

MEETING:	PLANNING COMMITTEE
DATE:	10 DECEMBER 2014
TITLE OF REPORT:	<p>P141022/F - PROPOSED DEMOLITION OF EXISTING BUILDING AND ERECTION OF 29 DWELLINGS WITH ASSOCIATED PRIVATE DRIVE, LANDSCAPING AND EXTERNAL WORKS AT LAND AT PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NN</p> <p>For: Mr Tomkins per Mr T J Ford, 30 Grove Road, Hereford, Herefordshire, HR1 2QP</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141022&search=141022
Reason Application submitted to Committee – Re-direction	

Date Received: 2 April 2014

**Ward: Leominster
South**

Grid Ref: 350091,259085

Expiry Date: 4 July 2014

Local Members: Councillors JM Bartlett and PJ McCaull

1. Introduction

1.1 This application was deferred by the Planning Committee on 29th October 2014 with a request that the applicant should give further consideration to the following matters:

- Density and size of individual properties
- Economic viability and the potential for overage payments
- Drainage and surface water treatment

The original report of 29 October appears as an appendix to this updated report.

1.2 It was resolved that the applicants be requested to engage in further discussions and consultation with the local ward members in order to provide some further clarity. Subsequently a meeting took place with the applicants, their agent and both local ward members present. Each of the points outlined above were discussed at some length and are dealt with in turn by the following paragraphs.

2. Density and size of individual properties

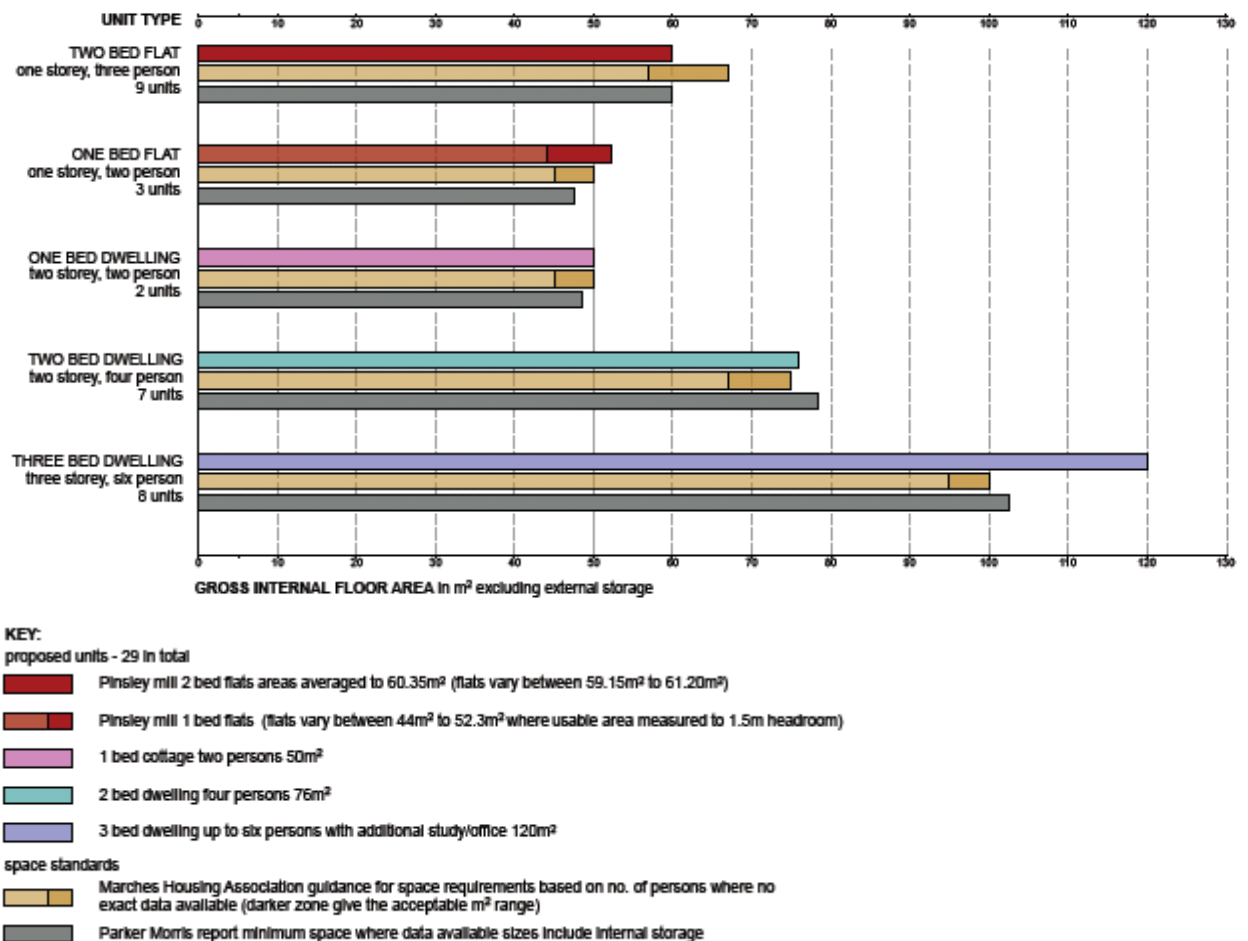
2.1 Some concerns were raised about the overall density of the development and it was suggested that a reduction should be considered. It was suggested that one bedroom apartments might be omitted to address this concern as this would consequently relieve some of the pressure for parking spaces and bin and cycle storage within the site. The applicants explained that the density of the development is critical to the viability of the scheme and that the omission of units would further reduce the profit margin. This would ultimately mean that

Further information on the subject of this report is available from Mr A Banks on 01432 383085

they would be unable to secure a bank loan as the banks will not fund development if there is too much of an element of risk. Their further investigation in this regard confirms that the omission of the three one bed apartments would cause the profit margin to be reduced to below 15% and that the bank would not loan finances to fund the development on this basis.

