

DCNW2009/0093/F - PROPOSED AGRICULTURAL STORAGE BUILDING AND KENNELS AT BRILLEY WOOD, BRILLEY, WHITNEY-ON-WYE, HEREFORD, HEREFORDSHIRE, HR3 6JE

For: Miss L.A. Jenkins & Mr W.Pinkney per Mr A Jenkins, 12 Broad Street, Hay-on-Wye, Herefordshire, HR3 5DB

Date Received: 12th January 2009
Expiry Date: 9th March 2009

Ward: Castle

Grid Ref: 26245, 48513

Local Member: Councillor J W Hope, MBE

Introduction

The Northern Area Planning Sub-Committee considered this application on 8th April 2009. Members resolved to refuse the application, contrary to the recommendation. The decision was accordingly referred to the Head of Planning and Transportation who concluded that it should be reported to the Planning Committee for further consideration. The application was deferred at the meeting held on the 15th May in order for a site inspection to be held at the application site and a kennels at Tedstone Wafre. This took place on 16th June 2009.

During the debate at the Northern Area Planning Sub-Committee on the 8th April, the main issue of concern expressed by Members was the possible noise associated with a hunt kennels. An acoustic survey was provided by the applicants and accepted by the Councils Environmental Health Officer. There was no other technical information provided. Members additionally proposed two further reasons for refusal, which were smell and the impact on the character of the area.

The application report assessed the proposal against national policies, and the relevant policies contained within the Herefordshire Unitary Development Plan. The Head of Planning and Transportation is concerned that a refusal on the basis set out at the Northern Area Sub-Committee meeting may not be sustainable at appeal. None of the statutory consultees have seen fit to object to the proposal.

Accordingly the Head of Planning and Transportation has referred the application to this Committee for a decision.

1. Site Description and Proposal

- 1.1 The application seeks planning permission for an agricultural storage building to be used as a hunt kennels to house the Golden Valley hound pack at Brilley Wood. The hounds are currently housed at Sheepcote in Clifford where they have been since 1947. The new building will replace an existing agricultural building on the site that has fallen into disrepair.
- 1.2 Brilley Wood is located to the south of the unclassified C1072 highway within the parish of Brilley. The access to the site is situated immediately to the south west of the junction where Chapel Road meets the C1072. A single unmade track leads down from

the highway to the house and an existing building. The land that surrounds the property is in the ownership of the applicant and is used for the grazing of horses and sheep. The house itself has recently undergone significant alteration and extension by virtue of planning permitted under DCNW2007/1706/F.

- 1.3 The siting of the proposed building was originally shown to be on the site of the existing building. However due to the existing building having been built on a public footpath, the siting of the building is now proposed to the north of that of the existing building, which will allow the existing building to be demolished and the public footpath to be reinstated. The proposed building measures 20.5m by 14.5m with a height of 5.7 metres. The building will be constructed of a concrete block wall, with timber cladding above and a dark blue fibre cement sheet roof.
- 1.4 Attached to the southwest elevation of the building there is an open yard measuring 9.5m x 14.5m, which is surrounded with a 1.8m high wall constructed in natural concrete blocks. This area is divided into three parts. The two outer areas are shown as open yards where the hounds will be allowed in the daytime, whilst the middle area will be used for the loading and unloading of the hounds. There is enough room for a vehicle to pull into the yard and for the gates to be closed during the loading and unloading of the hounds. Amended plans show a vehicle will approach the loading/unloading yard via a hardcore access track, which runs down the southwest wall of the building.
- 1.5 The building itself is divided in to two parts, with agricultural storage in one half and the kennels in the other. There is a total of 5 kennels shown, each with a raised bed/sleeping area and a run. In addition there is 5 isolation kennels that will be used when hounds are ill or when females give birth. It is understood that the hounds stay on their beds until 8.30am, unless they are being exercised. During the day they have access to their runs, which are linked by gates. The hounds will be closed in on their purpose built beds during the night and are fed mid morning in the yard. It is the intention of the applicant to feed the hounds on dried food.
- 1.6 In a report submitted by Mr William Pinkey, the applicant, it is stated that 'the kennels are washed down twice daily with the waste being disposed into a drain located in the middle of the building and from there it will be dispersed into a new septic tank and reed bed which are located south of the building'. Mr Pinkney has been the the kennel huntsman for the Golden Valley Hunt for the last 8 years. It is his full time job to tend to the hounds seven days a week. In his statement submitted to the local authority in support of the application security has been highlighted as a priority. Living on site means that Mr Pinkney can give the hounds around the clock care and supervision.

