

# A G E N D A

## Northern Area Planning Sub- Committee

Date: **Wednesday, 27th August, 2008**

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Time: **2.00 p.m.**

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

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

*For any further information please contact:*

*Ricky Clarke, Democratic Services Officer,  
Tel 01432 261885  
e-mail - [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)*

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**Herefordshire Council**



# AGENDA

## for the Meeting of the Northern Area Planning Sub-Committee

To: Councillor JW Hope MBE (Chairman)  
Councillor PJ Watts (Vice-Chairman)

Councillors LO Barnett, WLS Bowen, 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 and JK Swinburne

	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>2. DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS</b>	
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.	
<b>3. MINUTES</b>	1 - 12
To approve and sign the Minutes of the meeting held on 30 July 2008.	
<b>4. ITEM FOR INFORMATION - APPEALS</b>	13 - 14
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.

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|---|----------------|
| <p><b>5. DCNW2008/1848/F - KINTON BARN, KINTON, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LT.</b></p> <p>Single-storey extension to sitting room.</p>  | <p>15 - 18</p> |
| <p><b>6. DCNW2008/1598/F - LAND TO THE EAST OF LLANSHAY LANE, REEVES HILL.</b></p> <p>Proposed temporary meteorological monitoring mast.</p>  | <p>19 - 26</p> |
| <p><b>7. DCNC2008/1027/F &amp; DCNW2008/1233/F - MORRISON SUPERSTORE, BARONS CROSS ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RH.</b></p> <p>a) Variation of condition 5 of permission 900852 and condition 2 of permission 97/0953/N to allow a maximum of 15% of the total sales area of the store to be used for the sale of comparison goods. Removal of condition 3 of permission 97/0953 to allow former crèche to be used as a café.</p> <p>b) Proposed extension for additional sales and warehousing area and increased cycle, motorbike and disabled parking spaces.</p> | <p>27 - 44</p> |
| <p><b>8. DCNC2008/1824/O - PINSLEY WORKS, PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NX.</b></p> <p>Site for development to form 21 apartments.</p>  | <p>45 - 56</p> |
| <p><b>9. DCNC2008/1668/F - 73 ETNAM STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8AE.</b></p> <p>Variation of condition 3 of planning permission NC2006/1387/F, to allow opening of premises to customers between the hours of 8am to 11pm Monday to Sunday.</p>  | <p>57 - 60</p> |
| <p><b>10. DCNC2008/1618/F - MILL STONE COTTAGE, LUSTON, LEOMINSTER, HEREFORDSHIRE, HR6 0EB.</b></p> <p>Proposed new garage.</p>   | <p>61 - 66</p> |
| <p><b>11. DCNC2008/1469/F - HAZELDENE, RISBURY, LEOMINSTER, HR6 0NQ.</b></p> <p>Proposed erection of stable block including change of use of agricultural land to form stable yard.</p>   | <p>67 - 74</p> |
| <p><b>12. DATE OF NEXT MEETING</b></p> <p>24 September 2008</p>   |                |

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- 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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

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## **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Northern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 30 July 2008 at 2.00 p.m.**

**Present:** Councillor JW Hope MBE (Chairman)  
Councillor PJ Watts (Vice Chairman)

**Councillors:** LO Barnett, WLS Bowen, ME Cooper, JHR Goodwin, KG Grumbley, RC Hunt, TW Hunt, TM James, P Jones CBE, R Mills, PM Morgan, RJ Phillips, A Seldon, RV Stockton, J Stone and JK Swinburne

**27. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors RBA Burke, JP French and B Hunt.

**28. DECLARATIONS OF INTEREST**

The following declarations of interest were made:

<b>Councillor</b>	<b>Item</b>	<b>Interest</b>
JW Hope MBE	Minute 33, Agenda Item 7 DCNW2008/1344/F <b>Orchard Close Eardisley, Hereford. HR3 6NP</b>	Declared a personal interest and remained in the meeting during consideration of this item.
RJ Phillips	Minute 33, Agenda Item 7 DCNW2008/1344/F <b>Orchard Close Eardisley, Hereford. HR3 6NP</b>	Declared a prejudicial interest and left the meeting for the duration of this item.

**29. MINUTES**

**RESOLVED:** that the Minutes of the meeting held on 2 July 2008 be approved as a correct record and signed by the chairman.

**30. ITEM FOR INFORMATION - APPEALS**

The sub-committee noted the Council's current position in respect of appeals for the northern area of Herefordshire

**31. DCNC2008/0978/F & DCNC2008/0979/C - MARSH MILL, BRIDGE STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8DZ (AGENDA ITEM 5)**

*Proposed demolition of workshops and redevelop site for seven dwellings and car parking.*

The Principal Planning Officer informed the Sub-Committee that applicant had confirmed in writing his acceptance of the financial contributions set out in the revised draft Heads of Terms, as shown in the report. He advised that the Heads of Terms did not include a paragraph in relation to the requirement for the payment of a 2% surcharge. This needed to be added and would amount to £370. He also said that the Council's Ecologist had advised that a condition requiring appropriate habitat mitigation should have been included in the conditions regarding an approval.

The Local Ward Member, Councillor P Jones CBE said that he remained unconvinced of the merits in saving the existing buildings as they were not in keeping with this predominantly residential area. He added that he fully supported the Town Council's desire for the development and proposed that the application should be approved.

Councillor WLS Bowen drew attention to the historic mill building and felt that some of the original timbers and stone should be saved because of their historic value. Other Members were of the view that in its current condition the building served no useful purpose and did nothing to enhance the locality. It was felt that there was little remaining of the original mill structure which could be easily preserved. Councillor Bowen asked if a condition could be imposed requiring preservation of the remaining structure or for the original materials to be recycled rather than completely lost. The Southern Team Leader advised that such a condition would not be enforceable but that the applicants could be asked to look at the matter through the inclusion of an informative in the Decision Notice.

**RESOLVED THAT**

**In respect of DCNC2008/0978/F:**

**The Legal Practice Manager be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 to secure a contribution for additional improvements to the highways network and any additional matters and terms as he considers appropriate.**

**Upon completion of the aforementioned planning obligation that the Officers 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 - D02 (Approval of details):**

- a) **Specification of all external materials**
- b) **Brick detailing**
- c) **Eaves, gable and chimney details**
- d) **Detail of finishes including colour of external walls**

**Reason: To ensure the satisfactory appearance of the development so as to ensure that the development lies in harmony with the Conservation Area**

and to comply with Policy HBA6 of the Herefordshire Unitary Development Plan.

**3 - D05 (Details of external joinery finishes)**

**Reason:** To ensure the satisfactory appearance of the development so as to ensure that the development lies in harmony with the Conservation Area and to comply with Policy HBA6 of the Herefordshire Unitary Development Plan.

**4 Finished floor levels shall not be set lower than 71.99 m AOD as detailed within the flood risk assessment dated March 2008.**

**Reason:** To prevent flood risk for the lifetime of the development.

**5 - E01 (Site investigation - archaeology)**

**Reason:** To ensure the archaeological interest of the site is recorded and to comply with the requirements of Policy ARCH6 of Herefordshire Unitary Development Plan.

**6 - 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 of contamination, incorporating a conceptual model of all 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 the contaminants/ or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate scheme submitted to the local planning authority for written approval.**

**7 - The Remediation Scheme, as approved pursuant to condition (6) 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.**

**8 - H08 (Access closure)**

**Reason:** To ensure the safe and free flow of traffic using the adjoining

County highway and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

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 and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

10 - H19 (On site roads - phasing)

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

11 - H29 (Secure covered cycle parking provision)

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

12 - G10 (Landscaping scheme)

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.

13 - G20 (Open plan to front of dwellings)

Reason: In the interests of the amenity of the development and to comply with the requirements of Policy DR4 of Herefordshire Unitary Development Plan.

14 - F14 (Removal of permitted development rights)

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy H13 of Herefordshire Unitary Development Plan.

15 - F16 (No new windows in specified elevation)

Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy H18 of Herefordshire Unitary Development Plan.

16 - I16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

17 - I43 (No burning of material/substances)

Reason: To safeguard residential amenity and prevent pollution and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

18 - No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works and water

recovery system has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of the development hereby approved.

**Reason:** In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy DR4 of the Herefordshire Unitary Development Plan 2007.

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

**Reason:** To protect the integrity of the public sewerage system and to comply with Policy DR4 of the Herefordshire Unitary Development Plan 2007.

- 20 - 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 and to comply with Policy DR4 of the Herefordshire Unitary Development Plan 2007.

- 21 - Land drainage run-off shall not be permitted to discharge either directly or indirectly into the public sewerage system.

**Reason:** To prevent hydraulic overload of the public sewerage system and pollution of the environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan 2007.

22. K5 (habitat enhancement)

**Informatives:**

- 1 - HN01 - Mud on highway
- 2 - HN04 - Private apparatus within highway
- 3 - HN05 - Works within the highway
- 4 - HN10 - No drainage to discharge to highway
- 5 - HN28 - Highways Design Guide and Specification
- 6 - Whilst it has been demonstrated that the risk of flooding is minimal in the 1% flood event with climate change event we would advise that the applicant/ development be signed up the Environment Agency Flood Warning System.
- 7 - The applicant may also wish to consider the incorporation of flood proofing techniques. These include removable barriers on air bricks and providing electrical services in to the building at a high level so that plugs are located above possible flood levels. Additional guidance, including information on kite marked flood protection products can be found on the Environment Agency web site [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) under the 'Managing Flood Risk' heading in the 'Flood' section.

- 8 - N15 - Reason(s) for the Grant of Planning Permission.
- 9 - N19 - For the avoidance of any doubt the plans for the development hereby approved are as follows:-  
  
Drawing numbers 298 WD 21, 298 WD 22, 298 WD 23 - date stamped 31st March 2008.
- 10 - Informatives 11 A and 11 B

In respect of application ref no DCNC2008/0979/C that Conservation Area Consent be given subject to the following:

- 1 - D01 - Time limit for commencement (Listed Building Consent).  
  
Reason: Required to be imposed by Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2 - No demolition works shall take place until a contract for the redevelopment has been let.  
  
Reason: To ensure that this site does not become derelict in this conservation area.
- 3 - E02 - Archaeological survey and recording.  
  
Reason: To allow for recording of the building/site during or prior to development and to comply with the requirements of Policy ARCH6 of Herefordshire Unitary Development Plan. The brief will inform the scope of the recording action.

**Informatives:**

- 1 - N15 – Reason(s) for the Grant of Conservation Area Consent.
- 2 - N19 - For the avoidance of any doubt the plans for the development hereby approved are as follows:-  
  
298 WD20, 298 WD21, 298 WD22, 298 WD23, 298 WD24, 298 WD25 – date stamped 31 March 2008

**32. DCNW2008/0927/F - BELLWOOD, SHOBDON, LEOMINSTER, HEREFORDSHIRE, HR6 9NJ**

*Proposed siting of three lodge units for holiday use together with access drive, car parking and sewage treatment plant.*

The Principal Planning Officer updated the Sub-Committee with a response received from, the Council's Tourism Officer who had made the following comments:

Due to the large number of planning applications for the change of use, conversion and build of self-catering accommodation, it was deemed

appropriate to conduct an assessment of trends of self-catering establishments in 2006 and run an annual occupancy survey. It was found that the occupancies for self-catering had fallen by 4%, with new starts fairing worst. With this year occupancy running at 52%, 9% down on 2005 figures. At the end of 2007 occupancy was running at 51%

I believe we have reached a tipping point for the "standard" self-catering establishments, however there is still scope in the consideration of planning applications. The development would need to be fully compliant with wheelchair access to comply higher than level 1 or level 2 of the National Accessibility Scheme.

The Local Ward Member, Councillor RJ Phillips, expressed his support for the application. He considered that there was sufficient need for the development in the local area especially with regards to the need for accommodation generated by Shobdon Airport and tourism in the area. He said that large groups often took flying lessons and needed somewhere to stay and with the recent closure of three local bed and breakfast establishments he was aware of sufficient demand. He felt that the proposed scheme was relatively modest, would not be detrimental to the local landscape, and there would not be a significant increase in traffic movements. He was of the view that the development should remain for tourist use only and that it should not be allowed to become residential use in the future. He suggested that this could be determined by an occupancy condition. He expressed the need for an ecological survey of the site to be carried out prior to development taking place and the planting of a hedge to screen the site and mitigate the negative appearance of the existing workshop buildings.

Others Members were in agreement with the Local Member, but the Southern Team Leader said that a full ecological survey might take some time to complete. He was of the view that if the Sub-Committee was mindful to grant permission, there was a need to include a condition that the units should have full access for wheelchair users and the Local Ward Member was agreeable to this. He suggested that the matter should be deferred to enable all the outstanding issues to be addressed. After some discussion the Committee concurred with the view of the Local Ward Member that the application should be granted subject to the conditions which had been identified and that the application should be referred back to the Sub-Committee if they could not be met by the applicants to the satisfaction of the officers.

**RESOLVED:**

**That (i) The Northern Area Planning Sub-Committee is minded to delegate the officers to approve the application in consultation with the Local Ward Member, subject to the following conditions and any other conditions felt to be necessary by the Head of Planning and Transportation, provided that the Head of Planning and Transportation does not refer the application to the Planning Committee:**

- 1. A full ecological survey.**
- 2. Landscaping**
- 3. All the units having provision for wheelchair accessibility.**
- 4. Vehicular access.**
- 5. Appropriate restriction on occupation**

**(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 refuse the application, subject to the reason for refusal referred to above.**

**33. DCNW2008/1344/F - ORCHARD CLOSE, EARDISLEY, HEREFORD, HR3 6NP**

*Proposed erection of three dwellings with associated access and parking.*

The Principal Planning Officer presented the following updates:

Firstly, an amended plan has been received detailing three off road parking spaces, and turning area for dwelling 1 as requested.

Secondly, the Councils Highway Engineer, in their consultation response, queried whether the applicants had a legal right of access to the site as Forest Road (leading to Larchlap / Forest Fencing) is not an adopted highway. Orchard Close, which runs off Forest road has been adopted and the public footpath along Forest Road (North side) up to no. 3 Orchard Close is also adopted.

This matter was queried with the applicants agent who has sent the Local Planning Authority a copy of a letter from Herefordshire Councils Legal and Democratic Services at the time that they purchased the site from the Council. This letter states:

Although there is no definitive evidence as to the existence of highway rights over the road the Council believed that at least the first length, to the entrance of Orchard Close, must be considered highway, otherwise access to the close would be over private road. The Councils view is that the entire road is likely to be public highway having satisfied the conditions of Section 31 of the Highway Act 1980 i.e it is deemed to have been dedicated as highway if enjoyed by the public for twenty years or more, as of right and without interruption.

On this basis, I am satisfied that this matter has been explored and that the provision of off road parking spaces provided to each dwelling is sufficient to meet the policies of the Herefordshire Unitary Development Plan (2007). The onus will be on the applicant to ensure that legal rights of access are formally obtained and this is not a matter that can be controlled through this permission.

The Local Ward Member, Councillor JW Hope MBE said that he would like any monies paid under a section 106 agreement to be used for projects within Eardisley and proposed that the application be approved.

The Principal Planning Officer said that an the requirement for the payment of a 2% surcharge would also need to be included in the draft heads of terms agreement to help towards meeting the costs of a Section 106 Monitoring Officer.

In response to a question from a Member on the likelihood of flooding, the Principal Planning Officer informed the Sub-Committee that the Environment Agency was satisfied that the development would not be prone to flooding.

**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 B02 (Development in accordance with approved plans and materials)**

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.**

**3 B07 (Section 106 Agreement)**

**Reason: In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.**

**4 C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.**

**5 D04 (Details of window sections, eaves, verges and barge boards)**

**Reason: To ensure that the work is carried out in accordance with the details that are appropriate to the safeguarding of the Conservation Area and to comply with the requirements of Policies DR1 and HBA6 of Herefordshire Unitary Development Plan.**

**6 F08 (No conversion of garage to habitable accommodation)**

**Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy H18 of Herefordshire Unitary Development Plan.**

**7 F14 (Removal of permitted development rights)**

**Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy H13 of Herefordshire Unitary Development Plan.**

**8 F17 (Obscure glazing to windows)**

**Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy H18 of Herefordshire Unitary Development Plan.**

**9 G10 (Landscaping scheme)**

**Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.**

**10 G11 (Landscaping scheme - implementation)**

**Reason: In order to maintain the visual amenities of the area and to**

comply with Policy LA6 of Herefordshire Unitary Development Plan.