2.2 Notwithstanding the above, it should be noted that the combined density of the two previously approved schemes amounted to 30 units on a slightly smaller area than is currently being considered. There is no significant difference in terms of the policies under which the schemes are being assessed as the Herefordshire Unitary Development Plan had been adopted when the two applications were determined in 2008. Officers are of the opinion that the current proposal is a significant improvement on the earlier schemes and that a decision to refuse this application on the grounds of density would not be sustainable on appeal.

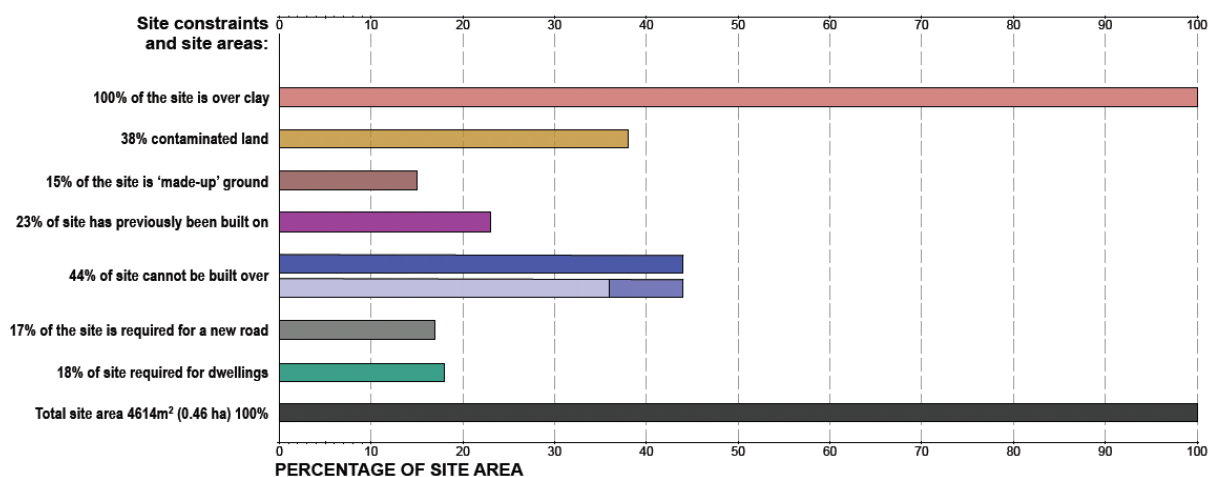
2.3 With regard to the size of the proposed dwellings, the applicant's agent has usefully provided a graphical representation of the floor space to be provided for each type of property, together with comparisons against the current minimum standards of Marches Housing Association and the Parker Morris minimum space standards. This is re-produced below:



2.4 There is no policy requirement for dwellings to meet a minimum space standard. However, it is considered that the proposal compares favourably with the space standards that Marches Housing Association adopt, and also with the national standards outlined in the Parker Morris report. If the dwellings were to be transferred to a housing association they would meet their design and space standards. The plans submitted also demonstrate that all services and parking requirements can be accommodated within the site and that the individual dwellings all have their own private gardens and it is not considered that there is sufficient justification to refuse the application on the grounds that the proposed dwellings are too small.

3. Economic viability and the potential for overage payments

- 3.1 As referred to above, the economic viability of the scheme is closely linked to the number of dwellings proposed. The viability statement submitted by the applicants and independently assessed by the District Valuation Office (DVO) assumes that the development would have a profit margin somewhere between 17 to 20%. The figures submitted were accepted by the DVO and showed that scheme would have a profit margin of 17.5% if the applicants were relieved of the requirements to pay Section 106 contributions and to provide affordable housing on the site. Based on the scheme as submitted and applying the provisions of the Council's Planning Obligations Supplementary Planning Document, the contributions alone would amount to £126,761 and would reduce the profit margin by around one quarter – between 13 and 13.5%. As outlined earlier, the applicants have advised that they would be unable to secure a bank loan with such a reduced profit margin.
- 3.2 The requirement for the provision of affordable housing on the site would have a similar effect as the price that a housing association would pay for individual units is fixed well below their market value. The funding for them is provided by Central Government and there is no flexibility here to ensure a greater profit margin. The effect of requiring affordable housing is similar to that of the provision of financial contributions in terms of its impact on profit margins, and logically their combined effect would be greater still. The relief of this scheme from financial contributions and affordable housing provision is therefore justified.
- 3.3 The applicants and their agent have also highlighted some of the exceptional costs and constraints that exist which have also limited the development of the site. These are usefully tabulated by the applicant's agent and are shown below and serve to highlight a number of other factors that limit the viability of this scheme.



- 3.4 However, the overriding concern of the local members and the Planning Committee is whether there is some ability to claw back some financial contribution if the scheme is more profitable than anticipated once it is completed. The applicants have confirmed that they would be happy to enter into a legal agreement to cover this eventuality and officers have undertaken research to establish how this would work in practical terms. The DVO and applicant's viability consultant have assisted with this and officers have been provided with a number of examples across the country where an overage clause has been applied to development.
- 3.5 The clause operates on a premise that, once an agreed percentage of the units have been sold or let, a calculation to determine overage shall be carried out. Overage shall apply to any

developer's profit above an agreed figure; in this case the figure upon which the economic viability appraisal and profit margin is based (the baseline figure). Any sum in excess of the baseline figure shall be divided 50/50 between the developer and the Council. The Council will then, in consultation with local members and the Town Council use any monies at its discretion on schemes that are otherwise CIL compliant. On the basis that such an approach has been applied elsewhere, officers are content that such an approach is robust and it is recommended that, should planning permission be forthcoming, the applicants are required to enter into a legal agreement under Section 106 of the Town & Country Planning Act 1990 to secure an overage payment should the need arise.

