

**DCNE2007/0966/F - PROPOSED THREE STOREY BUILDING TO PROVIDE 13 APARTMENTS, WITH 18 PARKING SPACES AND ASSOCIATED CYCLE PARKING AT LAND REAR OF HOMEND SERVICE STATION, THE HOMEND, LEDBURY, HEREFORDSHIRE, HR8 1DS**

**For: Refined Petroleum Ltd per Matthews & Goodman,  
196 Deans Gate, Manchester, M3 3WF**

**Date Received:  
26th March 2007**

**Ward: Ledbury**

**Grid Ref:  
70969, 38252**

**Expiry Date:  
25th June 2007**

Local Members: Councillors ME Cooper, PJ Watts & K Swinburne

This application was considered at the Northern Area Planning Sub-Committee at its meeting on 25 July 2007 when Members resolved to refuse planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

At its meeting on 25 July 2007 the Northern Area Planning Sub-Committee was recommended to approve this application.

In the debate the Area Sub-Committee considered the design of the building in relation to its immediate and wider setting. Despite the mix of styles and scale of buildings in the near vicinity, Members considered the development to be inappropriate both in terms of the character of the area and upon wider visual amenity, being visible on long views approaching the town. The presence of the large petrol filling station canopy did not convince them that it would have a limited impact and visual amenity from the main road.

Density issues were discussed, the site having a density of approximately 104 units per hectare. They recommended refusal of the application based on the following concerns.

1. Inappropriate drainage locally.
2. Wider impact upon visual amenity.
3. Density.

The proposal raises the following issues:

1. PPS1 advises local planning authorities to reject obviously poor design, whilst the design is out of the ordinary for Ledbury it is not of itself poor design.
2. The site does not lie within the Conservation Area and benefits from no other special designation.
3. Policy H15 provides advice on amenity issues, however the recommended densities contained therein refers to sites of 1 hectare or above. Consequently the density issue in its own right is not contrary to policy. Despite the case officer's reference to 'harm', no harm was identified as a direct result of the density of the development.

In light of the above considerations it is considered that it would be very difficult to sustain a reasonable reason for refusal at appeal.

The report to the meeting of 25 July follows:

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

- 1.1 The application site lies on the western side of Homend Crescent. The site has an area of some 0.118 hectare. The site comprises a private car park and an area of vacant land. The site is set at a materially lower ground level than Homend Crescent itself. To the rear of the site itself (along the western boundary) is a retaining wall of approximately 3.6 metres in height. The other side of this retaining wall (to the west) is a petrol filling station including a car wash facility, which is set against the aforementioned retaining wall. There is an existing pedestrian link from the application site to the petrol filling station via a steel staircase. This is a private pedestrian route and not a public right of way, although local residents have been utilising this pedestrian route.
- 1.2 To the south of the application site is Dawes Court a part two-storey and part three-storey residential development. To the east of the application site on the opposite side of Homend Crescent, set at a materially higher ground level, is a pair of semi-detached dwellings (3 & 5 Homend Crescent) and a terrace of four dwellings (5-8 Homend Crescent). To the north of the application site is a detached two-storey house known as 'Castlebridge'. Homend Crescent has a completely varied series of developments in terms of their era, size, age, scale and design. It does not have a single uniform character or any real degree of homogeneity. There is a footway on the eastern side of Homend Crescent only.
- 1.3 The site has few trees and little vegetation upon it. None of these trees are of any significant amenity value.
- 1.4 The proposal is to erect a three-storey building that would accommodate thirteen apartments. Seven of these apartments would be one-bedroomed and six would be two-bedroomed. The building would have a mono-pitch roof as opposed to a flat roof. The building would be set at a materially lower ground level than Homend Crescent. Indeed it would be sited such that the highest point of the building would be set down 22cm lower than the ridge line of the two storey dwelling at number 8 Homend Crescent. The second floor of the building would be inset by 1.5 metres from the main eastern elevation and by 2.5 metres from the main western elevation.
- 1.5 The building has been designed such that the main habitable rooms of the apartments face east (away from the petrol filling station) with balconies provided to the first and second floor flats facing Homend Crescent. The ground floor apartments would have frontage gardens. The second floor apartments would also have outdoor amenity spaces facing west.
- 1.6 Secure cycle parking storage would be provided beneath the rear of the building for 19 bicycles. To the west of the building eighteen car parking spaces would be provided (including one space for disabled persons) together with a refuse store. The vehicular means of access onto Homend Crescent would be towards to north of the eastern boundary.