2. Policies

National Planning Policy

- 2.1 PPS1 - Delivering sustainable development
- PPS7 - Sustainable development in rural areas

Herefordshire Unitary Development Plan 2007

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy DR1 - Design
- Policy DR2 - Land Use and Activity

Policy DR4	-	Environment
Policy DR13	-	Noise
Policy E11	-	Employment in the smaller settlements and open countryside
Policy LA2	-	Landscape character and areas least resilient to change
Policy LA5	-	Protection of trees, woodlands and hedgerows

3. Planning History

- 3.1 DCNW2008/1965/S - Proposed replacement agricultural building. Full planning permission was found to be required.
- 3.2 DCNW2007/1706/F -.Proposed renovation improvements and extension of existing cottage. Approved 26th July 2007.
- 3.3 DCNW2007/0750/F - Proposed renovation, improvements and single and double storey extensions to existing cottage. Refused 1st May 2007.

4. Consultation Summary

Statutory Consultations

- 4.1 Ramblers Association: Objects to the development on the grounds that the existing building is already obstructing the Public Rights of Way.
- 4.2 Open Spaces Society: Object to the application as the location is not suitable for the kennelling of hounds due to the number of residential houses nearby and the public footpaths are in close proximity to the proposed building.

Internal Council Advice

- 4.3 Rights of Way Officer: "The amended plans clearly shows that the building will now not obstruct the footpath. However, I am concerned about the impact of the proposal on the continued use and enjoyment of the footpath by members of the public".
- 4.4 Environmental Health Officer: A 'Noise Impact Assessment' was requested by the Council to determine the potential level of noise generated by the hounds. This was completed over a 3 day period from 5:00pm on Friday 13th March 2009 – 5:00pm on Monday 16th March 2009. Measurements of the noise from the existing kennels were recorded at 10 minute intervals, as was the existing background noise level at Brilley Wood. It was discovered that over the weekend period the noise from the hounds would be expected to be below the background noise, except on Sunday evening when the hounds were excited into barking when background noise had fallen to a low level. The report has indicated that complaints are unlikely. The Environmental Health Officer has raised no further objection to the proposal.
- 4.5 Traffic Manager: No objection
- 4.6 Ecology Officer: Protected species have been found to be present in the area. With no survey having been submitted to assess the presence for protected species it is suggested that before planning permission is granted the applicants should submit a wildlife protection and enhancement scheme for the site.

5. Representations

5.1 Brilley Parish Council: Recommended refusal of the application for the following reasons:

1. Noise and disturbance to nearby residential properties.
2. Close location to adjoining farms/fields with livestock.
3. Safety concerns for public footpaths through the land, especially for families.
4. Access to the site is on dangerous bend.
5. Possible pollution to two streams/Wye river course.

5.2 42 objections have been received from 30 households from the immediate locality as well as some from outside of the Brilley area. In addition to the letters a petition containing 167 signatures objecting to the proposal has been submitted.

The key issues of concerns raised can be summarised as follows:

- The hounds will create unreasonable noise.
- Concerns over the unpleasant smells created from a kennels.
- If approved would lead to a further application for a 'flesh house' which would lead to further smells.
- Concerns over pollution to near by water courses.
- The proposal could create a danger to neighbouring livestock.
- Access and surrounding highway infrastructure inadequate for the additional traffic.
- Impact on the surrounding footpaths.
- Loss of value to surrounding dwellings to the application site.
- The exercising of hounds on the roads would be a hazard to pedestrian and to the traffic.
- Intrusive addition to the community.