4. Drainage and surface water treatment

- 4.1 If a development is to discharge surface water to a main sewer, Welsh Water require that the developer has first demonstrated that there are no other practicable means of dealing with that surface water. In this case the site is located over an area of made up ground with some levels of contamination associated with fill. The natural ground is reported to be clay and is not conducive to drainage by infiltration. Guidance contained within Building Regulations suggest that if a soakaway is not a viable option due to ground conditions then surface water should be discharged to a watercourse. In this case there is no watercourse within the vicinity of the site, the nearest watercourse being the River Lugg which is separated by third party land and the railway line. Discharge to the River Lugg is not a viable option.
- 4.2 The applicant's agent has confirmed that they have had further discussion with their consultants about the surface water drainage in the light of concerns raised by the Planning Committee and they have forwarded an email exchange with Welsh Water which sets out the points outlined above. The conclusion drawn by the applicant's drainage consultant is that they have demonstrated that there are no other practicable means to deal with surface water and therefore their client's only option is to request a connection to the sewer. They also point out that there is already a connection to the combined sewer which takes all of the storm water from the site (demolished and standing buildings and road), and that the proposed drainage strategy offers betterment to this existing system.
- 4.3 The applicant's drainage consultant gave notice to Welsh Water of their wish to connect the proposal; should planning permission be granted, to the sewer, prior to the submission of the application. They have not received a formal response to this.
- 4.4 Your officers are content that the applicants and their agent have explored all possible alternatives to deal with surface water and that, if a connection to the sewer is not secured, the land will continue to remain undeveloped to the detriment of the setting of the town and its conservation area.
- 4.5 The proposal would discharge surface water to the mains sewer at an attenuated rate, with water being stored in an underground tank during periods of heavy rainfall. It is on this basis that the proposal is considered to represent betterment as there is currently no attenuation on the site at all. Further measures could be employed to limit the amount of surface water being discharged to the sewer and these might include the use of porous paving, rainwater harvesting or the provision of water butts for individual properties. It is considered that this could be addressed through the imposition of a condition and is reflected in the amended recommendation below.

5. Other Matters

- 5.1 The proximity of the site to the railway line was a cause for some debate prior to the deferral of the application by the Committee on 29 October and was a matter raised during the meeting between the local ward members, applicants and their agents. The application includes an acoustic report which concludes that the use of double glazed units, combined with specialist

mechanical ventilation units will ensure noise levels within the dwellings below the maximum as stated by BS2833: 1999 – British Standard code of practice for sound insulation and noise reduction for buildings. It is therefore recommended that an additional condition be imposed to require noise insulation measures to be completed in accordance with the recommendations of the acoustic report.

- 5.2 Following the recent implementation of a revised refuse collection system it is also considered necessary to impose a further condition to require details of bin storage areas to be submitted and approved and provided in accordance with the approved details before the development is first occupied.
- 5.3 The importance of the public footpath as a local route for walkers and as a connection between the town and its railway station is fully recognised. It was highlighted by local members that the footpath should retain an open character and the applicant's agent has confirmed that this is the intention of the scheme. The footpath is currently aligned along a slight depression and it was agreed that it should be specifically delineated if the scheme is to be approved. The applicants have accepted this point and have undertaken to improve the surface of the footpath. It is considered that the inclusion of a specific reference to this within condition 5 of the recommendation; which refers to the submission of a landscaping scheme, will provide for this.

6. Conclusion

- 6.1 The further discussions that have taken place with the applicants, their agents and local ward members have brought some further clarity to the fine balance of the viability of this scheme. The additional information provided demonstrates that the scheme will only work in economic terms if it is constructed as shown. Any reduction in density will reduce the developer's profit margin and will curtail their ability to secure a bank loan. They have agreed to enter into a Section 106 Agreement to secure an overage payment if the scheme proves to be more viable than anticipated and, on this basis, and subject to the additional conditions referred to, it is recommended that planning permission is granted

RECOMMENDATION

Subject to the completion of an agreement under Section 106 of the Town & Country Planning Act to secure an overage payment if the scheme exceeds a baseline profit margin that planning permission be granted subject to the following conditions:

- 1. A01 – Time limit for commencement (full permission)**
- 2. B01 – Development in accordance with approved plans**
- 3. C01 – Sample of external materials**
- 4. F14 – Removal of permitted development rights**
- 5. G10 – Landscaping scheme**
- 6. G11 – Landscaping scheme – implementation**
- 7. H13 – Access, turning area and parking**
- 8. H17 – Junction improvement**
- 9. H21 – Wheel washing**

10. H27 – Parking for site operatives
11. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.
 - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

12. The Remediation Scheme, as approved pursuant to condition no. 11 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

14. Prior to the first occupation of any of the dwellings hereby approved, details of the boundary treatment of the site shall be submitted to the local planning authority for their written approval, in consultation with Network Rail. The development shall be completed in accordance with the approved details and shall be completed before the first occupation of any of the dwellings. The treatment should take the form of a trespass proof fence and should be of a minimum height of 1.8 metres. It should be located wholly within the application site and provision should be made for its maintenance and renewal.

