

**9 DCCE2007/1230/O - ERECTION OF 3 DWELLINGS.
REAR OF 40/42 NEWTOWN ROAD, HEREFORD,
HEREFORDSHIRE, HR4 9LL****For: Mr. & Mrs. Boyal, per Mr. Phipps, Bank Lodge,
Coldwells Road, Holmer, Hereford, HR1 1LH****Date Received: 17th April, 2007 Ward: Central****Grid Ref: 51040, 40906****Expiry Date: 12th June, 2007**

Local Member: Councillor MAF Hubbard

1. Site Description and Proposal

- 1.1 The site comprises half of No. 40 Newtown Road which previously was Newtown Road Post Office but has since been converted to residential use together with associated garden to the rear of No. 40 and No. 42. Nos. 40 and 42 Newtown Road are two storey brick and pitched slated roof properties which front Newtown Road. No. 40 incorporates an arched vehicular access presently enclosed by solid timber doors leading to the rear of the site. To the rear and attached to Nos. 40 and 42 are a range of single storey outbuildings extending around 25 metres back into the rear of the site.
- 1.2 The site itself is presently an area of overgrown garden and is relatively flat and enclosed to the west and north by a 2 metre high brick wall with a lower brick wall running along the eastern boundary. To the west of the site is a car park associated with Pizza Hut and to the east are gardens associated with other properties fronting Newtown Road. Running along the northern boundary is the protected route of the Hereford & Gloucester Canal which runs parallel with Burcott Road. The site is designated as white land within the adopted Unitary Development Plan.
- 1.2 Outline planning permission is sought for the widening of the existing vehicular arched entrance off Newtown Road to a width of 4.5 metres entailing the partial demolition of the ground floor of the existing premise fronting Newtown Road. The widened access would then lead to the development site for the construction for a terrace of 3 No 3 bedroom 3 storey town houses located towards the rear of the site with 6 parking spaces and the necessary vehicle turning area and private gardens. Although the application forms indicate that only landscaping is to be considered under this application, this is clearly an error by the applicant's agent and all matters except landscaping are to be considered under this application and this report has been formulated accordingly.

2. Policies**2.1 Hereford Unitary Development Plan 2007:**

- | | | |
|-----|---|--------------------------|
| S1 | - | Sustainable development |
| S2 | - | Development requirements |
| S3 | - | Housing |
| DR1 | - | Design |
| DR2 | - | Land use and activity |

DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR7	-	Flood risk
H1	-	Hereford and the Market Towns: settlement boundaries and established residential areas
H2	-	Hereford and the Market Towns: housing land allocations
H13	-	Sustainable residential design
H14	-	Re-using previously development land and buildings
H15	-	Density
H16	-	Car parking
RST9	-	Herefordshire & Gloucestershire Canal

3. Planning History

- 3.1 CE2005/2132/O - Erection of 3 dwellings. Deemed withdrawn 28th September, 2006.
- 3.2 CE2004/3383/O - Site for the erection of 18 one bedroom flats. Withdrawn 21st February, 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objections subject to conditions regarding foul and surface water drainage.
- 4.2 Environment Agency:
Parts of the site are located in Flood Zone 2 and 3. However, according to recent hydraulic modelling for Widemarsh Brook the site and its access lie just outside Flood Zone 2 and therefore considered to lie within Flood Zone 1 (low risk). This is supported by existing ground levels as shown of the site plan as submitted. PPS25 advises that development is appropriate in Flood Zone 1.

We also note that the applicant is proposing to discharge surface water run off into soakaway which is an acceptable SUDS method. On the basis of the above we raise no objection to the development.

Internal Council Advice

- 4.3 Traffic Manager: No objection subject to conditions.

5. Representations

- 5.1 Hereford City Council: No objection.
- 5.2 Herefordshire & Gloucestershire Canal Trust:
In light of progression of policies with regards to the canal and Section 106 contributions thereto within Hereford, the Canal Trust objects to the application. This is because no Section 106 contributions towards the restoration, management and maintenance of the canal are proposed and there is therefore a clear breach of policy and precedent.

At Hereford Retail Park on Newtown Road approximately £1.25 to £1.5 million on a £10 million scheme for the canal corridor through the site including raising the A49, two new bridges and service diversion taking up 25% of the site was agreed. With the Harpers site also on Newtown Road, a £200 annual payment per unit index linked in perpetuity, transfer of half the site, archaeological works costing in the region of £12,000 and funding of removal of Council tenants from the line of the canal was negotiated.

In light of this an annual contribution of £250 per unit index linked with a capital contribution of £50,000 to be used on the canal corridor adjacent Burcott Road towards restoration and enhancement including such works as tow path wall and paved tow path along the section is required. Upon such contribution the Canal Trust would support the removal of the rear wall to enable properties to directly benefit from the restored canal and they should see an uplift in their value of around 20% from experience of British waterways development elsewhere.

5.3 Edgar Street Grid:

We welcome the proposal put forward but would expect to see a significant Section 106 contribution being agreed in line with emerging policies. We also have concerns about the means of safe access to the site and potential overlooking issues and also consider that thought should be given to the closeness of the new properties to the Pizza Hut premises.