**11 H10 (Parking - single house)**

**Reason:** In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

**12 I16 (Restriction of hours during construction)**

**Reason:** To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

**13 Finished floor levels of all dwellings shall be set no lower than 73.58m AOD (600mm above the 1% plus climate change (20%) flood level of 72.98m AOD), unless otherwise agreed in writing by the LPA.**

**Reason:** To protect the properties from flood risk for the lifetime of the development.

**Informative(s):**

**1 N15 - Reason(s) for the Grant of Planning Permission**

**2 N19 - Avoidance of doubt**

**34. DCNC2008/1363/F - CANTILEVER LODGE, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0LG**

*Erection of new house and ancillary garage.*

The Local Ward Member Councillor KG Grumbley spoke in support of the application. He emphasised that any money raised from a section 106 agreement should be used to widen and strengthen the road outside the parish hall, as suggested by the Parish Council. He requested that paragraph one of the draft heads of terms agreement should be amended to allocate the money to the project mentioned previously.

Members agreed that any monies raised under a section 106 agreement should be deployed in the application area wherever possible. The Principal Planning Officer informed the Sub-Committee about the procedure involved regarding contributions obtained under Section 106 agreements and the purposes they could be used for. He advised that in this instance contribution had been voluntarily by the applicant. The Sub-Committee therefore agreed that the request made by the parish council and the Local Member should be granted and that part of the contribution money could go towards meeting the costs of the requested work.

**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 B03 (Amended plans)**

**Reason: To ensure the development is carried out in accordance with the amended plans and to comply with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**3 B07 (Section 106 Agreement)**

**Reason: In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.**

**4 C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**5 G09 (Details of Boundary treatments)**

**Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy DR1 of Herefordshire Unitary Development Plan.**

**6 G10 (Landscaping scheme)**

**Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.**

**7 G11 (Landscaping scheme - implementation)**

**Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.**

**8 H01 (Single access - no footway)**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan**

**9 H04 (Visibility over frontage)**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.**

**10 H05 (Access gates)**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan**

**11 H06 (Vehicular access construction)**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan**

**12 H09 (Driveway gradient)**

**Reason: In the interests of highway safety and to conform with the**

requirements of Policy DR3 of Herefordshire Unitary Development Plan

**13 I16 (Restriction of hours during construction)**

**Reason:** To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

**14 I21 (Scheme of surface water regulation)**

**Reason:** To prevent the increased risk of flooding and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

**15** Prior to the commencement of development details of the improvement, re-grading and re-surfacing of the public footpath shall be submitted to and approved in writing by the local planning authority. The improvement works shall be carried out in accordance with the approved details and shall be completed before the dwelling hereby approved is first occupied.

**Reason:** To ensure that the route of the public footpath is protected and to conform with Policy T6 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 HN10 - No drainage to discharge to highway**

**6 HN28 - Highways Design Guide and Specification**

**7 N15 - Reason(s) for the Grant of Planning Permission**

**8 N19 - Avoidance of doubt**

**35. DATE OF NEXT MEETING**

27 August 2008

The meeting ended at 3.10 p.m.

**CHAIRMAN**

<b>ITEM FOR INFORMATION - APPEALS</b>
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**APPEALS RECEIVED****Application No. EN2008/0032/ZZ**

- The appeal was received on 14 July 2008
- 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 Mr P Llewelin, Mrs A Llewelin, Mr C Llewelin
- The site is located at Land at The Marsh, Opposite Little Downfield, Kington
- The breach of planning control alleged in this notice is "Without planning permission a material change of use of an agricultural building, to a mixed use for agriculture and for use as a carpentry workshop for the operation of a carpentry and joinery business."
- The requirements of the notice are: Permanently cease using the building as a carpentry workshop for the operation of carpentry and joinery business and remove all business related materials, equipment and machinery from the land.
- The appeal is to be heard by Hearing

**Case Officer: Kelly Gibbons on 01432 261781**

**Application No. DCNC2007/3712/F**

- The appeal was received on 29th July 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 Mrs S Davies
- The site is located at The Riddle, -, Eyton, Leominster, Herefordshire, HR6 0BZ
- The development proposed is Change of use for the recreational keeping and exercising of horses/ponies with ancillary use of existing buildings.
- The appeal is to be heard by Written Representations

**Case Officer: Julia Shields on 01432 383088**

**APPEALS DETERMINED****Application No. DCNW2007/3207/F**

- The appeal was received on 18 April 2008
- 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 Mr M Blake
- The site is located at Primrose Cottage, -, Lucton Village, Lucton, Leominster, Herefordshire, HR6 9PH
- The application, dated 15 October 2007, was refused on 10 December 2007
- The development proposed was a two storey extension and solar panels to south roof elevation.
- The main issue is an extension of this scale in this location would have a significant visual impact on the overall appearance of the pair of cottages. Due to its size it would be a

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Further information on the subject of this report is available from the relevant Case Officer

prominent feature in views of the cottages and would destroy the existing symmetry of the pair.

**Decision:** The appeal was **DISMISSED** on 4 August 2008

**Case Officer: Philip Mullineux on 01432 261808**

**Application No. DCNW2007/2132/F**

- The appeal was received on 25 March 2008
- 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 Mr & Mrs Crabtree
- The site is located at Compasses Hotel, Ford Street, Wigmore, Leominster, Herefordshire, HR6 9UN
- The application, dated 29 May 2007, was approved on 23 August 2007
- The development proposed was Proposed change of use of land to extend existing holiday home park to site 8 new mobile homes.
- The main issues are the effect of removing the disputed conditions on:- 1) the ability of the council to restrict the use of the site to that of holiday accommodation (condition 4), 2) highway safety (condition 10)

**Decision:** The appeal was **ALLOWED** on 14 July 2008

**Case Officer: Philip Mullineux on 01432 261808**

**Application No. DCNC2007/3193/O**

- The appeal was received on 19 May 2008
- 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 Mr & Mrs Chandler
- The site is located at 1 Lower Buckfield, Barons Cross Road, Barons Cross, Leominster, Herefordshire, HR6 8RN
- The application, dated 25 September 2007, was refused on 6 December 2007
- The development proposed was Site for one dwelling.
- The main issues are whether the proposed development would be in keeping with the character and appearance of the area, and also the effect on the living conditions of those living in 1 Lower Buckfield Cottages and other neighbouring properties.

**Decision:** The appeal was **DISMISSED** on 11 August 2008

**Case Officer: Nigel Banning on 01432 383093**

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

**5 DCNW2008/1848/F - SINGLE STOREY EXTENSION TO SITTING ROOM AT KINTON BARN, KINTON, LEINTWARDINE, CRAVEN ARMS, HEREFORDSHIRE, SY7 0LT.**

**For: Ms A. Warren per Warren Benbow Architects,  
21- 22 Mill Street, Kington, Herefordshire, HR5 3AL.**

Date Received: 13 July 2008

Ward: Mortimer Grid Ref: 40924, 74654

Expiry Date: 7 September 2008

Local Member: Councillor LO Barnett

**1. Site Description and Proposal**

- 1.1 The site consists of a former agricultural barn converted to a dwelling, approved subject to application ref: 97/0656/N dated 17th October 1997.
- 1.2 The detached dwelling is of external stone construction with brick quoins and detail under a tiled roof.
- 1.3 The application site, formally part of a farmstead, is located in open countryside. There are other residential units to the south and south east of the application site, these were also barns subsequently converted to two separate residential units.
- 1.4 The application proposes a single storey extension onto the south western gable elevation of the property measuring approximately 19.25 square metres (measured externally) to be used as additional accommodation to the existing sitting room. It is proposed to externally construct the development in timber cladding on a stone plinth under a clay tiled roof. The south western and south eastern elevations will be mostly glazed between oak constructed joinery.

**2. Policies**

**2.1 Herefordshire Unitary Development Plan 2007**

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
HBA4	-	Setting of Listed Buildings
HBA12	-	Re-Use and Adaptation of Rural Buildings
HBA13	-	Re-Use of Rural Buildings for Residential Purposes

- 2.2 Herefordshire Supplementary Planning Guidance - Re-Use and adaptation of Rural Buildings.

### 3. Planning History

- 3.1 97/0636/N - Barn Conversion to Dwelling - approved subject to conditions 17th October 1997.

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No statutory consultations required.

#### Internal Council Advice

- 4.2 The Transportation Manager raises no objections.
- 4.3 Conservation Manager. No response received at time of writing this report. A verbal response will be presented to committee.

### 5. Representations

- 5.1 Leintwardine Parish Council has responded to the application stating:

*"Should comply with the original planning consent, i.e. no extensions. Otherwise no comment".*

- 5.2 One letter has been received from Mr. Richard Sudworth, Kington Farm, Leintwardine. The letter states no objections to the proposed development. However concerns are raised with regards to the proposed external construction, in that the whole of the north wall would be preferred to be constructed of stone, in order to maintain continuity of appearance, rather than timber cladding as proposed. Comments are also made that the proposed development in its proposed form looks more like a shed than part of the house.

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 is presented to Committee at the request of the local member.
- 6.2 The key issue for consideration is the fact that the application proposes an extension to a barn conversion, in-light of council policy on re-use and adaptation of rural buildings.
- 6.3 The application proposes a single story extension measuring approximately 19.25 square metres, (measured externally), onto a single-storey dwelling, with an existing habitable floor space area of approx 185 square metres (measured externally).The proposed external construction being mainly of timber, on a stone plinth, under a tiled roof, in order to give it a "barn like" appearance.
- 6.4 The existing dwelling on site was granted planning approval on 17th October 1997 for "Barn Conversion to dwelling". Condition no. 3 attached to the approval notice took



away permitted development rights, in order that the council could control any future development on site, in consideration of the appearance of the development as a whole, being as it was a former barn, forming part of a homestead in open countryside.

- 6.5 Herefordshire Supplementary Planning Guidance: Re-use and Adaptation of Rural Buildings emphasises in paragraph 4.13 *“The building shall be large enough to be capable of conversion without the need for extensions and any scheme submitted shall be considered, in principle, as finite”*.
- 6.6 The guidance as referred to above, is also echoed in paragraph 9.6.47 of the Herefordshire Unitary Development Plan, in support of Policy HBA12: Re-use of Rural Buildings, which states that buildings considered for conversion/new uses should be capable of accommodating the proposed new use without the need for extensions.
- 6.7 While it is noted the application proposes an extension with a rural “barn like” external appearance, the proposed development cannot be supported by officers as clearly it does not comply with the criteria of policy as referred to above.

**RECOMMENDATION**

**That planning permission be refused for the following reason:**

- 1. **The proposed development entails an extension to a former barn, in open countryside, converted to a residential use, and therefore contrary to Policies H7, HBA12 and HBA 13 of the Herefordshire Unitary Development Plan and Herefordshire Supplementary Planning Guidance: Re-Use and Adaptation of Rural Buildings.**

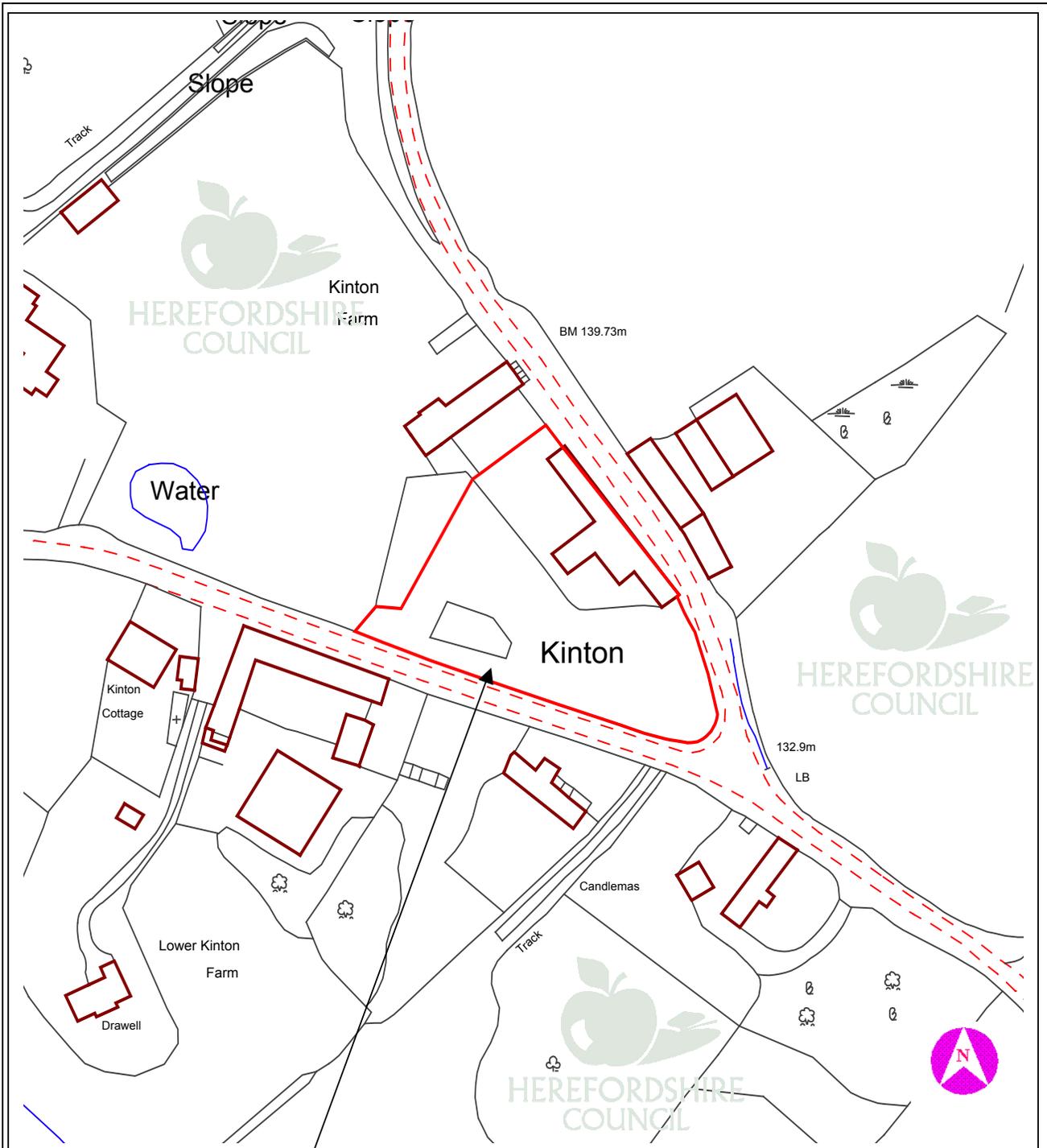
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW2008/1848/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Kinton Barn, Kinton, Leintwardine, Craven Arms, Herefordshire, SY7 0LT

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**6 DCNW2008/1598/F - PROPOSED TEMPORARY METEOROLOGICAL MONITORING MAST AT LAND TO THE EAST OF LLANSHAY LANE, REEVES HILL.**

**For: Mr M Corker per Mr M Wilson, Dulas Ltd. Unit 1 Dyfi Eco Park, Machynlleth, Powys, SY20 8AX.**

**Date Received: 23 June 2008    Ward: Mortimer    Grid Ref: 31852, 69013**

**Expiry Date: 18 August 2008**

Local Member:    Councillor LO Barnett

**1.    Site Description and Proposal**

- 1.1 The land on which the development site is located lies on a hill top plateau of undulating farmland of enclosed moors and commons landscape type, and is accessed via the Unclassified 91621 public highway, which is located to the west of the application site.
- 1.2 The proposed development site is agricultural land managed as livestock grazing land predominately used by sheep.
- 1.3 The site is located within Herefordshire within close proximity to the boundary with Powys. Presteigne is located to the South of the site and Knighton to the north. To the west is the village of Norton through which the B4355 public highway connects Presteigne to Knighton (2 - 3 km from the site).
- 1.4 The application proposes a temporary meteorological monitoring mast for a period of 12 months, in order to record wind resource data in relationship to a proposed development for the installation of 4 wind turbine generators, that are subject to application reference DCNW2008/1289/F currently under planning consideration by the council.
- 1.5 The proposed temporary mast has a height (from ground level to tip) of 68 metres (main pole), and will be supported by guy wires that will have a ground area of approximately 30 metres width either side of the central pole of the proposed temporary mast.

