

**9 DCNW2006/0030/N - RENEWAL OF PERMISSION FOR HOUSEHOLD WASTE SITE, (PREVIOUS PERMISSION NW00/1991/N). HATTON GARDENS INDUSTRIAL ESTATE, KINGTON, HEREFORDSHIRE, HR5 3DE**

**For: L. Good at same address**

**Date Received:**  
3rd January 2006

**Ward: Kington Town**

**Grid Ref:**  
30600, 56986

**Expiry Date:**  
28th February 2006

Local Member: Councillor T.M. James

**1. Site Description and Proposal**

- 1.1 The site lies at the eastern end of Hatton Gardens industrial estate, approximately 1 km east of Kington town centre and separated from it by the A44. It comprises about half of a larger unit, formerly a foundry and now used for the storage and maintenance of a large number of agricultural and earthmoving vehicles, plant and machinery. Several buildings exist on site of varying age and size and mostly in poor repair. The site is generally untidy and neglected.
- 1.2 The industrial estate comprises a number of businesses of varying size, but there are also dwellings on Sunset Row, Hatton Gardens and Waterloo Road, the nearest to the site being about 150 metres away. The application site lies at the far end of the access road and immediately to its east is Kington's sewage treatment works.
- 1.3 The proposal consists of an application to renew an expiring unimplemented planning permission, ref NW2000/1991/N for a waste "bring site" where householders may deposit pre-sorted unwanted materials and items of a variety of waste types in segregated bins and skips. This application is being made by the owner of the site to renew the above permission under Section 73 of the Town and Country Planning Act 1990, having been submitted immediately prior to its expiry after five years. The applicant has submitted an application form, certificate of ownership and location plan but otherwise is relying on the details contained in the earlier application. The site area is stated to be 0.2419 ha.
- 1.4 The permission also includes the erection of a brick built office/mess room and staff toilet, 5.25m x 3.4m x 3.5m high and with concrete roof tiles, 9m high lighting columns, and provision for the sale of compost from green waste. Surfaces would be tarmac with concrete hardstandings with an integrated drainage system to prevent pollution. There would be a 2.1m high galvanised security fence around the site perimeter.
- 1.5 Opening hours for the public were stated in the submitted "Working Plan" to be Wednesdays, Saturdays and Sundays weekly throughout the year, from 8.00 am to 6.00 pm (excluding bank and public holidays). Operational hours (for maintenance and the removal/replacement of skips using HGVs) would be daily between 7.30 am and 8.30 pm.
- 1.6 Two people would be employed full time with additional staff at peak times.

## **2. Policies**

### **2.1 Policies and Government Advice**

Planning Policy Statement 10 – Planning for Sustainable Waste Management  
Planning Policy Statement 23 – Planning and Pollution Control  
Waste Strategy 2000 (England and Wales)  
DoE Circular 11/95 – The Use of Conditions in Planning Permissions

### **2.2 Regional Spatial Strategy for the West Midlands (RPG11)**

WD1 –Targets for Waste Management in the Region  
WD2 – Need for Waste Management Facilities  
WD3 – Criteria for the Location of Waste Management Facilities

### **2.3 Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004 - 2034**

### **2.4 Hereford and Worcester County Structure Plan**

WD2 and WD3 – The Disposal of Waste

### **2.5 Leominster District Local Plan**

A1 – General Development Control Criteria  
A6 – Sites of Importance for Nature Conservation  
A12 – New Development and Landscape Schemes  
A13 – Pollution Control  
A14 – Safeguarding Water Resources  
A17 – Contaminated land  
A27 – Maintaining Employment Land on Industrial Estates  
A28 – Development Control Criteria for Employment Sites  
A70 – Accommodating Traffic

### **2.6 Unitary Development Plan Revised Deposit Draft**

S1 – Sustainable Development  
S10 – Waste  
S11 – Community Facilities and Services  
DR2 - Land Use and Activity  
DR10 – Contaminated land  
DR13 – Noise  
DR14 – Lighting  
E5 – Safeguarding Employment Land and Buildings  
W1 – New Waste Management Facilities  
W3 – Waste Transport and Handling

## **3. Planning History**

- 3.1 Planning permission was granted on 5th January 2001 under reference NW2000/1991/N for the provision of a facility for householders to bring pre-sorted

waste items. It was part of a series of applications made for similar facilities in Herefordshire's market towns, as a strategic response to government targets set to reduce waste going to landfill in its "Waste Strategy 2000". In that planning application, made by Mercia Waste Management, a variety of separate containers was specified to receive sorted waste such as cans, cardboard, green waste, glass, metal, refrigerators, batteries etc. The permission was never implemented.