Two letters have been received from Wills & Co. These raise nine separate concerns;

- No justification has been submitted for the use of a building for agricultural.
- There is no condition requiring that the hounds are fed on dried food (Mr Willis has noted that such a condition would probably be unenforceable in any event).
- Walkers will be unable to use footpaths close to the building, and also local roads and bridleways when the hounds are exercised.
- The noise report is unreliable.
- The Case Officer has ignored Government guidance in relation to the protected species assessment.
- No supporting evidence that the Hunt has spent 8 years looking for an alternative site.
- The application should be considered against the employment policies of the local plan.
- The exercising of the hounds on the local highway should be a material consideration.
- The conditions do not take into consideration the fact that part of the building will be used for agriculture or the breeding activity at the site.

5.3 A letter of support has been received from Mrs Bishop at Sheepcote, where the hounds are presently kept.

A letter of support has been received from Mr and Mrs Hurst from Springfield, Clifford, Herefordshire. The letter states that they 'have lived at Springfield for the last five years which is next door to the present Hunt Kennels', in all that time the kennels have never been seen as a nuisance or given the local community trouble at all. The letter states 'you really couldn't have better neighbours'.

- 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. Officer's Appraisal

- 6.1 It is considered that the principle issues for consideration in this application are as follows:

- Principle of Development
- Siting, scale and design of the proposed building
- Impact of the proposal upon the surrounding residential properties
- Impact of the proposal upon the public footpaths and surrounding area

Principle of Development

- 6.2 The proposed kennels is for the Golden Valley Hunt. They have been at their existing site at Sheepcote in Clifford since 1947, which is owned by a Mrs Bishop. Prior to 1947 the hounds were located at Whitney Court. Following the death of Mrs Bishops husband in 2001, it is understood that the Hunt was asked to find an alternative site to house the hounds. The agent has confirmed that over the last 8 years the Hunt has investigated other properties and locations, none of which have been suitable for the proposed development due to land availability and availability of supervision. The advantage of locating the hounds at Brillley Wood is the on site supervision provided by Mr Pinkney, the Kennel huntsman.
- 6.3 There are no adopted policies relating directly to kennel buildings. Boarding Kennels for short-term occupation are normally considered under employment policies, as the end use is a business. The Golden Valley Hunt Kennels is not however a commercial business as such and in planning terms its use is considered to be "sui generis". The hounds are in the private ownership of the Hunt, and the applicant Mr. Pinkney is employed by the Hunt to look after the hounds. Therefore in considering the application weight will be given to policy E11 that sets the provision for employment in the smaller settlements and open countryside.
- 6.4 Brillley Wood is located within a rural landscape where the majority of land that surrounds the property is being used for the grazing of animals in the ownership of the applicants. In total the application site amounts to 5.6 hectares. It is also the home of the Kennel Master. Hunt Kennels are traditionally found in rural areas, usually at sites that they have occupied for years. On this basis the principle of the building in this rural location to be used as a hunt kennels and for agricultural storage is considered to be acceptable. The acceptability or otherwise of the proposal rests upon the details of the application.
- 6.5 A number of the neighbours have made reference to the limit placed on "intensive livestock units" more than 400 m from a "protected building". Paragraph 6.5.21 in the Herefordshire Unitary Development Plan states "Intensive livestock units are those for the permanent indoor housing of pigs, poultry or cattle and also those for housing such

livestock indoors for only part of the time if a slurry system is to be adopted". A hunt kennels is not considered to fall into this category.

- 6.6 The policies to be considered are listed above at 4.1 and significant weight will be given to the land use and activity policy E11, which consider employment proposals in the open countryside together with the general development control policies, and landscape character policy LA2.

Siting, scale and design of the proposed building

- 6.7 Brillley Wood is located in an area of open countryside for planning purposes, and there is no development boundary. The application site is set back off the highway down a single track which leads to the dwelling and existing outbuilding. The property and outbuilding are visible from points along surrounding highways. There are a number of public footpaths running through the site.
- 6.8 The applicant has confirmed that the building will house a maximum of 25 couples (50 dogs). There will be bitches that will breed on the site, however the puppies will only remain on site with their mothers until they are 8 weeks old. The building is similar in character and appearance to a modern agricultural building, with walls being part concrete panels and part clad and a profile sheet roof. The building is considered to have been carefully designed to remain in keeping with the character of the rural area and as such the proposal is considered to be an appropriate design in accordance with the requirements of Local Plan Policies DR1 and LA2
- 6.9 Originally the proposed building was sited in the same position as that of the existing building. However due to the existing building having been built over the footpath, the proposed building is now sited north of the existing one. It is considered that the proposed siting and design relate well to the existing dwelling and characteristics on site with the hedgerow to the north and dwelling to the east offering some screening of the building from the highways. A condition is recommended in relation to a landscaping scheme at the site to maintain the visual amenities of the area.

