

DCNC2006/3893/F - DEMOLITION OF REDUNDANT RACING STABLES AND ERECTION OF 4 NO. 3 BED HOUSES (LOW COST MARKET) TOGETHER WITH 8 PARKING SPACES AT RISBURY RACING STABLES, RISBURY, LEOMINSTER, HEREFORDSHIRE, HR6 0NQ

For: Mr P Kelsall per Linton Design, 27 High Street, Bromyard, Herefordshire. HR7 4AA

Date Received:
11th December 2006

Ward: Hampton Court **Grid Ref:**
55289, 54941

Expiry Date:
5th February 2007

Local Member: Councillor KG Grumbley

Introduction

This application was reported to the Northern Area Planning Sub-Committee on 31 January 2007 where it was deferred to allow a housing needs survey to be carried out and to investigate an appropriate mechanism through S106 to ensure that, if approved, the development provide affordable housing in perpetuity. Consequently the matter was reported again on 25 July with a recommendation for refusal as set out below. This decision was accordingly referred to Head of Planning Service to determine if it should be reported to planning committee for further consideration.

The proposal represents development in the open countryside, beyond any recognised settlement boundary, and in an unsustainable location. The applicant has failed to demonstrate that there are exceptional circumstances to warrant a departure from the policy considerations and, therefore, the application is contrary to Policy H10 of the Herefordshire Unitary Development Plan.

In the debate Members of the Area Sub-Committee considered the findings of the local housing needs study, and that a local need existed. They considered that despite the lack of local services or facilities the site was a suitably sustainable location. They also concluded that the need for 4 local affordable dwellings was of sufficient weight that the difficulties in arriving at a suitable S106 agreement should be worked through, and that criteria 7 of policy H10 which restricts such dwelling to single plots, should be overridden.

It was resolved to grant planning permission.

The proposal raises the following issues:

1. Risbury does not benefit from any local services. The nearest schools are at Stoke Prior and Bodenham.
2. The nearest shop/surgery is at Bodenham. Job opportunities within Risbury are very limited, probably to domestic work and agricultural. Anyone living in Risbury will be dependant upon the car for transport to such facilities.
3. As the proposal is for 4 houses it is clearly contrary to criteria 7 of that policy.

4. The difficulties of ensuring affordable dwellings in perpetuity.

In light of the above it can be seen that the proposal conflicts with policy H10 of the UDP and raises serious implications for ensuring that any housing remains affordable in perpetuity.

Following the Northern Area Planning Sub-Committee's decision to approve this application and its subsequent referral to Main Committee, work has continued to try to provide a satisfactory form of words for a Section 106 Agreement. A draft Agreement has been prepared by the applicant's solicitor and is attached as an appendix to this report. An extract from the applicant's solicitor's accompanying correspondence reads as follows:

"... the purpose of my presentation of the first Draft 106 Agreement was simply to demonstrate my clients' agreement to the basic principle of an onward sale of the proposed Affordable Housing Units to local residents at a discounted price and with a fallback position that they could sell those Units to the Marches Housing Association if no appropriate sale could be effected directly by them to a local resident."

Colleagues in the Council's Legal Services Department have studied the detail of the Agreement and have identified a number of areas where its wording will need to be altered to address the concerns that Officers have continued to raise and are referred to in the original report to the Northern Area Planning Sub-Committee. Discussions are continuing over the wording of the Agreement in order that an appropriate form of words might be agreed. It is noted that Marches Housing Association have agreed to be the 'beneficiary' of a situation where the resultant dwellings cannot be sold to local residents.

Your Officers remain concerned that, notwithstanding the fact that the proposal is clearly contrary to policy, the proposal will not actually deliver what is intended, that being discounted open market housing at a level that is truly affordable to local people. The evidence is quite clear that, even where similar schemes have been the subject of a Section 106 Agreement, they have failed to deliver the original intention. This again is detailed in the original report to the Northern Area Planning Sub-Committee. Whilst a form of words may eventually be agreed such fears have not been allayed and therefore the original recommendation remains unchanged.

