

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

**For: Taylor Wimpey & Jennings Estates Ltd per  
Drivers Jonas, Cornwall Court, 19 Cornwall Street,  
Birmingham, B3 2DY**

**Date Received:  
3rd December 2007**

**Ward:  
Pembridge &  
Lyonshall with Titley**

**Grid Ref:  
39305, 61915**

**Expiry Date:  
3rd March 2008**

Local Member: Councillor R Phillips

**1. Site Description and Proposal**

- 1.1 The site for the proposed development is on land allocated in the Herefordshire Unitary Development Plan for housing to the east of a residential area known as 'The Birches'. To the south of the application site is farmland. North of the site is the 'Pearl Lake Caravan Park'. Adjacent to the western boundary are a pair of recently constructed detached two-storey dwellings.
- 1.2 The application site itself covers an area of 2.3 hectares, presently in use as agricultural grassland, it abuts the B4362 on its northern elevation. Native vegetation in the form of hedgerows surround all but the southern boundary and a few trees alongside the western boundary.
- 1.3 The proposal is for 35 dwellings and associated car parking, access roads and landscaping which includes the provision of a childrens play area alongside the north-western side of the application site.
- 1.4 The 35 dwellings are broken down as follows:
- 6 - two-bedroomed houses
  - 8 - three-bedroomed houses
  - 7 - four-bedroomed houses
  - 14 - five-bedroomed houses.

Of these, twelve are proposed as 'affordable housing' in-line with relevant Local Plan policy on affordable housing. These are broken down in bedroom size as follows:

- 2 - four-bedroomed houses
- 4 - three-bedroomed houses

- 6 - two-bedroomed houses.

## 2. Policies

2.1 National Planning Policy Statement 3: Housing  
Planning Obligations Practice Guide

2.2 Herefordshire Unitary Development Plan 2007

S1 – Sustainable development

S2 – Development requirements

DR1 – Design

DR2 – Land use and activity

DR3 – Movement

DR4 – Environment

H4 – Main villages: Settlement boundaries

H5 – Main villages: Housing land allocations

H9 – Affordable housing

H13 – Sustainable residential design

H15 – Density

H16 – Car parking

H19 – Open space requirements

LA2 – Landscape character and areas least resilient to change

NC1 – Biodiversity and development

NC8 – Habitat creation, restoration and enhancement

NC9 – Management of creatures of the landscape important – flora and fauna

RST3 – Standards for outdoor playing and public open space

RST5 – New open space in/adjacent to settlements

CF2 – Foul drainage

2.3 Herefordshire Supplementary Planning Guidance – Land at Shobdon, Herefordshire.

## 3. Planning History

NW07/2363/F - Residential development comprising 35 dwellings with car parking, new access road and landscaped - Refused 22nd October 2007 (currently subject to appeal).

## 4. Consultation Summary

### Statutory Consultations

4.1 Welsh Water - No objections subject to inclusion of appropriate conditions to any approved notice subsequently issued.

4.2 Environment Agency - No objections subject to inclusion of suitable conditions to any approved notice subsequently issued.

### Internal Council Advice

- 4.3 The Ecology Manager raises no objections subject to a standard condition being attached to any subsequent approval notice issued with regard to habitat enhancement.
- 4.4 The Transportation Manager raises no objection subject to a Section 106 Agreement request of £1500 per dwelling towards local highway infrastructure improvements and standard conditions attached to any subsequent approval notice issued.
- 4.5 Strategic Housing Enabling Manager raises no objections subject to the Section 106 Agreement on affordable housing provision being suitably worded with regards build standards.
- 4.6 The Parks and Countryside Manager requests £630 per dwelling towards local sports facilities provisions, the play area to be in the form of a Multi Use Games Area (MUGA) and a commuted sum for its future maintenance. (At time of writing this report estimated to be £56,000).
- 4.7 The Conservation Manager has responded to the application with concerns about the overall landscaping of the site, in that information provided in support of the application is unclear on how the site will be landscaped in order to blend the proposed development into the surrounding environment.

## **5. Representations**

- 5.1 Shobdon Parish Council raises no objections. However concerns are raised about new foul drainage sewers being connected to the existing system in places where there are existing pipework problems causing overflowing manholes.
- 5.2 A letter of objection has been received from G P Jones, Pearl Lake Leisure Park, Shobdon. The letter states objections to the location of the entrance to the application site, being only 35 metres from the entrance to Pearl Lake Leisure Park, on the opposite side of the adjacent public highways, to the application site, in that this could jeopardise potential future development at the Pearl Lake Leisure Park. Concerns are also raised about existing power cables over the site and capacity of the existing public sewer system that will serve the site.
- 5.3 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## **6. Officers Appraisal**

- 6.1 The key issues with regards to this application use:
- Principle of the development
  - Foul and surface water drainage
  - Planning obligations
  - Landscaping.

