

**DCNW2005/1819/F - USE OF LAND AND ERECTION OF  
WORKSHOP AND OFFICE FOR COACH HIRE  
BUSINESS AT PAYTOE LANE, LEINTWARDINE,  
HEREFORDSHIRE**

**For: Mr Taylor per The Land Use Consultancy, 141  
Bargates, Leominster, Herefordshire, HR6 8QS**

**Date Received:**  
1st June 2005  
**Expiry Date:**  
27th July 2005

**Ward:**  
Mortimer

**Grid Ref:**  
40473, 73584

Local Member: Councillor Mrs O Barnett

## **INTRODUCTION**

The application was reported to the Planning Committee on 25<sup>th</sup> November when it was recommended for refusal. Notwithstanding the recommendation it was resolved that:

**“The application be approved subject to appropriate conditions about protective earth bunding and petrol/oil interceptors in the drainage, any further conditions felt to be necessary by the Head of Planning Services, and the Environment Agency being satisfied.”**

Minutes of the meeting are attached as **appendix 1**

Since that time officers have held site meetings and negotiations with the applicants and the Environment Agency, and the development has proceeded so that now, in effect, this is a retrospective application. The benefit to Leintwardine of having the coach business relocated from a residential area is therefore already being realised.

Negotiations with the Environment Agency have highlighted the need to balance the flood plain issues against the material planning interests of enabling the local coach hire to continue in operation, itself contributing to sustainable transport in the locality, without impacting on residential amenities.

The details submitted by the applicants have not, however, satisfied the concerns of the Environment Agency. Their latest letter is attached as **appendix 2**. In the light of this continued objection it is not possible to meet the terms of the resolution of the Committee of 25<sup>th</sup> November 2005.

Members therefore need to consider whether to grant planning permission without satisfying the concerns of the Environment Agency or to refuse permission in the light of the risk to flood plain and related issues.

The report to the November meeting of Planning Committee follows. The recommendation remains unchanged.

### **1. Site Description and Proposal**

1.1 The site lies outside of the designated development limits of the settlement as indicated in the Leominster District Local Plan, identified as Flood Zone 3 and therefore liable to flooding during the 1 in 100 year flood event. The site is also designated in the Local Plan as a Landscape Protection Area

therefore Policy A9 on Safeguarding the Rural Landscape in the Local Plan is relevant to this application.

- 1.2 The site is a green field site, located adjacent to a heavy industrial equipment site. Access is via the unclassified public highway that runs along the westerly boundary. There are commanding views over the surrounding countryside from the site.
- 1.3 The application proposes the erection of a steel framed maintenance building and attached office and toilet block and use of the land for parking of coaches in connection with an existing business that operates on another site.
- 1.4 In response to the Environment Agency's objection the applicant commissioned a flood risk assessment which has been referred to the Environment Agency for comment.

## **2. Policies**

Planning Policy Guidance Note 25 – Development and Flood Risk

Planning Policy Guidance Note 4 – Industrial and Commercial Development and Small Firms.

### **Leominster District Local Plan**

A1 – Managing the District's Assets and Resources

A6 – Sites of Local Importance for Nature Conservation

A9 – Safeguarding the Rural Landscape

A15 – Development and Watercourses

A23 – Creating Identity and an Attractive Built Environment

A24 – Scale and Character of Development

A25 – Protection of Open Areas or Green Spaces

A35 – Small Scale New Development for Rural Businesses within or around Settlements

A41 – Protection of Agricultural Land

### **Herefordshire Unitary Development Plan (Deposit Draft)**

S1 – Sustainable Development

S2 – Development Requirements

S4 – Employment

DR1 – Design

DR2 – Land Use and Activity

DR4 – Environment

DR7 – Flood Risk

E8 – Design Standards for Employment Sites

E11 – Employment in the Smaller Settlements and Open Countryside

E15 – Protection of Greenfield Land

LA5 – Protection of Trees, Woodlands and Hedgerows

LA6 – Landscaping Schemes

NL1 – Biodiversity and Development

NL4 – Sites of Local Importance

HBA9 – Protection of Open Areas and Green Spaces

## **3. Planning History**

- 3.1 There is no record of any planning history on the application site.