Reason: In order to protect public safety and the integrity of the rail network and to comply with Policy DR2 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

15. The recommendations set out in Section 4.13 of the ecologist's report dated July-October 2012 should be followed in relation to the identified protected species and Section 4.10 and 4.11 in relation to swifts on new buildings. Prior to commencement of the development, a full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan and to comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.

16. L04 – Comprehensive and integrated draining of site

17. Prior to the first occupation of any of the dwellings the developer shall submit a scheme for the attenuation of surface water runoff. This shall include, but not be restricted to, the use of porous paving materials and the installation of water butts for all of the dwellings. The scheme shall be submitted to and approved in writing by the local planning authority and shall be implemented in accordance with the approved details before the occupation of the respective dwelling to which the works relate.

Reason: To mitigate the effects of surface water runoff and to comply with Policies S1 and DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

18. The development hereby approved shall be carried out in accordance with the recommended noise attenuation measures as outlined in the John Waring Noise Assessment dated 13 June 2012. The noise mitigation measures shall be implemented before the first occupation of the dwelling to which they relates and shall be retained for the duration of the use.

Reason: To safeguard the amenity of future residents and to comply with Policy DR13 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

19. I42 Scheme of refuse storage (residential)

Informatives:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. N11A – Wildlife and Countryside Act 1981 (as amended) - Birds**
- 3. N11C – General**
- 4. HN04 – Private apparatus within the highway**
- 5. HN05 – Works within the highway**
- 6. HN28 – Highways Design Guide and Specification**

MEETING:	PLANNING COMMITTEE
DATE:	29 OCTOBER 2014
TITLE OF REPORT:	P141022/F - PROPOSED DEMOLITION OF EXISTING BUILDING AND ERECTION OF 29 DWELLINGS WITH ASSOCIATED PRIVATE DRIVE, LANDSCAPING AND EXTERNAL WORKS AT LAND AT PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NN For: Mr Tomkins per Mr T J Ford, 30 Grove Road, Hereford, Herefordshire, HR1 2QP
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141022&search=141022

Date Received: 2 April 2014

Ward: Leominster South

Grid Ref: 350091,259085

Expiry Date: 4 July 2014

Local Members: Councillors JM Bartlett and PJ MCCaull

1. Site Description and Proposal

- 1.1 The site is a long narrow plot amounting to 0.45 hectares of Brownfield land that is located between the rear gardens of dwellings fronting onto Pinsley Road and the railway line. It includes the site of the former Pinsley Mill; the building was demolished in February 2014 after being fire damaged, and a long, narrow single storey building that has been used by Leominster Rifle and Pistol Club. The substantive part of the site was previously used for commercial purposes and was occupied by a prefabricated industrial building. This has since been demolished and the site is now vacant.
- 1.2 The site is located within Leominster's residential area and also the Leominster River Meadows Conservation Area. Public footpath ZC137 runs along the site boundary, parallel with the railway line at a lower level to both the ground level of the remainder of the site and the railway line itself. Immediately to the north is an area of open space with The Priory Church beyond. Vehicular access to the site can either be gained via the car park serving the White Lion public house to the south; a Grade II listed building, or by a track which emerges onto Pinsley Road between existing dwellings. The site is further constrained by a combined sewer easement which cuts across the site at a midway point and then runs along the boundary with the railway line in a northerly direction. A storm overflow easement also runs the entire length of the eastern boundary and both of these are areas that are not to be built over. The majority of the site also falls within flood zone 2 and 3 as identified by the Environment Agency's maps.

- 1.3 The application seeks to erect 17 houses and 12 flats on the land with a single point of vehicular access via Pinsley Road located in the same position as the existing access. In further detail the accommodation is detailed as follows:
- 9 x 2 bed flats
 - 3 x 1 bed flats
 - 2 x 1 bed houses (semi detached)
 - 6 x 2 bed houses (terraced)
 - 1 x 2 bed house (detached)
 - 8 x 3 bed houses (terraced)
- 1.4 The layout plan shows the provision of vehicular access into the site that runs along the eastern boundary. The site dictates that the proposal takes a linear form. Three terraces are positioned towards the northern end and centrally within the site with a parking and turning area provided where the sewer easement crosses. The flats are incorporated within a new building that takes the approximate position of the former mill with a shared parking area to the south. The detached dwelling is positioned on the southern boundary while the semi detached properties are located in front of the flats, close to the point of access onto Pinsley Road.
- 1.5 The terraced houses are a mix of two and three storeys. Plots 1 to 8 at the northern end are three storey and have a height to the ridge of 9.7 metres. Plots 9 to 14 are two storey with a ridge height of 7.8 metres. The detached and semi detached houses are 7.4 and 7.2 metres in height respectively and the building comprising the flats is 11.3 metres high. The buildings are all shown to be faced in brick with tiled roofs with brick detailing to window cills and headers.
- 1.6 The application is supported by the following documents:
- Design & Access Statement
 - Planning Statement
 - Heritage Statement
 - Extended Phase 1 Habitats Survey
 - Flood Risk Assessment
 - Drainage Strategy
 - Ground Investigation Report
 - Noise Assessment
 - Affordable Housing Viability Report
- 1.7 The last of these documents has been treated as confidential as it contains commercially sensitive information. Its purpose is to provide detailed information about the economic viability of the scheme and it concludes that if the developer is required to provide affordable housing in accordance with policy requirements, and is also required to make financial contributions in accordance with the Council's Planning Obligations Supplementary Planning Guidance, the scheme would not be viable. On this basis the applicant has not submitted a Draft Heads of Terms Agreement.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving sustainable development
Section 6	-	Delivering a wide choice of high quality homes
Section 7	-	Requiring good design
Section 8	-	Promoting healthy communities

