

**10 DCNW2008/2175/N - ERECTION OF BUILDING TO BE USED AS AN ANIMAL INCINERATOR, TRANSFER AND STORAGE OF CLINICAL WASTE AND WASTE PHOTOGRAPHIC FIXER AND DEVELOPER AT LITFIELD HOUSE, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3HX.**

**For: Animal Funeral Services per Paul Smith Associates, 12 Castle Street, Hereford, Herefordshire, HR1 2NL.**

**Date Received: 21 August 2008**

**Ward: Pembridge & Lyonshall with Titley**

**Grid Ref: 33461, 57033**

**Expiry Date: 20 November 2008**

Local Member: Councillor RJ Phillips

**1. Site Description and Proposal**

- 1.1 The proposal site lies approximately 4 kilometres east of Kington, accessed from the C1027 road to Titley, 600m or so from the A44. The site comprises an existing yard behind Litfield House and garden. Beyond the yard to the west the land rises steeply, incorporating a disused railway embankment. A pet cemetery adjoins the property to the north. These elements comprise the applicant's business providing services not otherwise available locally to vets, farmers and pet owners.
- 1.2 The proposal is to construct a single storey replacement building, to adjoin and contain the already established animal incinerator. It would be used for storage and all processes connected with the existing business. The application also includes facilities for the storage and transfer of waste photographic developer and fixer, to regularise an already existing use in accordance with Environment Agency Permit requirements. No changes to the existing business are proposed and no alterations to the access would be necessary.
- 1.3 The proposed building would have a pitched roof 3.5 m high to the eaves and 4.5 m to the ridge. It would be 20 m long by 9 m wide with a concrete wash-down apron on the northwest-facing end. It would adjoin the existing incinerator enclosure, which is located in the southeast corner of the site to reduce visual impact. The building would accommodate all existing activities currently undertaken at the site and comprise office, washroom, workshop, stores, cold room and ash storage.
- 1.4 The application was advertised in the Hereford Times on 11 September 2008; a site notice was put up on 8th September 2008, and adjoining neighbours were notified by letter on 1 September 2008.
- 1.5 At the meeting on 22 October 2008, the Northern Area Planning Sub-Committee agreed to undertake a site visit prior to consideration of this case. The visit is scheduled for 4 November 2008 and any matters arising will be reported verbally to Members.

## 2. Policies

### 2.1 Government guidance:

PPS 1 Delivering sustainable development  
PPS 7 Sustainable development in rural areas  
PPS 10 Sustainable waste management  
PPS 23 Planning and Pollution Control  
DETR Circular 03/99 Planning requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development

### 2.2 Herefordshire Unitary Development Plan 2007:

S1 Sustainable Development  
S2 Development requirements  
S10 Waste  
DR1 Design  
DR2 Land use and activity  
DR3 Movement  
DR4 Environment  
DR6 Water resources  
DR9 Air quality  
DR14 lighting  
T8 Road hierarchy  
LA2 Landscape character  
LA4 Protection of Historic Parks & Gardens  
LA6 Landscaping schemes

## 3. Planning History

### 3.1 The background to this case is complicated and clarification is necessary:

- Leominster District Council granted planning permission reference 87/585 on 14 December 1987 for the siting of an incinerator in an outbuilding and the use of land as a pet cemetery. This permission has been accepted as the relevant existing permission for the site. Since 1987 several other planning applications have been made:
- 91/253 Construction of stable block, approved 4 July 1991 - outside of the current site area and not relevant to the proposal.
- 93/17 Proposed extension to outbuilding. Refused 4 May 1993.
- 93/461 Part use of outbuilding for storage of veterinary waste. Approved 7 December 1993.
- 93/462 Proposed extension to outbuilding, approved 7 December 1993. This was a straight resubmission of the refused 93/17 proposals. In 1995, amended drawings were submitted and accepted, for a final design increasing the size of the building to about 25.4m x 9.8m x 6m high to the ridge and 4.5m to the eaves. Inside, a mezzanine floor increased the floor area by 40 m<sup>2</sup>. or so. The development was carried out but the building was later destroyed. A pre-commencement condition requiring approval of a landscaping scheme was never completed or discharged and other conditions are unclear. The applicant is not relying on this permission for the established use of the land however, as it was not properly implemented.