## **4. Consultation Summary**

### Statutory Consultations

- 4.1 Environment Agency has considered the applicant's flood risk assessment but has maintained its objection to the proposed development stating that the site is located within Flood Zone 3 and may therefore be at risk of flooding during the 1 in 100 year flood event. The response also states concerns with regards to the proposed method of foul drainage and that a graduate risk assessment may be required for the method of foul drainage from the site is proposed. The Environment Agency has also drawn attention to Planning Policy Guidance 25: Development and Flood Risk, paragraph 65 which requires that, if the local planning authority is minded to grant planning permission, then they be given the opportunity to comment further.

#### Internal Council Advice

- 4.2 The Environmental Health Manager has no observation.
- 4.3 Highways Manager recommends that any permission include conditions with regards to visibility splays, turning and parking. Junction improvement/off site works, and notes to be attached with regards to mud on highway, works within the highway, Section 278 Agreements, Section 38 Agreement details, no drainage to discharge on highway and works adjoining highway.
- 4.4 Forward Planning Manager has responded to the application with concerns about the proposed development with regards to environment issues and that the location is outside the development limit of the Settlement, however the response does stress that the site is well related to existing employment generating schemes in close proximity. The response further states that any application of this nature needs to demonstrate that the level of development can be clearly related to the employment needs of the local economy and should clearly demonstrate that there are no other suitable sites readily available within the Settlement Boundary for the proposed development.

### **5. Representations**

- 5.1 Leintwardine Parish Council have no objections to the proposed development and state in their response:

"The Parish Council wish to place on record their support for the above application. The application concerns a legitimate local business which provides a useful amenity and local employment. Currently the business is operated within the village and this application would take the business to a much more suitable place, adjacent to other businesses.

There may be concern that the location is a flood plain but of course this is not residential and the business would be in the same position as the other firms which operate from that area."

- 5.2 One letter in support accompanied the application from Mr R F Batt, 28/30 Watling Street, Leintwardine, Craven Arms, Shropshire, SY7 OLW. This letter can be summarised stating that he and his wife Heather own and run the village shop and that the village needs small businesses which provide employment in the area in order to help it from becoming a retirement area only.
- 5.3 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officers Appraisal

- 6.1 The application proposes change of use of land and erection of a workshop and office for a coach hire, business on land that is undesignated for any particular use and is located outside the recognised development limits of the settlement as stated in the Leominster District Local Plan.
- 6.2 Planning Policy Guidance Note 25 on Development and Flood Risk requires developers to:
- “Provide an assessment of whether any proposed development is likely to be affected by flooding and whether it will increase flood risk elsewhere and of the measures proposed to deal with these effects and risks; and
- Satisfy the Local Planning Authority that any flood risk to the development or additional risk arising from the proposal will be successfully managed with the minimum environmental effect, to ensure that the site can be developed and occupied safely.”
- 6.3 The Environment Agency has considered the submitted flood risk assessment but still object, stating that the site is ‘operational development’ within Flood Zone 3 and would be unacceptable development in the floodplan.
- 6.4 Planning Policy Guidance 25 paragraph 65 advises Planning Authorities if mindful to approve such application that the Agency should be re-notified to explain why material considerations outweigh the objection and to give the Agency the opportunity to make further representations.
- 6.5 Policy A35 on Small Scale Development for Rural Businesses within or around Settlements in the Leominster District Local Plan states that proposals for new sites accommodating employment generating uses and rural businesses within or around settlements will only be permitted where there are no suitable sites within the existing Settlement Boundary and where they comply with the criteria listed in Policy A1 which in this particular instance refer to environmental policies. Policy E10 of the emerging Herefordshire Unitary Development Plan also requires that applicants for development of this nature demonstrate that the level of development can be clearly related to the employment needs of the local economy and that no other suitable sites are readily available within the development limits.

6.6 The application gives no indication to measures taken to seek out alternative sites within the development boundary. The proposed development is not within or adjacent to the boundary and is located on an existing Greenfield site, that is not designated for employment use. There are commanding views from the site of the surrounding countryside and although the applicants propose to introduce tree planting around the perimeter of the application site, the proposal development will have a significant visual detrimental impact on the surrounding countryside, the site designated as Landscape Protection Area in the Leominster Local Plan and also located within close proximity (160 metres to the north east) of a SSSI site.

**RECOMMENDATION**

**That planning permission be refused for the following reason:**

- 1 - The application site is within Flood Zone 3 as indicated on the Environment Agency's Flood data maps and flood risk assessment which has been submitted with the application does not meet the requirements of Planning Policy Guidance Note 25 on Development and Flood Risk sufficiently to demonstrate that the site can be developed and occupied safely and to ensure that flooding is not unacceptably exacerbated elsewhere. The proposal is also contrary to the following policies:**

**Hereford & Worcester Country Structure Plan 1993, Policy CTC-9**  
**Leominster Local Plan 1998, Policy A15**  
**Herefordshire Unitary Development Plan (Revised Deposit Draft) 2004, Policies S2 and DR -7**

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.

