

**6 DCSW2005/2391/F - PROPOSED CONSTRUCTION OF NEW COMMUNITY HALL AND CAR PARKING AREA, LAND ADJACENT SWINGS AND SLIDE OPPOSITE THE GARWAY MOON PUBLIC HOUSE, GARWAY COMMON, GARWAY, HEREFORDSHIRE, HR2 8RF**

**For: Garway Hall Committee per Paul Brice Architect,  
Lower Barn, Rockfield, Monmouth, NP25 5QD**

**Date Received: 20th July, 2005**

**Ward: Pontrilas**

**Grid Ref: 46527, 22566**

**Expiry Date: 14th September, 2005**

Local Member: Councillor G.W. Davis

**1. Site Description and Proposal**

- 1.1 The site comprises part of Garway Common. It is proposed to site the north-south aligned village hall adjacent to the southern edge of the playing fields diagonally opposite the Garway Moon, which is on the northern side of the Class III road (C1239). This Class III road is the main thoroughfare through the village which is linear in pattern. The school is to the west along the C1239 road, opposite it is the existing village hall.
- 1.2 The northern end of the building is proposed to be between 107 and 104 metres south of the edge of the Common where it adjoins the C1239 road. Access is proposed to be taken via the unclassified road (u/c 71412) that is 43 metres due east of the proposed village hall. The car parking area provides 24 spaces and is laid out between the site for the hall and the unclassified road from which access is proposed to be gained. The surface will be of gravel with no kerbing, joining a tarmac strip of road 5 metres width, that joins the unclassified road nearly opposite the entrance to Frugaro. There is an equipped playground area immediately to the west of the village hall.
- 1.3 The building proposed will be a maximum of 7.7 metres to the ridge. The walls will be painted roughcast render, with hardwood doors and windows surrounded by reconstructed sandstone and a slate roof. There is a loggia to the front or northern end of the building, with inside a hall measuring 14.1 metres in length and 6.9 metres wide (97.3 sq. metres). A stage area at the southern end of the building measuring 3.6 metres deep and again 6.9 metres wide. There are promenades running the length of the building that are 2.1 metres wide. There is a lavatory block and kitchen area leading off the eastern sides of the building measuring 5 metres by 5.1 metres each. The projecting wings on the western side are again 5 metres wide providing a Committee Room, boiler room, and storage rooms on the southern most wing and two changing rooms on the northern wing. The former extends 11.1 metres and the changing room facilities block 13.4 metres. There is a function room between these two wings that projects 7.5 metres and is 4.5 metres wide. The loggia and wings on the northern end of the building facing across towards the Garway Moon projects 2.4 metres out and is 12.3 metres in frontage or length. This provides a floor area of 450 square metres.

## 2. Policies

### 2.1 Planning Policy Guidance

|        |   |  |
|--------|---|--|
| PPS.1  | - | Delivering Sustainable Development     |
| PPS.7  | - | Sustainable Development in Rural Areas |
| PPG.13 | - | Transport                              |
| PPG.17 | - | Sport and Recreation                   |

### 2.2 Hereford and Worcester County Structure Plan

|              |   |                               |
|--------------|---|-------------------------------|
| Policy CTC.2 | - | Area of Great Landscape Value |
| Policy CTC.9 | - | Development Requirements      |

### 2.3 South Herefordshire District Local Plan

|              |   |  |
|--------------|---|--|
| Policy GD.1  | - | General Development Criteria                                       |
| Policy C.1   | - | Development within Open Countryside                                |
| Policy C.3   | - | Criteria for Exceptional Development outside Settlement Boundaries |
| Policy C.8   | - | Development within Area of Great Landscape Value                   |
| Policy C.10A | - | Common Land  |
| Policy C.13  | - | Protection of Local Nature Conservation Sites                      |
| Policy C.14  | - | Ponds and Wetlands   |
| Policy C.30  | - | Open Land in Settlements   |
| Policy C.43  | - | Foul Sewerage  |
| Policy R.1   | - | Provision of New Recreational Facilities                           |
| Policy R.4   | - | Protection of Recreation Land and Public Open Space                |
| Policy CF.1  | - | Retention and Provision of New Community Facilities                |
| Policy CF.5  | - | Provision of Community Buildings                                   |