Further information on the subject of this report is available from Mr A Banks on 01432 383085

2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR10	-	Contaminated land
DR13	-	Noise
H1	-	Hereford and the market towns: settlement boundaries and established residential areas
H9	-	Affordable housing
H13	-	Sustainable residential design
H14	-	Re-using previously developed land and buildings
H15	-	Density
H16	-	Car parking
H19	-	Open space requirements
T6	-	Walking
T8	-	Road hierarchy
NC1	-	Biodiversity and development
HBA4	-	Setting of listed buildings
HBA6	-	New development within conservation areas

2.3 Herefordshire Local Plan-Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
LO1	-	Development in Leominster
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.4 Neighbourhood Planning

Leominster Town Council has successfully applied to designate as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 31 July 2012. The Town Council will have the responsibility of preparing a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

- 2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. Planning History

- 3.1 NC2008/0002/F Proposed demolition and conversion of mill, construction of glass link and new works to form three storey double block, to create nine apartments and all associated works at Pinsley Mill - Committee resolved to approve the application subject to a Section 106 Agreement, but it was ultimately refused as the Agreement was never signed.
- 3.2 NC2008/1824/O – Site for development to form 21 apartments – Approved 24 September 2008. This permission has not been implemented and has now lapsed.
- 3.3 P132668/C – Demolition of former mill building following arson – Approved 5 December 2013.

4. Consultation Summary

Statutory Consultations

- 4.1 Network Rail: Do not object to the application but make the following points:
- Require that a condition is imposed if planning permission is forthcoming to require that a trespass proof fence is erected adjacent to Network Rail's shared boundary.
 - All surface water drainage should be directed away from Network Rail's land.
 - The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.
 - If trees are to be planted they should not be closer than 1.5 times their mature height to the boundary with Network Rail's land.
 - Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.
- 4.2 Welsh Water: Raise no objection subject to the imposition of conditions. Their comments draw attention to the fact that the site is crossed by a public sewer and that no building will be permitted within 3 metres either side of its the centre line. They also advise that no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

Internal Council Consultations

- 4.3 Transportation Manager: Has visited the site and raises no objection to the proposal as shown subject to the imposition of conditions.
- 4.4 Conservation Manager (Ecology): No objection subject to the imposition of a condition to ensure that ecological enhancements are completed in accordance with the recommendations of the ecology report that accompanies the application.
- 4.5 Public Rights of Way Manager: Notes that public footpath ZC137 has been clearly marked on plans and will be resurfaced. The Public Rights of Way Manager requests that they are

consulted on this work and, on the basis that the stated width of 2m is maintained, does not object to the proposal.

4.6 Land Drainage Engineer: Requires that the following information is provided:

- Outstanding requirements of the Sequential Test and Exception Test as described above.
- Evidence that the sequential approach has been applied to guide development within the site boundary into lower flood risk areas.
- Evidence that safe access and egress exists to all properties in the 1 in 100 year flood event, including an allowance for climate change.
- Evidence that flood compensation has been provided or is unnecessary

4.7 Environmental Health Officer: No objection subject to the imposition of conditions.

5. Representations

5.1 Leominster Town Council objects to the application and comments as follows:

The Town Council objected to the application as it considered it to be an overdevelopment of the site, against the terms of the emerging neighbourhood Plan especially in that the hoses had no plan to deal sustainably with the grey and run off water which would be generated by the extensive hard surfaces created; the town council considered that such a development should be built to the best standard of sustainability in respect of energy conservation, energy generation through solar options, should deal sustainably with all water issues and waste management: further the town council was deeply concerned at 29 dwellings adding to the traffic issues onto a busy road on a bend, from local knowledge the site was considered to create a genuine traffic hazard by adding to the numbers of vehicles which would have to turn across the bend of the main street. The effect of the 3 stories would be to over mass the site and the use of flats in the development was out of character with the surrounding area. Overall the town council was concerned that the development would in effect create the unsustainable slums of the next generation and no development should be allowed to produce such crowding and lack of sustainable features.

5.2 The proposal has attracted individual objections from 10 local residents and a petition containing 33 signatories. In summary the issues raised are as follows:

- Detrimental impact upon residential amenity due to the high density of the development and potential overlooking
- Concerns about parking along Pinsley Road and highway safety implications about intensification of use
- Concerns about surface water drainage and increased flood risk
- Lack of landscaping
- Vibration from rail traffic
- Lack of consideration of energy efficiency through design
- Detrimental to the conservation area.

5.3 West Mercia Constabulary: Do not object to the proposal and note that there are opportunities to design out crime and/or the fear of crime and to promote community safety. They note the reference in the application to Secured by Design and endorse its use.

5.4 River Lugg Internal Drainage Board: Raise no objection to the proposal but advise that no additional surface water run off to the adjacent watercourse or any outfall structure will be permitted without written Land Drainage Consent, which would have to be obtained from the Board.

- 5.5 The consultation responses can be viewed on the Council's website by using the following link:-
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

Principle of Development

- 6.1 The site lies within an area that is primarily residential in its character and is within Leominster's built environs where residential development is accepted by Policy H1 of the HUDP. It is in a location that is considered to be sustainable and this is reflected by the fact that the principle of development has previously been accepted by the two planning permissions described above. The NPPF presumes in favour of sustainable development that is compliant with the development plan and advises that such proposals should be approved without delay, unless material planning considerations indicate otherwise. The following paragraphs will consider whether there are any other material considerations of such weight that they cause such harm to warrant the refusal of this proposal. If they do not, in accordance with the NPPF, there should be a presumption in favour of development.