The report to the meeting 25 July follows:

1. Site Description and Proposal

- 1.1 The application site is located on the eastern fringe of the village of Risbury. It is currently occupied by a large vacant agricultural building that has previously been used in connection with a racing stables. The village has a linear form with little depth to development on either side of the road. Residential dwellings lie to either side of the site.
- 1.2 The site is flat but at a significantly lower level to the road and the open countryside to the north continues to fall away, giving extensive views across the wider landscape.
- 1.3 The existing building sits quite close to the road, behind a mature native species hedgerow. A separate building is located on the roadside boundary further to the east.
- 1.4 The application is made in full and seeks to erect fair low cost open market dwellings with associated vehicular access and parking. It is accompanied by a draft Section 106 Agreement that is intended to ensure that the dwellings remain as Discounted Low

Cost Housing and that they are made available for Herefordshire residents to purchase.

- 1.5 The dwellings are arranged as two pairs of three bed semi detached properties, with a shared parking and turning area to the front. The access remains in the same position as exists at present, with the existing hedge removed and a new one replanted further back behind the visibility splay. The building on the road frontage will be removed to the boundary of the applicant's land to maximise visibility in an easterly direction.
- 1.6 The plans indicate that the dwellings would be simply designed, finished in red brick with tiled roofs and a lean-to porch to the front. Drainage is shown to be via a bio-disc discharging to a series of soakaways located on an adjoining field that is also owned by the applicant.

2. Policies

Herefordshire Unitary Development Plan (Revised Deposit Draft)

S1 - Sustainable Development
S2 - Development requirements
DR1 - Design
DR5 - Planning obligations
H6 - Housing in smaller settlements
H9 - Affordable housing
H10 - Rural exceptions housing
H13 - Sustainable residential design.

Leominster District Local Plan

A2 - Settlement hierarchy
A24 - Scale and character of development
D48 - Affordable housing for local needs in rural areas.

3. Planning History

NC00/2791/0 - Proposed erection of three detached dwellings - dismissed on appeal 11th July 2001.

The Inspector upheld the Council's reasons relating to a lack of exceptional justification for redevelopment of the site for residential development in the open countryside, but attached little weight to the loss of an employment generating site.

4. Consultation Summary

Statutory Consultations

- 4.1 None required

Internal Council Consultations

- 4.2 Transportation Manager -

"Whilst the visibility "y" distances are around 35m, the speeds are lowish, and it is debateable if four dwellings would generate more traffic than the racing stables, so intensification is difficult to argue. The proposal actually improves the visibility by resiting the hedge, and further improves the access by regrading the driveway adjacent to the carriageway to no more than 1 in 12. On balance, we consider that, whilst the "y" distances do not meet standards fully, the proposal is a significant improvement over the existing access, and doubt if a refusal would be robust enough to succeed if appealed. It is, therefore, recommended that conditions are imposed if planning permission is forthcoming."

4.3 Strategic Housing –

Further to the information provided on 31st January 2007, a local housing needs survey has been undertaken for the Group parish of Humber, into which Risbury falls.

Housing Needs Survey

The survey identified the need for 16 affordable houses across the Humber group with 5 preferring Risbury itself and 8 would be willing to consider anywhere within the parish group.

The type of affordable housing required is detailed on the table below.

Therefore, the Housing Needs Survey appears initially to support a small development to meet local housing need within the Humber Group, although no income details are provided to ensure that those seeking low cost market housing can afford to purchase.