### 2.4 Unitary Development Plan (Revised Deposit Draft)

|              |   |   |
|--------------|---|---|
| Policy S.2   | - | Development Requirements  |
| Policy S.8   | - | Recreation, Sport and Tourism   |
| Policy RST.6 | - | Countryside Access  |
| Policy LA.3  | - | Setting of Settlements  |
| Policy HBA.9 | - | Protection of Open Spaces and Green Spaces                            |
| Policy CF.5  | - | New Community Facilities  |
| Policy NC.4  | - | Sites of Local Importance   |
| Policy NC.5  | - | European and Nationally Protected Species                             |
| Policy NC.6  | - | Bio-diversity Action Plan   |
| Policy NC.9  | - | Management of Features of the Landscape Important for Flora and Fauna |

## 3. Planning History

3.1 None identified relating to this site.

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 The Environment Agency initially submitted a holding objection as it required further information, but following further discussions with the applicant they recommend a condition be attached, in the event of planning permission being granted, relating to details of foul drainage to a private treatment plant being submitted.

##### Internal Council Advice

- 4.2 Traffic Manager recommends further details be submitted in relation to the car parking layout, i.e. one space per 10 square metres of gross floor area and aisle widths to be 6 metres.

- 4.3 The Conservation Manager comments:

“If the building is to be sited on the Common this is the best location as it relates visually to housing across the playing fields, is central to the community, sits closely to woodland and is adjacent to the children's play area.

Design approach is commended. Parking area does conflict with some areas of grassland interest. Would not wish to see it re-located, however there is scope to avoid the most valuable areas of grass. Best done on site with architect and contractor.

Grassland would benefit from future management, an annual cutting regime should be included in the woodland area management plan.”

- 4.4 The Public Rights of Way Officer raises no objection.

- 4.5 The Council's County Land Agent states that:

“The proposal will have a major effect upon the Common, suitable alternative land needs to be made available which is adjacent as well as a Section 194 Order under the Law of Property Act 1925.”

- 4.6 The Environmental Health and Trading Standards Manager has no objections. If function room is to have amplified music then adequate provision for sound insulation should be made. Also details for foul and surface water arrangements will be needed prior to commencement of works on site.

#### 5. Representations

- 5.1 In a letter that accompanied the application the applicant's agent states:

- community voted for a new hall opposite the Garway Moon public house
- believed it was owned by the Parish Council, so far unable to prove this
- looked for alternative sites
- intend to open up wooded area for recreation
- car park can be used not only for hall users. Currently park on grass verges
- field opposite the 'Moon' has been used as a sports ground for many years

- added changing rooms to hall, as it will enhance existing sporting use for the community.
- 5.2 The application was accompanied by a Management Plan for the woodland area. It essentially identifies works needed for health and safety reasons to existing trees including oak trees to the south of the hall, cleaning pond of debris, i.e. leaves, etc. allowing more light to ponds and woodland bulbs and create log piles for wildlife.
- 5.3 An Environmental Assessment also accompanied the application. It provides an inventory of flora and fauna. Great Crested Newts were found in the ponds, however they would not use the ponds for breeding purposes given that there are better alternatives elsewhere, that there are virtually no plants onto which the newts might lay their eggs, and that the ponds were too shaded.
- 5.4 A further letter from the applicant's agent detailing the progress of the proposal was submitted. The main points being:
- 1995 - Hall trustees decided present hall needed major work. Questionnaire presented, 44% opt for site adjoining school, 26% present location, 30% on Common
  - 1999 school site looked at
  - 2000 Questionnaire sent to all village, school site 7, existing site 68, Common 92, abstentions 4
  - 2001 Feasibility study undertaken. Write to other village hall committees for advice
  - 2002 sites identified, given questionnaire plans drawn up for Common
  - 2003 Ballot arranged, vote for building on Common. All those on electoral roll could vote. Results 149 for, 74 against, 7 void
  - 2003 March - Council's County Land Agent confirms that in 1966 Parish Council registered as caretakers. No one came forward to contest this. Confirmed Management Plan needed as part of application.
  - Letter on file dated March 1975 states that 'A Commons Commissioners Hearing took place at Hereford on 10th December, 1974. The ownership of register unit CL118 became final without modification. The ownership of Garway Common is therefore vested in Garway Parish Council.
  - 2004 Papers for 194 and planning applications collected and sorted
  - 2004 May AGM. If alternative sites could be found they would be welcomed.
  - 2004 August. Suggested owner of Common be contacted, he states that he and his brothers are seeking legal advice
  - confirmed that owner unwilling to sell any land nor allow installation of new drainage arrangements if new hall is build on existing site. Compulsory purchase not viable.
  - 2004 November - Parish council has applied for first registration of the Common, search revealed a caution lodged by estate of Lady Lawley. Parish Council has counter lodged a caution.
- 5.5 The Parish council are not able to comment on this application. The members have signed the Code of Conduct and registered their interests. The various interests held mean that all members have a Prejudicial Interest. On the advice of the County Secretary and Solicitor an open meeting was held on Monday, 8th August chaired by the Ward Member to give parishioners the opportunity to comment. Over 50 people attended.