- 3.2 A partner planning permission exists under reference NW2000/1992/F, which the owner is also seeking to renew (see planning application ref DCNW2006/0033/F), for the erection of a new industrial building on the other half of the unit to the south west. All the old buildings would be cleared away and the existing business would withdraw into this more compact area. That permission has also never been implemented.
- 3.3 As specified in the 2001 permission, details of the household waste site were as follows: Cars would enter the site via the industrial estate (not Waterloo Road), and follow a one-way system around the site to reach the containers provided for their sorted waste, using a ramp for a higher level access and leaving the site via the same gate.

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

##### Statutory Consultations

- 4.1 Kington Town Council - recommend refusal. Their letter is summarised as follows:
- this should be a new application and not a renewal
  - the two access roads are unsuitable
  - the service road is narrow and an increase in traffic would cause congestion
  - residential properties would suffer a loss of enjoyment
  - the site would increase the risk to children out of school hours. Increased traffic flow on the A44 raises major concerns for pedestrians
  - the restricted entrance would result in vehicles queuing on the industrial estate
  - security and potential for fly-tipping are of concern
- 4.2 Kington Rural and Lyonshall Parish Councils have both been consulted but neither wishes to make any comments.
- 4.3 Environment Agency - confirms that the site is in flood zone 2 but outside the flood plain and therefore not of concern, although a Flood Risk Assessment could be asked for if necessary, in terms of the requirements of PPS25 (para 57 on renewals). The Agency nonetheless raises no objection, subject to conditions being imposed to ensure the proper assessment and treatment of any contamination emanating from previous uses at the site, in line with PPS23. The Agency is happy to rely on its comments made in 2000 that recommended a number of conditions.
- 4.4 Network Rail do not wish to comment. (They are a statutory consultee on waste applications).
- 4.5 Advantage West Midlands also have no comment to make. In 2000 they objected on the grounds that they owned the access to the site but now advise that they no longer have an interest.

Internal Council Advice

- 4.6 Transportation Manager - raises no objection. Further comment was sought following receipt of Kington Town Council's comments, but the comment of "no objection" stands.
- 4.7 The following were consulted: Head of Environmental Health and Trading Standards, including Waste Management; Head of Conservation (Landscapes); Head of Forward Planning. At the time of writing none of these has responded or commented, but no objections were raised at the time of the earlier permission that this application is seeking to renew. Any further comments received will be reported to the Area Sub-Committee.

**5. Representations**

- 5.1 Eight letters of objection have been received to date from the following:

- Mrs W Jones, Waterloo Cottage, Waterloo Road
- R P Winstone, Winstone Flooring Ltd, Unit 12, Hatton Gardens Ind Est
- R B Cole, 11 Sunset Row
- Mr J Cooke, 8 Sunset Row
- Mrs J Newman, 10 Sunset Row
- Mr T Richards, 35 Hatton Gardens
- W Knight, General Builder, 3 Sunset Row
- Mr J Dennis, Arrowfield Veterinary Group, Butts Meadow, Hatton Gardens

The objection letters are summarised as follows:

- Increased numbers of children living in Hatton Gardens, playing and riding bikes
- Increased customer numbers at the Vets
- Increased activity on the industrial estate
- The site will bring more people traffic and lorries onto the road. Which is heavily congested with parked cars
- It will lead to an increase in security issues and attract an undesirable element in the close area
- We are worried that the owner has no experience in waste management
- We have a right to enjoy our homes and gardens without people's rubbish being dumped nearby
- There will be smell, vermin and flies
- The site would affect existing businesses
- It will be a slum site near my houses
- Increased pollution
- Increased risk of traffic accidents

Objectors feel that traffic has increased on the A44 in the last 5 years, and that the roundabout and access road through the industrial estate are inadequate. They comment that they and their children are at present able to use the vicinity for leisure purposes in relative safety but feel threatened by the prospect of an increase in traffic. Objectors also question the need for the site at all, bearing in mind that the 2001 permission has not been implemented, and the applicant is the owner, not the holder of the waste contract for the county

- 5.2 In 2000 11 objection letters were received, plus a petition signed by 133 people.