**2.    Policies**

**2.1    Central Government Policy**

Planning Policy Statement 1 – Delivering Sustainable Development  
 Planning Policy Guidance 22 – Renewable Energy

Energy White Paper – May 2007

**2.2    Regional Planning Guidance**

West Midlands Regional Assembly Climate Change Action plan - draft consultation  
 July 2007

A sustainable future for the West Midlands Regional Sustainable Development Framework version two – July 2006

### 2.3 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Biodiversity and Development
NC5	-	European and Nationally Protected Species
NC8	-	Habitat Creation, Restoration and Enhancement
CF4	-	Renewable Energy

### 3. Planning History

3.1	DCNW2008/1289/F	Proposed erection and operation of 4 wind turbines and associated access tracks, hard standing and sub-station building.	Currently under planning consideration.
	95/0598/N	Construction of 9 wind turbine generators, associated works, access roads and cabling system as part of a larger development consisting of the erection of a 14 turbine wind farm development	Refused 20th March 1996
	94/0499	Erection of a 41 metre anemometer mast for twelve months only on land at Tipton Farm, Willey	Approved 10th October 1994
	93/216	Siting of two anemometer masts 40 and 10 metres high for evaluating wind speed for six months only at Tipton Farm	Approved 8th June 1993

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 The Civil Aviation Authority raises no objections.
- 4.2 Defence Estates raises no objections.
- 4.3 Clwyd – Powys Archaeological Trust raises no objections.
- 4.4 English Heritage raises no objections.
- 4.5 Natural England raises no objection

Internal Council Advice

- 4.7 The Environmental Health Manager raises no objections.
- 4.8 The Public Rights of Way Manager raises no objections.
- 4.9 The Transportation Manager raises no objections subject to attachment to any approval notice subsequently issued HN21 "Extraordinary Maintenance". This brings to the attention of the applicant/developer section 59 of the Highways Act 1980, which allows Highways Authorities to recover additional costs of road maintenance due to damage by extraordinary traffic.
- 4.10 The Landscape Manager raises no objections commenting that the gathering of accurate information will potentially outweigh the short-term impact of the mast.
- 4.11 The Planning Ecologist has no objections to the proposed development subject to a condition being attached to any subsequent approval notice issued with regard to mitigation and enhancement to any protected species on site as a precautionary approach in respect of this application.
- 4.12 The Archaeology Manager raises no objections.

**5. Representations**

- 5.1 Presteigne and Norton Town Council (Powys), raises no objection to the temporary construction of a mast but raise questions about an application already registered with the council for a proposed turbine development on site to which wind monitoring subject to this application is relevant to. They also question will the Council independently monitor the results of the survey, and why is the height of the mast much less than the height of the proposed turbines subject to application reference: DCNW2008/1289/F.
- 5.2 Knighton Town Council, (Powys), raise concerns on interference with the water source.
- 5.3 Willey Parish Council raises no objections
- 5.4 Lingen Parish Council raise no objections.
- 5.5 Shobdon Airfield Manager objects to the proposed development stating he considers the proposed development will have a significant impact upon flight safety in the Shobdon/Presteigne area.
- 5.6 Objections have also been received from:
- Dr. Stephen Hugh-Jones, Chairman on behalf of Stonewall Hill Conservation Group.  
Mrs A.V. Harley, The Harley Estate, Brampton Bryan, Bucknell, Shropshire.  
Dennis Litt, via email.  
Andrew Price, Goat House, (also by email).

Objections/comments raised can be summarised as follows:

Why require wind testing at this stage in the planning process, in consideration of the application, (reference: DCNW2008/1289/F) for 4 wind turbines currently under planning consideration by the council.

The application is inappropriate and presumptuous if the data required from the temporary mast is required in relationship to the proposal for 4 wind turbines on site.

Assurance required that Herefordshire Council will ensure an independent body will also monitor wind speed if application is approved.

Why is proposed wind monitoring mast considerably shorter than the overall height of the proposed wind turbines on site?

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 key main issues with regards to this application are:

Necessity for the proposed development  
Impact in surrounding landscape and biodiversity  
Impact upon flight safety

### Necessity for the proposed development

- 6.2 The applicants have submitted the application for the proposed meteorological mast to be on site for a period of 12 months in order to collect wind speed and direction data.
- 6.3 The wind speed will be collected at various heights on the mast via instruments that measure wind speed and direction. This wind speed data is then used in a financial model to assess the viability of building a wind farm on the site.
- 6.4 The hub height of the proposed wind turbines subject to application reference NW2008/1289/F (presently under planning consideration by the council), is in the range of 65 – 69 metres. It is the hub height that is the key figure to bear in mind as the centre point of the swept area and point at which wind speed is modelled for performance purposes.
- 6.5 The applicants have indicated in their E.I.A statement that accompanies the application for the proposed wind turbines on site, that they are also relying on wind data gathered on site for a previous application for wind turbines development, refused planning permission by Leominster District Council subject to application reference: 95/0598/N on 20<sup>th</sup> March 1995.
- 6.6 In response to objections received with regards concerns that wind speed data for the site should be gathered prior to consideration to a proposed wind turbine development on site, and monitoring of wind data. This is not a material planning consideration for the council to consider, it would be reasonable to consider the developers would not pursue an application for the turbines development on site, unless they were satisfied that it would be economically viable, as indicated in a recent high court challenge to a Council's decision to grant planning approval for a wind turbine scheme, prior to the collection of wind speed data on site, (Finn- Kelsey V Milton Keynes Council 18th July 2008).

Impact on Surrounding Landscape and Biodiversity

- 6.7 The Council's Landscape Manager has responded to the application with no objections, commenting that the time limit impact on the landscape will be minimised and that the gathering of accurate information will potentially outweigh the short-term impact of the mast.
- 6.8 The Council's Planning Ecologist has responded to the application with no objections subject to the inclusion of a condition with regards to mitigation and enhancement in respect of protected species that may use the site as a precautionary approach during the construction phase in consideration on the Wildlife and Countryside Act 1981.
- 6.9 Natural England have responded to the application with no objections subject to satisfactory measure taken with regards to protected species that may use the site, and their surrounding habitats.

Impact on Flight Safety

- 6.10 The Manager of Shobdon Airfield has responded to the application objecting to the proposed development stating he believes the proposed development will have a significant impact upon flight safety in the Shobdon/ Presteigne area.
- 6.11 The response received to the application from the Airport Manager states that Shobdon Airfield is licensed by the Civil Aviation Authority, (CAA), as an airfield, and in order to maintain their license Shobdon must satisfy the CAA, that the airfield is safe for use by aircraft, and in particular the physical characteristics of the areodrome and its surroundings.
- 6.12 It is noted that the CAA as well as NATS and Defence Estates do not object to the proposed development. Therefore it is considered that the objection to the application from the Airport Manager is insufficient to justify refusal.

**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.**

**2. The development hereby permitted shall be removed off site within 12 months of construction on site, in accordance with an agreed timetable and site management plan, agreed in writing with the Local Planning Authority prior to any development on site.**

**Reason: In order to control the form of development on site in consideration of landscape amenity and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.**

**3. I33 (External lighting)**

**Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Hereordshire Unitary Development Plan.**

- 4. Prior to any development on site a scheme for ecological mitigation and enhancement which will include a full working method statement will be submitted and agreed in writing with the Local Planning Authority.

**Reason:** To ensure that great crested newts, nesting birds, wildlife foraging areas and plant species are protected in accordance with Policies NC1, NC5, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and to comply with the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats and Conservation), Regulations 19943 (as amended).

**Informatives:**

- 1. N15 - Reason(s) for the Grant of Planning Permission
- 2. N19 - Avoidance of doubt – Approved Plans
- 3. HN21 - Extraordinary maintenance

Decision: .....

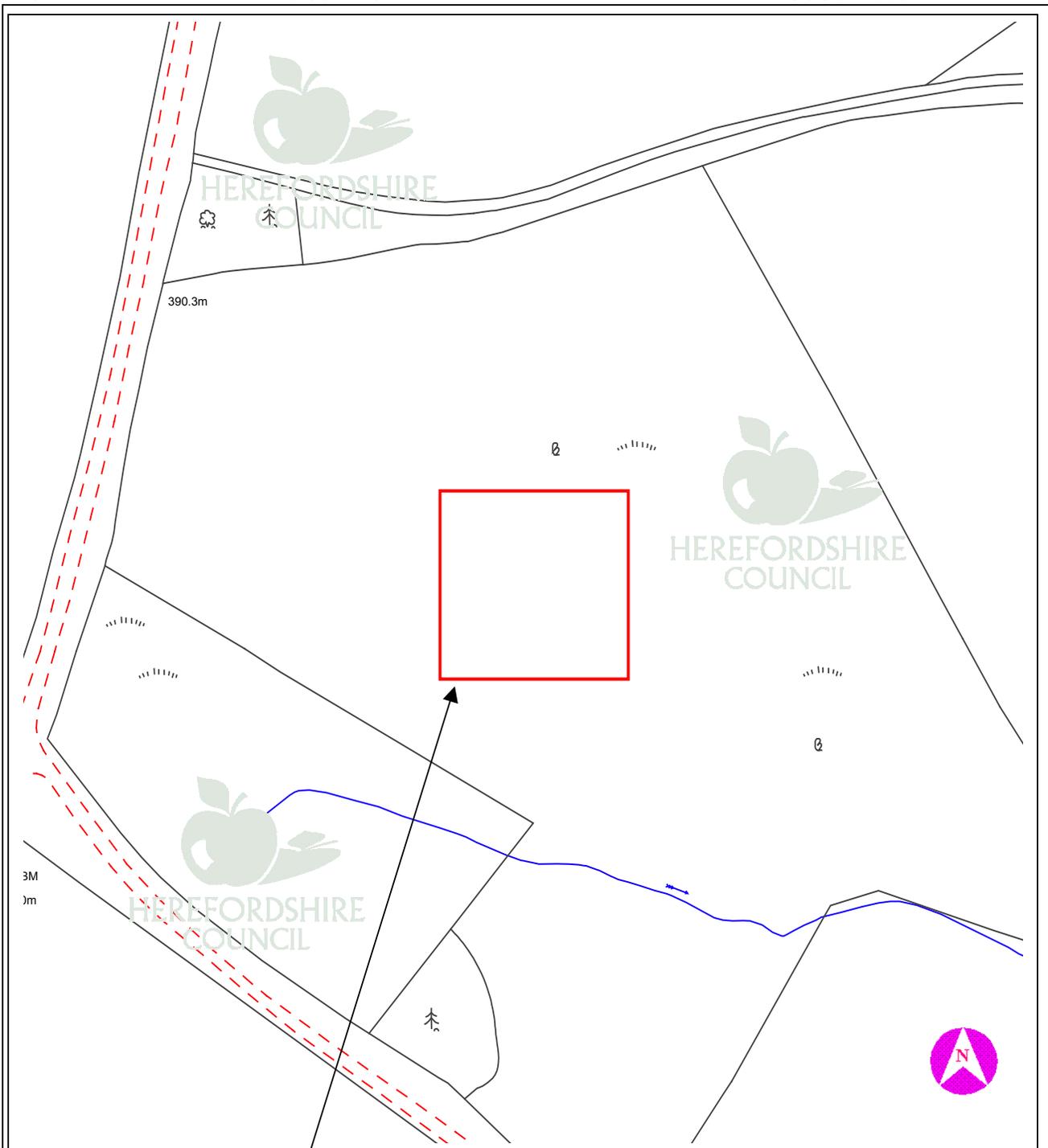
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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCNW2008/1598/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land to the East of Llanshay Lane, Reeves Hill.

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<b>7A</b>	<b>DCNC2008/1027/F - VARIATION OF CONDITION 5 OF PERMISSION 900852 AND CONDITION 2 OF PERMISSION 97/0953/N TO ALLOW A MAXIMUM OF 15% OF THE TOTAL SALES AREA OF THE STORE TO BE USED FOR THE SALE OF COMPARISON GOODS. REMOVAL OF CONDITION 3 OF PERMISSION 97/0953 TO ALLOW FORMER CRÈCHE TO BE USED AS A CAFÉ FOR MORRISON SUPERSTORE, BARONS CROSS ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RH.</b>
<b>7B</b>	<b>DCNW2008/1233/F - PROPOSED EXTENSION FOR ADDITIONAL SALES AND WAREHOUSING AREA AND INCREASED CYCLE, MOTORBIKE AND DISABLED PARKING SPACES AT MORRISON SUPERSTORE, BARONS CROSS ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RH.</b>  <b>For: W.M. Morrison Supermarkets Plc per Race Cottam Associates, Knutsford Studio, 8 King Street, Knutsford, WA16 6DL.</b>

**Date Received: 4 April 2008**  
**Expiry Date: 30 May 2008**

**Ward: Leominster South    Grid Ref: 48374, 58631**

Local Member: Councillor RC Hunt

### **1. Site Description and Proposal**

- 1.1 The Morrisons store is located on the A44 approximately one km to the west of Leominster town centre. The surrounding area is predominantly residential. Planning permission has recently been granted for a further residential development of 425 houses at the former Barons Cross Army Camp approximately 800m west of the store.
- 1.2 The existing Morrison's store has gross floorspace of 4,927 square metres. 2,328 square metres of this is currently given over as the sales area, with the remainder used as warehousing, a café and a petrol filling station.
- 1.3 As a whole the application scheme is to extend the premises and proposes changes to remedy peak periods of congestion, improve the operational efficiency of the store and maintain its competitiveness with larger superstores elsewhere. These have been submitted as two separate planning applications to extend the store with alterations to parking arrangements (NC2008/1233/F) and to remove conditions from earlier

planning permissions (NC2008/1027/F). The two proposals are inextricably linked and therefore the two are dealt with under a single report but with two distinct recommendations.

1.4 In detail the proposals involve:

- 1) A sales area extension of 365 sq m providing more circulation space, improved wine/fresh fruit vegetable display areas, and some additional comparison goods sales;
- 2) A warehouse extension of 470 sq m enabling more efficient and frequent restocking of the sales areas and elimination of temporary storage vehicles;
- 3) Alterations to parking arrangements to create more cycle, motorcycle and disabled parking.
- 4) The removal of conditions imposed on permissions 90/0852 and 97/0953/N that limit the store to the sale of convenience goods, to allow a maximum of 15% of the total sales area to be used for the sale of comparison goods; and,
- 5) The removal of condition 3 imposed on permission 97/0953/N to allow a former crèche to be used as a café.

1.5 The extension to the store sales area is proposed within an area currently used for customer car parking in the north eastern corner of the site. As a result of this, and the increases in disabled, motorcycle and cycle parking, the overall number of car parking spaces will be reduced from 427 to 412.

1.6 The easternmost boundary is heavily vegetated with residential properties lying beyond at a considerably higher ground level. The warehouse extension would be within the existing service area to the south. The design of both aspects continues the theme of the existing store, matching it in terms of external appearance and detailing.

1.7 The proposal would create a gross floor area of 5,808 square metres. By virtue of the application to allow the sale of comparison goods, 2,289 square metres would be given over to convenience sales and 404 square metres to comparison sales. This amounts to 15% of the entire sales floor area.

1.8 The applications are supported by a design and access statement, a retail planning statement and a transport statement in order that a full assessment of the implications and impacts of the proposals can be properly made.