Where	Type of household	tenure required	Registered with Homepoint	Type of dwelling required	beds req	Weekly rent that can afford	Afford to buy
anywhere	Existing households	rent from housing assoc.	yes	house,bungalow	4	up to £90	
		rent privately,shared ownership,rent from Housing Association	yes	house	3	don't know	
	Emerging households	rent privately, rent from Housing Association	no	flat/apartment	2	up to £60	
		rent from Housing Association, pegged	yes	house	3	up to £70	
		rent privately,shared ownership,rent from Housing Association	yes	house	3	don't know	don't know
		rent privately, rent from Housing Association	no	flat/apartment	1	up to £50	
		shared ownership	no	flat/apartment	1	don't know	don't know
	Returning households	other tenure required: whichever is financially practical. Interested in low cost self build on parents property within Parish.	no	house	2	up to £100	
Risbury	Existing households	pegged	no	house	3		up to £150000
	Emerging households	pegged	no	house			up to £150000
		rent privately, rent from Housing Association, pegged		house,bungalow, flat/apartment	2	up to £70	up to £120000
Risbury or Stoke Prior	Emerging households	pegged	no	house	3		up to £150000
		pegged	no	house	3		up to £150000

Section 106 requirements

Having considered the option of Low Cost Market the concern remains that the properties will not be delivered to affordable levels as outlined in the SPG Provision of Affordable Housing i.e. 3 bed - £110,000.

The concerns arise from experience on negotiating low cost market housing on other sites throughout Herefordshire, where developers, both local and national, have identified that they would be unable to deliver at the levels indicated in the SPG. On these occasions the developer has opted to provide additional rented houses or shared ownership, without the requirement for grant funding.

In addition to this, where houses have been provided for low cost market by way of discount e.g. 30 or 40%, off the open market value, due to high house prices at the present time, this level of discount is not sufficient to enable local people to purchase as it exceeds their earnings.

For example, 6 low cost market properties were provided by a private developer at £113,000 for a 2 bed and £140,000 for a 3 bed which received planning permission based on a

discount of 30%. The open market value of the properties were £160,000 for a 2 bed and £205,000 for a 3 bed and even with the discount compared to what local people could afford, this was not affordable by £19,755 and £40,805 respectively and the properties have been sold to people not considered as a high priority on the Homepoint Register and who may have otherwise been able to afford to purchase outright. This was due to the fact that local people were unable to purchase and the properties were sold as an exception to the S106 agreement.

Also, where a 30% discount has been set previously on a large scale development in Hereford City, this discount is not sufficient in today's market to permit local people to purchase. Therefore, it is possible that through a local Housing Association, a request may be received to transfer these to rented units, but with some grant funding.

Whilst I understand that no information to date has been received in terms of the build costs, the proposals for 4 x 3 beds have been considered and at today's values it is likely that the open market value would be approximately £180,000 – £200,000. Therefore a discount would be required in the region of 45% for the initial and subsequent sales to meet the affordable housing requirements for the county.

However, it must be noted that there is a risk that, as the property values increase at a considerable rate, that, if a discount of 45% is set at today's values, in six or twelve months time when the development has been completed and ready for sale, the values may have increased, which would result in the 45% discount on the open market values exceeding the affordable limits of the county.

There is a risk whether a private developer would be able to deliver affordable housing at affordable levels for the county and, therefore, should the application be approved, the properties should be sold at no more than the affordable housing levels referred to in the SPG provision of affordable housing.

5. Representations

5.1 Humber Parish Council - Recommends refusal

Whilst recognising the need for affordable housing in the area, the Council does not consider that it is the correct place for such housing, because of the lack of facilities and the minimal public transport.

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

M. J. White, Pentwyn, Risbury
Mr. and Mrs. White, New Pentwyn, Turning Ways, Risbury
Mr. D. Shelley, The Birches Farm, Pencombe
Ms. C. Davies, The Birches Farm, Pencombe
Mr. M. Warlock, The Birches Farm, Pencombe
Mr. S. Thompson, Kia-Ora, Risbury

In summary the points raised are as follows:-

1. The proposal is contrary to policy.
2. The vacancy of other dwellings built by the applicant demonstrates that there is not a need for further property in the area.

3. Concerns about highway safety and access out of the site.

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

6. Officer's Appraisal

6.1.1 These matters must be given careful consideration along with the criteria based policy of H10 which form the basis for the assessment of this application.

