

9 DCNC2007/3520/F - ERECTION OF OFFICES AND DWELLINGS WITH ASSOCIATED DEMOLITIONS AND SITE WORKS. 40/42 WEST STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8ES

For: Mr M.A. Thomas per Cleobury Land Use Consultancy, 8 Talbot Square, Cleobury Mortimer, Kiddminster, DY14 8BQ

Date Received: 13th November 2007

**Ward: Leominster
South**

**Grid Ref:
49498, 59035**

Expiry Date: 12th February 2008

Local Members: Councillors D. Burke and R. Hunt

1. Site Description and Proposal

- 1.1 The application site covers an area of approximately 0.1225 ha (1225 m²), and is located to the rear of 40/42 West Street (currently occupied by a furniture retail shop). The site is located within the Conservation Area.
- 1.2 Presently on site is a flat roof office block of steel and brick external construction. The floor space of which is mostly unoccupied with the exception of a dental practice. This particular structure is considered unattractive, as is the rest of the application site in relationship to the surrounding Conservation Area.
- 1.3 The site is adjoined by other 'backland development' chiefly comprising residential and office accommodation. To the south of the site from which public highway access is obtained in West Street, this street is primary in retail use, forming part of the town's central shopping and commercial area. To the east of the application site is a public car park.
- 1.4 The application is for re-development of the site comprising of 10 two-storey dwellings, 2 office units, with a residential flat above. It is proposed to arrange the development in two terrace blocks, one facing east alongside the eastern boundary of the application site consisting of 7 residential two-storey units, 2 office units and a flat above. The other terrace is located within the north western section of the site, facing south, and consisting of three residential two-storey units of similar individual design to the two-storey dwelling units in the main terrace.
- 1.5 The internal layout of the two-storey residential units consists of a lounge, kitchen and W.C. on the ground floor and two bedrooms and a bathroom on the first floor. The proposed flat above the two retail units is also of similar proportions.
- 1.6 It is proposed to landscape the remainder of the site, providing a parking space for delivery vehicles to the proposed office units and the existing adjacent retail unit.
- 1.7 The application is subject to a Section 106 Agreement under the Town and Country Planning Act 1990 for financial contributions towards public highway improvements,

open space provision and local school improvements. (A Draft Heads of Terms proposal is attached to this report).

- 1.8 The scheme under relevant local policies does not require provision of affordable residential units, as the amount proposed is under the threshold for affordable house provision. The two-storey dwellings having an externally measured floorspace of approximately 68 square metres. Information provided in support of the application indicating the applicant wishes to retain ownership of the properties for rental purposes.

2. Policies

2.1 Central Government Guidance

Planning Policy Statement 1 - Delivering Sustainable Development
 Planning Policy Statement 3 – Housing
 Planning Policy Guidance 13 – Transport
 Planning Policy Guidance 15 – Planning and Historic Environment

2.2 Herefordshire Unitary Development Plan: 2007

| | | |
|--------------|---|---|
| Policy S1 | - | Sustainable Development |
| Policy S2 | - | Development Requirements |
| Policy S3 | - | Housing |
| Policy S4 | - | Employment |
| Policy S5 | - | Town Centres and Retail |
| Policy S6 | - | Transport |
| Policy DR1 | - | Design |
| Policy DR2 | - | Land Use and Activity |
| Policy DR3 | - | Movement |
| Policy DR4 | - | Environment |
| Policy H13 | - | Sustainable Residential Design |
| Policy H14 | - | Re-using Previously Developed Land and Buildings |
| Policy H15 | - | Density |
| Policy H16 | - | Car Parking |
| Policy H19 | - | Open Space Requirements |
| Policy TCR1 | - | Central Shopping and Commercial Areas |
| Policy TCR2 | - | Vitality and Viability |
| Policy HBA6 | - | New Development Within Conservation Areas |
| Policy ARCH1 | - | Archaeological Assessment and Field Evaluations |
| Policy ARCH6 | - | Recording of Archaeological Remains |
| Policy RST3 | - | Standards for Outdoor Playing and Public Open Space |
| Policy CF2 | - | Foul Drainage |

3. Planning History

- 3.1 NC05/3390/F Proposed erection of shops and dwellings with associated demolition and site works - Withdrawn 2nd December 2005.
- 3.2 NC05/3386/L Demolition of buildings at 40/42 West Street - Withdrawn 2nd December 2006.
- 3.3 NC06/1125/F Proposed alterations to facade of existing building - Approved subject to conditions - 2nd June 2006.