Principle of the development

- 6.2 The site is allocated in the Unitary Development Plan for residential development with an estimated capacity of 30 dwellings. The site also has the benefit of Supplementary Planning Guidance in the form of a development brief adopted by the Council in 2007.
- 6.3 The estimated capacity of 30 dwellings is below national planning guidance on density per hectare.
- 6.4 The application proposes a density of 15 dwellings per hectare (including proposed open space area), on the application site. This amount is still low when compared to national guidelines, however given the rural character of the site and the surrounding built environment the proposal for 35 dwellings is considered acceptable.
- 6.5 The application proposes a range of dwelling types and sizes that overall compliment each other, blending in satisfactory with the surrounding built environment and rural setting. It is acknowledged that the application proposes a high number of 4 and 5 bedroomed houses (21), however given their proposed scale and design, overall density, sufficient amount of residential curtilage and provision of a play area, this is considered acceptable. The application proposes affordable housing provision comprising of 12 units located in three different areas of the application site, to the satisfaction of the Council's Strategic Housing Manager.
- 6.6 The dwelling proposed for plot number 5 has two first floor windows in its easterly gable elevation, these will have a detrimental impact on the amenity and privacy of the adjoining dwelling outside of the application site. A condition is recommended to be attached to any approval notice issued restricting the glazing to opaque glass and non-opening windows.

Foul and surface water drainage

- 6.7 As part of the application, the applicants have submitted a flood risk assessment, to which the Environment Agency raises no objections. Welsh Water have also raised no objections to the proposal. It is noted concerns were raised by the Local Parish Council and a member of the public with regards existing foul water drainage, however it is considered that these issues of concern have been addressed satisfactory with the applicants proposing a sustainable urban drainage scheme to serve the site, on land to the south of the application site for surface water drainage. Appropriate conditioning with regards foul water and surface water drainage are also recommended to be attached to any subsequent approval notice issued.

Planning obligations

- 6.8 The application triggers a requirement for affordable housing provision, public highway infrastructure improvement contribution. Open space provision, local sports contribution, and local education improvements contribution towards the local primary and high school. The applicants have agreed to these in principle, recommend details can be found on the attached Draft Heads of Terms.
- 6.9 Also forming part of the said Draft Heads of Terms is a requirement to ensure that overhead power lines across the proposed play area/open space on the site will be re-directed under ground at no cost to the Council.

- 6.10 In consideration of residential amenity and play area safety, this is considered essential and is one of three reasons, why the previous application was refused planning permission under the scheme of delegation dated 22<sup>nd</sup> October 2007.
- 6.11 Another reason why the application was refused planning permission amounted to the reluctance on behalf of the applicants to agree to adequate position of a Multi Use Games Area (MUGA), and financial contribution towards its maintenance.
- 6.12 The applicants in consideration of information provided in support of their latest application appear now to accept the requirement to address the above-mentioned issues.
- 6.13 The final reason, was the absence of a functional pedestrian/cycle link between the adjacent Birches housing development and The Grove housing area to the east of the application site, as clearly set out in the adopted Development Brief for the site and paragraph 5.4.50 of the Herefordshire Unitary Development Plan 2007. It is acknowledged that the relevant small amount of land required to enable the link to 'The Grove' on the eastern side of the application site is outside the area of the application site, as outlined in red on the site location plan, however a site location plan for land adjacent to the site does indicate land outlined in 'blue', through a corner of which this link could easily be constructed. It is noted that a land registry search indicated this land is in the control of the same land owners, as the application site itself. It is on this adjoining area of land that the sustainable urban drainage scheme is proposed in order to satisfy the Environment Agency requirements.
- 6.14 In order to provide clarity on this issue, it is recommended that provision for this pedestrian/cycle route, in the direction of The Grove also forms part of a Section 106 Agreement, as outlined in section 8 of the attached Heads of Terms.

#### Landscaping.

- 6.15 The Conservation Manager's concerns about lack of information about overall landscaping can be addressed through the attachment of conditions to any approval notice subsequently issued.

