

6 DCNE2005/0825/F - CONSTRUCTION OF OIL DISTRIBUTION DEPOT AT WATSON PETROLEUM LIMITED, BROMYARD ROAD, LEDBURY, HEREFORDSHIRE, HR8 1LG.

For: RPS Mallams Court, 18 Milton Park, Abingdon, Oxfordshire, OX14 4RP

Date Received:

Ward: Ledbury

Grid Ref:

70730, 38828

Expiry Date:

Local Member: Councillor P Harling and Councillor D Rule

1. Site Description and Proposal

1.1 The application site lies on the western side of the Bromyard Road (B4214), on the northern side of Ledbury. It has an area of approximately one hectare. The land slopes downwards from the road in a westward direction. The site is currently cleared and vacant. Immediately to the north of the application site is a large fruit storage and packing facility building operated by Wye Fruit Ltd. To the south of the application site is a research facility. On the opposite side of the road (east) are four residential properties. One of these dwellings, 'Orchard Cottage', is operated as a guesthouse. These properties are set back a considerable distance from the road at a higher ground level.

1.2 The applicant is Watson Petroleum Ltd who employ 26 staff across its two existing operational sites in the Ledbury area.

1.3 The proposal involves the following elements: -

The erection of three tanks for the transfer of fuel oils. These tanks would be sited in excess of 60 metres from the road in a central position upon the site such that a gap of 15 metres would be maintained with the northern boundary and a gap of 21 metres would be maintained with the southern boundary. These tanks would be aligned along a north-south axis. Two of the tanks would have a diameter of 10 metres and one would have a diameter of 8 metres. These seven metre high tanks would be set below existing ground level within an impervious bund such that their height above existing ground level would not exceed 6 metres. The fuel proposed to be stored is: -

- a) Domestic burning oil (kerosene) 540 m³
- b) DERV (Diesel-engined road vehicle oil) 350m³
- c) Gas oil ("agricultural" or "red" diesel) 540m³

1.4 The potential maximum volumes of oil held temporarily in the tanks will be adequate for approximately three days supply. In this respect it is short-term oil storage rather than a long-term storage facility.

1.5 The tank walls will be manufactured of steel and painted in an appropriate colour.

- 1.6 The erection of a flat-roofed site office measuring 20.05 metres in width and 14.64 metres in depth. The height of this building would be 3.74 metres. It would be sited some 32 metres south of the highway and set in some 6 - 9 metres from the southern boundary.
- 1.7 The provision of a new vehicular access onto the Bromyard Road. This would be set in 10.4 metres from the southern boundary of the site. There would be a barrier set into the site allowing vehicles to manoeuvre - off the public highway prior to entering the operational site. Twenty five on-site car parking spaces would be provided. In addition, provision would be made for the parking of sixteen rigid tankers. A one-way traffic system would be operational within the site for safety and operational reasons.
- 1.8 A covered cycle shed store would be provided
- 1.9 The plan shows large areas available for landscaping, especially on the eastern and western ends of the site where appropriately graded landscaped bunds would be provided.

2. Policies

2.1 Malvern Hills District Local Plan 1998

Environment Policy 1 – Location of Development
Environment Policy 3 – Environmental Assessment
Environment Policy 6 – External Lighting Details
Environment Policy 9 – Flood Defence
Environment Policy 10 – Protection of Groundwater Supplies
Environment Policy 11 – Water Pollution Prevention
Environment Policy 12 – Disposal of Foul Sewage, Trade Effluent and Surface Water
Employment Policy 2 – The Retention of Existing Industrial Land
Transport Policy 3 – Provision for Pedestrians and Cyclists
Transport Policy 8 – Car Parking and Servicing Requirements

2.2 Herefordshire Unitary Development Plan (Revised Draft Deposit Draft May 2004)

Policy S2 – Development Requirements
Policy DR1 – Design
Policy DR14 – Lighting
Policy E5 – Safeguarding Employment Land and Buildings
Policy E8 – Design Standards for Employment Sites

3. Planning History

- 3.1 DCNE2002/2948/F - Change of use of land for B1, B2 and B8 business purposes - Granted 13th November 2002.

4. Consultation Summary

- 4.1 Following the initial submission in March 2005 an Environmental Statement was required to be submitted under the provisions of the Environmental Impact Assessment Regulations 1999. The further information received in March 2006 has been the

subject of full re-consultation and the consultation summary below refers to the responses to that re-consultation process.

Statutory Consultations

- 4.2 English Nature are satisfied that the proposal would not have an adverse effect upon the Ledbury Cutting Site of Special Scientific Interest (SSSI) and confirm their agreement with the findings of the Environmental Statement in that there will be no significant effect to flora or fauna.
- 4.3 Severn Trent Water has no objections to the proposed development subject to the imposition of appropriate conditions.
- 4.4 The Environment Agency has no objections to the proposed development subject to a number of conditions being attached.