**APPENDIX 1: Minutes of Planning Committee held on 25<sup>th</sup> November 2005**

The receipt of a letter from the applicant's agent and a petition from 56 persons in support was reported.

The Development Control Manager said that the Northern Area Planning Sub-Committee had previously delegated the Officers to approve the application, subject to the applicant first satisfying the requirements of the Environment Agency and the Environment Agency withdrawing its objection to the application. The applicant had subsequently submitted a Flood Risk Assessment but the Environment Agency had maintained their objection on the grounds that there had not been a proper assessment of flood risk. The Northern Area Planning Sub-Committee was minded to approve the application and it had been referred to the Planning Committee by the Head of Planning Service in view of the Environment Agency's objection and to give it the opportunity to make further representations, as required by PPG25.

Councillor Mrs. L. O. Barnett, the Local Ward Member referred to the level of support voiced by the Sub-Committee and by the local community in recognition of the need to assist with the survival of a rural business such as that of the applicant. She commented that there was no other suitable site in Leintwardine and that there appeared to be negligible risks from any flooding, particularly as the proposal would be for coaches and not housing. She noted the credentials of the author of the Flood Risk Assessment and questioned the views of the Environment Agency which appeared to relate to extremely infrequent flooding in the area. She said that there were other sites nearby which were subject to a greater risk of flooding and felt that the applicant was being duly hindered. She noted that the Environment Agency considered the site to be at risk during the 1 in 100 year flood event but suggested that this was not a sufficient reason for refusal considering the importance of rural business and, in this case, rural transport.

The Committee supported the Local Ward Member and noted that there was a similar development nearby and felt that it would be irrational to refuse this application. It was considered that the effects of potential flooding would be minimal given the proposed use and that there was no evidence available that local residents considered themselves to be in peril. Given the specific nature of the business and they were in which it operated, the vehicles could be moved easily if flooding was imminent.

The Development Control Manager said that if the Committee was minded to approve the application, conditions needed to be imposed about protective earth bunding and petrol/oil interceptors in the drainage.

**RESOLVED:**

**That the application be approved subject to appropriate conditions about protective earth bunding and petrol/oil interceptors in the drainage, any further conditions felt to be necessary by the Head of Planning Services, and the Environment Agency being satisfied.**

**APPENDIX 2:**

**Our Ref :** SV/2005/007712-4/1

**Your Ref :** DCNW2005/1819/F

**Date :** 16 May 2006

Mr Peter Yates  
Development Control Manager  
Herefordshire Council - Northern Division  
PO Box 230  
Blueschool House  
Blueschool Street  
Hereford  
Herefordshire  
HR1 2ZB

**F.A.O: Mr P. Mullineux**

Dear Sir

**PROPOSED USE OF LAND AND ERECTION OF WORKSHOP AND OFFICE FOR COACH HIRE BUSINESS AT PAYTOE LANE, LEINTWARDINE, NR CRAVEN ARMS, SHROPSHIRE.**

I refer to the letter and enclosures from Mr D. Andrews (Agent) which was received on 13 April 2006.

Prior to making comments on the information as submitted, it should be noted that the site is not considered appropriate for the proposed development, as referred to in our previous replies to the planning application, for the following reasons:

- \* The site is at **high risk of flooding**.
- \* The site is located in **Source Protection Zone II** (at the edge of SPZI) as shown on the attached plan, which supplies water to the village of Leintwardine and where there is a presumption against lorry parks (bus depots). If pollution was to occur, this would effect the population of Leintwardine via the water supply. Groundwater is therefore a key issue.
- \* **River Teme SSSI** - If pollution was to occur this would effect the quality of this high quality river.

On this basis, we would strongly recommend that other sites should be pursued in the interest of environmental protection / sustainable development i.e. a site outside of the high risk 1% floodplain, away from the SPZ, in an area where a mains sewer may be available. The following comments are made on the basis that a permission may be granted, despite our previous objections and concerns.

**Foul Drainage:**

In line with current Environment Agency guidelines to protect the quality of the water supply from the Leintwardine public water supply boreholes (i.e. within SPZ II), a discharge to ground of treated sewage effluent (or vehicle washings, see below) would not be permitted at this location. The applicant proposes to discharge treated effluent from a package treatment plant to a nearby ditch. A consent to discharge application to the ditch at the side of the road is likely to be refused on the grounds of lack of dilution, so would not be acceptable.