## 2. Policies

### Herefordshire Unitary Development Plan:

S1	-	Sustainable development
S5	-	Town centres and retail
S6	-	Transport
DR1	-	Design
DR3	-	Movement
DR5	-	Planning obligations
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability

- TCR13 - Local and neighbourhood shopping centres
- T11 - Parking provision

National Guidance:

- PPS1 - Delivering Sustainable Development
- PPS6 - Planning for Town Centres
- PPG13 - Transport
  
- RSS11 - -Regional Strategy for the West Midlands

### **3. Planning History**

- 3.1 90/0852 – Erection of a supermarket and petrol filling station – Approved April 1992 including a condition stating that the store should only be used for the sale of convenience goods.
- 3.2 97/0953/N – Erection of an extension for additional retail floor area and the provision of a crèche – Approved March 1998. Conditions were imposed to again state that the retail element of the extension should only be used for the sale of convenience goods, and that the crèche should be limited to that use only.
- 3.3 NC2002/0738/F – Erection of extensions to provide additional retail floor space, warehousing and coffee shop – Withdrawn May 2002
- 3.4 NC2002/3730/F – Erection of extensions to provide additional retail floor space, warehousing and coffee shop – Withdrawn November 2002
- 3.5 NC2004/2148/F – Amendments to planning permissions 90/0852 and 97/0953/N to allow the sale of comparison goods and to allow the crèche to be used as part of the coffee shop – Refused July 2005 for the following reasons:

It is considered that the sale of non-convenience goods is contrary to Policy A33 of the adopted Leominster District Local Plan (Herefordshire), and Policy TCR9 of the Herefordshire Unitary Development Plan (Revised Deposit Draft) in that it will seriously harm the vitality and viability of Leominster Town Centre shopping area.

- 3.6 The loss of the creche facility is considered to be contrary to Policy A62 of the adopted Leominster District Local Plan (Herefordshire).

### **4. Consultation Summary**

Statutory Consultations

- 4.1 No statutory consultations were required.

Internal Council Advice

- 4.2 Transportation and Planning Manager - raises no objection to either of the proposals. The application for extensions and alterations to parking arrangements will attract a financial contribution in line with the adopted SPD and it is in this respect that the following comments are made:

4.3 The planning obligation clearly meets all five tests in Circular 05/2005. The obligation arises from a planning application that will increase vehicle movements, so having an effect on the Highway network if granted. There are existing capacity constraints at junctions within Leominster which will be made worse by the proposed shop expansion. The principle of mitigation of increased traffic has already been established in other planning permissions nearby, proving it is reasonable to require the developer to do the same in this situation. The proposed Planning Obligation is:

- Relevant to planning, as it arises from a planning application that will affect the highway network
- Necessary to make the development acceptable. The development will increase congestion at junctions that are already over-capacity, and worsen air quality at the eastern end of Bargates, already causing concern. Without mitigation, recommending refusal is a real possibility.
- The Obligation is directly resulting from this proposed development.
- Comprehensive investigation and careful consideration were used to develop the Planning Obligation Supplementary Planning Document, in accordance with Government guidance. The contributions have been calculated using a transparent method modelled on and consistent with national best practice, with discounts also incorporated to further ensure the fairness of the amount sought.
- It is reasonable in all other respects.

4.4 It is well accepted professionally that an increase in floor area will result in an increase in trips, as evidenced by TRICS®. The proposal to reduce marginally car parking spaces (to levels still above those recommended by the Council for the area of the shop) is not likely to have any significant effect on the trip rate. We welcome the proposals to increase the levels of disabled and cycle parking, albeit to levels below those in our Highways Design Guide. This is long overdue, and would be provided anyway if the company is to show good Corporate Social Responsibility. We welcome the Travel Plan, but consider that its effectiveness will be mainly limited to staff travel.

4.5 The justification for the funding request is robustly made in the Supplementary Planning Document, which was developed following recognised best practice nationally. There are potential schemes, both near the development and further afield, that go some way towards mitigating the direct effect of the development on the highway network. Those near the development include measures previously mentioned, including cycle route provision along Baron's Cross Road, and Bargates lights. Bargates lights are over capacity already; any further development in the area will worsen congestion there. As the area is already an Air Quality Management Area, further congestion resulting from increased traffic from the shop expansion will only worsen the air quality problems. A tentative scheme to reduce congestion and improve air quality has been investigated, and the most recent budget costing of the works was around £80,000. A cycle route between the shop and town centre will also help reduce congestion arising from the development. The County-wide measures are all developed to further reduce the use of single-occupancy cars, thus mitigating the effects of extra traffic generated by the proposed development.

4.6 Contributions are therefore requested in relation but not limited to the following:

- (a) Improvements to the traffic lights at the Bargates junction.
- (b) Other measures to improve air quality at the Bargates junction as an Air Quality Management Area.
- (c) Improvements to cycle facilities/routes between the shop and town centre.

(d) Improvements to public transport facilities/provision between the shop and town centre.

(e) Contribution towards study of east/west Leominster by-pass

## 5. Representations

5.1 Leominster Town Council - Recommends the refusal of both applications on the basis that it is not convinced that there would not be a detrimental effect on the retail of the town centre. It notes that this is not an out-of-town shopping centre in its own right and that PPS6 and TCR13 be borne in mind.

5.2 It also advises that it would be minded to approve proposals for warehousing and parking provision, that it reluctantly accepts the removal of condition 3 of 97/0953/N in relation to the crèche, but that it otherwise deplores the flouting of conditions that has taken place.

5.3 Two letters of objection have been received in relation to both applications from Leominster Civic Trust and Skeltons Sound & Vision Ltd. In summary the points raised are that the proposals will put small traders in Leominster at risk and that they will harm the vitality and viability of the town centre.

5.4 As stated earlier in this report, the applications are supported by retail and transport statements. By way of a summary the conclusions of each are re-produced and read as follows:

### Retail Planning Statement

5.5 Section 2 of this statement shows that the application site is located within a residential area, within walking distance of a significant number of households. It also shows that there have been a number of previous proposals to extend Morrisons store by Safeway, but these were ultimately withdrawn or refused. The current application scheme by our client differs from the latter proposals as:

- It comprises only around a third of the new retail floorspace proposed by Safeway; and
- It proposes only a modest increase in the amount of floorspace dedicated to the sale of comparison goods.

5.6 At Section 3 of this statement we explain the background to the proposals. Following the acquisition of Safeway in 2004, the Barons Cross store has become very popular with customers. Whilst Morrisons is pleased about the performance of the store, its popularity and relatively small size means that it can become congested, particularly at peak times. There is also a shortage of storage space, particularly for frozen food products. The proposed development will help to remedy these problems, and ensure that the Morrisons store remains competitive with other superstores in the locality.

5.7 Section 4 of this statement sets out an assessment of relevant planning policy in the development plan and in national planning guidance. This indicates that the application site is located within the defined Barons Cross Local Centre. PPS6 indicates that the way in which retail proposals in such locations are assessed is not as intensive as developments on edge-of-centre or out-of-centre sites. Needless to say, Section 5 includes an assessment of the proposal in light of all the key retail tests in order to demonstrate a thorough approach. The main findings of this assessment can be summarised as follows:

- 5.8 **Quantitative need** - the quantitative need assessment indicates that the convenience and comparison turnover of the proposed development will represent a small fraction of growth on spending on retail goods by 2013, thus leaving significant residual expenditure growth to allow for improvements in the turnover efficiency of existing shops, or new retail investment. Our estimates of expenditure growth are considered to be conservative given that no account is taken of tourism expenditure, or the potential spending power of the additional population that will be created by the redevelopment of the Barons Cross Army Camp.
- 5.9 **Qualitative need** - the physical constraints posed by the previous Safeway format result in congested conditions in the Morrisons store at peak times which will exacerbate over time if it is not enlarged in line with forecast growth in population and expenditure. The application scheme will help to ensure that Leominster has a superstore offer that is more comparable with larger stores outside the study area.
- 5.10 **Scale** - the retail element of the proposed development is small in size, and will simply bring the offer of the Morrisons more into line with that provided by other superstores outside the study area. It will not change the retail role or function of the Barons Cross Local Centre or Leominster, and even after implementation of the proposed development, the retail area of Morrisons will still be smaller than many stores outside the study area.
- 5.11 **Sequential approach** - the UDP adopts a positive approach toward small scale proposals within local centres, and the application scheme will enhance the offer within the Barons Cross Local Centre in that regard. We consider that there are no suitable or viable sites within other defined retail centres to accommodate the proposed development, even if Morrisons adopted a very flexible approach towards design and format. The provision of the proposed extension to the Morrisons on another site would not result in the qualitative need that the application aims to address being fulfilled. The development of a sales extension of 365 square metres elsewhere would not allow a bulk convenience shopping facility to be provided, since it would be too small in its own right to fulfil this shopping function.
- 5.12 **Retail impact** - the proposal will have a positive impact upon the health and retail offer of Barons Cross Local Centre. It will not significantly increase the attraction of the centre relative to Leominster town centre or other defined retail centres, due to the small amount of new retail floorspace proposed. The main trading impact will fall upon large superstores outside of the study area, none of which will individually experience a material change in their turnover. The comparison good range within Morrisons store will be very limited, will not include clothing, and will very much be geared towards essential or impulse purchases rather than replacing purpose-made town centre shopping trips.
- 5.13 **Assessability** - the Transport Statement concludes that the application scheme will be accessible by a choice of means of transport, including walking, cycling and bus. Parking provision will be in accordance with national guidance, and there will be no adverse traffic impact arising from the proposed development.
- 5.14 In this context we consider that the application scheme performs well in relation to the key retail tests. Section 5 of this statement also shows that there are a number of material considerations which should be taken into account, including employment generation, economic development and the reduction in the need to travel through the prevention of expenditure leakage from the study area in the long term.



- 5.15 Given all of the above, we consider that the application is compliant with development plan policy, and that there are material considerations that weigh in its favour. Accordingly we respectfully request that the application is approved.

#### Transport Statement

- 5.16 This statement has examined the transport related implications of a proposed Morrisons food store expansion at Barons Cross Road, Leominster. The expansion proposals are small, representing just a 16% increase in the Retail Floor Area (RFA). The existing store is 2,328 square metres RFA (4,927 square metres GFA) and the proposed extension is for an additional 365 square metres RFA (881 square metres GFA).
- 5.17 The development proposals will reduce the number of standard parking spaces available at the site. At the same time cycle and motorcycle parking will be introduced to improve the accessibility of these more sustainable modes.
- 5.18 The site layout currently caters for access on foot and by bus, with bus stops located immediately adjacent to the site on Barons Cross Road.
- 5.19 Using robust assumptions, the anticipated increase in traffic resulting from this floorspace expansion would be less than one vehicle in, one vehicle out in the peak hour. This increase in traffic would easily be accommodated on the local network and its impact would not be material.
- 5.20 It is therefore concluded that there are no transport related issues which would prevent granting of planning permission.
- 5.21 The full text of these letters and statements 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 considerations as far as these applications are concerned relate to the potential impact on the vitality and viability of Leominster town centre and its local traders, and the potential for increases in traffic movements to and from the store, in particular along Barons Cross Road. Each will be dealt with in turn.

#### Retail Impacts of the Proposals

- 6.2 In order to make a thorough and complete assessment of this proposal an independent critique of the retail statement has been commissioned and completed on behalf of the Council by Drivers Jonas. They have previously undertaken retail studies for the Council as part of the UDP and continue to do so as part of the LDF process and are therefore well placed to comment on this proposal. This will be detailed later in this report, but first it is important to examine and understand the relevant policies that relate to this application.
- 6.3 In the introductory text to the Town Centres and Retail chapter of the UDP, Barons Cross Road is identified as a Local Shopping Centre in the retail hierarchy for the county. As such, this gives it a particular status and provides specific policies against

which applications should be considered. These have been highlighted earlier in this report, but two bear closer examination.

- 6.4 Policy S5 suggests that the range of shopping, employment, entertainment, social and other community services that are available in existing centres should continue to be available to all in locations accessible by a choice of means of transport. The first point stresses the need for the vitality and viability of the entire retail hierarchy, including local centres to be maintained. The second highlights a desire for investment in existing centres to be maintained.
- 6.5 TCR13 relates specifically to local and neighbourhood shopping centres and reads as follows:

*Additional shopping floorspace will be permitted in existing local and neighbourhood shopping centres where:*

- (i) the proposal is consistent with the scale and function of the centre and its place in the retail hierarchy and meets people's day to day needs so reducing the need to travel;*
- (ii) such development would contribute to the continued and efficient operation of those centres, or the scale of new residential development makes the provision of new local shopping facilities desirable; and*

*the vitality and viability of existing centres is not threatened*

- 6.6 The supporting text refers to the importance of these centres in meeting the need of the local area, offering important and convenient services for those who are less mobile. It also suggests that local and neighbourhood shopping centres can also serve to reduce the need to use a car for shopping, reducing traffic congestion and contributing to a cleaner environment. It also guards against the growth of centres to an extent where they might threaten the vitality and viability of existing town centres.
- 6.7 PPS6 – Planning for Town Centres is also integral to the consideration of this proposal. In respect of proposals for store extensions Paragraph 3.29 says the following:

*Applications for the extension of existing development in edge-of-centre and out-of-centre locations may raise specific issues. The impact on existing town centres of the proposed extension should be given particular weight, especially if new and additional classes of goods or services for sale are proposed. In addition, where establishing need is concerned, local planning authorities should establish that the evidence presented on the need for further floorspace relates specifically to the class of goods proposed to be sold. The sequential approach is only a relevant consideration in relation to extensions where the gross floor space of the proposed extension exceeds 200 square metres. This policy relates to development which creates additional floorspace, including proposals for internal alterations where planning permission is required, and applies to individual units or stores which may or may not be part of a retail park, mixed use development or shopping centre.*

This guidance clearly applies to the application proposal.

- 6.8 Chapter 3 of the same document makes clear that the key considerations for identifying sites for allocation in development plan documents, as set out in Chapter 2, apply equally to the assessment of planning applications.

6.9 The local planning authority should require the applicants to demonstrate:

- (a) *the need for development;*
- (b) *that the development is of an appropriate scale;*
- (c) *that there are no more central sites for the development;*
- (d) *that there are no unacceptable impacts on existing centres; and*
- (e) *that locations are accessible.*

6.10 It is on the basis of these key policies and national guidance that the critique is based and the following paragraphs have been extracted from it.

#### Need

6.11 The status of a development plan defined 'local centre' without a defined primary shopping area is a little unclear in terms of this requirement. However, we believe that it is not necessary to demonstrate need in this case, and that this is consistent with UDP Policy TCR13 (which also does not require need to be demonstrated).

#### Appropriate scale

6.12 The scale of development should be directly related to the role and function of the centre and its catchment. This is an important consideration in this case, as is indicated by the first stated requirement of UDP Policy TCR13. Paragraph 2.41 of PPS6 requires that:

*The scale of development should relate to the role and function of the centre within the wider hierarchy and the catchment served. The aim should be to locate the appropriate type and scale of development in the right type of centre, to ensure that it fits into that centre and that it complements its role and function.*

#### Sequential Approach

6.13 Paragraph 3.13 of PPS6 states that the sequential approach must be applied to all development proposals for sites that are not in an existing centre nor allocated in an up-to-date development plan document. The application does fall within a development plan defined existing centre but, in our opinion exemption from the sequential approach will only apply if the scale of the application proposal is of an appropriate scale and type for that centre.

6.14 Paragraphs 3.17 and 3.18 are also relevant to the application proposal. They indicate that it is important to explore whether specific parts of a development could be operated from separate, sequentially preferable, sites. The Guidance states that in respect of a single retailer It is not the intention of this policy to seek the arbitrary subdivision of proposals. It is to ensure that consideration is given as to whether there are elements which could reasonably and successfully be located on a separate sequentially preferable site or sites.

#### Impact

6.15 Impact assessments must consider the impact of the proposal on the vitality and viability of existing centres within the catchment area of the proposed development, including the likely cumulative effect of recent permissions, developments under

construction and completed developments. We are not aware of any other significant retail commitments in Leominster.

#### Accessibility

6.16 Local authorities are required to satisfy themselves that developments are accessible by a choice of means of transport, including public transport, walking, cycling, and the car. In assessing new developments, local planning authorities should consider:

- whether the proposal would have an impact on the overall distance travelled by car; and
- the effect on local traffic levels and congestion, after public transport and traffic management measures have been secured.