- 1.7 The pedestrian route through the site to The Homend through the existing Petrol Filling Station would be maintained as a permissive footpath.
- 1.8 In terms of materials to be used it is envisaged that the first and second floors be stretcher bond red brick. In this respect a light red stock brick is envisaged. The first floor elevations would be timber clad with horizontal boarded Douglas Fir. The roof would be an aluminium roof with a standing seam roof. The colour of the roof would need to be agreed. It is considered that a slate grey colour would be appropriate.

## 2. Policies

- 2.1 Central Government advice  
Planning Policy Statement 1 – ‘Delivering Sustainable Development’  
Planning Policy Statement 3 – ‘Housing’  
Planning Policy Guidance Note 13 – ‘Transport’
- 2.2 Herefordshire Unitary Development Plan  
S1 - Sustainable Development  
S2 - Development requirements  
DR1 - Design  
DR2 - Land use and activity  
DR3 - Movement  
DR5 - Planning Obligations  
DR13 - Noise  
H1 - Housing in the market towns  
H13 - Sustainable residential design  
H14 - Re-using previously developed land and buildings  
H15 - Density  
H16 - Car Parking  
H19 - Open Space Requirements  
T6 - Walking  
T7 - Cycling  
T11 - Parking Provision  
RST3 - Standards for Outdoor playing and public open space

## 3. Planning History

- 3.1 DCNE2004/4098/F – Erection of 6 town houses with garaging – Withdrawn  
Upon part of the application site (the northern extreme) that previously formed part of the curtilage of the dwelling known as ‘Casterbridge’ an outline permission was granted for a dwelling under reference DCNE/2004/2663/O on 30/09/2004.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Severn Trent Water has no objections subject to the imposition of an appropriate condition.

### Internal Council Advice

- 4.2 The Public Rights of Way Section has no objections to the proposed development.

- 4.3 The Transportation Section has no objection to the proposed development. The adequacy of the local highway network, particularly Knapp Lane has been considered. The Transportation Section considers that the increase in traffic along Knapp Lane will be marginal and that Knapp Lane will not reach saturation. It is considered that there will be a small increase in delay, but within nationally acceptable limits. The maintenance of the pedestrian link is welcomed. It makes walking trips to the Town Centre, the food supermarket on the western side of The Homend and the train station easy. This helps to reduce the need for private car trips, including many along Knapp Lane.
- 4.4 The Building Control Section has no objection to the proposed development.
- 4.5 The Environmental Health Section has no objection to the proposed development subject to the imposition of conditions.

## 5. Representations

- 5.1 Occupiers of twenty-one dwellings in the vicinity have objected on the following summarised grounds: -
- excessive number of dwellings;
  - the local highway network is of an insufficient standard to cater with the additional traffic that the proposal would generate;
  - the building is too high;
  - the proposal would obstruct views;
  - the proposal does not provide for any affordable housing;
  - flat roofs are out of keeping with the vicinity;
  - loss of light to neighbouring dwellings;
  - the proposed development is too close to the petrol filling station for health & safety reasons;
  - the pedestrian link to The Homend should be maintained;
  - the land may be unstable;
  - concern as to emergency access to Dawes Court for emergency vehicles;
  - loss of privacy to the occupier(s) of dwelling(s) opposite;
  - the education system has insufficient capacity;
  - the refuse store is too close to the driveway of 'Casterbridge' and obstruct visibility;
  - loss of privacy to the occupiers of 'Casterbridge';
  - the pedestrian link from the application site to the Homend should be replaced by a more appropriately graded slope so that the pedestrian link can be utilised by persons with mobility problems;
  - the proposal would devalue existing property prices;
- 5.2 The Council to Protect Rural England (Herefordshire) are concerned at the design of the proposal, the noise levels to the occupiers of the proposed apartments from the Petrol Filling station and the lack of affordable units.
- 5.3 The Ledbury & District Civic Society object to the proposed development upon the following summarised grounds: -
- The height of the building is inappropriate;
  - The design of the building is unsympathetic to its surroundings;
  - The parking provision is inadequate;

- The footpath through the site is to be removed. This is a much needed facility given the lack / inadequacy of alternative pedestrian routes;
- The density of the proposal is unacceptable.