- 3.4 NC06/1129/F Erection of shops and dwellings with associated demolition and site works - Approved subject to conditions and a Section 106 Agreement - 29th November 2006.
- 3.5 NC06/1130/C Demolition of buildings - Approved subject to conditions - 2nd June 2006.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water raise no objections subject to inclusion of appropriate conditions to any subsequent approval notice issued.

Internal Council Advice

- 4.2 The Transportation Manager raises concerns about pedestrian access to the site otherwise no objections subject to agreement to a Section 106 Agreement for financial contribution totalling £16,500 towards local sustainable transport measures and conditions attached to any subsequent approval notice issued regarding cycle parking.
- 4.3 The Conservation Manager raises concerns about the overall design of the proposed scheme and in particular in respect of the proposed fence alongside the eastern street side of the proposed development.
- 4.4 Education Manager request a contribution towards local education needs.
- 4.5 Forward Planning Manager states that the principle of a mixed-use development on this site could be supported, and that developing the site would improve the surrounding streetscape.
- 4.6 The Archaeological Manager raises no objections subject to inclusion of standard conditions in respect of an archaeological investigation prior to development on site.
- 4.7 The Parks and Countryside Manager raises no objections in consideration of the location of the proposed development. However, a financial contribution of £500 per dwelling would be required towards improvements at the nearby Sydonia Open Space.

5. Representations

- 5.1 Leominster Town Council recommends approval and suggest that cycle racks be incorporated in the proposal.
- 5.2 Leominster Civic Society has commented on the application stating that they consider the proposal is unworkable to a ludicrous degree and constitutes unsustainable overdevelopment of the site.
The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The key issues of consideration for this application are:-

- Principle of the development
- Section 106 Agreement
- Design and layout of proposal
- Section 106 Agreement

Principle of the development

- 6.2 The site for the proposed development is within the Central Shopping and Commercial Area and Conservation Area in accordance with policies in the Herefordshire Unitary Development Plan 2007.
- 6.3 The aim of these policies is to maintain and enhance the attractiveness, vitality and viability of the town centre and encourage a mix of use including residential.
- 6.4 The proposal subject to this application is for demolition of existing structures on site which are mainly redundant office space and development consisting of two office units and 11 residential units.
- 6.5 The site is presently an unattractive brown field site in a prominent position near the heart of the town overlooking a car park within the Conservation Area.
- 6.6 Leominster Town Council raises no objections subject to consideration shown for the provision of on-site cycle racks. This issue of concern has been addressed.
- 6.7 The proposal complies with National Planning Guidance, in that it proposes residential accommodation within the town's centre, and the site is not located within the main shopping area, but on an important site leading to a car park that serves the town centre. Existing office accommodation on site is of poor quality and only contains a dentist, proposing to re-locate within the town.
- 6.8 This application is a re-submission of a previous application (ref. NC2006/1129/F) approved subject to conditioning and a Section 106 Agreement on 29th November 2006. For residential development of the same amount of units as the current one and two office units, instead of 2 retail units, as subject to the previous approved application.
- 6.9 The reason for the re-submission is that the applicant was unable to negotiate a satisfactory settlement with the Council (as land owner) on an easement for right's of access and light alongside the frontal eastern elevation of the site. Information provided in support of the application stating that the financial viability of the scheme would be compromised in consideration of the Council's financial request.
- 6.10 Therefore, the only difference to this application from the previous application is the fact that the development is set 1.5 metres further back into the site alongside the site's eastern elevation, with wrought iron railing positioned alongside the eastern boundary to prevent access from the site onto council owned land. As a result of this variation the two previously approved retail units, alongside the eastern elevation have been amended to 'office accommodation' with access obtained from within the site. Office accommodation is currently a land use on the site with no retail on site. There is no access to the site via the central car park.