6.17 In conclusion the critique suggests that the proposal meets all of these tests:

1. The key planning issues arising from the application proposal are - whether it constitutes a sustainable form of development; whether its scale and function is appropriate for the local centre (particularly within the context of UDP Policy TCR13); whether, depending on the latter, it should and could be located in Leominster town centre; and whether it would have an adverse impact on Leominster town centre or the retail strategy for the area. These considerations are inter-related.
2. We are of the opinion that having regard to its modest scale and the apparent problems of congestion in the store, the extension to the convenience goods sales area is justifiable at this centre. The additional convenience floorspace would be unlikely to have an adverse impact on existing shops within Leominster the town centre or the centre's future development prospects; and it would not conflict with the spatial planning strategy for the area.
3. We believe that it would be unreasonable to maintain a total prohibition on the sale of comparison goods from the store, and that such a prohibition would cause inconvenience for shoppers. There are no other comparison goods outlets at this local centre, and some element of comparison shopping is appropriate within a local centre. The issue for determination is the scale and type of comparison shopping that is appropriate in this location. The applicants propose 15% of the sales area of the store, but provide very little information on the type of comparison goods that are proposed within this floorspace area.

6.18 Our initial findings are that in quantitative terms 15% of the sales floorspace of the store devoted to the sale of comparison goods would be unlikely to have an adverse impact on existing shops within the town centre or the centre's future development prospects, and it would not conflict with the spatial planning strategy for the area. However, in order to reach a firm view on this we recommend that more information is sought on the range of comparison goods that would be retailed from the store, and whether the applicant's agent has in mind any form of restrictive use condition use relating to an acceptable ranges of comparison goods. In the light of the above they may also be able to provide their views / reassurances on overlaps with particular types of trading / traders in the town centre.

6.19 In response to this final point the applicants retail expert has provided the following additional information:

6.20 Morrisons remains a primarily convenience retail business. The attached extract from the 2008 Verdict UK Grocery Report shows the distribution of space in an average

Morrisons store. Some of the 'non-food' categories are actually classified 'convenience' according to the MapInfo definitions e.g. detergents, paper products, tobacco etc. Once these categories are stripped out, then our calculations indicate that the actual split of convenience floorspace/comparison floorspace in an average Morrisons store is 80.2%/19.8%. Again, this split is less than Morrison's competitors.

- 6.21 The Leominster Morrisons as proposed to be extended will have a convenience/comparison floorspace split of 85%/15%. It can therefore be seen that compared to an average Morrisons store it will have a smaller proportionate area dedicated to the sale of comparison goods. This indicates that in practice the store will either have a reduced range or choice of comparison goods compared to other Morrisons stores.
- 6.22 Closer inspection of the Verdict space allocation for Morrisons shows that the space allocated to the sale of each type of comparison good is individually very small as a proportion of the total floorspace of a store, thus reinforcing my point that the comparison goods floorspace is targeted at impulse and essential purchases, not purpose-made non-food shopping trips. The largest percentage is 4.2% (health and beauty), most categories represent 2% or less of total floorspace and a number of the categories relate to seasonal goods which are only sold at limited times of the year (e.g. barbecues and garden furniture). Accordingly, there is no realistic prospect that the extended Leominster store will present a major threat to those established comparison goods retailers in the town centre. These existing retailers are able to offer specialist knowledge and consumer service, and a more extensive choice and range of product within individual stores.
- 6.23 I attach a copy of the Goad Town Centre Report for Leominster to further amplify this point. The retail composition of the town centre indicates that the largest comparison good categories are footwear and clothing (1,913 sq.m), furniture/carpets and textiles (2,973 sq.m). Assuming the extended Leominster Morrisons store has a space allocation similar to the Verdict Morrisons average, then the total amount of floorspace dedicated to the sale of these goods would be just 48 sq.m and 30 sq.m respectively. In reality, the areas dedicated to the sale of these goods is likely to be even less, since the total comparison foods floorspace provided at the extended Leominster store will be lower than the Morrisons average, as explained above.
- 6.24 Finally, in respect of DJ's request for a planning condition defining the range of comparison goods, this would be impracticable at a detailed level, since the comparison good range in a store will change over time, particularly as a result of seasonal promotions. Such a condition would also not be workable, since like other operators, Morrisons stores tend to stock a reasonably varied range of comparison goods, but with a small amount of choice in each category. However, in order to provide the Council with a means of control over the scale of the comparison retail offer I can confirm that my client will agree to a condition specifying that a maximum of 15% of the retail floorspace of the extended store can be used for the sale of comparison goods. The wording of this condition could be as follows:

*"No more than 15% of the net sales area of the extended store shall be used for the sale of comparison goods (as defined at P.7 of MapInfo's Expenditure Explanatory Volume) unless otherwise agreed in writing by the Local Planning Authority"*

- 6.25 In a further response Drivers Jonas comment as follows:

We accept that the range of non-food goods typically sold by Morrison's are aimed to some degree at impulse and opportunistic purchases, and that the primary purpose of store visits will be main food shopping. Nevertheless adverse impact on the town centre could arise if the scale of trading in some non-food categories e.g. clothing and footwear, and electrical goods were to become a large proportion of the permitted comparison sales area. That said there is no evidence from the current trading patterns of Morrison's stores that this is likely to be the case. The overall Morrison average figures provided indicate a wide range of product types with a limited amount of space in any one product category.

- 6.26 Consistent with the views expressed in our letter of 8 July, we believe that the inclusion of floorspace devoted to the sale of comparison goods is reasonable, particularly as the store is located within a development plan defined local centre. A figure of 15% of total retail sales area also seems reasonable to us. On the basis of the 15% of floorspace being spread amongst a wide range of comparison goods categories with no one category being dominant, in our view, there should not be a material adverse impact on the town centre.
- 6.27 The proposed condition restricts comparison goods sales to 15% of the sales area of the store of the store. You may wish to insert the word 'retail' sales area. We are presuming that this is what is intended, i.e any other areas open to the public such as cafe are not included within the sales floorspace area.

#### Highway Implications

- 6.28 This part relates specifically to the proposed extension to provide additional floorspace, irrespective of whether this is to sell convenience or comparison goods. The comments from the Transportation and Planning Manager provide a detailed assessment of the statement submitted by the applicant's transport consultant and also of the justification for the Section 106 contribution. His comments acknowledge that there will be some impact on the road network, particularly the Bargates junction, but, given the mitigation available through the S106 contribution, this is not sufficient justification to withhold planning permission. A significant proportion of the money requested through the Section 106 would be targeted towards junction improvement. A Draft Heads of Terms Agreement is attached reflecting the advice given.

#### Conclusion

- 6.29 The information above provides a thorough examination of the potential impact of this proposal on Leominster's town centre. The conclusion of Drivers Jonas is that there should not be a detrimental impact upon it, on the basis that the total retail floorspace of the store used for the sale of comparison goods is limited to 15%. The sales models for Morrisons provided by their retail expert have been accepted and show that as a company they sell a wide range of comparison goods that will mean that, at the scale proposed, no one type of good will dominate and shoppers will still have a relatively limited choice. In short it is accepted that the proposal will only target impulse purchases and those making a specific trip to buy a comparison product are still likely to use shops in the town centre.
- 6.30 The highway implications of the proposals can be mitigated against through the Section 106 contributions that have been requested.

6.31 It is therefore your officers opinion that the proposal accords with the relevant development plan policies and national guidance. The applications are therefore recommended for approval.

**RECOMMENDATION**

**In respect of DCNC2008/1027/F:**

**That planning permission be granted subject to the following conditions:**

- 1. No more than 15% of the net retail sales area of the extended store shall be used for the sale of comparison goods (as defined at P.7 of MapInfo's Expenditure Explanatory Volume submitted by the applicant on 29th July 2008) unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to ensure the continued vitality and viability of Leominster town centre in accordance with Policy TCR2 of the Herefordshire Unitary Development Plan 2007.**

**Informatives:**

- 1. N15 - Reason(s) for the Grant of Planning Permission**
- 2. N19 - Avoidance of doubt - Approved Plans**
- 3. HN25 - Travel Plans**
- 4. HN26 - Travel Plans**
- 5. HN27 - Annual travel Plan Reviews**
- 6. HN28 - Highways Design Guide and Specification**

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.

In respect of DCNC2008/1233/F:

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. **No more than 15% of the net retail sales area of the extended store shall be used for the sale of comparison goods (as defined at P.7 of MapInfo's Expenditure Explanatory Volume submitted by the applicant on 29<sup>th</sup> July 2008) unless otherwise agreed in writing by the Local Planning Authority.**

**Reason:** In order to ensure the continued vitality and viability of Leominster town centre in accordance with Policy TCR2 of the Herefordshire Unitary Development Plan 2007.

3. **C03 (Matching external materials (general))**

**Reason:** To ensure the satisfactory appearance of the development so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

4. **B07 (Section 106 Agreement)**

**Reason:** In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.

5. **H29 ((Covered and secure cycle parking provision))**

**Reason:** In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

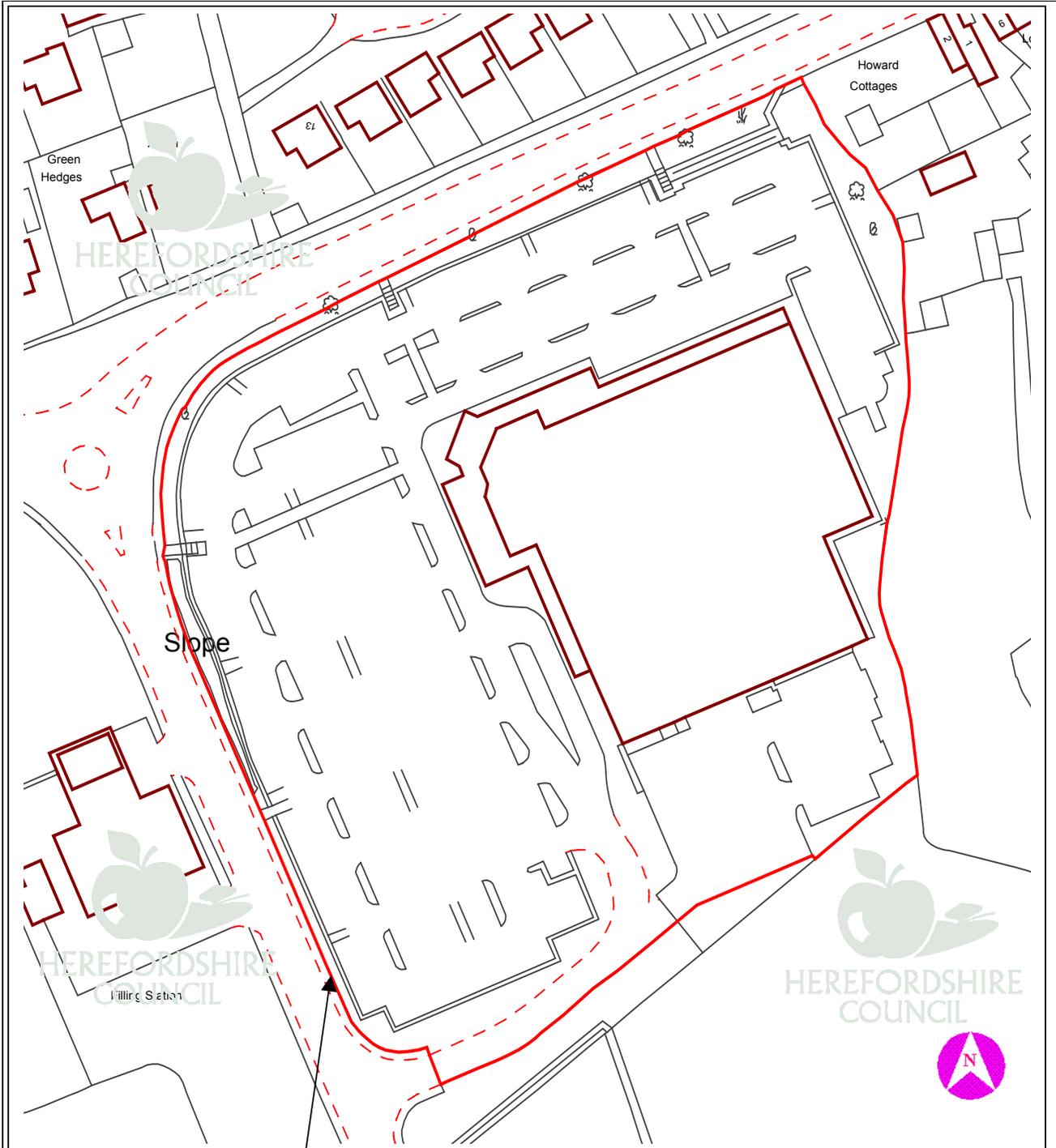
6. **H30 (Travel plans)**

**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 and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.



**Informatives:**

1. **N15 - Reason(s) for the Grant of Planning Permission**
2. **N19 - Avoidance of doubt - Approved Plans**
3. **HN25 - Travel Plans**
4. **HN26 - Travel Plans**
5. **HN27 - Annual travel Plan Reviews**
6. **HN28 - Highways Design Guide and Specification**



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**APPLICATION NO:** DCNC2008/1027/F and DCNC2008/1233/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Morrison Superstore, Barons Cross Road, Leominster, Herefordshire, HR6 8RH

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

Planning Application – DCNC2008/1233/F

Proposed extension for additional sales and warehousing area and increased cycle, motorbike and disabled parking spaces at WM Morrisons Stores, Barons Cross Road, Leominster

1. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £122,801 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:
  - Improvements to the traffic lights at the Bargates junction.
  - Other measures to improve air quality at the Bargates junction as an Air Quality Management Area.
  - Improvements to cycle facilities/routes between the shop and town centre.
  - Improvements to public transport facilities/provision between the shop and town centre.
  - Contribution towards study of east/west Leominster by-pass
2. The developer covenants with Herefordshire Council To pay Herefordshire Council the sum of £2,450 as a 2% surcharge fee for the services of a Council Planning Obligation Monitoring Officer. The sum shall be paid on or before the commencement of the 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.

Andrew Banks – Principal Planning Officer  
12 August 2008



**8 DCNC2008/1824/O - SITE FOR DEVELOPMENT TO FORM 21 APARTMENTS AT PINSLEY WORKS, PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NX.**

**For: Signature Homes & Construction Ltd per John Phipps Bank Lodge, Coldwells Road, Holmer, Hereford HR1 1LH.**

**Date Received: 10 July 2008**  
**Expiry Date: 9 October 2008**

**Ward: Leominster South Grid Ref: 50077, 59099**

Local Member: Councillor RC Hunt

**1. Site Description and Proposal**

- 1.1 The site is a long narrow plot that is located between the rear gardens of dwellings fronting onto Pinsley Road and the railway line, and to the north of Pinsley Mill which has recently been granted planning permission for conversion and extension to residential accommodation.
- 1.2 The site was previously used for commercial purposes and was occupied by a prefabricated industrial building. This has since been demolished and the site is now vacant.
- 1.3 The site is located within Leominster's residential area and also the Leominster River Meadows Conservation Area. Public footpath ZC137 runs along the site boundary, parallel with the railway line at a lower level to both the ground level of the remainder of the site and the railway line itself. Immediately to the north is an area of open space with The Priory Church beyond.
- 1.4 Access is gained via a track running past the mill and onto Pinsley Road.
- 1.5 The proposal is made in outline, although the only matter reserved for future consideration is landscaping, and is for the erection of buildings to create a residential development of 21 flats.
- 1.6 The submitted plans show three regularly spaced buildings that run parallel with the western boundary shared with the dwellings on Pinsley Road. The first of these is a three storey building of a similar scale and proportion to Pinsley Mill lying to the south. The building positioned centrally within the site is two storey whilst that to the northern end is a combination of three and four storey. This element returns at the northern end of the site to enclose the space. The existing access to the south is maintained and shared parking areas lie to the front of the buildings, between them and the railway line. A 2 metre high acoustic fence is proposed on the boundary between the railway line and the public footpath.
- 1.7 The application is accompanied by a design and access statement, a noise

assessment and a draft heads of terms agreement for contributions towards highway improvements, improvements to off site play facilities, off site sports facilities and to secure the provision of six affordable units.