5.4 The Ledbury Area Cycle Forum welcomes the suitably designed and numerous cycle storage facilities that are imaginatively designed.

5.5 Ledbury Town Council state: -

“Members strongly object to the proposed design of the building and consider it inappropriate for an historic Market Town. A three storey flat roofed building would be out of keeping with the street scene. The pedestrian access from The Homend appears to lead to the parking area, which members believe would be contrary to pedestrian safety. This walkway is well used by school children and is also a well used access to the local supermarket.

The proposal also raises Health and Safety issues concerning the proximity of the Petrol Station's tank vents and noise pollution from the car washer.

The recommendation to refuse planning permission has been taken with regard to the following policies:-

- Malvern Hills District Council Ledbury Housing Policy 1 (b) scale, character and density (c) unsatisfactory vehicular and pedestrian access (d) would adversely affect neighbouring properties, result in overlooking, and loss or residential amenity.
- Malvern Hills District Council Housing Policy 17 (a) layout and design (c) siting and detailed design is unsympathetic to the character of neighbouring buildings and to the locality.
- Unitary Development Plan H13 3.11 sustainable residential design.
- Unitary Development Plan Transport Policy Traffic Impact 8.13.1
- Unitary Development Plan H14 1.2 Re-Using previously developed land and buildings.”

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

## **6. Officer's Appraisal**

6.1 The application site lies within the settlement boundary of Ledbury. Policy H1 of the Herefordshire Unitary Development Plan allows for residential development within the settlement boundary of the market towns, including Ledbury. The density of the proposal is high. In the long-term by making the most efficient use of land within towns, reduces the pressure to release green field sites in the open countryside for housing development. Therefore there is no objection to the principle of the development. It is the detail that requires further examination.

6.2 It is considered that whilst Homend Crescent is a pleasant residential street, it has no defining characteristic or architectural form. In fact there are a range of buildings (e.g. bungalows, houses, flatted developments) of various eras with no consistent architectural style or design. It must be stressed that the site is not within the Conservation Area nor does it adjoin the Conservation Area. The proposed building is of a contemporary design. Its siting on land at a materially lower ground level than Homend Crescent itself ensures that the height of the resultant building does not exceed the ridge height of number 8 Homend Crescent or the ridge height of the house

to the north known as 'Castlebridge'. Therefore I consider the height of the building to be acceptable. By "stepping back" / inseting the second floor the apparent mass of the building is effectively reduced. The proposed roof is not a flat roof but a mono-pitched sloping roof.

- 6.3 The extent and height of the petrol filling station to the west means that the proposed development would not be readily visible from The Homend. One's line of sight from both sides of The Homend would be obscured by the underside of the canopy of the Petrol Filling Station. A glimpse would be obtained in the gap between the Petrol Filling Station and Dawes Court. However, it is considered that its design and appearance would be acceptable.
- 6.4 In terms of the external appearance of the building the proposed material finish is considered to be appropriate. The use of a quality light red stock brick on the ground and first floor would assist in integrating this contemporary structure within the wider area whilst the use of horizontal timber cladding to the second storey will assist in reducing any apparent mass.
- 6.5 The distance between the proposed building and the front of the dwellings at numbers 5-8 Homend Crescent opposite would be 27 metres. This is well in excess of the 21 metre privacy distance one would normally attempt to secure between habitable room windows. Similarly given the distance involved and the fact that the proposed building is no higher than number 8 Homend Crescent there would not be any undue loss of daylight or sunlight to those properties.
- 6.6 No habitable room windows are proposed in the southern flank elevation and as such there would be no loss of privacy to habitable room windows within the Dawes Court flatted development. The height of the building and the respective distances would also ensure that there would be no undue loss of daylight to habitable room windows within the Dawes Court flatted development. Whilst habitable room windows are proposed in the northern flank elevation the distance to the house known as 'Castlebridge' would be some 34 metres, well in excess of the recommended 21 metre privacy distance.
- 6.7 Therefore it is considered that there would be no undue loss of privacy, daylight and / or sunlight to neighbouring residential properties.
- 6.8 In terms of the amenities of the occupiers of the proposed flats, significant effort has been made through the design process to ensure that the main habitable room windows face east away from the noise and odour source of the petrol filling station that is set at a lower ground level. Similarly the outdoor amenity areas in the form of balconies and gardens face east towards Homend Crescent away from the noise and odour source. This is considered to represent good practice in terms of the design process, with the constraints of the site informing the design. The Environmental Health Section have been consulted with regard the issue of noise and odour and are satisfied that the occupiers of the proposed apartments would enjoy a satisfactory level of amenity.
- 6.9 The Building Control Section has been consulted with regard the issue of the stability of the land and do not raise objections. Similarly the issue of land contamination has been addressed. The Environmental Health Section has considered this matter and do not raise any objections.
- 6.10 With regard the transportation matters, the Transportation Section consider that the local highway network has sufficient capacity to cater with the additional traffic that the proposed development would generate. With regard the car parking provision,