5.6 82 letters have been received objecting to the proposal on the following grounds:

- Common rights of grazing, pannage, estovers and turbary over whole of Common
- survey agricultural land re: application form, as I have an agricultural interest on the Common
- consent required under Section 194 of Law of Property Act 1925 and also new Commons Bill (June 2005)
- infringe rights of Commoners
- loss of right to roam under provisions of Wildlife and Countryside Act 2000
- Article 6 notice in newspaper incorrect as incorrect steps have not been taken by applicant to enquire as to current ownership of the Common. Reject application
- no evidence applicant can lay claim to land in question
- on behalf of landowner, no agreement reached with Garway Hall Committee. Common should remain as has been done for over 1,000 years
- no works that prevent or impede access by commoners or the public can be undertaken without consent of Secretary of State under Section 194
- need consent of Landowners and Commoners before work could commence. Planning process presumptuous
- would need an exchange of land to be effected through the provisions of Section 145 Inclosure Act 1947. Requires suitable land adjoining the Common. If it could be found why not use it instead
- Garway Common Hall Committee do not own land
- once Common lost never regained
- contrary to Policies C.1, C.2, C.3(iii) and C.10A in the South Herefordshire District Local Plan. Also Policies C.14 and C.17 together with Policies R.1, R.4 and R.11
- whilst UDP does not have statutory force, proposal still contrary to Policies H.6, S.6, S.7 and S.8 on sustainability. LA.2, LA.3, LA.5, LA.6, NC.1, NC.3, NC.4 and HBA.9 (paras 2, 4, 5, 6, 7 and 8)
- also Policies RSTA.1 and RSTA. 4 in the UDP and Policy CF.5 together with Policies LR.1, LR.2 and LR.3 in the Hereford and Worcester County Structure Plan
- also contrary to Policies as it will detract from amenity and landscape protection of Area of Great Landscape Value and effect the Special Wildlife Site
- in Commons Bill 2005 public interest element relates to nature conservation, conservation of landscape, public rights of access and protection of archaeological remains and features of historic interest. Application in breach of all four mentioned provisions
- outside of local structure plan
- contrary to provisions of Government advice in PPG.17, as open recreational space is not being protected
- precedent for further development
- view of hills will be marred
- loss of view, unsightly
- facilities not required for junior football team, no senior team, cricket team long since past, children can go home after game on Common
- existing site adequate, good location opposite school. Land either side, i.e. old school and garages could be acquired. Also refused site near to Garway Moon could be looked at
- build extra floor in existing hall
- existing village hall adequate for population

- Herefordshire Council should make land available for site, and charge a peppercorn rent (done elsewhere at Llanishen near Chepstow)
- could park on Common as is done presently
- upkeep will fall on taxpayers
- disproportionately big (134 square metres old hall, 445 square metres proposed) suggested levers of grants has biased proposal and hall Committee to an easy option
- will be a white elephant, laying idle for periods of time
- good parish/village halls around Garway that could be used. Where will custom come from?
- enjoyable source of wildlife habitat
- where will spill go from construction?
- use stone not render
- access road not wide enough for 2 vehicles to pass
- tarmac sealed surface (at entrance) not possible anywhere else on Common
- overflow car park will be the Common itself, not the distant Garway Moon car park
- short-cuts will be taken across the Common
- 24 spaces inadequate
- loss of open nature of Common
- loss of flora and fauna (unusual grasses, wild daffodils, bluebells and orchids together with bats, butterflies, Great Crested Newts)
- loss of trees and vegetation: wildlife habitat returned following clearance of Common at Commoners consent for playing field
- a Special Wildlife Site
- Biological Survey undertaken in 1990s by Aberystwyth University on Common
- need a year long survey
- pay farmers not to destroy edge of field habitats, why allow it here?
- car park layout could lead to it being used as a race track and meeting place
- recommend no overnight commercial parking on car park, given proximity to nearby residents
- enjoyable sound of natural habitat for wildlife
- site of Interest for Nature Conservation
- light pollution in car park, no street lighting
- noise pollution from such a large building with large functions
- if approved request movement of access point as car headlights will be intrusive. Also need screening hedge (8 feet high at least)
- local ballot 2 years ago inaccurate, missed many people. Yes/No only meant other options not included
- could field ditches cope with stormwater?