Internal Council Advice

- 4.5 Transportation Manager - no objections subject to imposition of appropriate conditions.
- 4.6 Environmental Health Manager - No objections received.

On the issue of food tainting that has been raised they make the following material points:

- As this facility is not for petroleum it does not require a Local Air Pollution Prevention and Control Permit as provided for by the Pollution Prevention and Control Regulations. This regime recognises that certain activities have a greater potential to give rise to unacceptable emissions to air than others. By implication the proposed activity must be considered lower risk;
- If complaints were received about unacceptable odours from the site then the Council would investigate these as required by the Environmental Protection Act 1990 and should a statutory nuisance be established remedial action can be required by the service of an Abatement Notice;
- When one reads the ADAS report commissioned by Wye Fruits, paragraph 9.5 accepts that it is uncertain whether the facility would present actual risk of tainting. The risk appears to be a perceived risk.

- 4.7 Ecologist - recommends informative.
- 4.8 Landscape Officer - Satisfied with the landscape approach to the site.

5. Representations

- 5.1 Ledbury Town Council recommend approval of the application on the proviso that strict health and safety measures are taken particularly in the light of the recent disaster at the oil depot in the southern counties.
- 5.2 The CPRE Herefordshire Branch (Ledbury and District Group) wish to ensure that the structures upon the site are no more intrusive than the existing buildings in the vicinity and are of an appropriate colour.
- 5.3 The occupiers of five residential properties in the immediate vicinity have objected to the proposed development upon the following summarised grounds: -

- Reference is made to the recent tragedy at the Buncefield petroleum depot and the proximity to existing dwellings;
 - There are other inherent problems with vehicles negotiating the low railway bridge at the southern end of Bromyard Road;
 - Concern regarding noise especially during the night-time;
 - Devaluation of property prices;
 - There are other alternative sites with better access;
 - The road cannot cater with the additional traffic that the development would generate;
 - There are other more appropriate sites;
 - Concerns regarding light pollution;
 - Concern as to the visual impact of the proposed development;
 - Concern over security issues given the proximity to an animal testing laboratory;
 - When the occupiers of one of the dwellings in the vicinity purchased their dwelling the Estate Agent led them to believe that the land was designated for light industrial use only.
- 5.4 Councillor Sally Robertson expresses concern as to the risk of contamination to local fruit stored at Wyre Fruits Ltd and the potential impact this would have upon the business.
- 5.5 The agent for the applicant has submitted various supporting documents.
- 5.6 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 main issues in relation to the consideration of this application are: -
- The principle of the development
 - The visual impact of the proposed development
 - The highway implications of the proposed development
 - The impact of the proposed development upon the occupiers of residential dwellings upon the eastern side of Bromyard Road
 - The impact of the proposed development upon other adjoining land uses
 - Water Quality, Drainage and Flood Risk

Principle

With regard the first issue the application site lies within the defined built-up area of Ledbury upon land allocated for employment related purposes. Employment Policy 2 of the Malvern Hills District Local Plan 1998 and Policy E5 of the Herefordshire Unitary Development Plan Revised Deposit Draft May 2004 specifically safeguards employment land for employment related purposes. The proposed development is an employment related use that provides a service to local businesses and residents. Most of the fuel would be supplied to premises within a 40-45 mile radius. The proposal will basically consolidate the two existing operations, one a few hundred metres to the north along the Bromyard Road (formerly known as Hills) and the other at Little Marcle (formerly known as CKM Fuels) onto a single site. The applicant considers that continuing to operate from two locations using old equipment and

facilities has both environmental and operational disadvantages over a single, purpose-built facility with modern standards of environmental protection. Neither of the existing two sites is of a sufficient size. Developing a new site in Ledbury does have the benefit of maintaining continuity to both the existing workforce and customers. Thus with regard the first issue it is considered the principle of the development to be acceptable.

Visual Impact

With respect the visual impact of the proposed development, the tanks themselves would be sited a considerable distance from the roadside. The land at this position is at a materially lower ground level (more than 3 metres). Thus with the tanks set into the ground by approximately 1 metre, only say 3 metres of tank would be above the level of the road. Furthermore when viewed from the Bromyard Road to the south-east and the public footpath to the east of Bromyard Road to the south of the application site, the tanks would be set against the backdrop of a quite considerable fruit storage and packing building. In addition one needs to appreciate that there are gaps between the tanks. Such visual spaces / voids between structures rather than a single solid mass of a building means that the visual impact is lessened.

The ancillary office is a genuinely single storey building that is considered to be appropriately sited some distance from the road and visually set against the research buildings to the south.