eighteen car parking spaces are proposed to be provided. The policy of Herefordshire Council is that to reduce reliance upon the private motor vehicle the supply of car parking spaces should be reduced. The policy of Herefordshire Council is that a maximum of 1.5 spaces per dwelling should be provided. The Highways Development Design Guide suggests a maximum of one car space per one bedroomed unit and a maximum of two car parking spaces per two bedroomed unit. This would equate to 19 car parking spaces. However, the Council's policy is that the provision should be less than the maximum where the site has easy access to facilities by modes of transport other than the private motor vehicle. The application site is in a highly sustainable location as far as Ledbury is concerned. It is within easy walking distance of the Town Centre, the railway station and the food supermarket on the western side of The Homend.

- 6.11 Following extensive negotiations the applicant has agreed that the private right of way (not a public right of way) through the site be retained as a permissive route.
- 6.12 The provision for cyclists in terms of cycle storage facilities is of a very high design standard and accords with the Council's policy.
- 6.13 There would be space along the frontage between Homend Crescent and the frontage gardens for landscaping that could be secured by way of condition.
- 6.14 Whilst it is considered that the proposal includes sufficient amenity space for the future occupiers of the proposed development in the form of balconies and front gardens, there is still a need to address the issue of children's play equipment and youth / adult sports provision. In this respect the applicant's have agreed to make the following commuted sums: -
- £1,500 (index linked) towards the provision / enhancement of children's play space / equipment within the Ledbury area; and
  - £8,190 (index linked) to the provision / enhancement of sports facilities within the Herefordshire Council area.

This provision accords with the policies of the Herefordshire Unitary Development Plan and is considered to be acceptable by the Leisure and Countryside Section.

- 6.15 In terms of impact upon the wider infrastructure the applicant's have agreed to provide the following other commuted sums: -
- £26,000 (index linked) towards education provision; and
  - £19,500 (index linked) towards sustainable transport initiatives within the Ledbury area.

Both of these provisions fully meet the requests of both the Education Section and the Transportation Section.

- 6.16 The policies within the Unitary Development Plan only require the provision of affordable housing within the market towns on developments of 15 dwellings (or more) or sites of more than 0.5 hectare. Neither threshold is reached in this case.
- 6.17 The proposed refuse store would be set back some 5 metres from Homend Crescent. As such visibility from the driveway of the dwelling known as 'Castlebridge' would not be prejudiced. The entrance to the refuse store would be to the south of the building and it would be located some 18 metres from 'Castlebridge' itself. As

such it is considered that the amenities of the occupiers of 'Castlebridge' would not be adversely affected.

- 6.18 In terms of matters of potential air and ground pollution arising from the adjoining Petrol Filling Station this matter is controlled under separate legislation (Environmental Protection Act 1990). In terms of the issue of explosive risk from the adjoining Petrol Filling Station, the management of such facilities is controlled under separate legislation (i.e. Safety Regulations made under the Health and Safety at Work etc Act 1974 and a Petroleum Licence issued by the Authority with licence conditions under the Petroleum (Consolidation) Act 1928)). Such facilities are then inspected annually by the Council's Petroleum and Explosives Officer to ensure compliance.. Indeed modern technology ensures that when fuel is delivered no vapour is released into the atmosphere. It is recovered back into the delivery tanker.
- 6.19 The matters of views from existing dwellings and property prices are not material planning considerations.
- 6.20 In conclusion, it is considered that the principle of the proposed development is acceptable; the scheme itself represents a high standard contemporary development that would integrate satisfactorily within the immediate environment, which has a mixed character and appearance.

