

5 DCCE2005/1752/O - CLASS A1 NON-FOOD RETAIL DEVELOPMENT, CAR PARKING, ASSOCIATED FACILITIES AND SERVICES AT LAND AT REAR OF DENCO SITE, HOLMER ROAD, HEREFORD, HR4 9SH**For: Morbaine Ltd, The Finlan Centre, Hale Road, Widness, Cheshire, WA8 8PU****Date Received: 27th May, 2005 Ward: Three Elms Grid Ref: 50852, 41639****Expiry Date: 22nd July, 2005**

Local Members: Councillors Mrs. P.A. Andrews, Mrs. S.P.A. Daniels and Ms. A.M. Toon

UPDATE

This application was deferred at the December Central Area Planning Sub-Committee to enable Members to inspect the site and provide officers time to negotiate a possible increase in the financial contribution for off site recreational facilities. Following further negotiations, the applicants have now agreed to increase the size of the contribution from £154,000 to £215,000. The money will be used at the Aylestone Park development for the provision of grass football pitches and ancillary facilities. The applicants have also advised that a replacement car park is to be provided for that lost as part of the proposed development. Further details including plans are awaited on this matter.

1. Site Description and Proposal

- 1.1 The site is located to the rear (east) of Denco's former offices in the northern part of Hereford. Access is presently gained via unclassified road 80331 which runs alongside the A49. To the north and east is Wiggins's Special Metals and south is a gas holding tank. A number of buildings presently occupy land to the west but these are shortly to be demolished to accommodate the new B&Q Superstore for which detailed planning permission was approved last year.
- 1.2 The site in question is presently undeveloped and is largely set out to grass having previously been used as a football pitch. The southern boundary is enclosed by a row of mature poplar trees, the remainder of the site being relatively open. Running along the eastern and southern boundary is public footpath reference HER9. The site itself is designated within both the Hereford Local Plan and the Herefordshire Unitary Development Plan (Revised Deposit Draft) as private outdoor play space.
- 1.3 Outline planning permission is sought for the construction of Class A1 non-food retail development and associated car parking and landscaping. Means of access is also to be considered under this application with the external appearance, siting, design and landscaping reserved for future consideration. An illustrative layout plan has also been provided which identifies three retail units with a total retail floorspace of 3623 sq metres along with 176 parking spaces and associated servicing and lorry manoeuvring areas. The application is also accompanied by a traffic and retail impact assessment.

2. Policies

2.1 Planning Policy Guidance:

Planning Policy Statement 6 – Planning for Town Centres
 Planning Policy Guidance Note 17 – Planning for Open Space, Sport and Recreation

2.2 Hereford Local Plan:

ENV6	-	Hazardous installations
ENV14	-	Design
ENV15	-	Access for all
S1	-	Role of central shopping area
S11	-	Criteria for large scale retail developments outside of the city centre
E6	-	Other uses on employment land
T2	-	Highway and junction improvement
T11	-	Pedestrian provision
T12	-	Cyclist provision
R5	-	Loss of private outdoor playing space
R6	-	Provision of outdoor playing space
IMP3	-	Planning obligations

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S1	-	Sustainable development
S2	-	Development requirements
S5	-	Town centres and retail
S8	-	Recreation, sport and tourism
DR2	-	Land use and activity
DR3	-	Movement
DR5	-	Planning obligations
DR12	-	Hazardous substances
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability
TCR9	-	Large scale retail and leisure development outside central shopping and commercial areas
TCR25	-	Land for retail warehousing
T8	-	Road hierarchy
T11	-	Parking provision
T16	-	Access for all
RST4	-	Safeguarding existing recreational open space
RST5	-	New open space in adjacent settlements

3. Planning History

3.1 No history exists for the site subject of this application but the following relates to the adjoining site and is of relevance.

3.2 CE2003/3392/O - Class A1 non-food retail development, car parking, associated facilities and services, Denco site, land at Holmer Road, Hereford. Outline planning permission approved 17th November, 2004.

- 3.3 CE2004/4378/RM - Class A1 non food retail development, car parking, associated facilities and servicing, Denco site, land at Holmer Road, Hereford. Reserved matters approval 9th March, 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 Sport England: The applicants are offering £100,000 as compensation for the loss of the area of open space. However, the STRI Report indicates that development of the pitch at Aylestone Park will cost in excess of £100,000. If the current application were to proceed a pitch (or the potential space for a pitch) will be lost on land that is allocated for open space purposes, in an area where it is needed. It would not appear that any assessment has been undertaken to indicate that the Denco site is not required for any of the open space uses that it might fulfill, including that of playing fields, in accordance with advice in PPG17. The £100,000 offer represents only part of the value of the playing pitch. In reality, a replacement pitch would also involve land costs, infrastructure costs and maintenance costs. In a recent appeal decision compensation of £250,000 was not considered acceptable.