## 2. Policies

Herefordshire Unitary Development Plan 2007

Policy S1	-	Sustainable development
Policy DR1	-	Design
Policy DR2	-	Land use and activity
Policy DR3	-	Movement
Policy DR4	-	Environment
Policy DR5	-	Planning obligations
Policy DR13	-	Noise
Policy H1	-	Hereford and the market towns: settlement boundaries and established residential areas
Policy H9	-	Affordable housing
Policy H13	-	Sustainable residential design
Policy H14	-	Re-using previously developed land and buildings
Policy H15	-	Density
Policy H16	-	Car parking
Policy T6	-	Walking
Policy HBA6	-	New development within conservation areas

## 3. Planning History

The following relate specifically to the application site:

- 3.1 NC2008/0440/O - Site for the development of twenty one apartments, access road and parking - Refused 04/06/08 for the following reason:

The proposed development is of a density and intensity, which would dominate the adjoining residential properties to the west, particularly by reason of height, mass and proximity of new buildings to the common boundary. This would be detrimental to the character of the area generally. The proposed development would thereby be contrary to policies DR1 and H13 of the Herefordshire Unitary Development Plan 2007.

- 3.2 NC2007/2671/F Proposed 10 no. houses and associated works - Refused 03/12/07.
- 3.3 NC2004/1887/F Demolition of derelict building and erection of 4 dwellings - Approved 25/11/04.
- 3.4 NC2004/1561/C Demolition of derelict building - Approved 16/07/04.

The following are also relevant and relate to sites adjacent:

- 3.5 NC2008/0711/F Demolition of bungalow and garage, replace with a pair of semi detached houses and associated parking at Little West, Pinsley Road - Approved 06/05/08.
- 3.6 NC2008/0002/F Proposed demolition and conversion of mill, construction of glass link and new works to form three storey double block, to create nine apartments and all associated works at Pinsley Mill - Approved subject to a Section 106 Agreement.

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 Network Rail - No objection subject to conditions relating to boundary treatments, landscaping and drainage.
- 4.2 Welsh Water – Comments awaited.

##### Internal Council Advice

- 4.2 Transportation Manager - No objections subject to conditions and contributions as per the SPD for highway improvement works in the locality.
- 4.3 Public Rights of Way Manager - Comments as follows:

“I am aware that we have discussed treatment of the footpath on the previous, refused, application (DCNC2008/0440/O), and the PROW Manager was, at that time, happy to accept a 1.2 m high palisade fence on the west boundary of the footpath. However, I have now read the objections lodged for the previous application, and in view of the evident public concern about personal safety if the path was fenced on both sides, the PROW Manager would suggest that his original opinion on that application, that a low post and rail fence be provided, is still relevant to this new application. A low fence would allow the public to feel safer if confronted by any kind of antisocial behaviour on the path, and be able to escape into the common area in front of the apartments.

Given the absence of any kind of gate across the access road from the public road, access to the site from the public footpath should not be considered differently, and the proposed 1.2 m fence with locked gates would appear to be an unnecessary level of site security. Pedestrian access gaps could be provided through a low post and rail fence for use by residents, and even if a pedestrian route became established across the front of the apartments, this would provide additional, and better natural surveillance of the whole site.

It is therefore recommended that the plans are amended to show a 450mm boundary fence and that a condition relating to the surfacing of the public footpath be imposed.”

- 4.4 Head of Strategic Housing - Does not support the application as it only provides 6 affordable units. A 35% provision equates to 7 units.
- 4.5 All units must be subject to a Section 106 Agreement and this should include the following details:
1. All units should be built to the Housing Corporation's Design & Quality Standards 2007 without grant subsidy.
  2. All shared ownership units be capped at 80% ownership to keep them affordable for local people in perpetuity.

3. All units to be allocated to applicants with a strong local connection to Leominster, or to Herefordshire in the event that no suitable applicant with a connection to Leominster can be found.
4. All units to be allocated through Home Point.
- 4.6 Conservation Manager – Comments awaited.
- 4.7 Head of Environmental Health and Trading Standards – Comments awaited.

**5. Representations**

- 5.1 Leominster Town Council - Recommend refusal on the basis of over-development, lack of amenity space and highway safety.
- 5.2 Herefordshire Trail Committee - Concerned about the fences to be erected either side of the public footpath which forms part of the Herefordshire Trail, and the opportunity for crime.
- 5.3 Ten letters of objection have been received from local residents. In summary the points raised are as follows:
  1. Concerns over highway safety, particularly the point of access onto Pinsley Road and the additional traffic that would be generated by the proposal.
  2. Access should be curtailed from Pinsley Road through The Grange.
  3. The proposal is inadequate in terms of its parking provision. This will result in additional parking along Pinsley Road.
  4. Concerns about privacy and amenity for properties bordering the site.
  5. The proposal represents an over-intensification of development, higher than the scheme for 10 dwellings that was refused.
  6. The scheme does not reflect the character or appearance of the conservation area.
  7. The four -storey element of the proposal is overpowering.
  8. The proposal is a missed opportunity to make a positive impact.
  9. Concerns about drainage.
- 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 proposal gives rise to four key issues to be assessed as material planning considerations and these are as follows:
  1. Design.
  2. Impact on the conservation area.



3. Highway safety (including parking).
4. Residential amenity.

Each of these will be dealt with in turn.

#### Design

- 6.2 The site provides a number of constraints which serve to limit the nature of the development. It is narrow, is bounded by a railway line and public footpath, it only has one point of access and is dissected by a public sewer. The result is that there is only a limited area that can be built upon and the proposal seeks to maximise this through a development of flats as opposed to individual dwellings. There is no fundamental objection to this in terms of planning policy and the height of parts of the proposal does, reflect that of the mill to the south.
- 6.3 In order to try and address the previous reason for refusal the applicant's agent has significantly increased the spacing between the blocks of development and reduced the height of the central block to two storey. It was this aspect of the previous scheme that had particularly given rise to concerns regarding the dominance of the development on the residential amenity of dwellings located on Pinsley Road. In order to ensure that the development remains viable the compromise for this is to introduce a four storey element to the north of the site, backing onto the Scout hut. In your Officer's opinion this is an acceptable compromise as it does lead to a significant reduction in impact on the dwellings on Pinsley Mill. The increased spacing between the three built elements on the site considerably reduces the perception of a continuous line of development and, due to its position at the northern end of the site, the four storey part does not appear to be unduly dominant nor does it impact upon the residential amenity of any dwellings. Its impact on the Scout hut is negligible given that it does not have any significant outside space or windows facing onto the application site.
- 6.4 The density of the development equates to 84 dwellings per hectare. However, the very nature of flats is that they provide a higher density of living accommodation than a development of individual dwellings. Furthermore the requirements and expectations for providing private amenity space are entirely different and therefore the simple application of Policy H15 in respect of density is not considered to be appropriate. An assessment must be made as to whether the scheme provides all of the associated services such as car and cycle parking and bin storage without the development appearing unduly cramped. In your Officer's opinion the scheme does achieve all of these aims.
- 6.5 In conclusion, the proposal is a logical response to the constraints of the site and the previous reason for refusal. It is of an appropriate scale and mass in relation to its surroundings and does not appear to be dominating of the nearby residential dwellings. It is therefore considered to accord with policies DR1 and H13.

#### Impact on the Conservation Area

- 6.6 The context in which this development will be seen is against the backdrop of the residential areas of Leominster. Pinsley Road is a mix of development whose ages range from the early 20th century to the present day. The conservation area has no defining architectural character and the development of this currently vacant site, given

the constraints that have previously been identified, will enhance the appearance of the conservation area in accordance with policy HBA6 and the guiding principles of PPG15.

#### Highway Safety

- 6.7 The Transportation Manager is satisfied with the access to the site and its emergence onto Pinsley Road. Many of the objections raise concerns with increased traffic movements in the area and seemingly that Pinsley Road is used by vehicles to cut through to the Grange, but there is no evidence to suggest that this development would exacerbate this, particularly as it is close to the junction of Pinsley Road and Etnam Street.
- 6.8 The plans show that one space per unit will be provided on site. This accords with policy H16 of the UDP and is considered to be acceptable given that residents would have ready access to public transport, pedestrian routes into the town centre and also as the scheme also makes provision for cycle parking.
- 6.9 The site is well located to make full use of the pedestrian links that it has with the town centre. It is acknowledged that the public footpath is well used and its position has influenced the location of the acoustic fence on the boundary with the railway line. As a result the footpath provides an ideal opportunity to encourage future residents to walk rather than use private motor vehicles. The reduction in height of the fence between the site and footpath is a matter that can be dealt with by condition, as is the re-surfacing of the footpath. As a result the proposal is considered to fully accord with policies DR3 and T6 of the Unitary Development Plan.

#### Residential Amenity

- 6.10 The element that previously caused the greatest degree of overlooking has been omitted from this scheme. The others are either screened by a mature *Leylandii* hedge within the curtilage of an adjoining property (to the southern end of the site), or oppose the Scout Hut (to the north) where there is no issue in terms of amenity. Whilst the development is in close proximity to the western boundary, a combination of the lower ground level of the application site, existing vegetation within the curtilage of many of the adjacent dwellings and the fact that the dwellings on Pinsley Road are in excess of 30 metres from the boundary with the application site all serve to ensure that there will be minimal overlooking. Similarly the distance between the proposed development and existing dwellings and the spacing between each of the buildings comprising the proposal will ensure that it does not appear to be overbearing. It is therefore concluded that the proposal is acceptable in terms of residential amenity and accords with policies DR1 and H13 in this respect.

#### Other issues

- 6.11 The affordable housing provision of six units is slightly below the requirements of policy H9 of the UDP (29% as opposed to the 35% required by the policy). However, the applicant's agent has indicated that the first block upon entering the site is to be offered as the affordable element. This is beneficial for two reasons. First it is easily managed as a single element by a Housing Association and second, being at the entrance to the application site, it should negate a suggestion that there is an intention to separate the affordable element from the open market part. Your officers would have greater concerns if it were to be located at the northern end of the site.

- 6.12 For these reasons a slight reduction in the affordable housing provision is justified and subject to the detailed recommendations of the Head of Strategic Housing the scheme is considered to be acceptable.
- 6.13 Concerns relating to surface water drainage can be addressed through the imposition of conditions. This is reflected in the advice given by Welsh Water.

Conclusion

- 6.14 The proposal addresses the reason given in the refusal of the earlier application and is considered to accord with the adopted policies of the Unitary Development Plan. The application is 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 and to secure compliance with policy DR1 of the Herefordshire Unitary Development Plan.**

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. **B07 (Section 106 Agreement)**

**Reason: In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.**

6. **C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.**

7. I13 (Scheme to protect new dwellings from road noise)

**Reason:** To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

8. I16 (Restriction of hours during construction)

**Reason:** To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

9. I44 (No burning of materials/substances during construction phase)

**Reason:** To safeguard residential amenity and prevent pollution and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

10. I51 (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 so as to comply with Policy DR1 of Herefordshire Unitary Development Plan.

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 and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

12. H27 (Parking for site operatives)

**Reason:** To prevent indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

13. H29 (Secure covered cycle parking provision)

**Reason:** To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

14. L01 (Foul/surface water drainage)

**Reason:** To protect the integrity of the public sewerage system and to comply with Policy CF2 of Herefordshire Unitary Development Plan.

15. L02 (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 so as to comply with Policy CF2 of Herefordshire Unitary Development Plan.

**16. L03 (No drainage run-off to public system)**

**Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment so as to comply with Policy CF2 of Herefordshire Unitary Development Plan.**

**Informatives:**

- 1. N15 - Reason(s) for the Grant of Planning Permission**
- 2. N19 - Avoidance of doubt - Approved Plans**
- 3. HN01 - Mud on highway**
- 4. HN04 - Private apparatus within highway**
- 5. HN05 - Works within the highway**
- 6. HN10 - No drainage to discharge to highway**
- 7. HN28 - Highways Design Guide and Specification**

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.

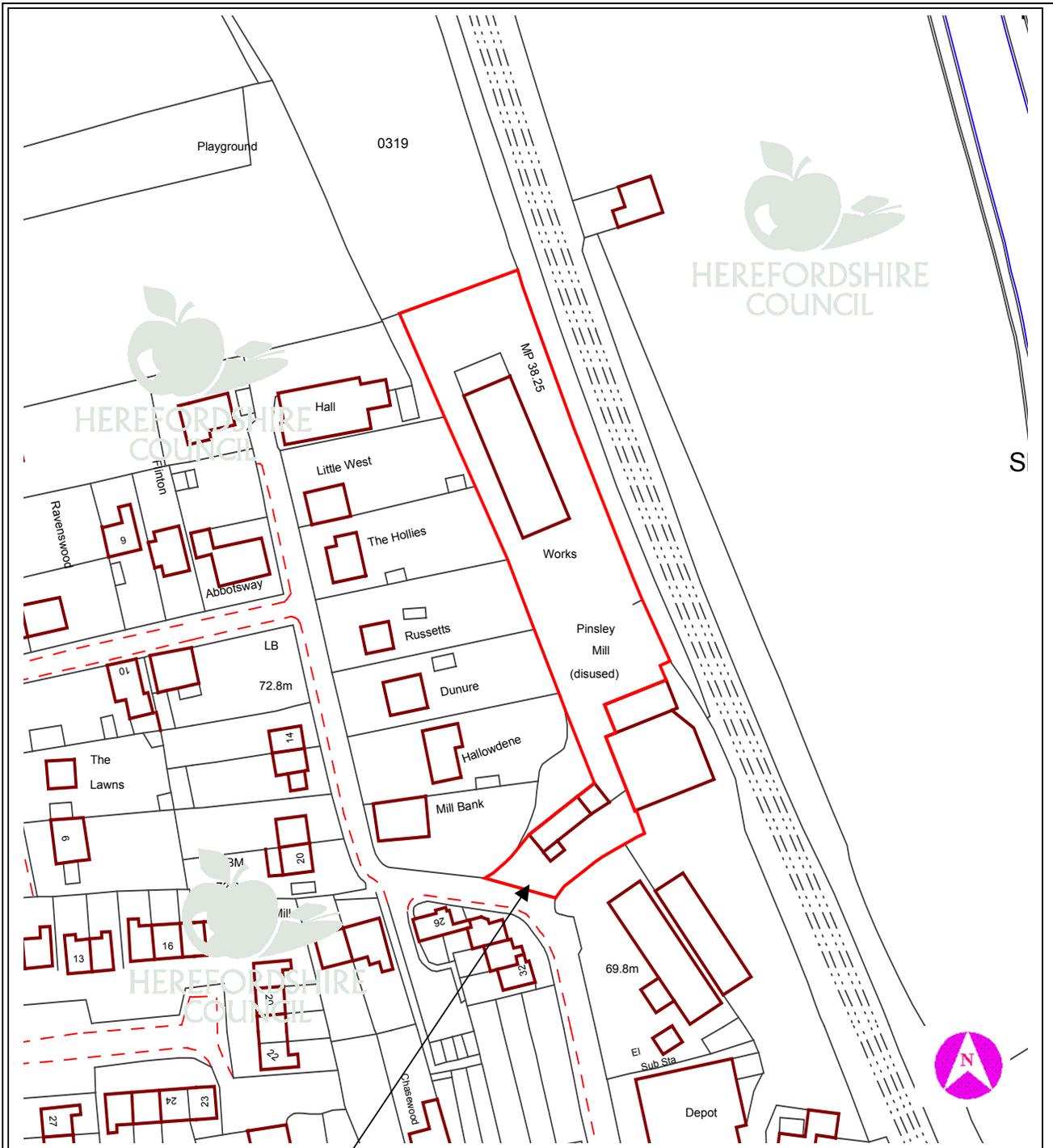
## APPENDIX

## DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement  
Section 106 Town and Country Planning Act 1990  
Planning Application – DCNC2008/1824/O

Site for the development of 21 apartments, access road and parking  
Pinsley Works, Pinsley Road, Leominster.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £10,000 in respect of play area facilities to serve the development, such contribution to go towards facilities at the Sydonia Park. This sum shall be paid on or before the commencement of the development.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £13,230 towards off site sports facilities to serve the development, such sum to be used for improvements at Bridge Street Sports Centre. The sum shall be paid on or before the commencement of the development.
3. The developer shall provide six affordable units, those being units 16 to 21 inclusive as indicated on drawing number 963.1 Rev. B submitted as part of the application. Such units will meet the criteria as set out in section 5.5 of the Unitary Development Plan 2007. The applicants or successors in title shall procure the construction of the affordable units in accordance with the current Housing Corporation Design & Quality Standards 2007 and Lifetime Home Standards with no affordable housing grant input
4. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £25,831 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) Pedestrian access improvements near the development and within Leominster.
  - b) Improvements to bus provision/passenger waiting facilities.
  - c) Improvements to safe routes to local schools etc.
  - d) Contribution to safe routes to schools.
5. In the event that Herefordshire Council does not for any reason use the said sums of Clauses 1, 2 or 4 above for the purposes specified within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
6. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal and administrative costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
7. The developer shall complete the Agreement by 16 July 2008 otherwise the application will be registered as deemed refused.