Drainage

- 6.10 The original plans proposed a new septic tank and reed bed system was to be installed to dispose of the 'washdown' from the kennels. However, in the Pollution Prevention guidelines produced for Stables, Kennels and Catteries, the Environmental Agency recommend that a private sewage system plant must only be considered as a last option for treating foul sewage from kennel buildings and recommends a sealed cesspool instead with no overflow. Amended plans have been received replacing the proposed septic tank with a cesspit as recommended. It is proposed that wash down from the kennels is directed to the cesspool via a drain in the centre of the building. A licensed contractor for off-site disposal will then remove the contents of the cesspool. This will follow the advice from the Environmental Agency and ensure that none of the waste from the kennels enters into the surrounding land or mixes with the domestic foul waste.

Impact of the proposal upon the surrounding residential properties

- 6.11 Herefordshire Unitary Development Plan Policy DR2 considers land use and activity. Development proposals are required to be located and designed so as not to prejudice the amenity or continued use of adjoining land and buildings. The proposed use of the building as a hunt kennels has the potential to have a detrimental impact on the

amenities of neighbours if not carefully controlled. There are several residential properties within 400 metres to the site, with the closest being Montpelier Cottage, which is to the west of the site at a distance of just over 200 metres. There are a number of matters, which need to be considered in respect of the impact of the development on these neighbouring properties:

- 6.12 **Noise** - Policy DR13 in the Herefordshire Unitary Development Plan considers noise. An assessment of the existing noise level was requested to assess the potential pollution level at Brilley Wood. The assessment was carried out at Sheepcote where the Golden Valley Hounds are currently housed, over a 3-day period. The assessment found that at all times the dogs were found to be below background noise with one exception on the Sunday evening when background noise had dropped to 25 dB LA90.
- 6.13 The Kennel Huntsman lives at Brilley Wood, therefore would be on hand should the need arise to quieten the hounds. Also having the Kennel Huntsman living on site with the hounds allows for maximum supervision. The Environmental Health Officer is satisfied that the report has indicated that complaints will be unlikely. It should be noted that if the development goes ahead and the Environmental Health department received complaints alleging noise nuisance then it would be investigated and if required action taken under the Environmental Protection Act 1990 as regards Statutory Nuisance.
- 6.14 The Environmental Health Officer has considered further matters raised in the objections. However he concludes that there is no justification to revise his recommendation.
- 6.15 **Smell** - A significant level of objection has been received relating to the smell that is commonly associated with a hunt kennels, which results from a 'flesh house'. There is not one proposed in the application and the applicant has confirmed it is not their intention to install one, stating that the animals will be fed on dry food. The objector makes reference that no condition has been proposed requiring that the hounds are fed on dried food. The Council consider any condition relating to the animals feed would be difficult to enforce. However the fleshing of animal's pelts comes under a B2 use. A condition is recommended restricting the use of the building as a kennels for hunt hounds and for agricultural storage. This will allow the Council to retain in control over the use of the building.
- 6.16 **Dog Exercising** - Significant levels of objection have been raised relating to the exercising of the dogs on the local road network. The information submitted by the Kennels Master with regard to the existing daily operations of the kennels indicates that the hounds are not exercised on the roads everyday, and certainly not in the hunting season, which runs from the first Saturday in November and finishes early March. However it is proposed that the hounds will be exercised on the roads during the summer months. Exercising hound dogs on the local highway network is a method commonly used by most hunt kennels.
- 6.17 The Kennel Master has confirmed that when hounds are exercised during the summer it will be done early morning or late in the summer evening making sure to avoid peak traffic. This is done with two handlers either on foot, bikes or horses. The Kennel Master has confirmed that the hounds do not split up and the handlers have control over the pack at all time with every attempt to pull them over to one side of the road if a vehicle wants to pass. The objectors have raised concerns regarding the route of the exercising and the impact on the local highway, however the planning authority has no control over the use of the highway.