#### **Recommendation**

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

**Upon completion of the above-mentioned planning obligation agreement 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 - B01 (Samples of external materials )**

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

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

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

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

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

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

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

- 6 - Prior to being discharged into any watercourse, surface water, sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies within an overall capacity comparable with the site being drained.**

**Reason: To prevent pollution of the water environment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**14 - 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.**

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

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

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

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

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

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

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

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



17 - No plant, materials or equipment shall be deposited on site until a specification of all proposed tree planting has been approved in writing by the LPA. This specification will include details of the quantity, size, species, position and the proposed time of planting of all trees to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. In addition all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape should be similarly specified. All tree, shrub and hedge planting included within that specification shall be carried out in accordance with that specification and in accordance with BS 3936 (parts 1, 1992, Nursery Stock, Specification for trees and shrubs, and 4, 1984, Specification for forest trees); BS4043, 1989, Transplanting root-balled trees; and BS4428, 1989, Code of practice for general landscape operations (excluding hard surfaces).

18 - If within a period of five years from the date of planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the LPA seriously damaged or defective), another tree of the same species and size originally planted shall be planted at the same place, unless the LPA gives its written consent to any variations.

19 - There shall be no further fencing erected alongside the northern boundary of the application site. (Adjacent to the B4362 public highway).

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

20 - C10 (Details of rooflights )

Reason: To ensure the rooflights do not break the plane of the roof slope in the interests of safeguarding the character and appearance of this building of [special] architectural or historical interest.

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

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

**Informatives:**

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

2 - N19 - Avoidance of doubt

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement

Section 106 Town and Country Planning Act 1990

Planning Application – NW07/3721/F.

Residential development comprising 35 dwellings with car parking, new access road and landscaping on land adjacent to The Birches, Shobdon, Herefordshire.

1. The developer or successor in title shall provide 12 affordable housing units as indicated on amended plan ref. No. 13045/05/01G submitted as part of the application, which meet the criteria as set out in Policy H9 and section 5.5 of the Herefordshire Unitary Development Plan. (Or any statutory replacement of those criteria and that policy). The affordable housing units will comprise of 4 x 2 bed roomed, 3 x 3 bed roomed and 2 x 4 bed roomed houses for rent and 2 x 2 bed roomed and 1 x 3 bed roomed houses for shared ownership. The dwellings shall be in accordance with the current Housing Corporation Scheme Development Standards and Lifetime Home Standards, with no Affordable Housing grant input. None of the Affordable Housing shall be occupied unless the Herefordshire Council has given its written agreement to the means of securing the status and use of these units as Affordable Housing. All the affordable housing units shall be completed and made available for occupation prior to the occupation of more than 50% of the other residential units on the development.
2. The developer or successor in title covenants with Herefordshire Council, in lieu of the provision of open space on the land to serve the development to pay

Herefordshire Council the sum of £56, 000, which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council towards management and maintenance of the site.

3. The developer or successor in title covenants with Herefordshire Council to provide an on-site play area to the Council's MUGA standard, (Multi Use Games Area). The MUGA shall cover an area of 16 x 26 metres and shall be surrounded by landscaped screening as considered acceptable to the Council's specifications.
4. The developer or successor in title covenants with Herefordshire Council to pay Herefordshire Council the sum of £70,000 to provide education improvements to Shobdon Primary School and Wigmore High School. This sum shall be paid on or before the commencement of development.
5. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £37,500 towards, but not necessarily limited to, providing sustainable transport improvements relating to the transport needs of Shobdon. 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) Provision and improvements to cycle route on land outside the applicant's and site owner's control towards the village centre.
  - b) Footway improvements such as widening to current standards and providing dropped kerbs between the development and the village centre.
  - c) Junction Improvements at C1032/B4362 public highways.

6. The developer or successor in title covenants with Herefordshire Council in support of local sports provision for improved local facilities to pay Herefordshire Council the sum of £22,050 which sum shall be paid on or before the commencement of development.
7. Prior to occupation of any of the dwellings on site, the developer or successors in title, will ensure that the overhead power line, over the public open space/play area as indicated on amended plan ref: 13045/05/01G will be re-directed underground at no cost to the Council.
8. Prior to occupation of any of the dwellings on site the developer or successor in title will provide a pedestrian/cycle route from the application site to 'The Grove' playing field located to the south east of the application site and a link pedestrian/cycle route to The Birches housing estate located adjacent to the western side of the application site, in accordance with details to be submitted and agreed in writing with the Local Planning Authority before development on site is commenced.
9. In the event that Herefordshire Council does not for any reason use the said sum of Clause 2, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
10. The sums referred to in paragraphs 2, 4, 5 & 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such