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**APPLICATION NO:** DCNC2008/1824/O

**SCALE :** 1 : 1250

**SITE ADDRESS :** Pinsley Works, Pinsley Road, Leominster, Herefordshire, HR6 8NX

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**9 DCNC2008/1668/F - VARIATION OF CONDITION 3 OF PLANNING PERMISSION NC2006/1387/F, TO ALLOW OPENING OF PREMISES TO CUSTOMERS BETWEEN THE HOURS OF 8AM TO 11PM MONDAY TO SUNDAY AT 73 ETNAM STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8AE.**

**For: Mr Eng How Teoh per Direct Planning Ltd, Riverbank House, 95-97 High Street, St Mary Cray, Orpington, BR5 3NH.**

**Date Received: 26 June 2008      Ward: Leominster South      Grid Ref: 49892, 58950  
Expiry Date: 21 August 2008**

Local Member: Councillor RC Hunt

**1. Site Description and Proposal**

- 1.1 The site lies to the south east of Leominster's town centre and is situated on the northern side of Etnam Street adjacent to the entrance to the public car park.
- 1.2 The building is three storey with its ground floor used as a Chinese take-away and residential accommodation above. This part of Etnam Street is predominantly residential, although there is a public house nearby and a church directly opposite.
- 1.3 The proposal seeks to vary a condition imposed on an earlier planning permission which limits the opening hours of the premises to 8am until 9pm Monday to Saturday and not at any time on Sundays or Bank Holidays. As proposed the premises would be open between 8am until 11pm every day. The application makes no mention of Bank Holidays.

**2. Policies**

Herefordshire Unitary Development Plan:

DR2	-	Land use and activity
TCR2	-	Vitality and viability
TCR15	-	Hot food take away outlets

**3. Planning History**

- 3.1 DCNC2006/0067/F - Change of use to A3 (restaurants and cafes) between hours of 8.00 am to 21.00 pm Monday to Saturday - Approved 22nd February 2006.
- 3.2 DCNC2006/1387/F - Change of use to A5 (hot food take-aways) between hours of 14.00 pm - 21.00 pm Monday to Saturday - Approved 14th June 2006.

- 3.3 DCNC2006/3515/F - Variation of condition no.2 of DCNC2006/1387/F to enable use of 18 litre deep fat fryer - Refused 3rd January 2007

#### **4. Consultation Summary**

##### Statutory Consultations

- 4.1 No statutory consultations required.

##### Internal Council Advice

- 4.2 Head of Planning & Transportation - No objection

- 4.3 Public Rights of Way Manager - No objection

- 4.4 Head of Environmental Health & Trading Standards:

"I am not aware of any complaints that the Environmental Health department has received regarding this premise.

Although the extension of hours may give rise to increased odour and noise levels in the evening, I do not believe this would be significant enough to object to this variation, especially considering condition 2 of the previous permission and the town centre location of this premise. EH have powers under the Environmental Protection Act 1990 should a nuisance be being caused."

#### **5. Representations**

- 5.1 Leominster Town Council - Recommend refusal

- 5.2 Four letters of objection have been received from the following:

- Mr Bird, 75 Etnam Street, Leominster
- Mr & Mrs Halford, 81 Etnam Street, Leominster
- Mr Pinhorn, 85 Etnam Street, Leominster
- Vivienne Pearson, 77 Etnam Street, Leominster

- 5.3 In summary the points raised are that an increase in opening hours will give rise to longer periods of nuisance caused by odours, noise and traffic.

- 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 only issue relevant to this proposal is whether the proposal will give rise to a detriment in the residential amenity of nearby properties.

- 6.2 Notwithstanding the comments from local, the Environmental Health Officer advises that there have not been any complaints in respect of odour or noise emanating from the premises and on this basis she does not raise an objection to the proposal.

- 6.3 A recent application on South Street for a take away was permitted with a condition with opening hours similar to those applied for in this case. This application would give

some parity with other similar businesses in the town. Whilst it is acknowledged that there are differences between the two in terms of their location and relation to residential dwellings, South Street being much closer to the centre of town, the absence of any formal complaints to Environmental Health suggests that the current situation is not giving rise to any significant nuisance. The extension of opening hours to 11.00pm is unlikely to result in any significant change to this situation and therefore the proposal is acceptable and is recommended for approval.

**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. **F04 (Restriction on hours of opening (restaurants and hot food takeaways))**

**Reason: To safeguard the amenities of the locality and to comply with Policy DR1 of Herefordshire Unitary Development Plan.**

**Informatives:**

- 1. **N15 - Reason(s) for the Grant of Planning Permission**

- 2. **N19 - Avoidance of doubt - Approved Plans**

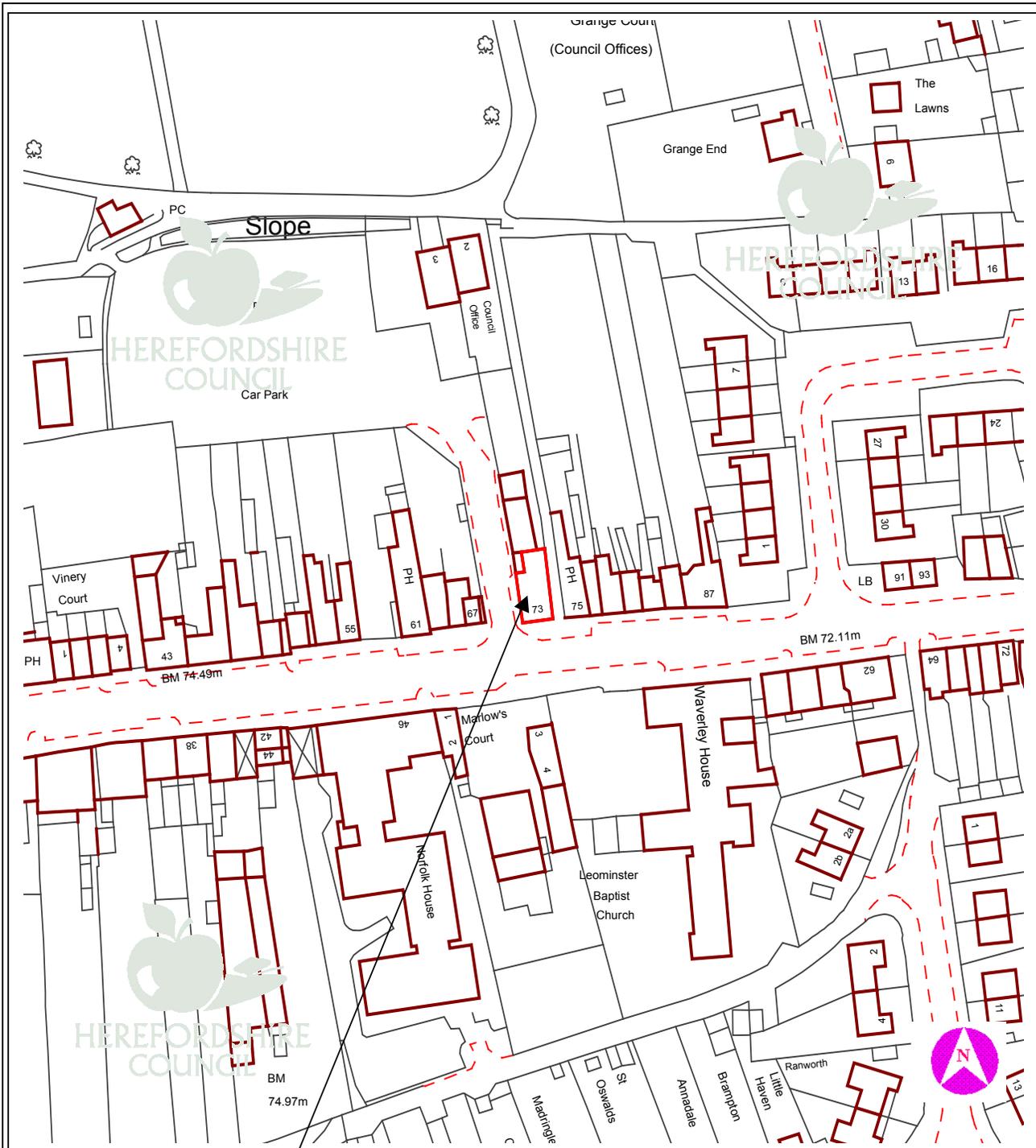
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNC2008/1668/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** 73 Etnam Street, Leominster, Herefordshire, HR6 8AE

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**10 DCNC2008/1618/F - PROPOSED NEW GARAGE, MILL STONE COTTAGE, LUSTON, LEOMINSTER, HEREFORDSHIRE, HR6 0EB.**

**For: Mr S. Bengree per Nick La Barre, RIBA, Easters Court, Leominster, Herefordshire, HR6 0DE.**

**Date Received: 12 June 2008**

**Ward: Upton**

**Grid Ref: 48669, 63127**

**Expiry Date: 7 August 2008**

Local Member: Councillor J Stone

## **1. Site Description and Proposal**

- 1.1 This site, within the village of Luston, is located adjacent to the Balance Inn on a small section of land near to the applicant's dwelling. This section of land fronts onto a short access track to the north which serves the Balance Inn and a small number of dwellings. There are existing dwellings on the other three sides of the land. There is wooden close boarded fencing on either side of the land with a stone wall and fencing on the southern boundary. The site has a gravel surface. The site is within the designated Conservation Area. The dwelling immediately to the south of the site is a Grade II Listed building.
- 1.2 The proposal is to erect a single garage with a pitched roof. The garage will have brick walls and plain tiles on the roof. The garage will be 4.5 metres wide and 6 metres long and 4.8 metres high to ridge level (2.4 metres to eaves level).
- 1.3 The original plans submitted with the application showed the application site to include a small section of land used for parking adjacent to the proposed garage. However, it became evident that this adjacent section of land in fact was in the ownership of the neighbouring property. The applicant's agent was informed of this and revised plans omitting this land were submitted by the agent who admitted that the land had been included by mistake. The plans of the proposed garage were also amended to remove a side door which opened out onto the neighbour's land.

## **2. Policies**

### **2.1 Planning Policy Guidance**

PPS1	-	Delivering Sustainable Development
PPG15	-	Planning and the Historic Environment

### **2.2 Herefordshire Unitary Development Plan**

Policy S2	-	Sustainable Development
Policy DR1	-	Design
Policy DR3	-	Movement
Policy H18	-	Alterations and Extensions
Policy HBA4	-	Setting of Listed Buildings
Policy HBA6	-	New Development within Conservation Areas
Policy T11	-	Parking Provision

**2.3 Herefordshire Council's Supplementary Planning Guidance**

Design and Development Requirements

**3. Planning History**

3.1 None relevant.

**4. Consultation Summary**Statutory Consultations

4.1 No statutory or non-statutory consultations required.

Internal Council Advice

4.2 The Traffic Manager has no objections.

4.3 The Chief Conservation Officer recommends approval subject to approval of materials. The setting of the proposal is dominated by modern development and, on balance, it is considered that the additional impact of the proposed garage on the setting of the adjacent Grade II Listed building (Tudor House) would not be sufficient to recommend refusal.

**5. Representations**

5.1 The Parish Council states:

“Concern over inaccuracy on diagram. The access to and from the proposed garage poses a hazard onto a narrow driveway which is also access to the local public house.”

5.2 There have been three letters of objection received from:

Mr & Mrs H Hayday, Tudor House, Luston, HR6 0EB

M R Jones, Oaklands, Luston, HR6 0EB

Ms T Morgan, The Red House, Luston, HR6 0EB

The main points being:

- the proposed roof is too high
- the roof will reduce the light reaching neighbour's kitchen
- garage too near to boundary fences making it difficult for neighbour to maintain fence. A one metre clearance would make for easier maintenance and less crowding
- Mill Stone Cottage already has its own detached garage and therefore why does it need another one?
- where do soakaways drain to?
- the boundaries marked on location plan includes a parking area in objector's ownership. No requisite notice served on owner of land by applicant
- Mill Stone Cottage is owned by applicant but is subject to tenancy arrangement with the applicant residing at another property. Therefore why does applicant need garage?
- the applicant has failed to register a relationship with a member of Council staff

- a side door of the garage will necessitate access across boundary of neighbour's property
- a legal document was enclosed (relating to recent transfer of a section of land) indicating that a section of land at the rear of the site must not be built upon and remain open. The proposal will obstruct the said land.

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:

- (i) the size and design of the proposed development
- (ii) the effect on the residential amenities of neighbours' properties
- (iii) highway safety
- (iv) the ownership of the land and legal matters raised.

6.2 The proposed garage is considered to be acceptable in terms of its size, design and appearance and will not be out of place set in this position. In addition, it is considered that it will not adversely affect the character and setting of the adjacent Grade II Listed building to the south nor the character and appearance of the designated Conservation Area.

6.3 The proposed garage is set back from the neighbour's dwelling (i.e. to the south) to a sufficient extent that it will not over-dominate the dwelling nor will it adversely affect the residential amenities of its occupants. In any event the neighbouring property to the south only has small windows on this side.

6.4 The access drive serving the public house and the other dwellinghouses is not a classified road, and it is not considered that the proposed development would result in any significant hazard to pedestrians or vehicles using the driveway.

6.5 The revised plans submitted by the applicant's agent would appear to address the questions raised relating to the ownership of the application site. In addition, any legal covenants/restrictions on the land in question and matters relating to maintenance of boundary fencing are civil matters and not material planning considerations.

6.6 In conclusion, it is considered that the proposed erection of the garage on this land is acceptable and in accordance with planning policies and guidance, in particular Policies S2, DR1, H18, HBA4 and HBA6 of the Herefordshire Unitary Development Plan and Government advice contained in Planning Policy Guidance 15 'Planning and the Historic Environment'.

6.7 It should be noted that although the applicant's partner is employed by Herefordshire Council, she does not work in the Planning Services Division and as such there is no requirement for the application to be reported to the Main Planning Committee.

## **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. B03 (Amended plans)**

**Reason: To ensure the development is carried out in accordance with the amended plans and to comply with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**3. C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**Informative(s):**

**1. N03 - Adjoining property rights**

**2. N14 - Party Wall Act 1996**

**3. The applicant should be aware that this planning permission does not override any civil/legal rights enjoyed by adjacent property owners nor does it override any legal covenants/restrictions which may pertain to the land in question. As such, the applicant is advised to contact owners of adjacent properties where these rights may be affected and seek legal advice on the aforementioned matters prior to undertaking any building work.**

**4. N19 - Avoidance of doubt - Approved Plans**

**5. N15 - Reason(s) for the Grant of Planning Permission**

Decision: .....