6.2 Policy H10 reads as follows:

Exceptionally, affordable housing may be permitted on land within or adjoining an established rural settlement which would not normally be released for development, provided that:

- 1. the scheme will contribute to meeting a proven genuine and quantifiable local need for affordable housing as ascertained from an up-to-date local affordable housing needs survey. In the case of a single affordable dwelling, clear evidence of a long-term local need will be required;**
- 2. it is evident that local housing conditions could not otherwise satisfy the need;**
- 3. the scheme respects both the character and size of the settlement concerned and the identified scale of need;**
- 4. arrangements are made to ensure that the benefits of affordable housing, for single dwellings as well as larger schemes, will be enjoyed in perpetuity by subsequent occupants in local need as well as by the initial occupiers;**
- 5. the site's location affords reasonable access to facilities and where possible public transport;**
- 6. proposals do not involve mixed developments consisting of open market housing to offset the lower return on affordable housing on the same site; and**
- 7. in settlements other than Kington (policy H2), the main villages (policy H4) or smaller settlements (policy H6) the proposal is limited to the construction of a single affordable dwelling which does not exceed the dwelling and plot size limits set in policy H6 unless clear evidence is provided to indicate a need exists for a larger dwelling.**

The report will explore each of these criteria in turn to consider whether the proposal complies with them.

1. Local Need

A Housing Needs Survey has now been completed and this concludes that:

The survey found **16 households with a potential affordable need within Humber, Ford & Stoke Prior Group Parish**. These households are broken down as follows.

- 2 households are currently renting from a Housing Association and wish to change properties within the Parish – 1 wishes to move into larger Housing Association rented property and the other wishes to move to cheaper rented Housing Association property.
- 3 households wish to undertake discounted purchase and have been classed as “borderline affordable needs”,
- Of the remaining 11 households, 8 wish to rent from a Housing Association, or have included this among their tenure options, 3 have included shared ownership among their options and 3 have included purchasing a property whose sale price is pegged at below market price by legal covenant.

The definition of affordable housing contained within Planning Policy Statement 3 – Housing (PPS3) reads as follows:

The Government is committed to providing high quality housing for people who are unable to access or afford market housing, for example, vulnerable people and key workers as well as helping people make the step from social-rented housing to home ownership. This section should be read together with the Government's Affordable Housing Policy Statement.18. The Government defines affordable housing as including social rented and intermediate housing.

The final sentence is key. The term ‘intermediate housing’ is taken to mean shared ownership and not low cost or discounted open market housing which is referred to elsewhere in the document. Your Officer’s opinion is that this proposal does not reflect this description and therefore cannot be considered to be ‘affordable’.

2. Local Housing Conditions

Like the majority of Herefordshire’s smaller rural settlements, house prices are way beyond the means of the average local person living in Risbury and there are not sufficient properties within the village to meet the potential demand identified by the Housing Needs Survey. What is most important to consider is whether this need should be being met in Risbury at all.

3. Size and Character of the Settlement

The proposal reflects the linear form of the village and is generally considered to be of an acceptable scale and character. It is noted that no objections have been raised to the scheme in respect of its design.

4. Retention of affordable housing in perpetuity

It is clear from the comments received from the Council’s Strategic Housing Team that there is a fundamental doubt as to whether housing can be delivered at a discounted level that makes it affordable to the average local person.

Colleagues in Legal Services have attempted to draft a form of words for a Section 106 Agreement to address all of the issues raised in the comments from Strategic Housing with limited success. An Agreement would have to work on the premise that the applicant must sell the four 3 bed dwellings at a fixed price of £110,320 to persons with a local parish

connection. If there are no buyers after three months for any/all of the dwellings, the owner must sell them to a Registered Social Landlord (RSL) at the same price.

The RSL is required to sell at £110,320 within a further three month period to a person with a local parish connection.

If at the end of this period if the RSL cannot sell to a local person, the RSL can apply to the Council to retain and lease the properties under a shared ownership scheme. It is presumed that occupiers under shared ownership would have to be local and would not be able to acquire more than 80% equity in any dwelling.