Design and Layout of Proposal

- 6.11 The current layout proposed is as a result of the applicant being unable to negotiate a satisfactory rights of easement as previously explained in this report.
- 6.12 The resulting change amounting to the overall development being set 1.5 metres further back into the site from its eastern elevation, wrought iron railings proposed for the eastern boundary and change of 2 retail units to office accommodation.
- 6.13 This revision is in officers' opinion satisfactory and a relatively minor amendment to that of the previously agreed scheme. The wrought iron fencing will be in keeping with the proposed residential development and is required to provide a physical separation between the application site and Council owned land. In fact it could be argued that the proposed residential and office accommodation units with the wrought iron fence boundary will be visually more attractive than the existing tall brick wall alongside the eastern boundary of the site. The original approved retail units being replaced with office accommodation is also an acceptable amendment in consideration of the rights of access concerns, making retail use unviable economically.
- 6.14 Therefore the revised scheme does partly address concerns raised by Leominster Civic Society, who were particularly concerned about public access to 'retail units' as originally proposed.
- 6.15 The Civic Society also raises concerns about unsustainable over-development of the site. It is noted the Council's Forward Planning Manger raises no objections to the proposed development, which is to the same density as the previously approved scheme. The site location is within very close proximity to Leominster town centre and therefore sustainable alternative modes of transport are available as well as service provision. The overall built design being very similar to the previously approved scheme.
- 6.16 The Conservation Manager's main issue of concern with the proposal is the fact that the applicant proposes a wrought iron fence alongside the frontal eastern elevation of the application site, wishing to see it replaced with a pavement alongside the street frontage.
- 6.17 In consideration of rights of easement issue, it is considered the wrought iron fencing proposed is the most acceptable solution under the circumstances, as a pavement would not resolve the easement issue.

Section 106 Agreement

- 6.18 The Section 106 Agreement will facilitate the financial contributions required for education, play/park space, provision and public highway improvements. A Draft Heads of Terms is attached to this report which provides an outline of the requirements of the Section 106 Agreement. This is similar to the previous agreement without the requirement for loss of car parking provision on council land due to the current proposal no longer requiring the loss of those spaces.

7. Conclusions

- 7.1 The proposal represents a significant opportunity to improve the visual impact of this area of Leominster that is located within close proximity to the heart OF Leominster within its Conservation Area, The proposal is in-line with Nation Government Guidance and local policies. No objections have been received from members of the public or the Town Council. The applicant has indicated agreement to the Draft Heads of Terms that will form the basis of a Section 106 Agreement.

RECOMMENDATION

That planning permission be granted subject to:

- 1. The Legal Practice Manager 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 any additional matters and terms as he considers appropriate.**
- 2. Upon completion of the afore mentioned planning obligation that the Officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions:-**
- 3 - A01 (Time limit for commencement (full permission))**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 4 - B01 (Samples of external materials)**

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

- 5 - F16 (Restriction of hours during construction)**

Reason: To protect the amenity of local residents.

- 6 - No materials or substances shall be incinerated within the application site during the construction phase.**

Reason: To protect the residential amenities of the neighbouring properties.

- 7 - Prior to the construction of any re-development on site details will be submitted to the Local Planning Authority and approved in writing of additional noise insulation to the bedrooms of units 1, 2 and 3.**

Reason: In order to protect the amenity of residents of these dwellings within close proximity to a licensed premises/pool hall.

- 8 - Prior to development on site details will be submitted to the Local Planning Authority and approved in writing of the office front design and the glazed units as indicated on the approved plans.**

Reason: In the interests of the amenity of the surrounding Conservation Area.