## RECOMMENDATION

1. **The Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 to (set out Heads of Agreement) and deal with any other appropriate and incidental terms, matters or issues;**
2. **Upon completion of the above-mentioned planning obligation 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 - **Prior to commencement of the development hereby permitted, samples of the materials to be used in the construction of the external surfaces of the building hereby permitted shall be submitted to the Local Planning Authority for their written approval. The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved materials and thereafter maintained as such.**

**Reason: To ensure a satisfactory external appearance to the development.**

- 3 - **No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping using**



indigenous species. The submitted scheme of landscaping must include details as to the location of all planting, the species, their size and the density of planting.

Reason: To ensure that the development is satisfactorily integrated into the locality.

- 4 - All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted or the completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the locality.

- 5 - Prior to the first occupation of any of the dwellings hereby permitted the vehicular means of access, car parking, turning/manoeuvring area(s) for vehicles and secure cycle storage facilities shall be implemented. Thereafter these areas and facilities shall be kept available for such use.

Reason: In the interests of highway safety and to encourage the use of modes of transport other than the private motor vehicle.

- 6 - Prior to commencement of the development hereby permitted full details of all boundary treatments (i.e. walling, fencing, gates or other means of enclosure) shall be submitted to the Local Planning Authority for their written approval. The approved boundary treatments shall be fully implemented prior to the first occupation of any of the dwellings hereby permitted and thereafter maintained as such.

Reason: To ensure a satisfactory appearance to the development.

- 7 - Prior to commencement of the development hereby permitted full details of a scheme of insulation against noise shall be submitted to the Local Planning Authority for their written approval. The submitted scheme of glazing and passive ventilation shall be provided which achieves or exceeds the level of performance described in paragraph 5 of the noise assessment: SLR REF: 402.0525.00006. The approved scheme shall be fully implemented prior to the first occupation of any of the dwellings hereby permitted and thereafter maintained as such.

Reason: To ensure that the occupiers of the dwellings hereby permitted enjoy a satisfactory level of amenity.

- 8 - Prior to commencement of the development hereby permitted full details of drainage, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to the Local Planning Authority for their written approval. The approved scheme shall be fully implemented prior to the first occupation of any of the dwellings hereby permitted and thereafter maintained as such.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage.

- 9 - No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.
  - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.
  - c) if the risk assessment in (b) identified unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of 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 remediation scheme submitted to the local planning authority for written approval.

**Reason:** In the interests of human health.

- 10 - The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

**Reason:** In the interests of human health.

**Informatives:**

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

**DRAFT HEADS OF TERMS****Proposed Planning Agreement****Section 106 of the Town and Country Planning Act 1990 (as amended)**

**Planning Application: - DCNE2007/0966/F**

**Proposed three storey building to provide 13 apartments with 18 parking spaces and associated cycle parking at land rear of Homend Service Station, The Homend, Ledbury, Herefordshire HR8 1DS**

1. The developer covenants with Herefordshire Council to provide a pedestrian link across the land prior to the occupation of any of the dwellings hereby permitted and its future maintenance without obstruction or impediment. The ability of the general public to pass and re-pass along this route at no financial cost;
2. The developer covenants with Herefordshire Council, to pay a commuted sum of £3,000 towards the provision / enhancement of the children's play space / equipment within the Ledbury area prior to the first occupation of any of the dwellings;
3. In the event of Herefordshire Council does not for any reason use the said sum in clause 2 within 10 years from the date of this agreement, the Council shall repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
4. The developer covenants with Herefordshire Council, to pay a commuted sum, of £8,190 towards the provision/enhancement of sports facilities within the Herefordshire Council area prior to the occupation of any of the dwellings.
5. In the event of Herefordshire Council does not for any reason use the said sum in clause 4 within 10 years from the date of this agreement, the Council shall repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
6. The developer covenants with Herefordshire Council, to pay a commuted sum of £26,000 towards education provision within the Ledbury area prior to the occupation of any of the dwellings;
7. In the event of Herefordshire Council does not for any reason use the said sum in clause 6 within 10 years from the date of this agreement, the Council shall repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
8. The developer covenants with Herefordshire Council, to pay a commuted sum of £19,500 towards sustainable transport initiatives within the Ledbury area prior to the occupation of any of the dwellings;
9. In the event of Herefordshire Council does not for any reason use the said sum in clause 8 within 10 years from the date of this agreement, the Council shall repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