Economic Viability

- 6.2 Policy DR5 of the UDP advises that planning obligations will be sought to achieve community, transport and environmental benefits where these benefits are reasonable, necessary and relevant to the development proposed. Further advice is provided by the Council's Planning Obligations Supplementary Planning Document (the SPD), which includes a paragraph about viability. It reads as follows:

The Council recognises that the impacts of a development that may need to be accompanied by a planning obligation must be weighed together with all other material considerations including any positive benefits of the development, in determining whether planning permission should be granted. Therefore, in exceptional circumstances, the Council may consider that the benefits from a development outweigh the need for mitigation and may waive or reduce contributions. However, it will be for the developer to provide robust evidence, possibly in the form of a financial appraisal, to support their case.

- 6.3 Paragraph 173 of the NPPF provides more up to date advice to local planning authorities on the subject in advising that:

Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

- 6.4 The applicant has submitted a viability report which concludes that the scheme will not be viable if they are required to make financial contributions and to provide affordable housing through a Section 106 Agreement. The report has been independently audited by the District Valuation Office and they have concurred with the applicant's viability report. They have also undertaken sensitivity testing on behalf of the local planning authority to consider whether reductions in financial contributions and affordable housing provision would improve the viability of the scheme, but even in this scenario the scheme would be unviable.

- 6.5 In this case it is concluded that the applicant has provided the robust evidence required by the Council's SPD to demonstrate that the economic viability of the scheme would be jeopardised if financial contributions are sought. Therefore it is concluded that it is reasonable to set aside the usual contribution requirements in order to ensure that a development that is sustainable, that enhances the character and appearance of the area and that the landowner is clearly willing and able to bring forward, if planning permission is granted.

Design and Density

- 6.6 The two planning permissions described in the planning history section of this report have accepted the principle of development on this site at an almost identical density to that proposed. Although this is quite high, it is significantly influenced by the fact that 12 of the units proposed are to be provided as flats. Notwithstanding this, if the density of the scheme were to be reduced the economic viability of the scheme would be further brought into question.
- 6.7 Each property is afforded appropriate parking provision in accordance with the Council's highway design guidance and Manual for Streets. It also ensures that appropriate provision is made for refuse vehicles. Each of the individual dwellings are afforded their own curtilages, while the flats have shared parking, refuse collection area and cycle parking and it is considered that the proposed layout demonstrates that all of the facilities required to service the development can be provided in accordance with Policy H13 of the UDP.
- 6.8 The applicants and their agent continued to discuss their scheme throughout the pre-application process with officers. Their original intention was to retain and convert the mill building and plans were prepared for submission on this basis. However, the arson attack in September 2013 caused significant structural damage which ultimately led to its demolition. This led to a re-assessment of the scheme by the applicants and the scheme as submitted is the result. The detailed design reflects the former mill building. The scale and proportions of this part of the development are similar to those of the original mill. The new building also occupies a similar footprint and its physical relationship to the surrounding area is not dissimilar to that of the former building, or of the scheme that was accepted by Planning Committee for its conversion and extension.
- 6.9 The layout of the houses has been dictated by the linear form of the site, the need to accommodate the particular constraints within it; most notably the drainage easements, and the relationship with existing properties on Pinsley Road. The plans show properties that are well designed with architectural features such as brick headers over window and door openings and the use of parapet gable ends adding visual interest to the scheme as a whole. These themes are consistent throughout the development as a whole and serve to give it a particular visual identity. Officers consider that the density, layout and design of the scheme respond positively to the constraints of the site and its surroundings and accord with Policy H13 of the UDP and the NPPF which seeks to secure good design.

Highway Safety and Accessibility

- 6.10 Paragraph 32 of the NPPF is key to the highway impact debate where it states:

Plans and decisions should take account of whether improvements can be undertaken within the transport network that cost effectively mitigate the significant impacts of the development. Development should only be presented or refused on transport grounds where the residual cumulative impacts of the development are severe.

- 6.11 The principal concern raised by objectors to the scheme is that the proposed development will intensify traffic movements along Pinsley Road where a significant amount of on-street parking

currently takes place. The site has been visited by the Council's Transportation Manager and he has raised no objection to the proposal subject to the imposition of conditions. It is considered that there is sufficient capacity within the road network and that traffic speeds within the locality are low. The introduction of the proposed development will not result in a severe cumulative impact to highway safety and therefore, based on the advice from the NPPF as outlined above, would not warrant refusal on highway safety grounds.

- 6.12 The site is well located to make full use of the pedestrian links that it has with the town centre. It is acknowledged that the public footpath is well used and provides an ideal opportunity to encourage future residents to walk rather than use private motor vehicles. As a result the proposal is considered to fully accord with policies DR3 and T6 of the HUDP.

Residential Amenity

- 6.13 As referred the above, the proposal takes a linear form which is dictated by the site constraints. Inevitably this means that the proposed dwellings are arranged with their rear elevations backing onto properties on Pinsley Road. The closest relationship occurs between the terraced block comprising plots 1 to 4, which is a distance of 10 metres from the gable end of the Scout Hut. As this is a non-habitable building this relationship is considered to be appropriate.
- 6.14 In terms of their relationship with other residential dwellings, the second terrace of four is a distance of 24 metres from the closest dwelling on Pinsley Road, increasing to 34 metres from a second property. The third terrace, comprising plots 9 to 14, is an average of 30 metres away from the three dwellings that oppose it. Existing vegetation within the curtilages the dwellings on Pinsley Road, combined with their distance from the shared site boundary has led officers to conclude that the proposal is acceptable in terms of residential amenity and therefore accords with policies DR1 and H13 of the UDP.