- 3.2 In 2001 the extended building was destroyed by fire but not replaced. However, new incineration equipment was promptly installed in a temporary enclosure and has been operated since, along with outdoor yard storage in assorted lorry bodies and refrigeration units.
- 3.3 In 2004, an additional incinerator and a replacement building was applied for under reference NW2004/2574/N. The case became further complicated when a Screening Opinion was requested as to whether the proposals would fall within the scope of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (EIA Regs). The Council's initial formal Opinion, issued on 27 February 2004, was that the proposals fell below the threshold criteria. However, this was later revised because the then Minerals & Waste Officer had some doubts and sought advice from the Secretary of State. Following discussion between relevant parties, a revised Screening Opinion was issued on 28 January 2005 to the effect that the proposal would be EIA and that an Environmental Statement would be necessary. The primary consideration was the installation of an extra incinerator and its size/capacity, which would be 300 - 400 kg per hour. The application was withdrawn by the applicant on 9 March 2005.
- 3.4 In 2005/6, discussions took place between the applicant's agent and Council Officers as to the status of the site following the fire. After taking legal advice it was agreed that if a building is accidentally destroyed, a replacement requires planning permission but the established use of the land is not lost. For clarity, the following certificates of lawfulness have been issued:
- NW2006/1474/U: Use of the site for clinical/veterinary waste transfer for a period in excess of ten years, issued 23 June 2006.
  - NW2006/2500/U: Siting and use of one incinerator established under planning permission reference 585/87, issued 22 September 2006.
- 3.5 The Environment Agency (EA) and Environmental Health Officers (EHOs) have discussed their requirements with the applicant at length and investigated a number of complaints about odour, smoke and other environmental issues. The current incinerator was installed in December 2006 and the Environment Agency have confirmed it is compliant. It has been clarified that photographic developer/fixer used for radiography has always formed part of the clinical waste collected from local vets. However, for EA licensing purposes these chemicals are classified differently and need to be specifically mentioned. Defra and EA Permit requirements also dictate that a bio-secure replacement building is essential.
- 3.6 In March 2008 application reference DCNW2008/0692/N was made for a replacement building only. The proposal involved a much larger building than that which was destroyed, and was withdrawn on advice from planning officers. This new application under consideration is a resubmission of that application, for a building on a reduced scale.
- 3.6 To summarise, the application is for a building to replace the one destroyed by fire and to regularise the existing transfer of photographic developer/fixer. It is not concerned with the installation and use of incineration equipment, or the already-established principle of the use of the land for a pet cemetery and clinical waste storage and transfer.

#### **4. Consultation Summary**

Statutory Consultations

- 4.1 Environment Agency: Requested further details on foul drainage arrangements. On receipt of the specification of the existing biodisc effluent treatment unit, the Agency has no objections to the proposal, subject to recommended conditions relating to drainage and chemical/fuel storage. The Agency has confirmed that this site is subject to the Environmental Permitting regime and would continue to be regulated by them on matters of air and water quality. Foul drainage would be subject to the appropriate discharge consent - also regulated by the Agency.
- 4.2 Health & Safety Executive: 'The HSE does not advise, on safety grounds, against the granting of planning permission' .
- 4.3 Fire Service: consulted but no response received.

Internal Council Advice

- 4.4 Head of Environmental Health and Trading Standards: No objections to the building or the chemical storage. The site is regulated by the Environment Agency. The Animal Health and Welfare Officer has confirmed that no complaints concerning these premises have been received in his department during 2008 up to 3 October.
- 4.5 Transport Manager: No objections, no highway implications.
- 4.6 Conservation Manager: Landscape Officer -.Comments made 1 April 2008 on the previous (withdrawn) application apply, but the reduced size of the proposed building is noted. The site lies between Lyonshall Park and the Whittern unregistered historic parks. However the former railway and a clump of trees visually separate the site from what remains of a rather degraded parkland character. The rationalisation and tidying up of this existing site would have a neutral or improving effect and therefore no objection is raised in this instance, subject to conditions to secure appropriate boundary treatment. However, any further development at the site could harm the heritage landscape.