Sport England considers that the rationale for the compensation should be clear and that either one of the exceptions to playing field policy should be satisfied or a case should be made to clarify the very special circumstances that might mean this case could be considered as an exception to policy.

In response to the initially revised financial contribution (£154,000), Sport England comment:

...Sport England are satisfied that the proposed replacement facilities are capable of providing a replacement playing field to meet the exception E4 of our policy (criteria iii of paragraph 15 in PPG17). In these circumstances, subject to the proposals for replacement facilities being secured by condition or agreement within an agreed timescale, Sport England withdraws their objection to the application”.

- 4.2 Health and Safety Executive - Hazardous Installations Directorate: The Health and Safety Executive is a statutory consultee for certain developments within the consultation distance of major hazard installations, complexes and pipelines. The Health and Safety Executive does not advise on safety grounds against the grant of planning permission in this case.
- 4.3 Highways Agency: The requested information has been provided and the Agency has confirmed that the submitted information has addressed their previous concerns and consequently, they withdraw their objection subject to a condition concerning the access construction.
- 4.4 Open Spaces Society: Circular 5/94 – ‘Planning out Crime’ states that development should not create intimidating corridors out of existing public footpaths by erecting wooden panels. Paths must also be overlooked, have an open aspect and lit at night.
- 4.5 Ramblers Association: This development doesn't appear to have any impact upon the adjacent public rights of way. However the developer should be aware that there is a legal requirement to maintain and keep clear the public right of way at all times. As part of the development the developer should be encouraged to provide a hard surface

for the footpaths and suitable lighting for both the security of the footpath as well as the proposed retail units.

- 4.6 Welsh Water: No objection subject to conditions regarding foul and surface water drainage.

Internal Council Advice

- 4.7 Public Rights of Way Manager: The proposed development does not affect public footpaths HER9 and HER41.
- 4.8 Parks and Countryside Manager: The application is fully supported in respect of the financial contribution to off site provision of new sports facilities elsewhere in the town. This should avoid objection from Sport England as it meets with their Exception Policy E4 - Replacement of Lost Facilities. The contribution is to be used towards Aylestone Park development, which is being developed as a result of other lost football pitches in the area.
- 4.9 Community and Economic Development Manager: No objection:
- 4.10 Environmental Health and Trading Standards Manager: No objection.
- 4.11 Conservation Manager: No objections subject to conditions concerning landscaping.
- 4.12 Traffic Manager: No objections subject to standard conditions including a condition requiring the provision of a Travel Plan. Additional traffic calming within the adjoining site may also be required along with a possible financial contribution towards a new bus stop to serve the development should be investigated.
- 4.13 Forward Planning Manager: In the emerging UDP the site constitutes an area of land designated as safeguarded recreational space under Policy RST4 of the Plan. It is understood this matter has been resolved through negotiation but does need to be checked.

Policy TCR9 of the Plan regarding large scale retail developments requires any proposal for such development outside of the Central Shopping and Commercial Area to demonstrate both a quantitative and qualitative need for the development in the location proposed. The application includes a Retail Assessment for Hereford which highlights the UDP's Retail Background Paper Capacity Assessment. The Background Paper, produced in 2002, states that there is a current shortage of existing durable goods retail floorspace, and identifies a further need of 11,000 to 15,000 sq metres of floor space over the plan period. The UDP identifies the site at Holmer Road as a location where the majority of this requirement should be located. Any further introduction of large scale retail development outside of allocated sites should be assessed in terms of Policy TCR9.

If need has been demonstrated, which in this case, it has, then a sequential approach to site selection is required. The UDP states that the most sequentially appropriate site for retail warehousing is at Holmer Road. This site is adjacent to the A49 and would complement existing retail warehouse facilities in the area thus facilitating linked trips. The applicants have also gone further to review other sites which would be sequentially preferable to out of centre sites. It is considered that such analysis is acceptable to a level that satisfies the requirements of Policy TCR9 of the UDP.