- 9 - Prior to development on site details will be submitted and approved in writing to the Local Planning Authority of treatment of the boundary walls and fencing.

Reason: In the interests of the amenity of the surrounding area.

- 10 - No meter boxes will be sited on public facing elevations.

Reason: In the interests of the amenity of the surrounding Conservation Area.

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

Reason: To safeguard the character and appearance of the surrounding area.

- 12 - C05 (Details of external joinery finishes)

Reason: To safeguard the character and appearance of the surrounding area.

- 13 - 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 the surrounding area.

- 14 - C11 (Specification of guttering and downpipes)

Reason: To safeguard the character and appearance of the surrounding area.

- 15 - H21 (Wheel washing)

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety.

- 16 - 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.

- 17 - E16 (Removal of permitted development rights)

Reason: To protect the character of the area and ensure any further development of the site is controlled by the local planning authority.

- 18 - Foul water and surface water discharges must be drained separately from the site.

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

- 19 - No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage 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.

- 20 - No land drainage run-off will be permitted either directly or indirectly to discharge into the public sewerage system.

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

- 21 - No building on the application site shall be brought into beneficial use earlier than April 2008, unless the upgrading of the public sewerage system (which the development shall drain into) has been completed and written confirmation of this has been issued by the Local Planning Authority.

Reason: To mitigate the existing hydraulic overloading of the public sewerage system and ensure the local community and environment are not unduly compromised.

- 22 - G04 (Landscaping scheme (general))

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

- 23- G05 (Implementation of landscaping scheme (general))

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

- 24 - D01 (Site investigation – archaeology)

Reason: To ensure the archaeological interest of the site is recorded.

- 25 - D04 (Submission of foundation design)

Reason: The development affects a site on which archaeologically significant remains survive. A design solution is sought to minimise archaeological disturbance through a sympathetic foundation design.

- 26 - Prior to any development on site details will be submitted and approved in writing to the Local Planning Authority of any street furniture and means of artificial lighting within the application site and alongside the eastern side of the application site.

Reason: In the interests of the amenity of the surrounding Conservation Area.

Informatives:

1. If a connection is required to the public sewerage system, the development is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155.
2. N15 - Reason(s) for the Grant of PP/LBC/CAC.
3. HN01 - Mud on highway.
4. HN04 - Private apparatus within highway.
5. HN05 - Works within the highway.

6. HN22 - Works adjoining highway.

7. N19 - Avoidance of doubt

Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.