**5. Representations**

- 5.1 Lyonshall Parish Council: Response letter is summarised as follows:
  - Is opposed to any increase or expansion of commercial buildings or activities on this site.
  - Is opposed to the transfer and storage of waste photographic fixer and developer as this is an extension to the existing use.
  - Any replacement building should be of equal size and finish, and should be stone-clad as was the original.
  - The proposed finish for the building is unacceptable.
  - The vehicle access is along narrow lanes unsuitable for heavy traffic.
  - Lyonshall Parish Council requests assurance that there is no future development on the site and that licensed operations are effectively monitored.
- 5.2 One letter of objection has been received from Mr S Llewellyn, The Hope, Lyonshall, Kington, HR5 3HT. The points raised are summarised as follows:
  - I echo the Parish Council's objections.

- There has historically been a nuisance factor consisting of complaints of smells from carcase storage and emissions/noise from plant, which burnt down.
  - The stream has been polluted.
  - The incinerator is used on Sunday mornings and at night.
  - The incinerator is sited in a hollow, subject to air turbulence and inversion layers.
  - The facility belongs on an industrial estate, not down lanes.
- 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. Officer's Appraisal**

- 6.1 As summarised in paragraph 3.6 above, this application is (a) for a replacement building and (b) to regularise the transfer of photographic developer/fixer. It is not concerned with the already-established principle of the installation and use of incineration equipment, or the use of the land for a pet cemetery, incineration, and clinical waste storage and transfer. Matters such as air and water quality or pollution are not relevant to this application, and in any event, the operation of the site falls under the regulation and control of the Environment Agency. Both PPS10 and PPS23 make it clear that local planning authorities 'should not concern themselves with ... the control of processes which are a matter for the pollution control authorities', or seek to duplicate other legislation. However, consistency between planning permissions and Environmental Permitting is important. The 1987 planning permission on which the applicant is relying has regrettably few conditions attached to it, but the permission was duly granted by Leominster District Council at the time.
- 6.2 The key issues in this application are therefore limited to the following:
- The need for the development
  - Siting and design of the proposed building;
  - Visual impact;
  - Chemical storage arrangements;
  - Traffic
  - Drainage
  - Possible intensification of use/s.

### The need for the development

- 6.3 As discussed above, the applicant has an established use and business based on a 1987 planning permission. A replacement building is essential for the premises to function properly and to meet Environment Agency requirements.

### Siting and design of the proposed building

- 6.4 The building would be sited behind Litfield House and adjacent to the established incinerator, taking into account the site topography. As the Senior Landscape Officer has observed, the adjoining parkland landscape to the west has been degraded and is not visible, due to the railway and other development, and the site is relatively screened from the Whittern. The type of building chosen would be a standard agricultural box profile coated steel design. Although of utilitarian design, its functional use is acknowledged and there seems little point in trying to disguise it as something else. The final colour could be secured by condition.

Visual impact

- 6.5 From the highway the proposed building would be seen against a backdrop of rising ground and tree cover on adjoining land. It would be partially screened by Litfield House, which is about 2.5m higher, and its stable block. The Parish Council have suggested that the replacement building should be 'of equal size and finish' (presumably to the one destroyed), i.e. stone-clad and over 2 metres higher than this proposal. However the applicant's agent has argued convincingly for a less obtrusive, lower, dark-coloured building similar to typical modern agricultural styles. He further contends that stone cladding would create a far more intrusive block of masonry, pointing out that the previous building approved in 1993 and amended in 1995 utilised unattractive artificial stone in its construction. It is also noteworthy that Litfield House is not an example of exceptional architecture. It would seem illogical to imitate the appearance of the house in a functional building, or to replicate a less attractive previous building, and the Parish Council's view is therefore not supported. The proposal stresses that care has been taken to minimise the height of the proposed building and ensure that the domestic scale and style of the dwelling remains clear and dominant, providing a contrast to the operational premises behind. The proposed building would be of a more modest scale than that which it seeks to replace.