Impact of the proposal upon the public footpaths and surrounding area

- 6.18 The existing building has been there for many years and until this application was submitted it had gone unnoticed that it was built on top of the footpath. Walkers have diverted the path around the building. A significant amount of the objections received have expressed concerns with the closeness of the building to the public rights of way. The removal of the existing building will see the legal alignment of the footpath reinstated. The amended plans show a stock proof fence to be erected on the northern side of the footpath. In the unlikely event that a dog gains access outside of the building unaccompanied this will prevent the dogs coming into direct contact with any passing walker.
- 6.19 The open yard where the dogs are let out to exercise during the day is surrounded by a 1.8m high concrete wall, which will prevent the dogs being able to see any of walkers using the footpath and like wise the walkers not being able to view the hounds. Objectors have claimed that walkers will be unable to use the footpaths if the development goes ahead as it will encourage the dogs to bark. The case officer accepts that even though walkers would not be visible to the hounds, on occasion walkers could disturb the hounds and could cause them to bark. However this does not prevent the use of the footpath. Having regard for policies T6 and DR3 in the Herefordshire Unitary Development Plan that relate specifically to walking and movement, the proposed development is not considered to unacceptably impact on the use of the footpath. It is suggested that signs are erected on the footpath warning walkers that they are passing a kennels.

Impact on protected species

- 6.20 The area has been designated as an area with the potential for protected species, in particular Great Crested Newts. No survey has been submitted with the application. The planning ecologist has expressed concerns with the potential for the species being present on the site, however has noted that there is no pond within the applicants land. Therefore it is recommended that prior to permission being granted, the applicant's submit a satisfactory wildlife protection and enhancement scheme for the site. The applicants have confirmed that they are willing to produce a scheme. This is not an unusual procedure and the case officer is satisfied that this is accordance with Government advise.

Conclusion

- 6.21 Planning Policy Statement 7 sets out the Government's national policies on different aspects of land use planning in England specifically for that relating to rural areas. It states that 'all development in rural areas should be well-designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness'. The issues that have been considered in this application are finely balanced. However it is considered that the proposed scheme represents an appropriate form of development in this open countryside location. As such it is recommended that the application be approved subject to the conditions outlined below.

RECOMMENDATION

Upon completion of a satisfactory wildlife protection and enhancement scheme 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:

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. **B03 (Amended plans)**

Reason: To ensure the development is carried out in accordance with the amended plans and to comply with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

3. **The building hereby approved shall only be used as a kennel for hunt hounds and for agricultural storage as laid out in plan received by the local planning authority on the 26th March 2009 for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification.**

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

4. **I31 (Restriction on use to house/rear livestock)**

Reason: To safeguard residential amenity and to comply with Policies DR4 and E13 of Herefordshire Unitary Development Plan.

5. **When the premises currently known as Brilley Wood, ceases to be occupied by the kennel huntsman in charge of the hounds kennelled in the building hereby permitted, the use of the said building as a kennels to house hunt hounds shall cease and thereafter shall be used only for the purpose of agricultural storage and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification.**

Reason: The nature of the development is such that it is only considered acceptable in this location if there is on site supervision for the kennels and to comply with Policy S1 of the Herefordshire Unitary Development Plan

6. **The building hereby approved shall be used to kennel no more than 50 hunt hounds at any one time.**

Reason: In order to safeguard the residential amenity and to comply with Policy S2 of the Herefordshire Unitary Development Plan.

7. I18 (Scheme of foul drainage disposal)

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

8. I22 (No surface water to public sewer)

Reason: To safeguard the public sewerage system and reduce the risk of surcharge flooding so as to comply with Policy DR4 of Herefordshire Unitary Development Plan.

9. I28 (No discharge of foul/contaminated drainage)

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

10. The existing agricultural building on the site shall be demolished and removed permanently from the site within one-month of the commencement of the development hereby permitted in accordance with a scheme of work submitted to and approved in writing by the local planning authority.

Reason: To safeguard the character and amenities of the locality and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

11. G09 (Landscaping scheme)

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.

12. Prior to development commencing details of the signs on the public footpath shall be submitted to and approved in writing by the Local Planning Authority. The signs shall be constructed in accordance with the approved plans and thereafter retained.