5. Representations

- 5.1 Hereford City Council: The City Council recommends refusal on the ground of deleterious impact on the city centre retail outlets. It is also considered to be contrary to the rational behind the planning consent for the existing development at the site.
- 5.2 The full text of these letters can be inspected at Central Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 The main issues relevant to the consideration of this application are:

1. The Principle
2. Retail impact
3. Loss of private open space.
4. Other matters
5. Conclusion

The Principle

- 6.2 The application is accompanied by a Retail Assessment, which examines existing shopping patterns within the catchment area and provides an assessment of non-food retail provision in Hereford. The report goes on to assess the need for the proposed development and considers the sequential approach to site selection and finally, the report considers the likely retail trading effects of the proposed development.
- 6.3 The starting point for the retail assessment is the Retail Background Paper prepared in conjunction with the Unitary Development Plan. Figures obtained from the UK Shopping Index for 2003/2004 identify Hereford placed 77th in the UK rankings of shopping centres, this now being ahead of a number of neighbouring regional centres including Shrewsbury and Gloucester. Hereford's ranking under the similar Shopping Index in 1995/96 was 136th. This background information demonstrates that Hereford has a viable and commercially attractive shopping environment with a strong comparison goods retail sector.
- 6.4 In assessing this proposal, the applicants must first demonstrate a retail need for the additional floor space proposed. This is fulfilled by considering the quantitative need (i.e. expenditure capacity) and a qualitative need (i.e. any deficiencies in existing retail provision and market demand). The Retail Background Paper prepared in support of the Unitary Development Plan states the following:
- “The capacity of existing durable goods retail floor space is failing to satisfy current levels of spending. This is resulting in substantial leakage of spending to centres outside the catchment. In order to make good this leakage and maintain Hereford's position within its catchment, some 14,000 – 16,000 sq metres of city centre floor space and a further 11,000 – 15,000 retail warehouse floor space will be required over the UDP period”.
- 6.5 The applicant's retail study utilises more up-to-date expenditure and population figures than that which led to the above conclusion and identifies an even greater need for retail warehouse floor space totalling between 17 and 22,000 sq metres net over the plan period. Based on this information, it is clear therefore that there is surplus retail

expenditure capacity to support additional retail warehousing in Hereford and consequently, a quantitative need has been proven.

- 6.6 In terms of a qualitative need, no occupiers have yet been identified for the proposed retail units. However, a number of national retailers have expressed an interest for a large store in a retail park location such as Holmer Road. The report argues that there are deficiencies in Hereford's retail warehouse provision on the basis that there are a number of national retailers located in neighbouring regional centres which do not have stores in Hereford. This may be the case but it is unrealistic for every national retailer selling carpets, for example, to have or even want a store in Hereford. Furthermore, the qualitative case is somewhat out of date as for example; it suggests that there is a very limited electrical sector, which, of course, is no longer the case with the new Comet store and the recently approved Maplin Electronics store adjacent to Halfords. Therefore, the case made for a qualitative need is relatively weak. However, policy TCR9 of the UDP states that greater weight should be placed on the quantitative need for new retail provision and it is considered that in this instance, the quantitative need has been proven.
- 6.7 Once the need for additional retail bulky goods floor space has been demonstrated a sequential approach to site selection must then be adopted. This approach gives first preference to town centre sites, in Hereford this means land and buildings within the Central Shopping and Commercial Area, second preference is land and buildings on the edge of centre which normally means within walking distance of up to 500 metres from the centre and third preference is for an out of centre location which is well served by public transport but does not lie outside of the defined settlement boundary.
- 6.8 The Eign Gate Regeneration Area is identified in the UDP as a possible city centre retail site but this is generally earmarked for smaller comparison goods units. The Edgar Street Grid area offers the only major opportunity for edge of centre retail development. However, this is a long term opportunity and the retail provision is again, likely to be focused on non-bulky comparison goods floor space to compliment and enhance the vitality and viability of the existing shopping provision and therefore is unlikely to be available for bulky goods retail warehousing. As to out of centre sites, land south and south west of the application site is specifically allocated for additional retail warehousing as confirmed under Policy TCR25 of the UDP. Policy TCR25 states that the majority of the additional 11,000 – 15,000 sq metres net retail warehousing floor space referred to above should be located at Holmer Road which is considered to be the most sequentially appropriate site. No objections were lodged to this policy and therefore it is likely that it will be adopted.
- 6.9 The applicants argue that this site has limited commercial appeal due to length of its frontage on Holmer Road and the fact that part of the site is located to the rear of the existing B&Q store. This is not dissimilar to the relationship of this application site to the new B&Q site in terms of the frontage width and the principle of having backland style retail units. Therefore, this could be regarded as a sequentially preferable site in terms of the fact that it is specifically allocated for further retail warehousing. However, in locational terms, the UDP allocated site is no more sustainable than this proposed site and given that a quantitative need has already been demonstrated, it is considered that there is additional retail capacity for the application site. In locational terms, it will also complement other retail warehousing in the locality, leading to linked trips and will be sustainable in terms of its accessibility by a choice means of transport. Therefore as required by Policy TCR9, a retail need has been demonstrated and the site is sequentially acceptable.