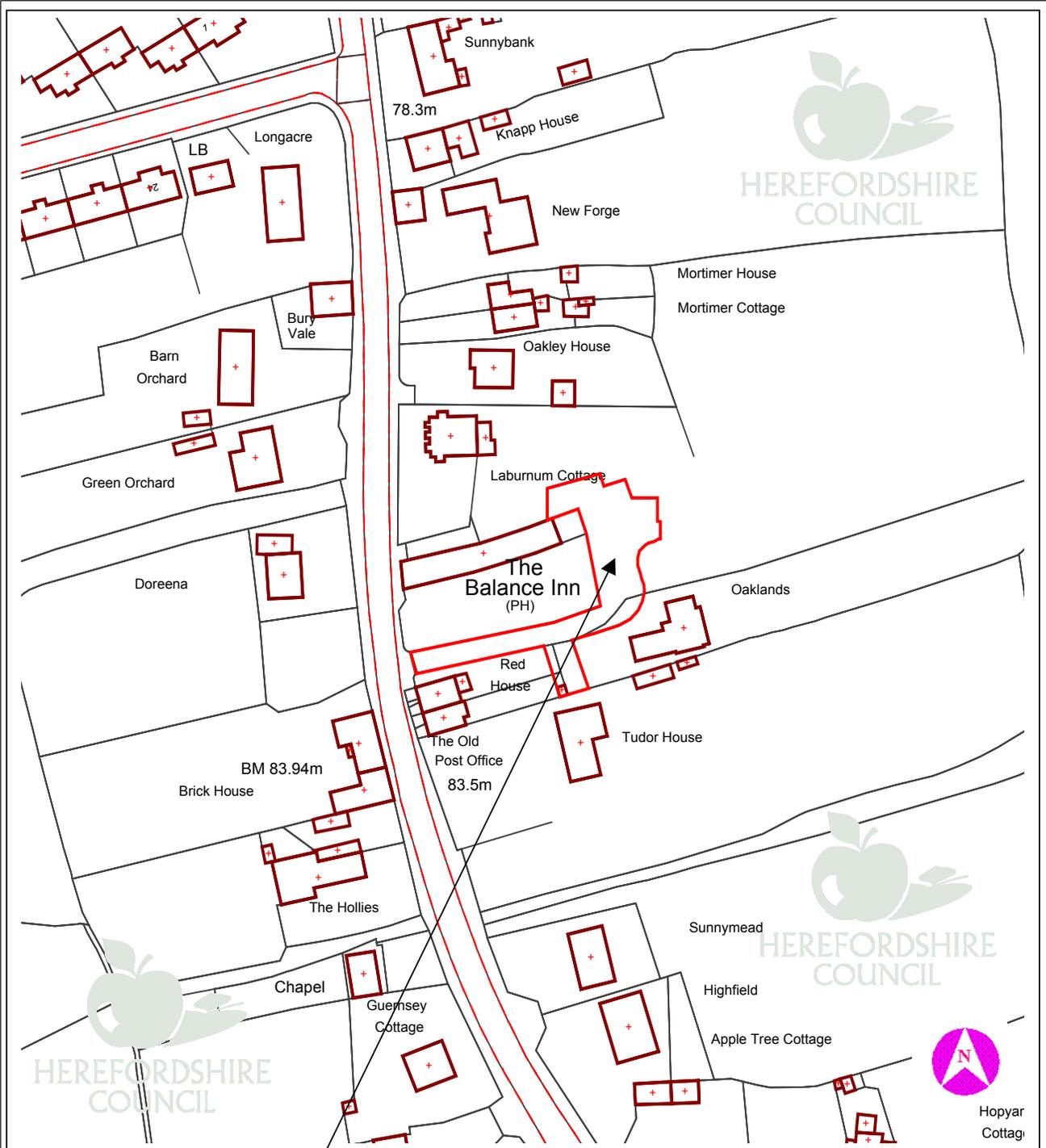
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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCNC2008/1618/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Mill Stone Cottage, Luston, Leominster, Herefordshire HR6 0EB

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**11 DCNC2008/1469/F - PROPOSED ERECTION OF STABLE BLOCK INCLUDING CHANGE OF USE OF AGRICULTURAL LAND TO FORM STABLE YARD, HAZELDENE, RISBURY, LEOMINSTER, HR6 0NQ.**

**For: Mr D. Powell per McCartneys, 54 High Street, Kington, Herefordshire, HR5 3BJ.**

Date Received: 30 May 2008

Ward: Hampton Court

Grid Ref: 55154, 54985

Expiry Date: 25 July 2008

Local Member: Councillor KG Grumbley

### 1. Site Description and Proposal

- 1.1 This site, at Risbury, is located in a field immediately to the rear of the applicant's dwelling which flanks the northern side of the Class III road which runs through the settlement. There are existing dwellings on either side of the applicant's dwelling which also back onto the fields at the rear.
- 1.2 The proposal is to erect two small stable blocks which comprise three stables, a tack room and a fodder store. The proposal also involves the creation of a 'turning out' paddock with a post and rail fence. The stable blocks will be used for domestic purposes for the applicant's private use. The buildings will be clad in vertical timber boarding with dark grey/black corrugated sheeting on the roof. The larger of the two proposed buildings has already been completed. However work on the proposed development has now ceased. There is a gravel driveway along the side of the applicant's dwelling which leads to the field at the rear. The field is at a lower level when compared to the level of the rear gardens of the adjacent dwellings.

### 2. Policies

#### 2.1 Planning Policy Guidance

PPS1	-	Delivering Sustainable Development
PPS7	-	Sustainable Development in Rural Areas

#### 2.2 Herefordshire Unitary Development Plan

Policy S2	-	Development Requirements
Policy DR1	-	Design
Policy H18	-	Alterations and Extensions
Policy DR4	-	Environment
Policy DR13	-	Noise
Policy DR14	-	Lighting
Policy DR3	-	Movement

### 3. Planning History

- 3.1 None relevant.

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

##### Internal Council Advice

- 4.2 The Traffic Manager has no objections.
- 4.3 The Environmental Health Officer has no objections in principle but recommends certain conditions being imposed on any permission granted.

#### 5. Representations

- 5.1 The applicant's agent states that the design of the stabling is to form a courtyard appearance into which the stabling has been divided into two blocks. Stable block 'A' has been cut into the ground to minimise the visual impact from the residential properties. The site is to be accessed through the private drive which leads from the highway and which will be extended to the entrance of the site.

The agent also states that an alternative option of re-siting the stables further away from the residential properties would make the buildings more prominent in an open landscape area (as opposed to being close to existing development) and would be detrimental to the visual amenities of the area.

With respect to environmental issues the manure, when cleaned out, would be placed directly on a trailer which would be removed regularly from the site. Any security lighting would not be any greater than normal domestic security lighting. There will be no significant noise disruption as a result of the development.

If the stable blocks were sited further from their proposed position there would be a necessity to have a stoned road to the site which would increase visual impact. The proposed position of the stables is the most appropriate position, taking into account planning policies.

- 5.2 The Parish Council states:

"The Parish Council, or its appropriate committee, has resolved to make the following comments:

1. No objection in principle.
2. Site as proposed is inappropriate on the following grounds:
  - a. too close to the existing dwellings
  - b. likelihood of noise and light pollution
  - c. on health grounds the likelihood of rodents, flies, etc could become a nuisance.
3. The PC recommends that the application for stabling as proposed be rejected on grounds of nuisance and of loss of amenity."

- 5.3 There have been five letters of objection from:

Mr BT & Mrs JP Lloyd, Highgrove, Risbury, Leominster, HR6 0NQ  
Mrs H Dyson, Bay Tree Cottage, Risbury, Leominster, HR6 0NQ  
Ms AK Spells, 3 Rowan Court, 66 Burnt Ash Hill, London, SE12 0HS (on behalf of  
Mrs K Spells, Old Cobblers, Risbury, Leominster, HR6 0NQ  
Dr SJ Spells, 120 Prospect Road, Bradway, Sheffield, S17 4JE (on behalf of  
Mrs K Spells, Old Cobblers, Risbury, Leominster, HR6 0NQ)

The main points being:

- the stable block 'A' has already been erected
- objector was not approached by applicant before work was commenced
- the stable block 'A' is erected behind objector's dwelling and not behind applicant's as shown on the plans
- building is very large and close to objector's property
- manure pile extremely close to objector's property. Instances where pile has been burnt resulting in noxious smoke entering objector's premises
- concern over noise any animals would make in a wooden structure close to objector's premises especially at night
- concern at potential light pollution to be caused by installation of lights
- no provision made for adequate storage and disposal of waste materials
- the proposed development will result in loss of privacy at rear of objector's property
- the proposal will be contrary to Clean Neighbourhoods and Environment Act 2005, Neighbourhood Noise Policies and Practice for Local Authorities
- vehicular access to site causing noise and loss of privacy. Previous experience of living by an equestrian establishment and suffered the resultant disruption of sleep by vehicle movement and animal noise
- the stable block could be sited further down the field thereby causing minimal disturbance to other villagers
- staining or painting a building of this size positioned so close to a neighbouring property will do nothing to lessen impact on rural environment
- a number of buildings, including at least three stables, are already in place and any further work might affect the right to light ('ancient lights') of the property
- any further building construction will have impact on character of village and surrounding area requiring improvement to access roads to cope with heavy traffic which would all affect the peaceful enjoyment of the objector's property
- drainage is a problem in the area with field already liable to flooding. The development could increase the risk of flooding
- value of objector's property could be affected by the proposed development
- the building is close to objector's property and would block view.

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:**

- (i) The size and design of the development and its effect on the character and visual appearance of the area.
- (ii) The effect the proposed development will have on the residential amenities of neighbouring dwellings.
- (iii) Environmental health issues, e.g. noise and smells, etc.

- (iv) Vehicular access and effect on road network.
- 6.2 The proposed development is considered to be acceptable in this location. The two stable buildings are small and are of an appropriate design and appearance for this rural area. The buildings will be viewed against the backdrop of the existing residential development and will not adversely affect the character and visual appearance of this rural area. The applicant is willing to stain the external wooden cladding a dark brown colour if it is what the Council would prefer. The dark grey/black coloured roof is also considered to be acceptable. The field is at a lower level than the rear gardens of the adjacent dwellings by approximately 1.8 metres and as such will not be prominent when viewed against the backdrop of the dwellings.
- 6.3 In addition, it is considered that the proposed stable buildings will not adversely affect the residential amenities of any of the nearby dwellings. The buildings will be at a lower level than the existing dwellings and in any event will not be situated close enough to cause any problems. There will not be any problems of over-domination nor loss of light.
- 6.4 Similarly, it is not considered that the proposed development will result in any significant loss of privacy to the neighbours, especially as the field is already used to keep horses. Also the use of the stables should not generate any significant problems with respect to noise and its potential effect on the residential amenities of neighbours. The Council's Environmental Health Officer has no objections to the proposal subject to the imposition of certain conditions. The potential problems relating to smells generated by the development again is not considered to be a problem and is addressed in the recommendations of the Council's Environmental Health Officer. The external lighting is only intended to be minimal and again can be controlled by conditions imposed on any planning permission granted.
- 6.5 The proposed development will not generate any significant amounts of additional traffic and as such will not affect highway safety.
- 6.6 In conclusion it is considered that the proposed development is acceptable in this location and situation and will not adversely affect the visual character of the area nor the residential amenities of the occupants of nearby dwellings. The proposed development is therefore considered to be in accordance with planning policies and guidance, in particular Policies S2, DR1, DR4 and H18 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. F09 (Private use of stables only)**

**Reason: In order to safeguard the character and amenity of the area and to comply with Policy S2 of Herefordshire Unitary Development Plan.**

**3. C08 (Colour of cladding (stables))**

**Reason: To protect the visual amenities of the area and to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**4. C07 (Dark roof colouring (agricultural buildings))**

**Reason: To protect the visual amenities of the area and to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**5. Prior to any work commencing on the construction of the 'turning out paddock' details of the materials (including colour) intended for the top surface of the paddock and also the height and design of the new post and rail fencing around it, shall first be submitted to and be subject to the prior written approval of the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: To protect the visual amenities of the area and to ensure that the development complies with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan.**

**6. F13 (Restriction on separate sale)**

**Reason: The close proximity of the access drive to the stables and Hazeldene is likely to give rise to noise nuisance should they be in separate ownership and having regard to Policy DR13 of the Herefordshire Unitary Development Plan.**

**7. I16 (Restriction of hours during construction)**

**Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

**8. I43 (No burning of material/substances)**

**Reason: To safeguard residential amenity and prevent pollution and to comply with Policy DR4 of Herefordshire Unitary Development Plan.**

**9. I30 (Restriction on storage of organic wastes or silage)**

**Reason: To safeguard residential amenity and to comply with Policies DR4 and E13 of Herefordshire Unitary Development Plan.**

**10. I32 (Details of floodlighting/external lighting)**

**Reason: To safeguard local amenities and to comply with Policy DR14 of Herefordshire Unitary Development Plan.**

**Informative(s):**

1. **N03 - Adjoining property rights**
2. **N14 - Party Wall Act 1996**
3. **N19 - Avoidance of doubt - Approved Plans**
4. **N15 - Reason(s) for the Grant of Planning Permission**

Decision: .....

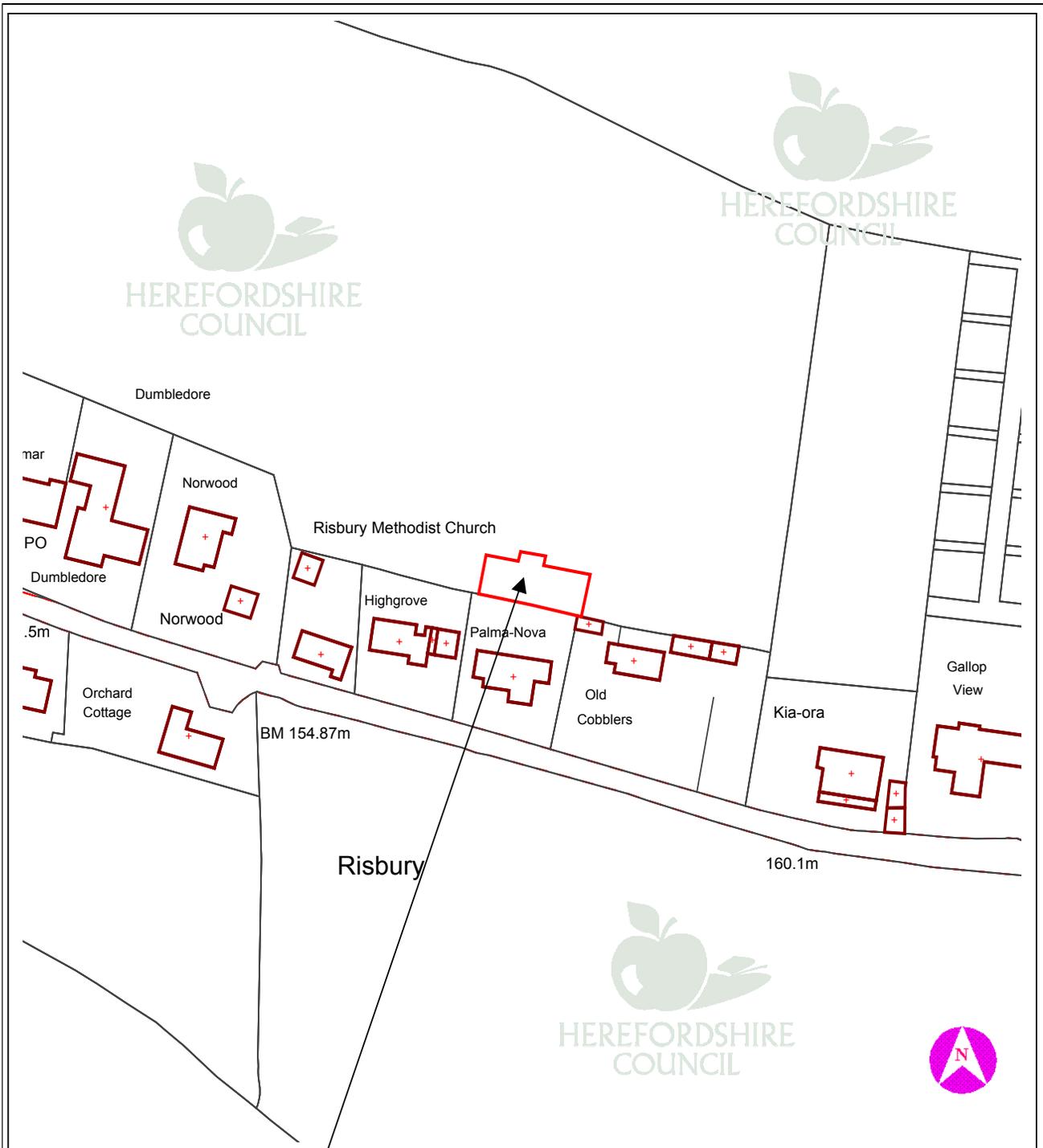
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCNC2008/1469/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Hazeldene, Risbury, Leominster, Herefordshire, HR6 0NQ

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