Key to this application is that the current unsightly clutter of lorry-bodies, storage units, portable cabins and caravans would be removed from the site and, if granted, a planning permission would include a requirement for site tidying and the prevention of outdoor storage. In particular, the unattractive cabin currently sited on the roadside would no longer be needed as the site office would be within the building. On siting, design and visual impact, there would therefore be an improvement. The requirements of policies DR1, LA2 and LA5 of the Herefordshire Unitary Development Plan 2007 have been observed where relevant, including the aim of tidying up the existing site.

Chemical storage arrangements

- 6.6 This would comprise a purpose-built modular demountable storage container about 2 metres high and 3 metres wide. It would be made of strengthened box profile galvanised steel panels and coloured RAL3000 (Flame Red) for identification. To enable vehicular access it would be sited in the yard on the west side of the site, away from the road and not visible from it. The Environment Agency have not raised any concerns and there are no objections to it. The types and quantities of chemicals allowed on site would be regulated by the Environment Agency.

Traffic

- 6.7 The proposal is intended to rationalise the existing business. Local concerns about traffic are acknowledged but the applicant has confirmed that there is no intention of expanding the scope of the premises through this application, and no additional traffic is likely. The site would be subject to throughput limits imposed by the Environment Agency and the Transport Manager has not raised any concerns.

Drainage

- 6.8 The Environment Agency have accepted that the existing biodisc effluent treatment unit there is adequate to serve the washing facilities in the proposed building. The drainage plan shows existing arrangements for collecting wash-down water and preventing pollution of the culverted stream that crosses the site. The objector's

allegations of pollution have been referred to the Environment Agency, who have re-confirmed (a) that the arrangements are satisfactory, (b) that they will continue to monitor the site on this and other issues to ensure pollution prevention, and (c) that they have full enforcement powers. Local concern is taken seriously, but these issues are peripheral to the consideration of this proposal for a building, since the use is already lawful.

#### Possible intensification of use/s

- 6.9 Local people have expressed fears about the potential for intensification of use and activity. The general view of Officers has consistently been that expansion in this location would be unsuitable, and that under such circumstances alternative premises should be sought. These views still hold, albeit the existing 1987 permission is unrestricted. The reduced size of the proposed building and the recommended condition to prohibit any outside waste storage (apart from the dedicated chemical store) would restrict intensification. The Environment Agency's limits on the specification for the incinerator and quantities of licensed waste also constitute further limitation. If the applicant did wish to expand, then the terms of the licence would have to be amended by the Agency, provided they were satisfied with the proposal in consultation with the local planning authority. Any future increase to the size of the building would also require planning permission and the Senior Landscape Officer has suggested this would be unlikely to receive support. On balance it is considered that there are adequate safeguards to ensure that any expansion would require further permissions that may or may not be granted but would be considered on their merits at the appropriate time.

## **7. Conclusion**

- 7.1 This report has clarified that the application is for a replacement building and the transfer of waste photographic developer/fixer, not the incinerator or the uses of the site which have been lawful since 1987. A new building to replace that destroyed by fire is essential in order to comply with environmental regulations. Whilst it is appreciated that the business may be unpopular in the immediate vicinity, it nevertheless provides a necessary local service. The applicant has confirmed no intention to expand the business or create additional traffic. The design of building would maintain the character and appearance of Litfield House without dominating it. In a letter dated 15<sup>th</sup> September 2008 the applicant's agent has sought to justify this stance with reasoned arguments, which are accepted. On balance the queries raised have been carefully considered and addressed, and there are no overriding considerations that would warrant refusal or could withstand an appeal, therefore the proposal is recommended for approval.

## **RECOMMENDATION**

**That planning permission be granted 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 (Development in accordance with the approved plans)**

**Reason.** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy DR1 of Herefordshire Unitary Development Plan.

**3. C09 (Details of cladding (agricultural and industrial buildings))**

**Reason:** To minimise the visual impact of the development and to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

**4. No development shall take place until a scheme for the removal and responsible disposal of all redundant storage facilities, cabins and caravans currently existing on the site has been submitted to and approved in writing by the local planning authority. The scheme shall specify in particular:**

- a) Details of any items to be retained along with the reasons for their retention.
- b) That the portable cabin currently sited close to the C1027 road shall be removed.
- c) A schedule of all the other items to be removed.
- d) How and where these items will be disposed of, including any provisions for re-use or recycling.
- e) Timescales for removal of the specified items
- f) Provision for monitoring, review, and final signing-off of the cleared site.

