledbury

SCALE 1:7,500

 **NORTH**

Legend

	Site boundary
	Public footpath
	Safeguarded route of canal
	No polytunnels: Proposed by applicant

	Zone 1
	Zone 2
	Zone 3
	No polytunnels: Land liable to flood (EA data)
	No polytunnels: Setting of a listed building
	No polytunnels: Landscape impact

Herefordshire Council
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13 DCNE2007/3855/F - REMOVAL OF CONDITION 6 OF PLANNING PERMISSION NE2003/1293/F TO ALLOW CLEAR GLASS TO BE USED FOR 2 WINDOWS AT FIRST FLOOR ON SOUTH EAST ELEVATION AT ASHDOWN HOUSE, HOMEND CRESCENT, LEDBURY, HEREFORDSHIRE, HR8 1AQ**For: Barrington Frank Outwin at above address.**

Date Received:
14th December 2007
Expiry Date:
8th February 2008

Ward:
Ledbury

Grid Ref:
71080, 37979

Local Members: Councillors M. Cooper, K. Swinburne and P. Watts

1. Site Description and Proposal

- 1.1 The application site is located within an established residential area within Ledbury, which is in close proximity to the central shopping and commercial area. The area is urban in nature and features a mix of housing styles, types and sizes.
- 1.2 The existing dwelling, subject of this application, is a 4 bedroom detached dwelling with associated garden curtilage area. The dwelling is brick under a pitched roof with quarter hip and accommodation at first floor being provided in a dormer style. The principle elevation and aspect being westwards across Ledbury Town.
- 1.3 The proposal is for the removal of a condition placed upon the original permission for the dwelling (NE03/1293/F) now known as 'Ashdown House'. This condition (No. 6) states:

“Prior to the use or occupation of the dwelling hereby permitted, and at all times thereafter, the windows on first floor on the south east elevations shall be glazed with obscure glass only.

Reason: In order to protect the residential amenity of adjacent properties.”

2. Policies

National Planning Policy:
Circular 11/95 – Use of Conditions in Planning Permissions

Unitary Development Plan (adopted 2007):
DR1 – Design
DR2 – Land use and activity
H13 – Sustainable residential design

3. Planning History

NE2003/1293/F - Approved with conditions, erection of one dwelling

4. Consultation Summary

Statutory Consultations

None required

Internal Council Advice

Transportation Manager – no objections

5. Representations

5.1 The Town Council objects to the proposal, commenting 'the original condition was put there for a specific reason which as far as (members) aware, has not changed'.

5.2 One letter of objection has been received from Mr D Hunter, 19 Bank Crescent, Ledbury. The comments are summarised as:

- The windows in question overlook the only area of (my) garden, which currently has any degree of privacy. As my house is on a triangular plot of cross roads most parts of the garden are exposed.
- Concern about children being watched by 'prying eyes' when previously they were free to play in a private sheltered place
- Loss of privacy to other areas of the garden
- Questions the need and intentions of the application and the applicant, who knew of the condition when purchasing the property

5.3 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 Government advice in Circular 11/95 – Use of Conditions in Planning Permissions, stresses that conditions should only be imposed where they are necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. Attention is particularly drawn to paragraphs 15-17 which advise that in considering whether a condition is necessary authorities should ask themselves whether planning permission would have to be refused if the requirements of that condition were not impose.

6.2 The existing original condition, subject of this application, is considered onerous and unnecessary. The area of the garden where the 'overlooking' occurs cannot be considered the private amenity space of 19 Bank Crescent. The distance from the windows subject of this application, to the facing wall of 19 Bank Crescent is approximately 28 metres. This distance is considered acceptable and not to cause a material harm to enjoyment of 19 Bank Crescent, indeed I believe that the windows in

the facing elevation comprise bathroom and landing at first floor level, and kitchen at ground floor.

6.3 19 Bank Crescent enjoys in my opinion at least 3 separate garden curtilage areas, which enjoy high degrees of privacy. Given this dwelling is located within an urban environment and close to the town centre, this is unusual. Indeed the actual 'private amenity' garden area of no.19 is a considerable distance from the windows in Ashdown House, subject of this application. Indeed these windows are approx 10metres away from the site boundary, and then a further distance onto no.19 as outlined above.

6.4 Circular 11/95 states 'Conditions which will remain in force after the development has been carried out always need particular care. They can place onerous and permanent restrictions on what can be done with the premises affected, and they should therefore not be imposed without scrupulous weighing of the balance of advantage'.

6.5 The overlooking 'harm' caused by the removal of the condition is less than the existing situations which currently exist. These arguably could cause more distress to the occupiers of 19 Bank Crescent and their enjoyment of their house. Accordingly, following the advice in Circular 11/95, the condition presents no advantage to the occupiers of 19 Bank Crescent, whilst at the same time being onerous on the occupiers of Ashdown House for the following reasons:

a) The occupiers of Ashdown House can from their garden, overlook not only the garden area of no.19 referred to be the owner of 19, but actually a far greater area of the garden area/ dwelling

b) From the public highway/ footpath it is possible to look into no.19's garden at the area in question (children's play area) and not be prevented from doing so.

c) The rooms within Ashdown house are a bedroom and study - in regards to the bedroom, these are normally used at specific periods of the day and not used as 'viewing platforms' for any considerable time. Indeed, on inspection of the windows and views offered, occupiers are likely to enjoy the fleeting glimpses and views offered as they pass about their business rather than stand at the window and specifically cause harm.

d) It is noted that the Condition did restrict the use of "opening windows". Therefore the perceived "harm" could be created, or the Condition circumnavigated legally and without any planning control or enforcement action being applicable. Accordingly, in the event of the perceived harm the existing condition does not mitigate against this appropriately.