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

## 6. Officers Appraisal

- 6.1 The application site lies within an existing industrial estate designated as safeguarded employment land in both the Leominster District Local Plan and the UDP Revised Deposit Draft. This is the only such designated land within Kington. Access to it would be through the industrial estate using its existing service road from the A44 roundabout. No HWS traffic would use Waterloo Road or any other route. The possibility of any future unauthorised access from the south, i.e. from Waterloo Road, could be deterred by suitable boundary treatment and landscape schemes, which could also improve the view of the site from this point.

### 6.2 Policy Issues

In the five years that permission has existed for this proposal, the adopted Development Plan policies that applied in 2000/1 have not changed. The report presented to the Northern Area Sub-committee on 1<sup>st</sup> November 2000, explained that Structure Plan policy WD2 requires demonstration of need having regard to the geographical and transport relationship between sources of waste and proposed facilities. It goes on to observe that Local Plan policies A27 and A28 offer guidance on new development on industrial estates, stating that “policy A27 allows for other acceptable commercial operations not falling within a specific use class”. However this policy actually states that non-employment uses will not be permitted, although UDP policy E5 will change this by allowing for suitable alternative forms of development. Two persons would be employed at the site, but it would not be a primarily employment-generating operation. A household waste site would be classified as “*sui generis*” under the Use Classes Order, i.e. it would not fall within any established use classification, although recognised as being industrial in nature. Policy A28 concerns mainly landscaping issues, in relation to “employment uses in accordance with policies A27” etc. The proposal would therefore appear to have limited accordance with either A27 or A28, but was nevertheless approved in 2001.

- 6.3 It would however be supported by Structure Plan policy WD2 because at present there is no other facility in the west of the county apart from limited ad-hoc provision of recycling receptacles at supermarkets and village halls. Members of the public are obliged to take bulky recoverable refuse to the nearest HWS at Leominster, a 30 mile round trip from Kington. By any criteria this is not a sustainable solution to achieving waste reduction targets.
- 6.4 What has changed in the intervening five years is that the UDP is now close to adoption and therefore carries weight, the Council has published (2004) a Joint Municipal Waste Strategy (with Worcestershire) in line with Waste Strategy 2000, Government guidance has been revised as PPS10, and the West Midlands Regional Assembly has adopted the government’s revised Regional Planning Guidance note 11 (RPG11) as the Regional Spatial Strategy (RSS) that is now a statutory binding policy.
- 6.5 The UDP policies relevant to this proposal and noted above would generally support the proposal, notably Part I strategic policies S1, S10 and S11. In the absence of a suitable and available alternative site being located, it would go towards fulfilment of

the Best Practical Environmental Option (BPEO), which is integral to UDP policy, the Joint Municipal Waste Strategy and the RSS, although now given less weight in government advice (PPS10)

- 6.6 The Joint Municipal Waste Strategy outlines how the region will address government targets for recycling and recovery and the reduction of landfilling of waste. It is committed to the provision of such sites as a means of achieving compliance with the Waste Hierarchy and other government targets to reduce the final disposal of waste and increase the proportion that can be re-used or recycled. Herefordshire now has a HWS in all the market towns except Kington, and the non-implementation of the site under consideration was mainly due to a dispute as to the ownership of the entrance to it, not because of any operational problems. The present Waste Management contractors have not as yet identified any other suitable site within easy reach of Kington to complete the suite of facilities.
- 6.7 PPS10 identifies a number of criteria for site searches including industrial sites, taking into account "the capacity of existing and potential transport infrastructure to support the sustainable movement of waste". It highlights the need to consider pollution and environmental impact but points out that "modern, appropriately located, well-run and well-regulated waste management facilities .... should pose little risk to human health", being controlled not only by planning requirements but also Environmental Health and Waste Management requirements. In providing a facility for people to avoid making the journey to the Leominster HWS or elsewhere to dispose of bulky or recyclable waste, the site would contribute to a reduction of car journeys along the A44, thereby improving sustainability. It makes sense for one HGV per day to remove collected and sorted waste of many households for recycling and re-use rather than otherwise inappropriate disposal of waste to landfill, or long car journeys to the nearest facility.
- 6.8 The RSS policies on waste are not site-specific. Policy WD1 sets targets including "recycle or compost at least 25% of household waste by 2005, 45% by 2010, 67% by 2015". WD2 apportions the responsibility for waste management between the different areas of the West Midlands region, and WD3 offers criteria for the choice of location for facilities. These include the proximity principle and BPEO, and effectively support this proposal.