Unless otherwise agreed in writing in advance by the local planning authority, the scheme shall be implemented as approved on the completion and first use of the building hereby permitted.

**Reason:** In the interests of visual amenity, to ensure the timely and satisfactory removal of redundant items, and to comply with policies S1, S2, DR1, DR2, and LA4 of the Herefordshire Unitary Development Plan 2007.

**5. G09 (Details of Boundary treatments)**

**Reason:** In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy DR1 of Herefordshire Unitary Development Plan.

**6. I33 (External lighting)**

**Reason:** To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan.

**7. F06 (Restriction on Use)**

**Reason:** The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

**8. F14 – Removal of permitted development rights**

Notwithstanding the provisions of paragraph 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that Order with or without modification), no



development which would otherwise be permitted under Schedule 2, shall be carried out.

**Reason:** To control the further expansion of the building and to ensure compliance with policies S1, S2, DR1 and DR4 of the Herefordshire Unitary Development Plan 2007.

**9. G02 (Retention of trees and hedgerows)**

**Reason:** To safeguard the amenity of the area and to ensure that the development conforms with Policy DR1 of Herefordshire Unitary Development Plan.

- 10. All contaminated/wash water from the building and yard shall be discharged exclusively to the existing wash-down pit, with connection to the holding tank fitted with an inspection chamber and alarm, in accordance with drawing no 4224/2 dated 26/07/08, unless otherwise agreed in writing in advance by the local planning authority. There shall be no discharge of water to any watercourse and roof water shall not be disposed of to the wash-down pit or holding tank.**

**Reason:** To prevent pollution of the water environment and to comply with policies S2, DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

**11. M13 (Pollution prevention)**

**Reason:** To prevent pollution of the water environment and to comply with Policy DR10 of Herefordshire Unitary Development Plan.

- 12. On completion and first use of the building hereby permitted, no waste whatsoever shall be stored or kept outside the building in connection with the animal incineration, funeral, or waste transfer activities, with the exception of the permitted bunded chemical store, unless otherwise agreed in writing in advance by the local planning authority.**

**Reason:** To ensure a satisfactory form of development and to protect the amenity of the area in accordance with policies S2, DR2 and DR4 of the Herefordshire Unitary Development Plan 2007.

- 13. All contaminated/wash water from the building and yard shall be discharged exclusively to the existing wash-down pit, with connection to the holding tank fitted with an inspection chamber and alarm, in accordance with drawing no 4224/2 dated 26/07/08, unless otherwise agreed in writing in advance by the local planning authority. There shall be no discharge of water to any watercourse and roof water shall not be disposed of to the wash-down pit or holding tank.**

**Reason:** To prevent pollution of the water environment and to comply with policies S2, DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

**Informatives:**

- 1. Any discharge to controlled waters will require discharge consent under the Water Resources Act 1991.**

- 2. The applicant must ensure that clean water, e.g. from roofs, is kept separate from dirty water. It would be acceptable for clean water to be disposed of to storm drains, soakaways, or harvested for re-use.
- 3. The dirty water system must be emptied and disposed of by a suitable licensed contractor; duty of care regulations will apply, and the associated paperwork must be retained for inspection on request.
- 4. Developers should incorporate pollution prevention measure to protect ground and surface water. A range of advice is available including Pollution Prevention Guidance Notes (PPGN) targeted at specific activities and can be accessed at <http://www.environment-agency.gov.uk/business/444251/444731/ppg/>
- 5. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management and environmental legislation. Where possible, the production of waste from the development should be minimised and options for the re-used or recycling of any waste produced should be utilised.
- 6. N15 - Reason(s) for the Grant of Planning Permission
- 7. N19 - Avoidance of doubt - Approved Plans