Retail Impact

- 6.10 Having identified a retail need and established the most appropriate site, the retail impact of the development on Hereford city centre must be assessed. The proposals will inevitably lead to the diversion of some trade away from the city centre. The retail report estimates (based on 2004 figures) the combined city centre turnover (comparison and convenience goods) in 2006 to be £226.8M and the trade diverted from recent and proposed developments will be £11.2M. This effectively means that the new B&Q, Comet site and this development would take an additional 4.7% of total retail turnover away from the city centre. This figure is relatively insignificant and also must be considered against other factors. Some retail leakage to other regional centres referred to above and in the UDP will be clawed back by this and other recent developments/approvals. Furthermore, the retail turnover for Hereford City will have increased by almost 19% between 2001 and 2006, which highlights that although Hereford's out of centre retail provision is continuing to grow, there has been no adverse impact on the city centre retail sector. Therefore, based on recent and projected figures the retail impact is acceptable.

Loss of Private Open Space

- 6.11 The site in question is allocated within both the Local Plan and Unitary Development Plan as private open space, being most recently used as a football pitch by Denco employees. Policy R5 of the Hereford Local Plan and RST4 of the Herefordshire Unitary Development Plan state that development proposals that would result in the loss of private open space with recreational value, or facilities that help meet the recreational needs of the community will not be permitted. There is essentially two exceptions to these policies:
1. There is a clear excess of outdoor playing space in the area taking account of the wider recreational provision or
 2. Alternative provision of at least equivalent community benefit is provided in a convenient and accessible location.
- 6.12 Paragraph 15 of Planning Policy Guidance No. 17 entitled Planning for Open Space, Sport and Recreation states that where a robust assessment of need has not been undertaken, planning permission for development should not be allowed unless (Criteria 3) the playing field that would be lost as a result of the proposed development will be replaced by a playing field or fields of equivalent or better quantity and quality in a suitable location. Para. 16 of PPG17 goes on to state that in considering planning applications, authorities should weigh any benefits being offered to the community against the loss of open space that will occur.
- 6.13 The applicants have not undertaken a Recreational Land Study and therefore the criteria above is relevant. To compensate for the loss of the site as an area of private open space the applicants have offered a financial contribution of £154,000 to be provided by way of a unilateral undertaking. It is proposed that this money would be used at the Aylestone Park development and is sufficient to fund the cost of providing two grass football pitches – one full sized and one junior pitch. This figure was arrived at following a feasibility study undertaken by the Council in May 2004. The original offer of £100,000, which would equate to the cost of one full sized pitch was not considered to be a reasonable and commensurate contribution. Following negotiations and discussions the applicants agreed to the cost of providing two pitches (although given the feasibility study was in May 2004, the actual cost is now likely to be greater).

- 6.14 The loss of the open space is unfortunate, particularly as there is already a shortfall of recreational space within the catchment area of the site. However, the likelihood of the land being used for private let alone public or community usage in the future is extremely limited. Therefore, the community benefit of enabling the Aylestone Park site to be developed considerably quicker than would be the case if the money provided by this development were not available is on balance, considered to be of greater benefit to Hereford City as a whole than retaining and protecting the application site for private open space.
- 6.15 Sport England have subsequently withdrawn their original objection based upon the contribution of £154,000 offered by the applicant. As noted in the update above further negotiations requested by the Committee have resulted in an additional contribution totalling £215,000.