5.7 14 letters of support have been received making the following main points:

- help develop school as a centre for community amenity. Need an After School and Breakfast Club, hall could be utilised easing congestion in village
- falling school roll, local playground in danger of closing if forced to use current inadequate facilities
- playgroup advised to compete with other nurseries by providing full day-care - an impossibility in existing hall
- could also use hall as a health clinic, school nurse drop-in clinics, adult learning, family learning, health and fitness activities, a Community Defibrillator
- inadequate parking facilities (at existing hall)
- far undersized for its user needs (at existing hall)
- inadequate kitchen and toilet facilities (at existing hall)

- inefficient heating (at existing hall)
- no car parking facilities, both sides of road used, making it impossible for emergency vehicles, lorries and tractors (at existing hall)
- local sports clubs use facilities at Garway Moon
- help sustain community
- great asset for indoor sports and other facilities
- understand if hall not built on common local landowners are not prepared to sell or lease piece of suitable land
- run one of junior teams. Need facilities to join a league
- also have been involved with cricket, folded due to lack of facilities
- vast majority of villagers have long been in favour of this site as opposed to relative newcomers
- existing hall patched up but unable to meet current legislation
- with two local referendums showing about 70 per cent in favour, seems obvious place to build
- whole site, a very small area of approximately 26 acres
- community should forget about personal gain value of properties.

The full text of these letters can be inspected at Southern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

## **6. Officers Appraisal**

- 6.1 The main issues are considered to be the legality of the application, alternative sites, parking and access, lighting, ecology, impact of the building in the landscape and amenity of residents, development of Common land and recreational use.
- 6.2 The application was advertised under the provisions of Article 6 of the Town and Country Planning (General Development Procedure) Order 1995 in a local newspaper. This was in order that anyone with any interest in the application site could make representations, given that the ownership of Garway Common has not been settled. Officers sought Counsel advice on this matter, which is that the correct procedure has been undertaken. Therefore the applicants have taken the necessary steps to ascertain the ownership of the Common and have publicised the application correctly in accordance with the provisions of the General Development Procedure.
- 6.3 The issue of alternative sites has been raised. It is one that officers have some knowledge of, as alternative sites have been viewed. It is understood that the applicants have returned to their original choice of site, given that, it is believed, it has the backing of most of the population of the village. It provides parking facilities, unlike the current site, is well sited in relation to existing development particularly on the northern side of the C1234 road, including the Garway Moon. Also the site is a reasonable distance away from local residents. The local planning authority can only determine the application on its merits with regard to planning policies and other material considerations.
- 6.4 The parking facilities proposed for the proposal fall short of the national standard set out in the South Herefordshire District Local Plan. However, the Council parking standard exceeds that required by the provisions of Government advice set out in PPG.13: Transport. The Traffic Manager confirms that given the parking provision satisfies the requirements of PPG.13 there is not an issue. Also the extent of car parking envisaged provides the optimum level of parking such that not more Common than is necessary is used for parking of vehicles for those who want to use the

common for recreation or the hall itself. There are no objections raised by the Traffic Manager to the suitability of the unclassified road (u/c 71412) as a connecting highway between the car park serving the village hall and the C1234 road, the main thoroughfare. The distance between the access point onto the unclassified road at the junction onto the C1234 is just over 100 metres which is considered to be a reasonable distance, notwithstanding the narrowness of the road.