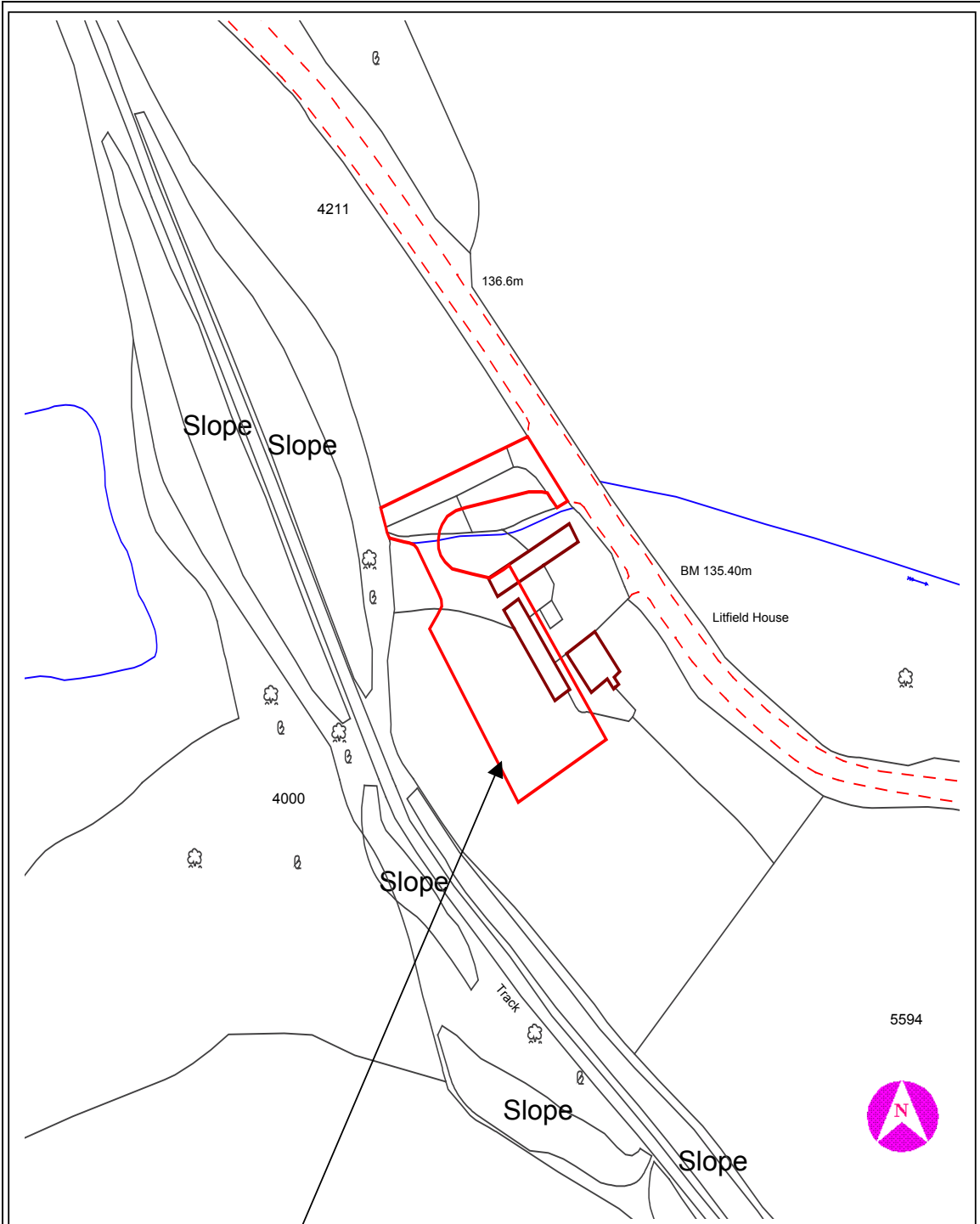
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW2008/2175/N

**SCALE :** 1 : 1250

**SITE ADDRESS :** Litfield House, Lyonshall, Kington, Herefordshire, HR5 3HX.

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