The problems arise where either the owner or the RSL are able to sell on to a local person at the fixed amount. It is difficult to come to a satisfactory conclusion as to the mechanism for setting the subsequent sale price and what would happen if the then owner is unable to sell at that price to a local person. Property could be advertised through Homepoint, but this is no guarantee that it will be successfully sold. The examples highlighted by Strategic Housing show this to be the case.

The Council has in the past agreed to a limited number of schemes where the discount was expressed as a percentage of the open market value at the date of sale. In this proposal, the initial price is determined by reference to the SPG. It may be possible that resale figures could be expressed as a percentage figure that equates to the SPG figure above, (i.e. if £100,320 is 60% of the open market value then a 60% discount applies on all subsequent sales).

There may be other mechanisms, such as earnings related, but they may prove too complex to calculate in the future. Such mechanisms would also need to ensure that they do not conflict with the initial price so that the first residential owners are not penalised by having to sell at less than the price they paid in real terms. Any such discounted housing scheme will need to include a measure of Council involvement to ensure that local demand is met at the correct discounted price.

There is also the question of mortgagees in possession clauses. Mortgagees are unlikely to prove funding unless they have the right to take possession in the event of mortgage arrears. They normally require the S106 to contain an exemption clause so that in the event of possession they can sell on the open market free of the discounted / local connection requirements.

In conclusion, there is some doubt as to whether a Section 106 Agreement can adequately address all of the variables that might arise to secure the provision of discounted open market housing in perpetuity.

5. Sustainability

Risbury has not been identified as a smaller settlement for a reason. It has no facilities and poor public transport links. Hence, it is not considered to be a sustainable location for further residential development. The framework for the provision of affordable housing is set by other policies in the UDP and settlements where it will be accepted, due to the existence of services and facilities, are identified. Risbury is not a sustainable location and, therefore, the application fails this policy test. This has very recently been endorsed by an appeal decision at 2 Cross Cottages in Risbury where the Inspector said:

"In the interests of the promotion of sustainable development, there is now a significant restraint on new housing in such settlements. This policy is carried forward in Policy H7 of

the Herefordshire Unitary Development Plan. I agree with the council that the appeal proposal would conflict with the content and purpose of these policies.”

6. Mixed development

Policy H10 expects developments to be affordable in the sense that they are applications made for rented or shared ownership dwellings. The proposal does not accord with this part of the policy, as it is entirely for open market housing, albeit at a discounted level.

7. Single affordable dwellings

This part of the policy allows for developments of single dwellings outside of the main villages and smaller settlements. In effect, this will be for local needs housing on a case by case basis. The application is for four dwellings and does not comply with this part of the policy.

Other material planning considerations

It may be argued that the proposal allows the re-use of previously developed land and that the site does not have an alternative use. Therefore, it is appropriate to consider its redevelopment.

The site is occupied by an agricultural building and falls within a predominantly rural area. The circumstances of such a building adjacent to residential dwellings is not uncommon across Herefordshire. It does not cause undue harm to the amenity of dwellings within the vicinity. It is your officer's opinion that this does not offer sufficient justification to override the Policy H10.

Conclusion

To summarise, the site is in an unsustainable location, where there is a presumption against further residential development, both open market or affordable. In any event the Policy H10 of the UDP would only permit a single affordable dwelling, not four as is proposed.

Your officers are not satisfied that a Section 106 Agreement can be satisfactorily worded to address all of the potential variables that could arise to secure the development as discounted open market housing in perpetuity.

The proposal does not propose a mixed development of open market to subsidise affordable housing. However, in light of the description of what actually constitutes affordable housing as defined by PPS3, your Officer's opinion is that this proposal does not reflect this description and therefore cannot be considered to be 'affordable'

The proposal therefore fails to meet a number of the criteria defined by Policy H10 of the UDP and fails on policy grounds. Accordingly it is concluded that the proposal represents development in the open countryside and without exceptional justification is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

1. **The proposal represents development in the open countryside, beyond any recognised settlement boundary, and in an unsustainable location. The applicant has failed to demonstrate that there are exceptional circumstances to warrant a departure from the policy considerations and, therefore, the application is contrary to Policy H10 of the Herefordshire Unitary Development Plan.**