6.9 Operational Concerns

A letter has been received from the present contractor commenting that since 2001 HWS provision has "come under increasing pressure through:

- *the popularity of the service*
- *growth in waste arisings*
- *increasing demands by the Councils to respond to government targets by improving recycling levels at the sites, leading to*
- *requirements for more and varied recycling containers for items such as timber, WEEE goods, fluorescent tubes, dry cell batteries etc.*

- 6.10 *On a footprint of the size currently permitted at The Foundry, in our experience we would find it difficult to provide the additional containers and to satisfactorily manage the traffic flow (especially segregation of private cars and HGVs)".*

These increasing pressures highlight the importance of the need to locate a site a site convenient to Kington town residents, and in the absence of a suitable alternative this site would still be under consideration.

6.11 There is however an additional question mark over the fact that this application for renewal has been made by the owner and not the contractors, who it is believed were not aware of the owner's intentions prior to submission. Some objectors have questioned who would operate the site should permission be granted. The applicant has not expressed an intention to operate the site himself, merely to retain the existing planning permission. Anyone proposing to operate such a site would be bound not only by the planning permission but also by the terms of the Waste Management contract and all controlling and regulating environmental legislation.

6.12 Procedural Scope for Renewal

The Planning and Compulsory Purchase Act 2004 removes the provision for planning permissions to be renewed under Section 73 of the Town and Country Planning Act 1990, but existing permissions may still be renewed up to 31<sup>st</sup> August 2006. After this date, all expiring unimplemented permissions will require completely new planning applications, supported by all necessary information required to enable modern conditions to be imposed. The standard "life" of a permission has been reduced, from 5 years to 3.

6.13 In the meantime, paragraph 60 of DoE Circular 11/95 advises on the limitations of scope for refusing renewals. Three instances are cited that would justify refusal:

- a) that there has been a material change in planning circumstances;
- b) that continued failure to commence the development would create uncertainty;
- c) that the application is premature because the permission has some time to run.

The third reason does not apply in this case.

6.14 Materially changed circumstances would include:

- the adoption of new policies, which in this case support the strategic need for such a facility in Kington and increase the case for approval.
- Increased demands to provide Household Waste Sites in response to calls to recover and recycle unwanted items and reduce landfill.

6.15 New requirements under EU legislation for the segregation (for recovery, re-use and recycling) of further waste types, such as timber, fluorescent light tubes, waste electrical and electronic equipment (WEEE), tyres and other materials recently designated as hazardous and increases in waste quantities create a need for larger sites. Some questions arise as to whether The Foundry site could accommodate all the skips needed and the traffic visiting it, but these are matters of design that could be addressed without compromising the principle of using the site for such a purpose.

6.16 Limited uncertainty could be argued as to the safeguarding of employment land and the future development of this and adjoining industrial enterprises could arise if a renewed permission were granted but still not implemented. But a further argument in favour of approval would be to consider what other local site would be comparable. The Hatton Gardens site is:

- On industrial land
- Not in open countryside
- Reasonably well screened from nearby houses
- Easily accessed from the existing road network
- Available

There is currently no other site with similar characteristics, and the proposed new industrial building on the other half of the site would provide further screening if implemented. The outstanding requirement for a household "bring" site cannot be fully met by bottle banks etc at supermarkets, as a more detailed and specialised supervised collection system is necessary to comply with national and EU requirements.

## **7. Conclusion**

7.1 It is not in doubt that a HWS is needed to serve Kington and district, or that there are few sites available that would satisfy this need. The current waste management contractors have not confirmed their definite intention to develop this site particular site and it is acknowledged that the site may not be not ideal given its small size, access arrangements and proximity to housing. The proposal to open the site to the public on only three days a week would be some mitigation, although the intention is to remain open until 6 pm including on Sundays. Limited size may be some advantage in that its capacity would be somewhat restricted and would preclude intensification of the site such as would further affect the amenity of the area.