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

6. Officers Appraisal

6.1 An identical application was considered by Central Area Planning Sub-Committee on the 19th October, 2005 and Committee Approval was subsequently given subject to the Environment Agency withdrawing their objection. The information provided to the Environment Agency to address their concerns was not provided within a reasonable time frame and a deemed withdrawal decision was issued on the 28th September, 2006. Nevertheless, the principle of the proposals as set out in this application have previously been approved by Central Area Planning Sub-Committee.

6.2 The site itself forms part of the gardens associated with Nos. 40 and 42 Newtown Road and is designated as White Land within the Unitary Development Plan. In planning policy terms the principle of redeveloping this brown field site for residential development is therefore acceptable.

6.3 The dwellings are sited towards the rear (north west) of the site which achieves a reasonable separation distance between the proposed dwellings and the existing properties fronting Newtown Road. The mass of the terrace has been broken up through stepping forward the eastern end of the terrace. This property is also proposed to have rendered elevations with the remainder being constructed from brick again in keeping with the mix of materials that can be found locally. The design is considered acceptable and broadly reflects local vernacular in terms of the proportions and fenestration. The scale of the properties in terms of their height and appearance with the dormer features is a minor concern particularly as the proposal will appear as a stand alone development as the scale of properties in the immediate locality is predominantly two storey. However, three storey properties can be found towards the eastern end of Newtown Road and due to the difference in surrounding levels, the

properties will not appear unduly prominent in the locality and therefore on balance the scale is considered acceptable.

- 6.4 The proposal will undoubtedly result in additional overlooking of existing properties and their gardens fronting Newtown Road. However, a reasonable distance exists (35 metres) between the existing and proposed properties and the dormer windows within the roof space on the southern elevation are to serve bathrooms and will be obscure glazed. Therefore, given the urban context, whilst having an impact on the amenity of neighbouring properties this impact is considered acceptable.
- 6.5 The Traffic Manager supports the access arrangements which includes the widening of the existing vehicular access through the partial demolition of the ground floor of 40 Newtown Road to create a 4.5 metre access width. Two parking spaces per unit are proposed which is considered acceptable to serve the scale of dwellings proposed and a commensurate area of garden will be provided for the proposed dwellings. The visual impact of the widened access on the existing street frontage is a minor concern but subject to the detail of the works and the associated materials being to a high quality which can be controlled by condition, this is considered acceptable. The applicant has provided levels details to demonstrate that the floor levels of the dwellings will be above the highest recorded or estimated flood level for the area and alongside recent research undertaken by the Environment Agency in the locality, they no longer raise any objection.
- 6.6 The only objection to the proposals is now from the Herefordshire & Gloucestershire Canal Trust. The land immediately north of the site forms part of the safeguarded route of the canal protected under Policy RST9 of the Unitary Development Plan. The development will have no direct impact on the protected route of the canal. The Canal Trust have requested a capital payment of £50,000 to assist in the restoration of the section of canal which borders the site along with an annual payment of £250 per unit index linked in perpetuity. Given the scale of the development this was considered to be excessive and therefore a formal request for £10,000 per unit along with an annual contribution of £250 was requested. This was considered a reasonable and proportionate contribution. The applicants have agreed to the annual payment of £250 per unit but not to any capital payment.
- 6.7 The canal when restored will be publicly accessible and must therefore be considered as community infrastructure as defined in the Draft Supplementary Planning Document on Planning Obligations. When this document is adopted, all residential developments may be required to contribute towards community infrastructure even in a situation such as this where there is no direct impact. However, on balance, given the Supplementary Planning Document is not yet adopted it is considered that a recommendation of refusal for this reason alone is not warranted. The agreed annual contribution of £250 per unit will need to be incorporated within the Section 106 Agreement and a further condition is recommended preventing any alterations to the existing rear boundary wall abutting the canal route which will give the opportunity for a contribution to be negotiated in the future when the canal is restored should the owner wish to provide direct access.
- 6.8 On balance, the proposals are considered acceptable and the issues relating to the potential flood risk of the site which led to the deemed withdrawal of the previous application have now been addressed. As such the development is considered acceptable.

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 as set out in the Heads of Terms appended to this report and any additional matters and terms as he considers appropriate.**
- 2) **Upon completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any additional conditions considered necessary by officers.**
 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. **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.
 3. **A03 (Time limit for commencement (outline permission)).**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
 4. **A04 (Approval of reserved matters).**
Reason: To enable the local planning authority to exercise proper control over these aspects of the development.
 5. **A05 (Plans and particulars of reserved matters).**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
 6. **B01 (Samples of external materials).**
Reason: To ensure that the materials harmonise with the surroundings.
 7. **C16 (Detailed scheme of demolition operations).**
Reason: To minimise the risk of damage to the existing building.
 8. **E16 (Removal of permitted development rights).**
Reason: To enable the local planning authority to retain control over future development at the site including alterations to the boundary treatments in the interests of the visual and residential amenity to the locality.
 9. **E17 (No windows in side elevation of extension).**

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

10. E19 (Obscure glazing to windows).

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

11. F16 (Restriction of hours during construction).

Reason: To protect the amenity of local residents.