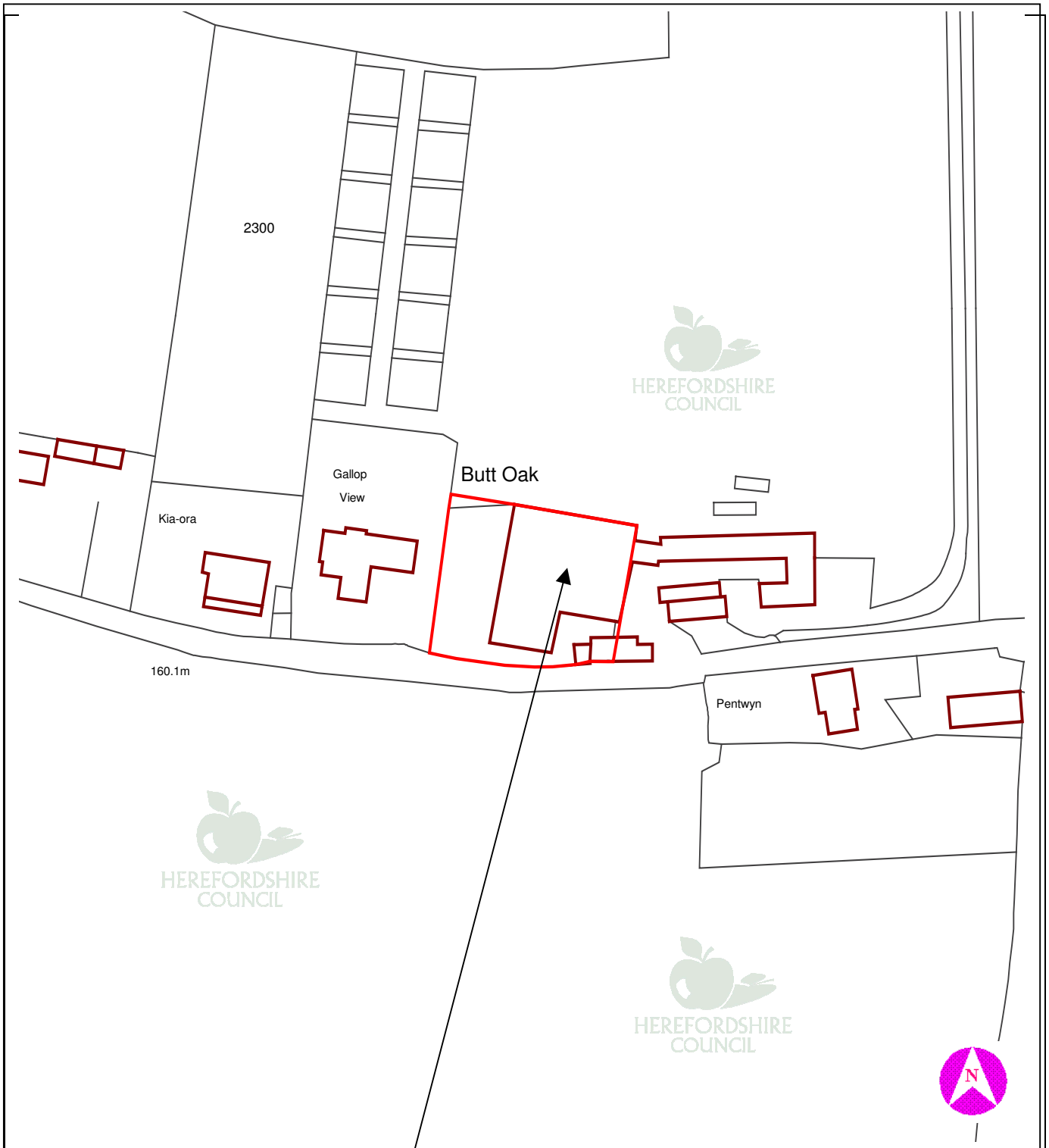
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2006/3893/F

SCALE : 1 : 1250

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