- 6.5 External lighting would need to be strictly controlled, as there is no street lighting, particularly in the car park. This can be achieved by the imposition of a planning condition.
- 6.6 An ecological appraisal of the site and adjoining Common was submitted with the application. No mature trees will be removed, and the grassland area on which cars will park will need to be reconsidered following the advice of the Conservation Manager. This can be resolved by a condition. This may entail the re-alignment of spaces, but is a matter that can be addressed satisfactorily. There will inevitably be the loss of some wildlife habitat, however with ongoing management of what remains, including the two ponds to the south of the hall, the wildlife interest can be improved with proper management of the woodland and grassland areas. It is considered that with diligent management of the ponds, woodland and grassland the wildlife value of a site that has existing public access can be enhanced. The application is not contrary to Policies C.14 and C.17 contained in the South Herefordshire District Local Plan, indeed the intention of the proposal and the management of the adjoining Common is supported by those two policies relating to ponds and tree management.
- 6.7 This proposal falls within the provisions of Policy CF.1 and CF.5 contained in the South Herefordshire District Local Plan. The site should be within or adjoining the settlement which is the case, be well designed and not affect the amenity enjoyed by neighbouring residents. The new building will complement the existing buildings including residences and the Garway Moon on the northern side of the C1234 road. It will be set in amongst them and will adjoin the playground. The mown area between the site and the C1234 road will provide the building with the right context. The height, massing and finish of the building reflects the vernacular of such inter-war village/parish halls. It is considered that there is sufficient distance between the proposed hall and the nearest dwellings in terms of general noise and disturbance emanating from the building and the car park. Therefore the proposal satisfies the criteria for new community facilities. Policies GD.1, C.1 and C.3 are also satisfied. Government advice contained in PPS.7: Sustainable Development in Rural Areas encourages the provision of community facilities, particularly to sustain rural communities.
- 6.8 The right to roam across the Common will obviously, with the erection of a village hall and with parked cars nearby, impede the ability of users of the Common to roam at will. The hall is not though removing open space, it is removing woodland scrub. The rights of Commoners would be a matter that would be fully addressed in the Section 194 Order under the Law of Property Act 1925 application. The applicants have, it is understood, been informed that they should seek planning permission before applying to DEFRA. Therefore, although a number of representations received refer to the requirement of applying to DEFRA, the local planning authority can only determine the application on its merits with regard to current planning policies and material considerations relating to the erection of community buildings. The ownership of the Common is a complication, however, as has already been stated. This is a valid application within the terms of the General Development Procedure Order. The Common performs a number of functions, it is a wildlife site, a recreational area, an



area on which the public can roam and most importantly one to which Commoners can exercise their established rights. The Council's County Land Agent has stated, as have others in the representations received, that it will be necessary for the applicant to provide land in exchange for Common lost. Whether or not this is possible is not known, it would though need to be addressed in any Section 194 Order under the Law of Property Act 1925 application submitted, given The Commons Bill is not yet law of the land.

- 6.9 The application is not contrary to Policy R.11 contained in the South Herefordshire District Local Plan, as this policy relates to public rights of way and does not relate to Common land. Policy R.4 is also not breached as has already been stated above as the amenity of the site will be better managed and that the recreational open space that exists presently will not be lost, but with the provision of facilities will enhance the use of such open space, i.e. with the provision of changing facilities and meeting place.
- 6.10 There are other issues raised relating to precedent, which can only be answered by stating that each application can only be treated on its merits. The type of development proposed is one of the few, if any, that is allowed for in Development Plan Policies. Whether or not the hall if built will be a liability is not a matter that can be addressed within planning legislation. The proposal is on a sensitive site, it will not though detract from the existing wildlife interest, nor materially reduce the amenity of the Common in terms of recreational use or amenity. It will offer facilities required by the community with better parking and drainage facilities than at present. It can therefore, on balance, be supported subject to the imposition of planning conditions. Therefore, the proposal satisfies the provisions of Policy C.10A relating to Common land in the South Herefordshire District Local Plan.

## 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. A07 (Development in accordance with approved plans)**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.**

**3. B01 (Samples of external materials)**

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

**4. No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to a private treatment plant has been submitted to and approved by the local planning authority. No part of the development shall be brought into use until such treatment plant has been constructed.**

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

**5. G09 (Retention of trees/hedgerows)**

**Reason: To safeguard the amenity of the area.**

- 6. Final details of car parking, including layout and surfacing shall be agreed on site between the local planning authority and the applicant's representatives. Any agreed revisions shall be implemented. Such car parking spaces shall allow for 6 metres spacing in aisles.

**Reason: To minimise the environmental impact of development.**

- 7. All areas of trees, shrubs, grass or scrub shown to be retained shall be protected from damage during the course of construction. No development shall be commenced on the site or machinery or materials brought onto the site for the purposes of development until adequate measures have been taken for their protection. All such measures shall be agreed with the local planning authority before implementation.