Other Matters

- 6.16 The Highways Agency have also withdrawn their objection to the application. The information requested by the Highways Agency has been provided and forms the basis of a condition. To assist in the costs of the possible junction improvements on the A49 and the promotion of other public transport measures such as a new bus stop, the applicants are also proposing a financial contribution of £5,500 to be used by either the Highways Agency or Herefordshire Council towards the cost of highway related improvements.
- 6.17 An indicative layout has been provided that indicates three different size retail units, the largest being 1393 sq metres (15,000 sq feet) the smallest being 1115 sq metres (12,000 sq feet). A further 176 parking spaces are proposed along the western boundary and extending on from the proposed parking associated with the B&Q Store with the servicing area to the rear (east) of the site. There may be some issues with the layout such as, for example, the relationship of the large retail unit to the footpath with potential impact on the usability of the footpath. However, the layout indicates that three units of the size proposed can be accommodated on the site along with the associated infrastructure and parking. Ultimately, the layout along with the scale, design, materials and landscaping will be assessed and determined under a reserved matters application should outline planning permission be granted.
- 6.18 Financial contributions proposed by the applicants are to be provided via a Unilateral Undertaking under Section 106 of the Town and Country Planning Act. The undertaking has already been provided and assessed by the Council's Legal Officer and is ready to be signed should outline permission be approved.

Conclusion

- 6.19 Although there are weaknesses in the retail case presented in support of the application, the report alongside the Unitary Development Plan Policy identify a need for further retail warehousing floor space and the application site and area generally is regarded as sequentially the most appropriate location for such development. The compensation package is considered to be an acceptable replacement for the loss of the private open space. Therefore, subject to a number of conditions including a condition limiting the nature of goods sold to primarily bulky non-food items in order to safeguard the vitality and viability of the town centre, the proposal is considered acceptable.

RECOMMENDATION:

1. Subject to the applicants providing an appropriately completed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 providing financial contributions for the off site provision of recreation facilities, highway works and public transport measures and any additional matters and terms considered necessary and appropriate by the local planning authority,
2. The Officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any other conditions considered necessary by Officers:
 - 1 - A02 (Time limit for submission of reserved matters (outline permission)).
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
 - 2 - A03 (Time limit for commencement (outline permission)).
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
 - 3 - A04 (Approval of reserved matters)(delete access).
Reason: To enable the local planning authority to exercise proper control over these aspects of the development.
 - 4 - A05 (Plans and particulars of reserved matters)(delete access).
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
 - 5 - B01 (Samples of external materials)(delete details)
Reason: To ensure that the materials harmonise with the surroundings.
 - 6 - The premises shall be used as a retail warehouse within Class A1 of the Town & Country Planning (Use Classes) Order 1987 with the exception of the following uses:
 - i) the sale of food and drink to be consumed off the premises;
 - ii) sale of clothing and footwear;
 - iii) sale of cutlery, crockery and glassware;
 - iv) sale of jewellery, clocks and watches;
 - v) sale of toys, camping and travel goods;
 - vi) sale of books, audio and visual recordings and stationery except for the retail sale of office supplies, office equipment and office furniture including the sale of both bulky and non-bulky catering packs of food and drink for office use;
 - vii) sale of medical goods, cosmetics and toiletries;
 - viii) sales of sports goods, equipment and clothing;
 - ix) all uses within Categories A1 (B to F) of Class A1;

except where the retail sale of these goods forms a minor and ancillary part of the operation of any of the retail activity.

Reason: The Council's policy as set out in the Hereford Local Plan and Revised Deposit Draft Unitary Development Plan is directed towards the protection of the commercial viability of the existing central shopping area of Hereford. This condition is imposed in order to clarify the terms of the permission in accordance with the Council's stated policy, having regard to the need to protect the viability of the historic town centre.

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

Reason: To protect the integrity of the Public Sewerage System.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

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

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

- 10 - G04 (Landscaping scheme (general))

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

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

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

- 12 - H16 (Parking/unloading provision - submission of details)

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

- 13 - H27 (Parking for site operatives)

Reason: To prevent indiscriminate parking in the interests of highway safety.

- 14 - H29 (Secure cycle parking provision)

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy.

- 15 - H17 (Junction improvement/off site works)

Reason: To ensure the safe and free flow of traffic on the highway.

- 16 - F39 (Scheme of refuse storage)**

Reason: In the interests of amenity.

- 17 - F32 (Details of floodlighting/external lighting)**

Reason: To safeguard local amenities.

- 18 - G01 (Details of boundary treatments)**

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

- 19 - The development hereby approved shall not commence until details including scaled plans of the improvements to public footpath HER9 have been submitted to, and approved in writing by the Local Planning Authority. These details shall form part of the overall site development and should incorporate the footpath into the overall layout. The details shall include details of construction, surfacing, drainage and lighting including a specification to enable potential pedestrian and cycle use, all to be agreed in writing by the Local Planning Authority. The details shall be implemented as approved prior to the development opening to customers.**

Reason: To ensure the planning of the site and achieve sustainable integration with the wider rights of way network.