The proposed development has been planned such that there are very generous areas available for planting to the eastern (Bromyard Road) end and western end of the site. The plans indicate the planting of a native hedge in front of a 3 metre high security fence along the road frontage interspersed with extra heavy standard trees. In addition to the rear of the fencing, to the front of the site it is proposed to create a landscaped bund. Again to the rear of the site is proposed to create a landscaped bund with appropriate native tree and shrub whip planting. The hedgerows along the northern and southern boundaries would be retained.

From a purely visual point of view it is considered that the proposed development would have a lesser visual impact than a conventional development of industrial or storage units upon the site.

Therefore on the second issue it is considered that the proposed development would not have an undue visual impact. Indeed the scheme would integrate well between the existing development that flanks it to the north and south and would be well landscaped.

Highway matters

The proposed vehicular means of access is appropriately designed and the visibility at the proposed means of access meets the required standards. The on-site parking provision is considered to be satisfactory and the circulation areas appear well planned.

No objection has been raised by the Transportation Manager in relation to the adequacy of the surrounding highway network, including the height restriction to the bridge at the southern end of Lower Road. The maximum height of vehicles operating from the fuel depot would be 11 feet and 6 inches well below the 14 feet 9 inches height restriction of the bridge.

In terms of traffic generation it must be remembered that these trips are already taking place upon the local highway network from the Little Marcle site and more locally at the site just a few hundred metres to the north.

The impact of the proposed development upon the occupiers of residential dwellings

As outlined above, it is considered that the visual impact of the proposed development would be limited. Indeed given the siting of the dwellings at a higher level on the eastern side of the Bromyard Road views over the proposed development would be maintained.

It is the case that there will be a number of vehicle movements. On an average day there would be ten oil tanker movements (5 in and 5 out) and 28 rigid oil tanker movements (14 in and 14 out). In terms of peak periods the worst-case scenario is envisaged to be 24 oil tanker movements per day (12 in and 12 out) and 74 rigid oil tanker movements per day. The local residents are concerned as to the noise arising from these movements. In this regard the following point need to be considered: -

- The relevant Government guidance states that it is recognised that relatively large changes in traffic flows are required to bring about perceivable changes in noise levels. For free flowing traffic, a difference of about 3dB is required before there is a perceivable change in noise level. A 25% increase or 20% decrease in traffic flow normally only results in a 1dB change. In this case, when one considers that many of these vehicles already use the Bromyard Road, the increase in traffic flows would be 2% daily. Nighttime movements would be restricted to an occasional delivery of fuel to the site. Clearly few (if any) of the applicant's customers would wish to receive their fuel at night. It is not considered that this would create any perceivable change in noise levels.

Concern has expressed as to the relatively recent event at Buncefield. Members need to be aware of the following material differences: -

- The scale of storage was in the order of 50 times that proposed here;
- Delivery – Buncefield is connected and supplied by a regional pipeline network
- Most importantly the range of fuels stored at Buncefield was different. Buncefield stored significant quantities of motor spirit (petrol) that is considerably more highly volatile. It must be recognised in relation to the fuels proposed to be stored at the application site the vapour pressures of these liquids is low and accidental ignition of vapours unlikely. No hazardous technologies or substances are involved in the proposed operations and the risks do not require control under the Control of Major Accident Hazards Regulations 1999 or the Planning (Hazardous Substances) Act 1990. These regulations are available to control developments and land use where there is a significant risk or safety concern and they do not apply to the scale and nature of the development proposed in this application.

The local residents concern regarding potential light pollution is recognised. External lighting is required in relation to such an operation. It is considered that this matter can satisfactorily dealt with by way of appropriate planning conditions.

The impact of the proposed development upon other adjoining land uses

The operators of the fruit packaging and storage facility to the north object to the proposed development as they consider that their fruit would be tainted and / or that there would be a perception of their fruit being tainted. In this respect Wye Fruits have engaged technical consultants stating that there would be a problem (see documents attached as APPENDIX 1) that could potentially affect the viability of their business whilst the applicants have engaged consultants who state that there would not be a problem (see documents attached as APPENDIX 2).

The Environmental Health Section have not raised any objection to the proposal in relation to this issue and one needs to be aware that this is an allocated employment site with planning permission for B1, B2 and B8 uses. This would, for example, include vehicle body repairs including repainting / spraying.

In respect of the adjoining research establishment, it must be recognised that the applicant is proposing to erect suitable security fencing around the site and that the tanks are set into the site by a considerable distance. Matters of maintaining public order are the responsibility of the Police service.

Water Quality, Drainage and Flood Risk

The Environment Agency is now satisfied that the issues of ground contamination, management of overland flow and pollution control have been adequately addressed. A clear and comprehensive drainage design has been produced.