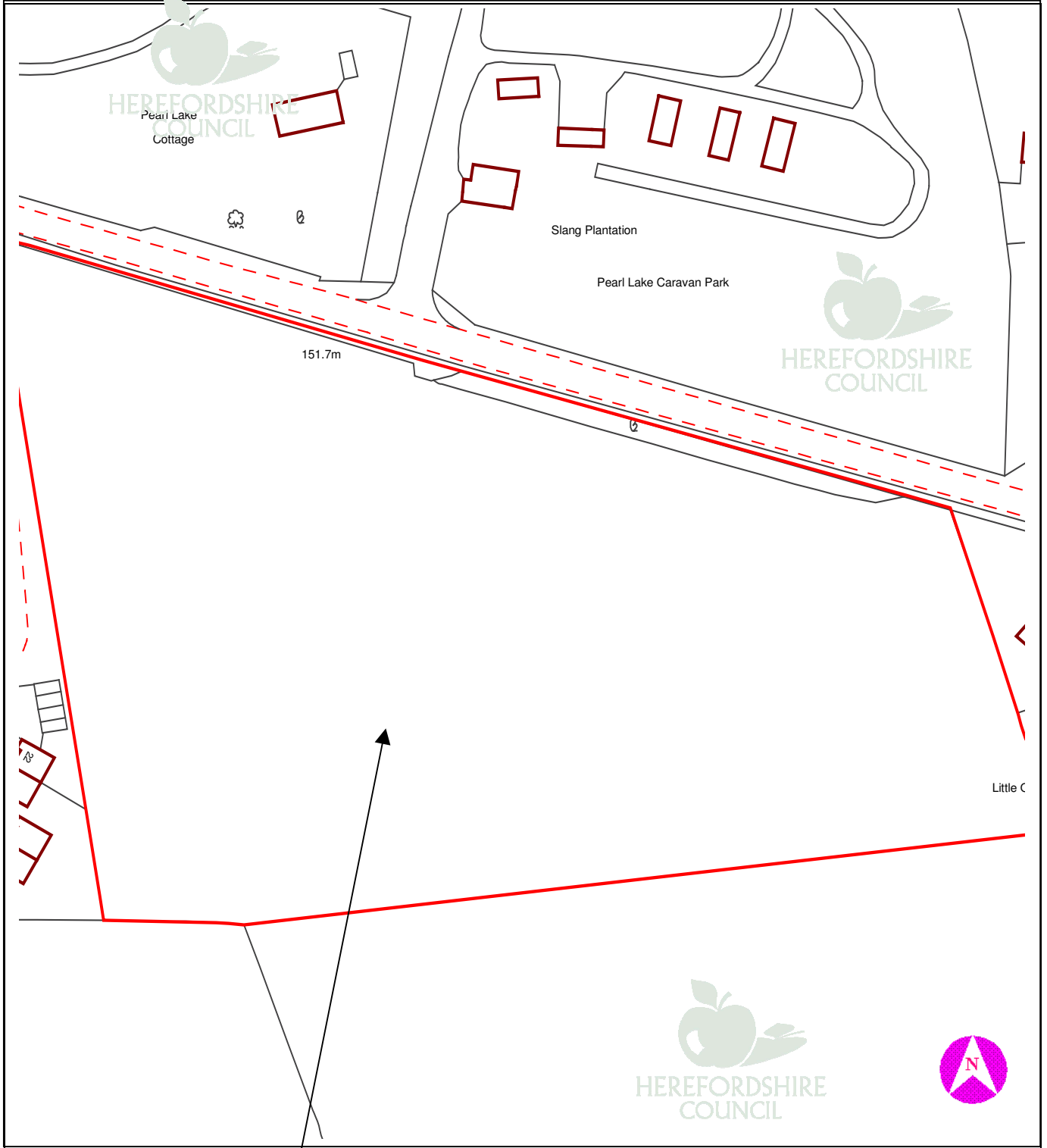
sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.

11. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

12. The developer shall complete the Agreement by 1<sup>st</sup> March 2008 otherwise the application will be registered as deemed refused

P. Mullineux, P. J. Yates 27<sup>th</sup> December 2007

**AREA SUB-COMMITTEE**



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**APPLICATION NO:** DCNW2007/3721/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land adjacent to The Birches, Shobdon, Leominster, Herefordshire, HR6 9NQ

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