10. The sums referred to in paragraphs 2, 4, 6 and 8 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.
  
11. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

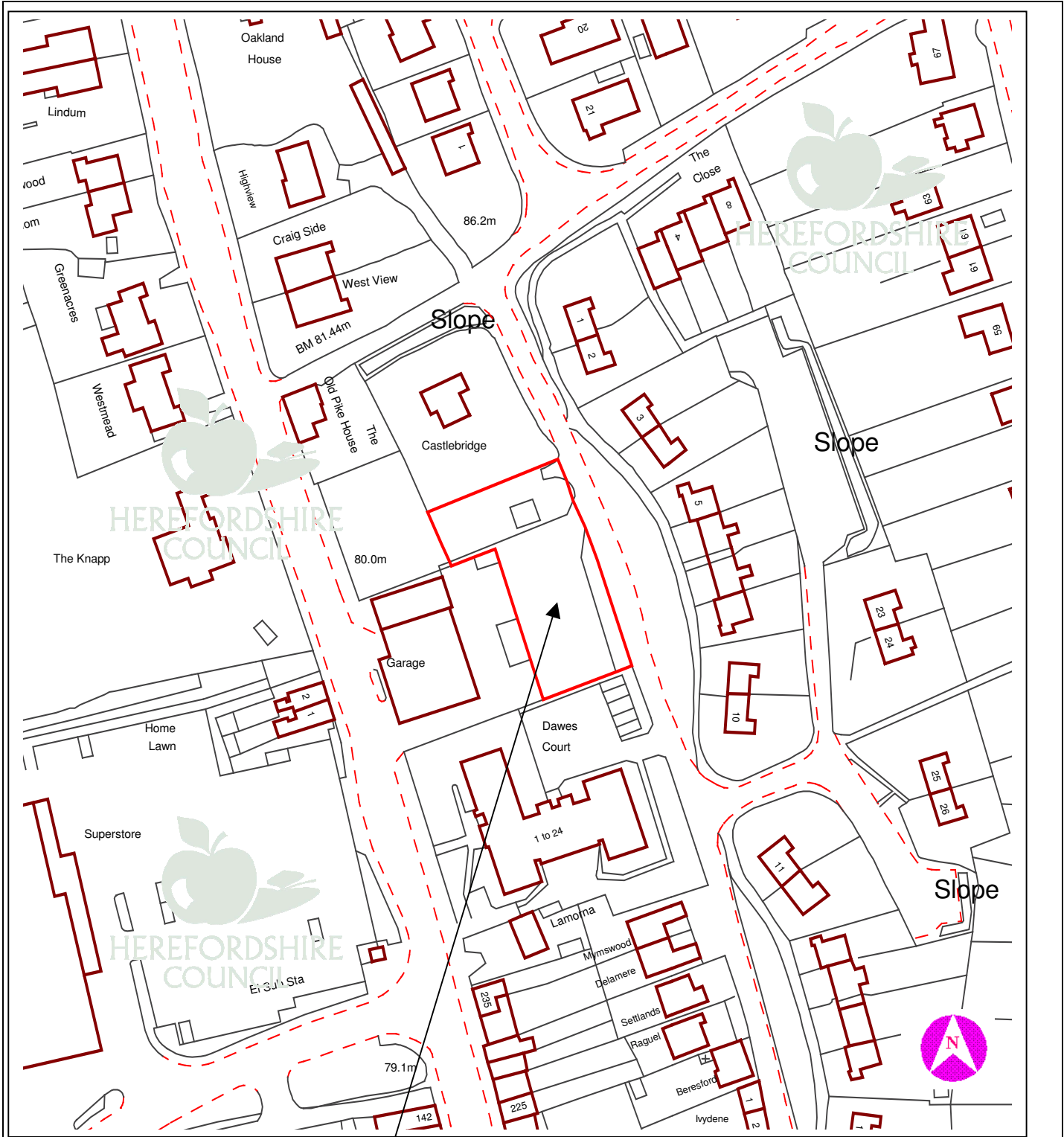
Decision:

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNE2007/0966/F      **SCALE :** 1 : 1250

**SITE ADDRESS :** Land rear of Homend Service Station, The Homend, Ledbury, Herefordshire HR8 1DS

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