It is noted from our records that there is a package sewage treatment plant which serves the nearby industrial estate. We would advise in the first instance that a mains sewer connection is pursued. If this is not considered practicable or feasible, then the Applicant should investigate to see if there is any capacity in the nearby treatment plant, to take the domestic sewage from the proposal and whether it is possible to connect into this system. Should this be the case then an application to vary the existing discharge consent will be required.

If there is no capacity at the existing treatment works, the Applicant would need to apply for a new consent to discharge for treated domestic sewage from a package sewage treatment plant directly to the river Teme. It should be noted that this application may not be granted due to the status of the watercourse (SSSI quality) but is determined on its merits.

If a treatment plant is not deemed to be suitable then a sealed cesspit may be necessary, which is the least preferred option in line with planning Circular 3/99. It should be noted that an assessment should be submitted with the planning application, as recommended in our previous replies to the LPA. This would confirm the certainty of and ensure a sustainable foul drainage scheme, which may not be achievable.

**Vehicle wash area:**

Similar to the above, a discharge to ground either from vehicle washings would not be permitted at this location. We would therefore advise the Applicant to investigate a 'Vehicle wash recirculation system' from which there would be no discharge of water. Any sediment would need to be collected by an Authorised contractor and disposed of at a licensed site as part of this scheme.

**Surface Water:**

Surface water is a key issue linked to control to minimise flood risk and design / treatment to prevent pollution of the groundwater (SPZ / SSSI).

The majority of the parking area, as proposed would have a permeable gravel surface, which would minimise any increase in surface water run-off as a consequence of this proposal. However, in this case, considering the proximity of the site to Leintwardine public supply boreholes (i.e. within SPZ II), it is required that all areas be made of impermeable concrete hardstanding and surface water generated from these areas be passed through oil interceptors before being disposed off site. This is required by Groundwater Regulations (1998) to prevent the discharge of List I substances to groundwater.

Notwithstanding the above, in terms of surface water control, we would advise that further investigation is carried out to identify whether parts of the site could be utilised as a sustainable urban drainage area. It may be appropriate for the southern part of the site (furthest away from SPZI / source of the borehole supply) to be designed with a lined membrane with associated permeable gravel area, subject to an investigation demonstrating that this part of the site is not contaminated from any previous land use.

**Storage of oils, fuels, etc:**

Any facilities for the storage of oils, fuels or chemicals must be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound must be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected



from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund (to prevent list one substances from reaching groundwater).

**Fluvial Flood Risk:**

Notwithstanding the objection on flood risk, if your members are still minded to approve the proposals, we would offer the following considerations, in order to help minimise the impact of this proposal.

**Floor levels**

The LPA may wish to consider the imposition of a condition relating to finished floor levels for all offices, and toilets facilities, above the 1% flood level plus climate change (or suitable flood proofing techniques). An area within the workshop will also need to be raised above the 1% flood level plus climate change, for the storage of materials.

**Flood compensation**

Another matter, as discussed by Paul Flynn of our Development Control Team (Flood Defence) during the meeting of the 15th February 2005 is flood storage. Details have yet to be provided showing the amount of flood storage lost as a consequence of this development and whether this can be compensated for elsewhere. It is understood that investigations were to be undertaken into whether flood storage compensation works could be undertaken on an adjacent site, but no information has been provided on this to date. The LPA may wish to condition this aspect if there is a reasonable opportunity for this to be provided.

**Flood warning / evacuation management plan**

We would also suggest that a condition is imposed for flood warning and evacuation in the event of a flood. This may be worded as 'Prior to the commencement of any development, a scheme for the provision and implementation of a flood warning and evacuation management plan shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the plan shall be carried out in accordance with the approved plan' (to ensure the management of the site during times of flooding). This might include alternative parking areas for the buses during times of flooding?

**Permitted development**

We would also suggest that permitted development rights are removed, to ensure no further increase in flood risk to the site and elsewhere.

I trust that this clarifies our position which maintains our objection to the proposal. As discussed, we have strong reservations on the proposal and we cannot offer a positive resolution, based on the risk to the environment. Prior to any determination, the LPA should be sufficiently sure of their ability to protect the environment through any Grampian conditions. We would urge caution based on the degree of present certainty.