Reason: In order to comply with the requirements of Policies DR3 and T6 of the Herefordshire Unitary Development Plan.

Informatives:

1. N15 - Reason(s) for the Grant of Planning Permission

2. N19 - Avoidance of doubt - Approved Plans

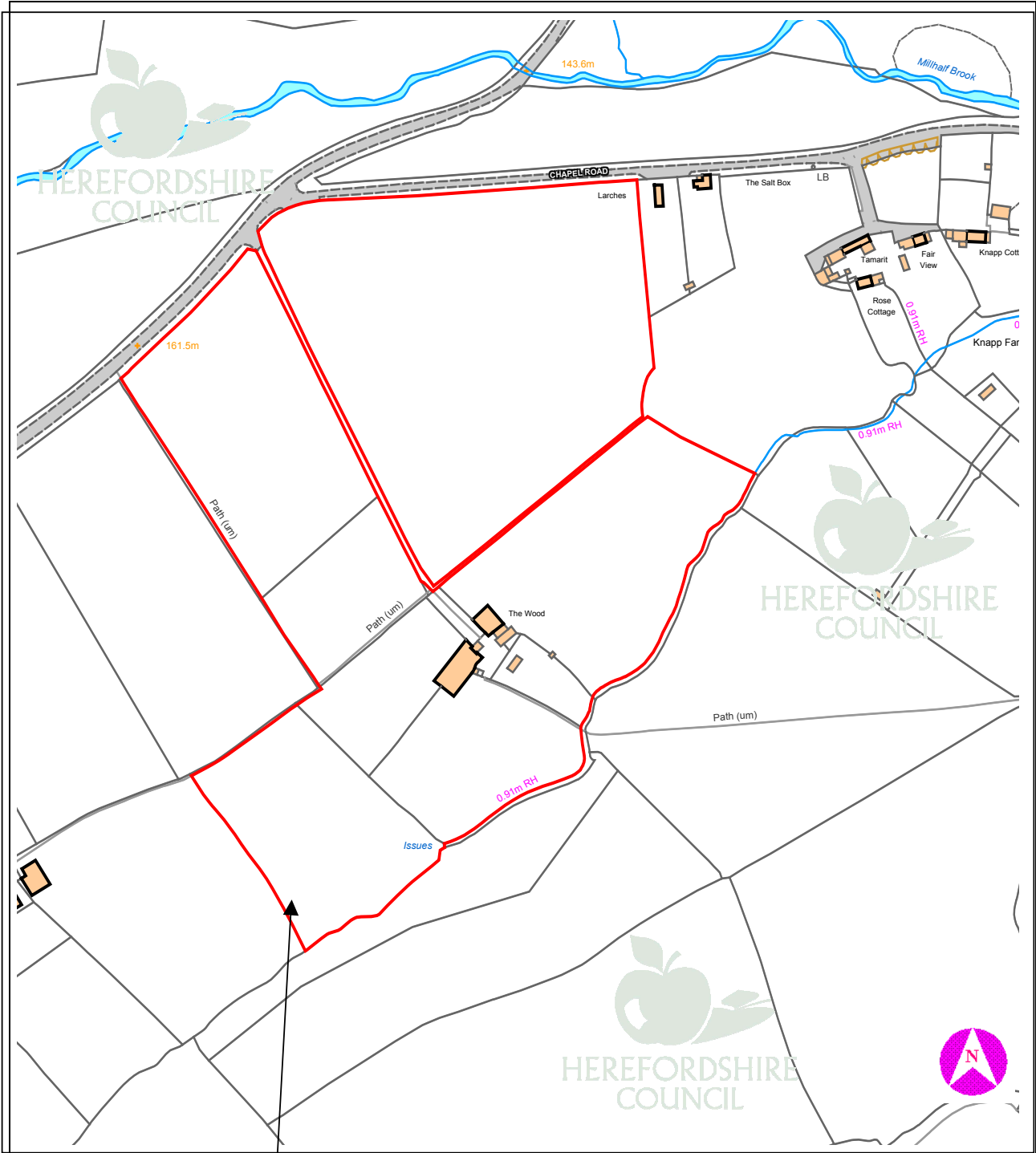
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2009/0093/F

SCALE: 1 : 2500

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