- 20 - No development within the application area shall be occupied or brought into use unless the proposed access as shown on drawing number 031102/02 Rev B has been completed to the satisfaction of the Local Planning Authority after consultation with the Highways Agency.**

Reason: To ensure the safe and free flow of traffic on the highway.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC**
- 2 - N02 - Section 106 Obligation**
- 3 - The applicant is advised that additional traffic calming may be required within the approved site for the new B&Q store based upon the illustrative layout provided.**

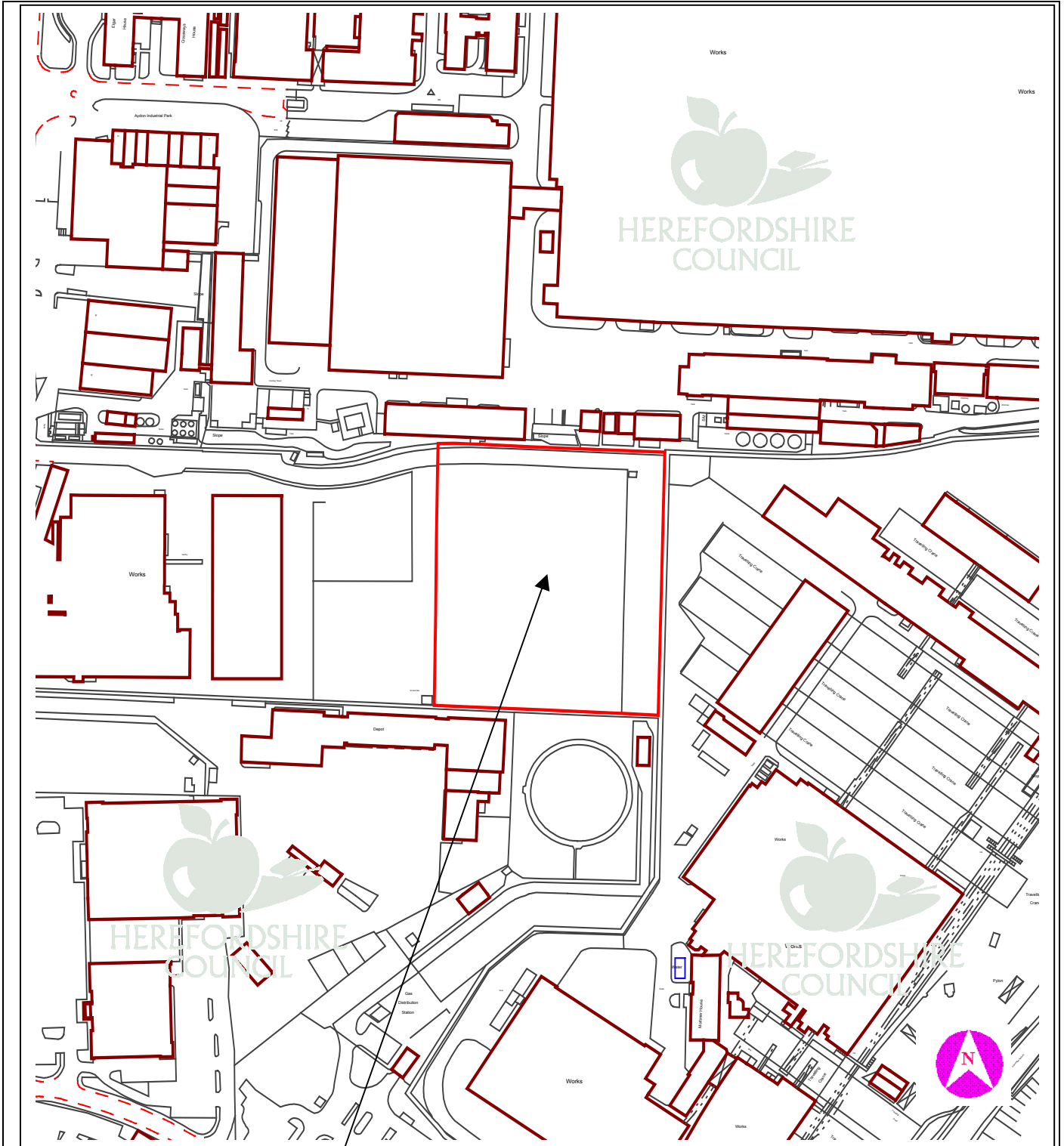
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2005/1752/O

SCALE : 1 : 2500

SITE ADDRESS : Land at rear of Denco site, Holmer Road, Hereford, HR4 9SH

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