**Reason: In order to preserve the character and amenity of the area.**

- 8. Prior to the first use of the village hall hereby permitted, a management plan, to include proposals for the long term design objectives, management responsibilities and maintenance schedules in perpetuity, for the site shall be submitted to and be approved in writing by the local planning authority. The management plan shall be carried out as approved.

**Reason: In order to ensure that the use and maintenance in perpetuity of the Common in the interests of its amenity.**

**Informative(s):**

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

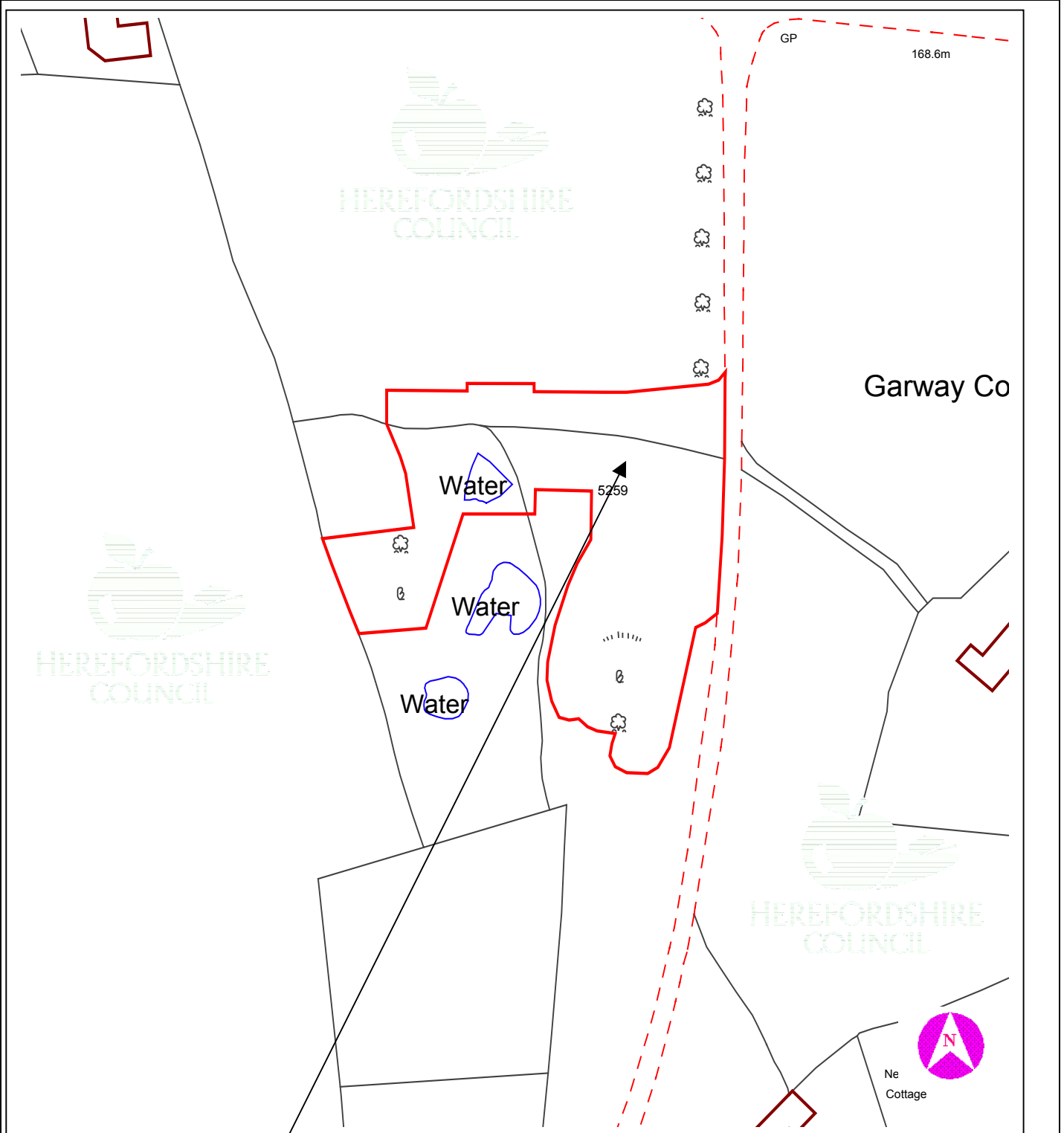
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCSW2005/2391/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land adjacent swings and slide opposite the Garway Moon Public House, Garway Common, Garway, Herefordshire, HR2 8RF

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