7.2 The "working plan" document submitted in 2000 comprehensively addresses all the operational issues that have been raised, and this application is to renew that permission on the same terms.

The changes in circumstance since 2001 for the most part support the permission's renewal, particularly the policy changes.

7.3 On balance, the fact that the issues were addressed and the permission granted in 2001, the need for a convenient site and its availability, the changes in policy that would encourage the provision of such a site (including at this location) lead to the conclusion that refusal would be difficult to justify or defend at appeal.

## **RECOMMENDATION**

**That planning permission be approved 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 in accordance with Policy A1 of the Leominster District Local Plan.**

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

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



4 - F32 (Details of floodlighting/external lighting )

Reason: To safeguard local amenities to comply with Policy A13 of the Leominster District Local Plan.

5 - F34 (Restriction on level of illuminance of lighting)

Reason: To minimise the impact of the lights and to protect the residential amenity of nearby dwellings to comply with Policy A13 of the Leominster District Local Plan.

6 - F35 (Details of shields to prevent light pollution )

Reason: To minimise light overspill and to protect the amenity of neighbouring properties to comply with Policy A13 of the Leominster District Local Plan.

7 - F44 (Investigation of contaminated land )

Reason: To ensure that potential contamination of the site is satisfactorily assessed to comply with Policy A17 of the Leominster District Local Plan.

8 - F45 (Contents of scheme to deal with contaminated land )

Reason: To ensure that potential contamination is removed or contained to the satisfaction of the local planning authority to comply with Policy A17 of the Leominster District Local Plan.

9 - F46 (Implementation of measures to deal with contaminated land )

Reason: To ensure contamination of the site is removed or contained.

10 - G02 (Landscaping scheme )

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment in accordance with Policy A12 of the Leominster District Local Plan.

11 - G03 (Landscaping scheme implementation )

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment in accordance with Policy A12 of the Leominster District Local Plan.

12 - G13 (Landscape design proposals )

Reason: In the interests of visual amenity.

13 - G14 (Soft landscaping works )

Reason: In the interests of visual amenity.

- 14 - No materials whatever shall be sold to the public from this site other than bagged, composted green waste processed and produced by the operator.

Reason: In order to define the permission and because retail sales of other materials would give rise to environmental concerns that would necessitate further consideration.

- 15 - Notwithstanding the submitted plans, none of the works hereby permitted shall be undertaken until a proposal for the construction and maintenance throughout the use of the site as a Household Waste Site, a 1.2 metre high close-boarded timber fence along the ramp adjoining the south-western and north-western corners of the site have been submitted to and approved in writing by the local planning authority. The fence shall be erected in accordance with the approved scheme and shall be additional to the proposed 2.1 metre high perimeter security fence detailed in the submission.

Reason: In the interests of public safety and to protect the amenity of local residents and other users of the site.

- 16 - F02 (Scheme of measures for controlling noise )

Reason: In order to protect the amenity of occupiers of nearby properties.

- 17 - There shall be no storage or stockpiling whatever of waste or any other materials on or around the site other than in the designated containers, skips, bins and enclosures provided for the purpose.

Reason: To prevent pollution and nuisance in the interests of the amenity of local residents in accordance with Policy A13 of the Leominster District Local Plan.

- 18 - F25 (Bunding facilities for oils/fuels/chemicals )

Reason: To prevent pollution of the water environment in accordance with Policy A13 of the Leominster District Local Plan.

- 19 - F26 (Interception of surface water run off )

Reason: To prevent pollution of the water environment in accordance with Policy A13 of Leominster District Local Plan.

- 20 - F28 (No discharge of foul/contaminated drainage )

Reason: To prevent pollution of the water environment in accordance with Policy A13 of the Leominster District Local Plan.

- 21 - E02 (Restriction on hours of delivery )

Reason: To safeguard the amenities of the locality.

- 22 - E04 (Restriction on hours of opening )

Reason: To safeguard the amenities of the locality.

**Informatives:**

- 1 - Lighting installations should comply with BS5489 regarding light levels or the relevant CIBSE code. Flood lights should be asymmetric beam type so the front face can be mounted as close to the horizontal as possible to minimise light spill. Light trespass should be limited so that levels of illuminance do not exceed 1.0 lux (vertical) on any windows of any adjacent residential properties or 5 lux (horizontal) on any adjacent highways. Where possible a light curfew should be imposed, depending on operating hours and need.
  