Impact on the Conservation Area and Listed Buildings

- 6.15 The site is clearly visible to rail passengers and can be seen from the A49. At present it is a vacant Brownfield site that forms part of the Leominster River Meadows Conservation Area. It is considered that the site currently detracts significantly from the town's setting as an historic asset.
- 6.16 When seen in context the development will be viewed against the backdrop of the residential areas of Leominster. Pinsley Road is characterised by a mix of development whose ages range from the early 20th century to the present day. The conservation area has no defining architectural character in terms of the development contained within it; its purpose is to protect the setting of the town and that of The Priory Church which lies further to the north-west. Policy HBA6 of the HUDP requires that new development should preserve and enhance the character and appearance of a conservation area and provides a detailed list of design criteria to be adhered to in order to achieve this. These refer to matters that include scale, massing, form, density and architectural design. These matters have all been assessed in earlier parts of this report and the proposal is considered to be policy compliant in these respects.
- 6.17 The NPPF provides further advice in terms of heritage assets and paragraph 13 reads as follows:

In determining planning applications, local planning authorities should take account of:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;*

- *and the desirability of new development making a positive contribution to local character and distinctiveness.*

6.18 It is considered that the appropriate re-development of the site as proposed will significantly enhance the setting of the conservation area. It will make a positive contribution to the local character and distinctiveness of the area and the detailed design of the scheme reflects the former mill building and the sites position adjacent to the railway line. It is concluded that the proposal is in accordance with Policy HBA6 of the UDP and the NPPF in terms of its positive effect on the setting of the conservation area.

Land Drainage and Flooding

6.19 The Council's Land Drainage Engineer has raised a number of matters that they consider necessary to address before the determination of the application. The applicant's drainage consultant has provided a written response to the points highlighted in the consultation summary and these are summarised below:

Sequential testing

6.20 The applicant does not have any other land to offer in preference to this site. Notwithstanding this the site history demonstrates that the site has previously been considered to be appropriate for development. Although the mill building has been demolished, there are otherwise no material differences that would inhibit its development now and, although the NPPF has been introduced since, the policy criteria in terms of flood risk are substantially the same as they were when permission was originally granted. It is therefore considered that the site is suitable for development.

6.21 *Provision of safe access in a 1 in 100 year flood event*

Environment Agency data for flood levels for a 1 in 100 years storm event (including an allowance for the effects of climate change) suggests a flood levels range from 69.76 to 69.91m. A minimum finished level for private drives 300mm above the highest flood level and a minimum finish floor levels for all properties 600mm above the highest flood level is recommended and it is considered that this will provide a safe access and egress exits to all properties.

6.22 *Evidence that flood compensation has been provided or is unnecessary*

Existing ground levels on the eastern boundary are either equal or higher than the flood levels provided by the Environment Agency for a 1 in 100 years storm event. However, irrespective of on-site levels the railway line; which lies between the application site and the River Lugg, runs on a raised embankment. It is considered that this provides an informal flood defence since its level is higher than the flood level. Accordingly the site will not flood and therefore flood compensation is unnecessary.

6.23 The applicant's drainage consultant has suggested that the site is capable of accommodating a scheme for surface water attenuation comprising an underground storage tank. Officers consider that the details of this could be secured through the imposition of an appropriately worded condition

6.24 It is concluded that the matters raised by the Council's land drainage engineer have either been addressed by the additional information that has been submitted, or can be addressed through the imposition of appropriately worded conditions. It is therefore considered that the proposal accords with Policy DR7 of the UDP and the guiding principles of the NPPF.

Conclusion

- 6.25 The site history has previously established that the site is appropriate for re-development. It is a Brownfield site that currently detracts from the setting and character of the Leominster River Meadows Conservation Area. The scheme is considered acceptable in terms of its design and density and it has been concluded that it represents an enhancement of the heritage asset in accordance with the NPPF and Policy HBA6 of the HUDP.
- 6.26 The NPPF asks local authorities to be flexible about financial contributions where the viability of a scheme is in doubt. In this particular instance the applicant has demonstrated to the satisfaction of officers that the scheme will only be economically viable if the Section 106 contributions that would usually be required are set aside. The viability assessment submitted by the applicant has been independently scrutinised by the District Valuation Office and they have concluded that its findings are sound.
- 6.27 Of the other material planning considerations that have been identified through the consultation process and responses from consultees and members of the public, none carry such significance to outweigh the presumption in favour of sustainable development. The additional information submitted to supplement the Flood Risk Assessment and drainage strategy is considered to have resolved the original concerns raised by the Land Drainage Engineer and, whilst development will inevitably increase traffic movements along Pinsley Road and at its junction with Etnam Street, these impacts are not considered to be severe.
- 6.28 It is your officer's opinion that there are no matters of such weight to justify the refusal of this application and impacts associated with granting planning permission can be addressed through the imposition of appropriately worded conditions. The proposal accords with those saved policies of the Herefordshire Unitary Development Plan that are compliant with the National Planning Policy Framework, and consequently with the Framework itself. It is therefore recommended that planning permission be granted subject to the schedule of conditions outlined below:

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 – Time limit for commencement (full permission)**
- 2. B01 – Development in accordance with approved plans**
- 3. C01 – Sample of external materials**
- 4. F14 – Removal of permitted development rights**
- 5. G10 – Landscaping scheme**
- 6. G11 – Landscaping scheme – implementation**
- 7. H13 – Access, turning area and parking**
- 8. H17 – Junction improvement**
- 9. H21 – Wheel washing**
- 10. H27 – Parking for site operatives**

11. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

- d) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.**
- e) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.**
- f) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

12. The Remediation Scheme, as approved pursuant to condition no. 11 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with Policies DR6 and DR10 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

14. **Prior to the first occupation of any of the dwellings hereby approved, details of the boundary treatment of the site shall be submitted to the local planning authority for their written approval, in consultation with Network Rail. The development shall be completed in accordance with the approved details and shall be completed before the first occupation of any of the dwellings. The treatment should take the form of a trespass proof fence and should be of a minimum height of 1.8 metres. It should be located wholly within the application site and provision should be made for its maintenance and renewal.**

Reason: In order to protect public safety and the integrity of the rail network and to comply with Policy DR2 of the Herefordshire Unitary Development Plan and the guiding principles of the National Planning Policy Framework.

15. **The recommendations set out in Section 4.13 of the ecologist's report dated July-October 2012 should be followed in relation to the identified protected species and Section 4.10 and 4.11 in relation to swifts on new buildings. Prior to commencement of the development, a full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan and to comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.

16. **L04 – Comprehensive and integrated draining of site**

Informatives:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **N11A – Wildlife and Countryside Act 1981 (as amended) - Birds**
3. **N11C – General**
4. **HN04 – Private apparatus within the highway**
5. **HN05 – Works within the highway**
6. **HN28 – Highways Design Guide and Specification**

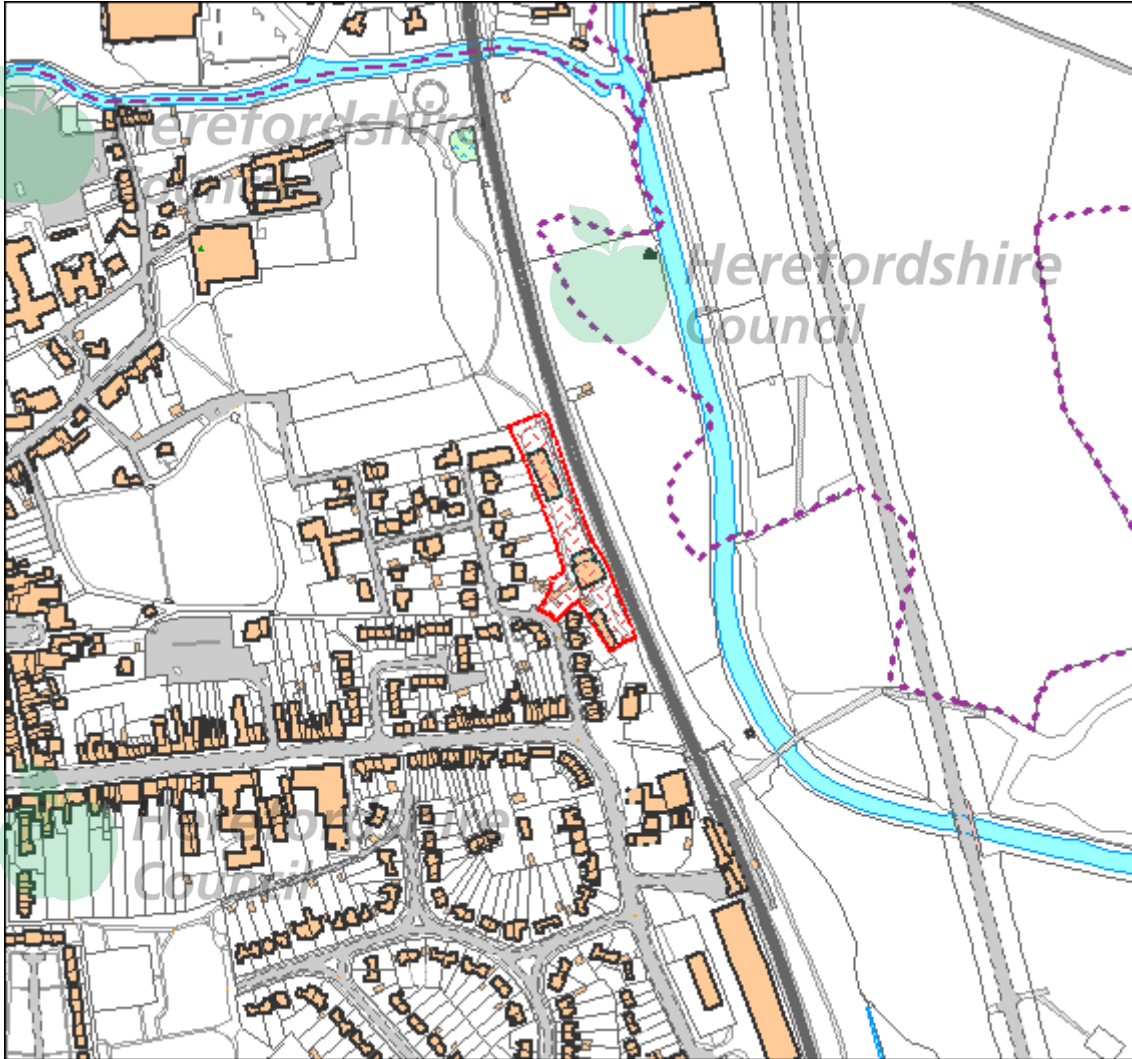
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 141022/F

SITE ADDRESS : LAND AT PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NN

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

Further information on the subject of this report is available from Mr A Banks on 01432 383085