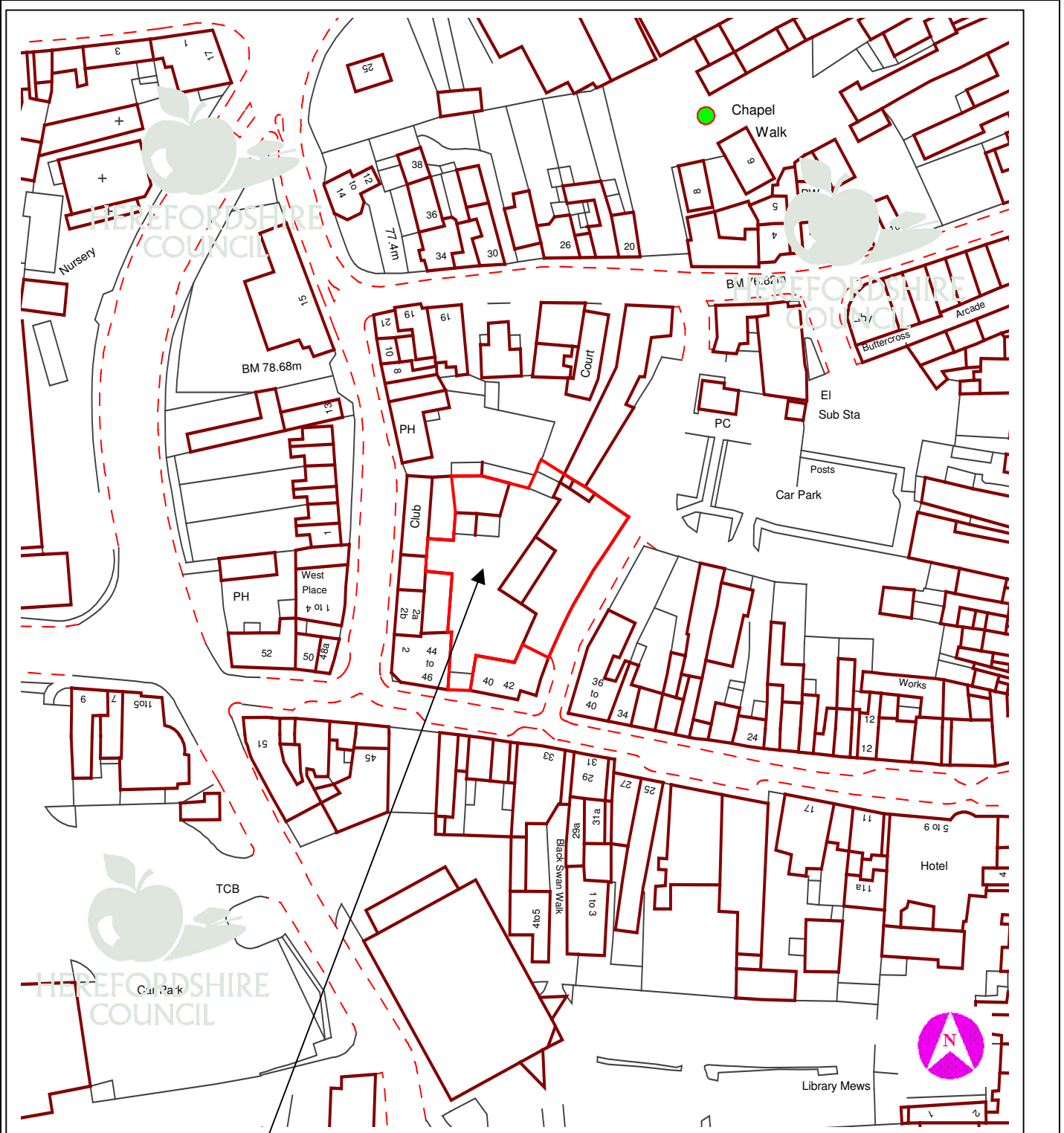
DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

Planning Application – DCNC07/3520/F
Erection of offices and dwellings with associated demolition and site works.
At 40/42 West Street, Leominster, Herefordshire

1. The developer 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 £5,500 which sum shall be paid on or before the commencement of development.
2. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - (i) Infrastructure improvements in relationship to Sydonia Open Space and access paths to the play area.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £5,500 to provide education improvements to Leominster Infants School and Leominster Junior School to paid on or before the commencement of development.
4. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £16,500 to provide sustainable transport measures in Leominster. The sum shall be paid on or before the commencement of development.
5. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - a) Pedestrian improvements in Burgess Street, Broad Street.
 - b) Town Centre pedestrian improvements and/or signing.

- c) Town centre cycle parking provision.
 - d) Contribution to safe routes to schools.
 - e) Contribution to National Cycle Network, (Sustrans) provision and signing.
6. In the event that Herefordshire Council does not for any reason use the said sum of Clauses 1, 3 and 4 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.
7. The sums referred to in paragraphs 1, 3 and 4 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
8. 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.
9. The developer shall complete the Agreement by 1st February 2008 otherwise the application will be registered as deemed refused

P. Mullineux, P. J. Yates 3rd December 2007



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: DCNC2007/3520/F

SCALE : 1 : 1250

SITE ADDRESS : 40/42 West Street, Leominster, Herefordshire, HR6 8ES

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005