12. W01 (Foul/surface water drainage).

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

13. W02 (No surface water to connect to public system).

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

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

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

15. H05 (Access gates).

Reason: In the interests of highway safety.

16. H06 (Vehicular access construction).

Reason: In the interests of highway safety.

17. 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.

18. H27 (Parking for site operatives).

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

19. G01 (Details of boundary treatments).

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

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

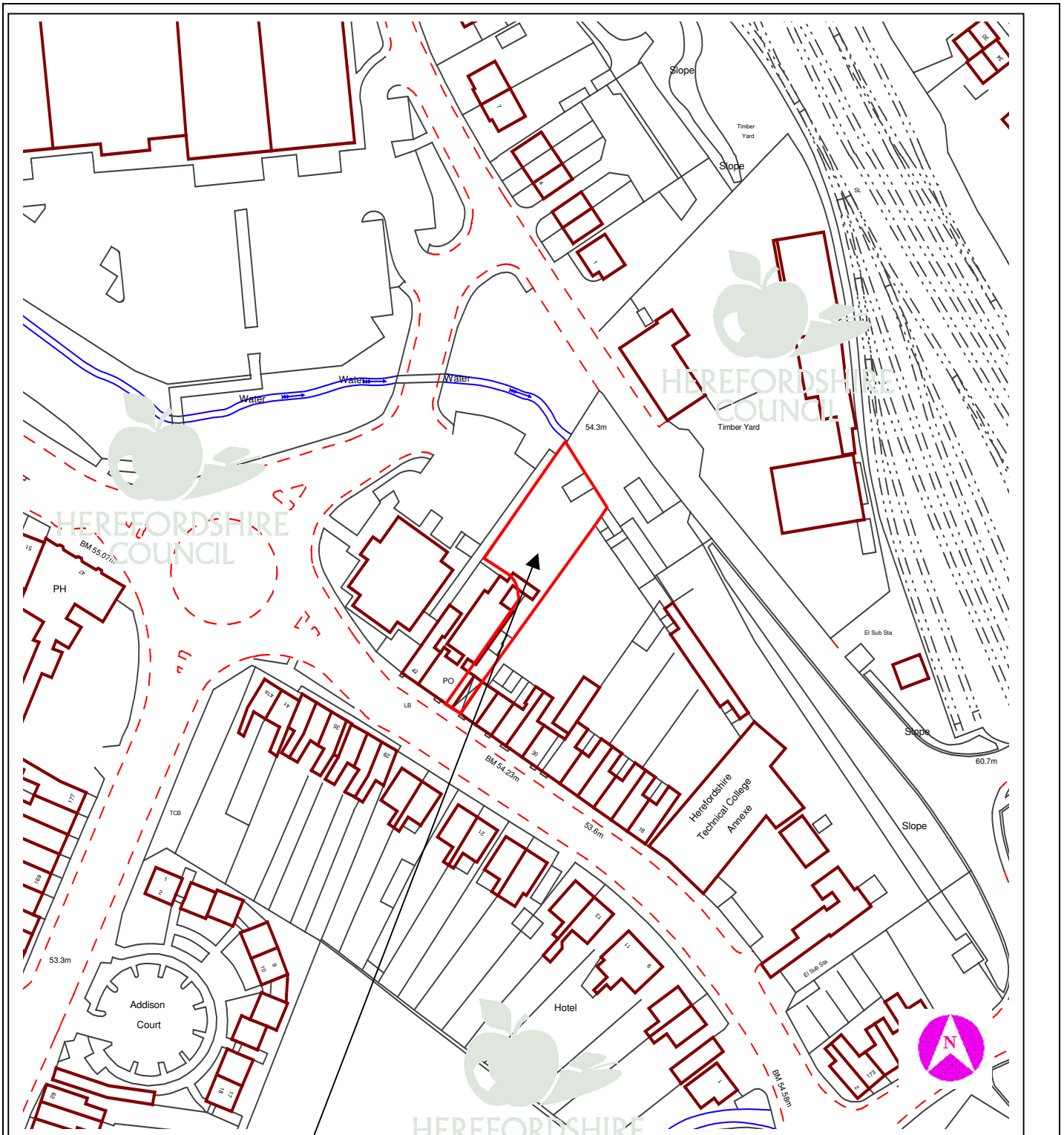
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2007/1230/O

SCALE : 1 : 1250

SITE ADDRESS : 42 Newtown Road, Hereford, Herefordshire, HR4 9LL

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

Planning Application – DCCE2007/2022/F

- Residential development of three 3 bedroom dwellings

At rear of 40/42 Newtown Road, Hereford

1. The developer covenants with Herefordshire Council to pay Herefordshire Council/or Herefordshire and Gloucestershire Canal Trust the sum of £250 per residential unit per year in perpetuity which shall be paid upon first occupation of each dwelling and annually thereafter.
2. The financial contributions shall be Index linked in perpetuity.
3. 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.

Russell Pryce - Principal Planning Officer

15th August, 2007