6.6 Turning to the comments of the objecting neighbour and the impact upon 19 Bank Crescent.

It is considered that 19 Bank Crescent enjoys various areas of private amenity space, which would not be affected by the proposal, including to the rear and front of the property. It should be remembered that the dwelling is located in an urban area in close proximity to the town centre. The dwelling enjoys not only a large garden curtilage area for such a location, but also, surprisingly, a considerable amount of garden area which is 'private' and not overlooked.

The area of garden where the children's play equipment is located cannot be considered a 'private sheltered place' given the distance of this area from the dwelling. In addition, it is not considered that this area is private at all, given the overlooking,

which can take place from both the public highway and garden area of Ashdown House.

- 6.7 Finally, in regards to any motives of the occupiers of Ashdown House, and their knowledge of this condition being in place when purchasing the property is irrelevant and not a planning matter. Government advice in Circular 11/95 notes that 'an unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms. The condition will normally run with the land, and may therefore still be operative long after the applicant has moved on; it must always be justified on its planning merits'.
- 6.8 Given all of the above, if the original application was submitted, condition 6 would not be applied or recommended. It is considered that the potential concern, which led to the condition being placed on the original application has not materialised. Consequently approval is recommended to this application, as it is in accordance with UDP Policies DR1, DR2 and H13, and the original condition is not in accordance with Government advice contained in Circular 11/95.

RECOMMENDATION

That planning permission be granted.

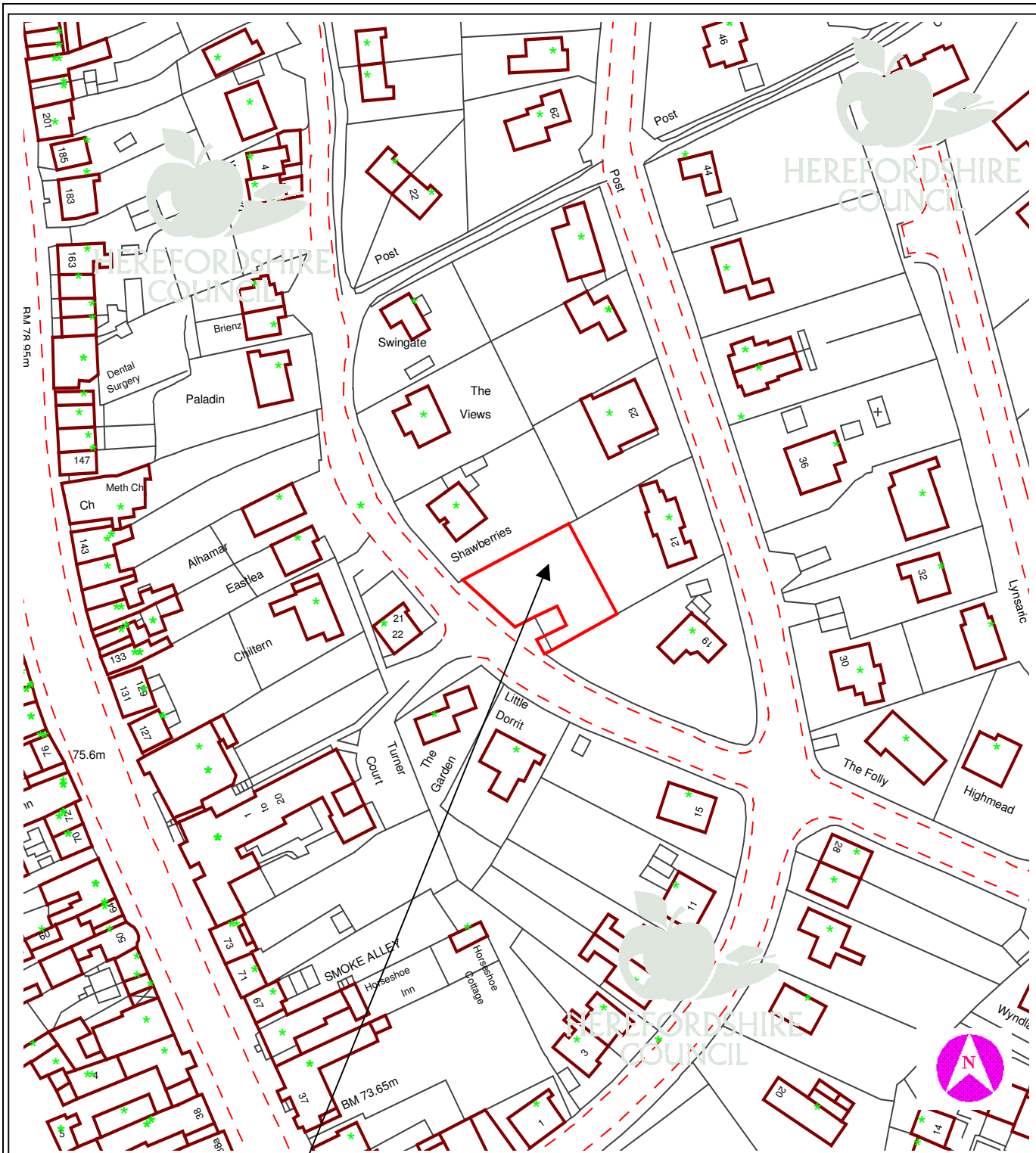
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNE2007/3855/F

SCALE : 1 : 1250

SITE ADDRESS : Ashdown House, Homend Crescent, Ledbury, Herefordshire, HR8 1AQ

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