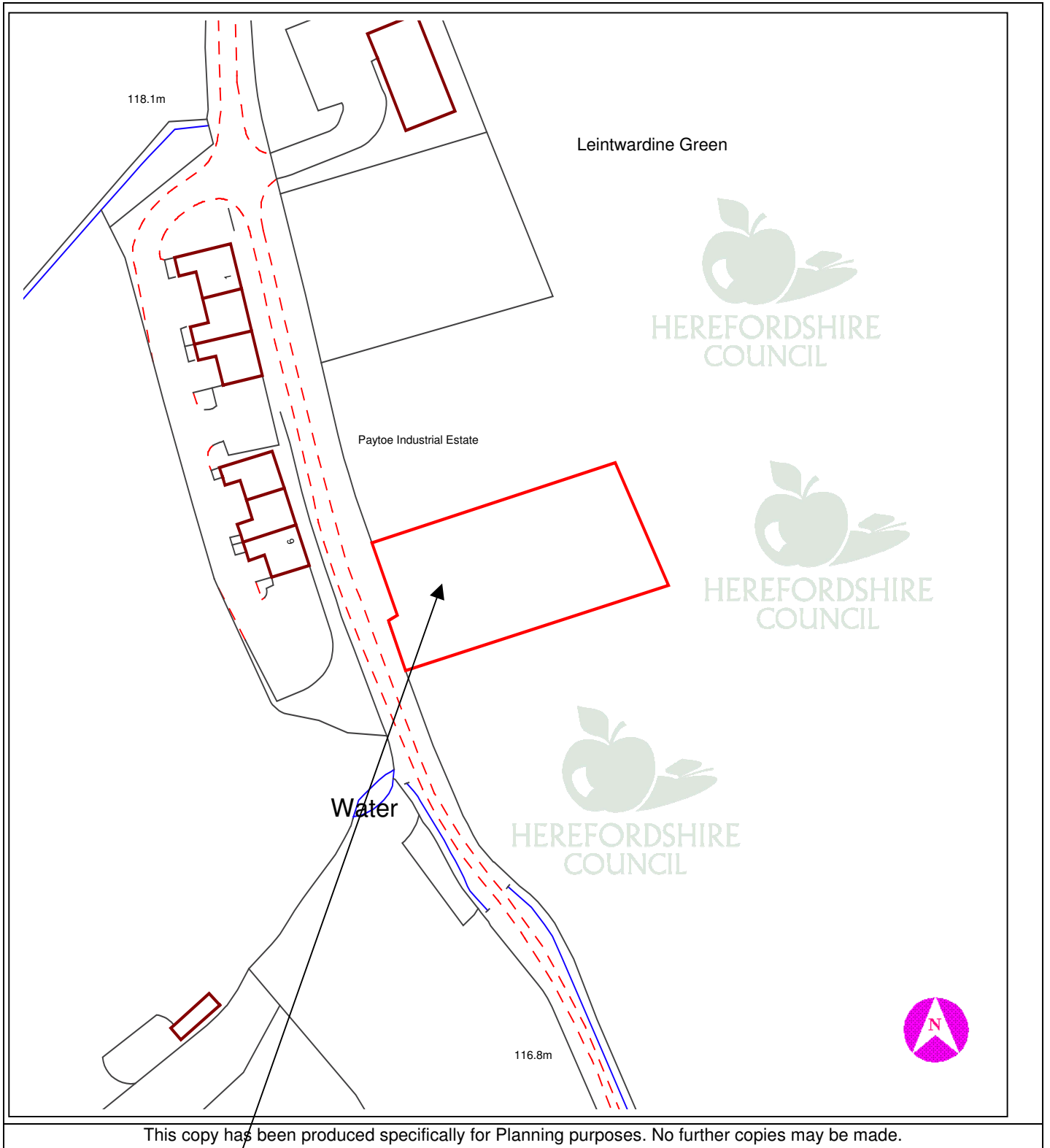
In order to seek the best possible environmental outcome, it may be that a meeting is required with relevant members of the Environment Agency (Groundwater and Contaminated land, Environmental Management and Development Control), Applicant/Agent and the LPA to discuss the above. The objective of this would be to minimise the risk of harm to the water environment (including the SPZ).

Yours faithfully

**JUSTIN BURNETT**  
**Team Leader Severn Area Planning**

Please ask for : Mark Davies - 01743 283405

CC: David Ian Andrews



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**APPLICATION NO:** DCNW2005/1819/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Paytoe Lane, Leintwardine, Herefordshire

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