- 2 - N15 - Reason(s) for the Grant of PP/LBC/CAC

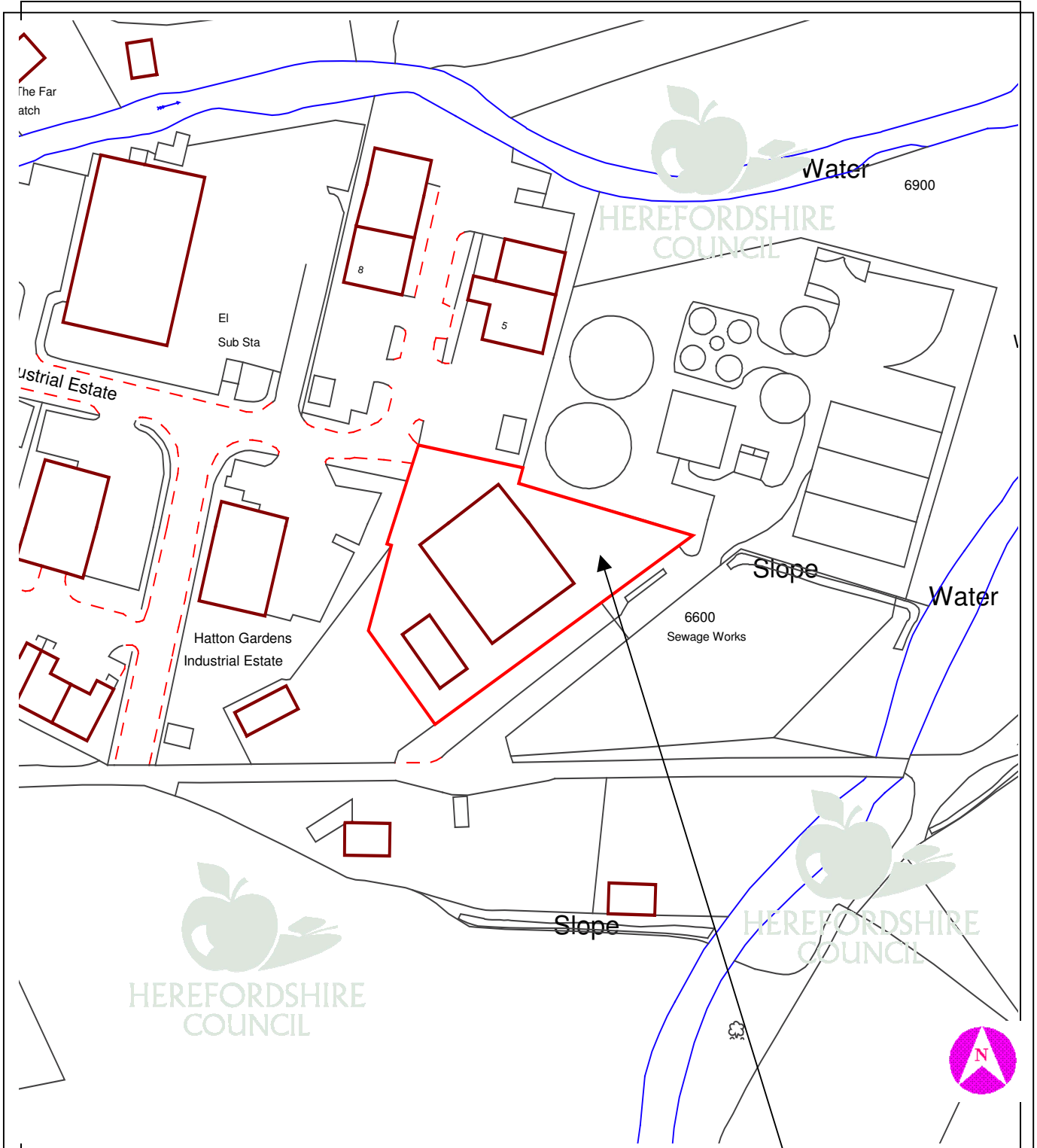
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW2006/0030/N      **SCALE :** 1 : 1250

**SITE ADDRESS :** Hatton Gardens Industrial Estate, Kington, Herefordshire, HR5 3DE

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