The on-site storage requirement for attenuating a 1 in 100 year (plus 20%) storm event is to be provided in the form of an attenuation pond.

It is therefore concluded that this proposal is to provide an employment related use on a safeguarded employment site. The operation provides a service to the local economy and community. In addition, it maintains employment opportunities within Ledbury. The physical elements of the development would have a limited visual impact. The proposed means of access and visibility splays together with the parking / manoeuvring areas are satisfactory. The amount of additional traffic flow along the Bromyard Road would be very limited. It is considered that the occupiers of dwellings in the vicinity would not suffer an undue loss of amenity. The water quality, drainage and flood risk issues have been resolved with the Environment Agency.

In forming the above views, full regard has been given to the contents of the Environmental Statement.

RECOMMENDATION

That full conditional planning permission be granted.

- 1 - The development hereby permitted shall be begun not later than the expiration of five years beginning with the date of this permission;**

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990;

- 2 - The three tanks hereby permitted shall be painted a Goosewing Grey (10 A 05) colour prior to their erection on-site or within one month of their erection on-site and shall notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking**

and re-enacting that Order with or without modification) thereafter be maintained as such;

Reason: To ensure a satisfactory appearance to the development;

- 3 - Prior to commencement of the development hereby permitted written details of the colour that the steel paling security fencing is to be painted shall be submitted to the Local Planning Authority for written approval. No development shall commence until the written approval of the Local Planning Authority has been obtained.

Reason: To ensure a satisfactory appearance to the development;

- 4 - The security fencing hereby permitted shall be painted in accordance with the details approved pursuant to condition 3 within one month of their erection on-site and thereafter maintained as such;

Reason: To ensure a satisfactory appearance to the development;

- 5 - Prior to commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the building) shall be submitted to the Local Planning Authority for their written approval. No external lighting shall be installed upon the site (including upon the external elevations of the building) without the prior written consent of the Local Planning Authority. The approved external lighting (including upon the external elevations of the building) shall be installed in full accordance with the approved details and thereafter maintained in accordance with those details;

Reason: To safeguard the character and appearance of the area;

- 6 - Prior to the first use of the site hereby permitted, the vehicular means of access, turning / manoeuvring areas and vehicle parking areas shall be fully implemented. Thereafter these areas shall be kept available for such use;

Reason: In the interests of highway safety;

- 7 - No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The submitted scheme of landscaping must include details as to the location of all planting, the species, their size and the density of planting;

Reason: To ensure that the development is adequately integrated into the landscape;

- 8 - All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the site or the completion of the development, whichever is the sooner, any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure that the development is satisfactorily integrated into the landscape;

- 9 - There is a public sewer that crosses the site. No buildings shall erected or trees planted within 2.5 metres of this sewer;

Reason: To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewage system;

- 10 - Development approved by this planning permission shall not be commenced until:

a) A scheme for shallow soil sampling has been designed for the site using the information obtained from the Phase 1 Risk Assessment, dated September 2005 and Environmental Statement, dated March 2006. This shall be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site.

b) The soil sampling has been undertaken in accordance with details approved by the Local Planning Authority.

c) A Method Statement detailing any remediation requirements using the information obtained from the soil sampling has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site.

Reason: To ensure that the proposed site investigations and remediation will not cause pollution of the environment.

- 11 - The development of the site should be carried out in accordance with the approved Method Statement;

Reason: To ensure that the development complies with approved details in the interests of protection of the environment.

- 12 - If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval the addendum(s) shall form part of the Method Statement.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and harm.

- 13 - Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in

accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

Reason: To protect the environment by ensuring that the remediated site has been reclaimed to an appropriate standard.

- 14 - The development shall be carried out in accordance with the details submitted, including plan JER7016-002e, dated 27.02.06, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent pollution of the water environment.

- 15 - Prior to the commencement of operation, details shall be submitted to provide a maintenance plan, for the drainage scheme, including the attenuation pond and swales, for the lifetime of the development. The swales and attenuation pond shall be implemented, maintained and retained in accordance with the approved details.

Reason: To ensure appropriate maintenance of the drainage system and prevent pollution of the water environment.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - With regard the details required to be submitted pursuant to condition 5 the Local Planning Authority would advise the applicant to engage the services of a suitably qualified lighting engineer (Institute of Lighting Engineers) and that they would require the following level of detail: -

Details as to the location of each luminaire supporting structure together with the number of lights upon each structure;

Details of lighting columns (or supporting structures)

Written details of the colour of each supporting structure

Details of each luminaire (i.e. lamp)

The wattage of each luminaire

The mounting height of each luminaire

The tilt angle of each luminaire (n.b. the Local planning Authority would recommend 0 degrees - i.e. parallel to the ground)

The rotational angle of each luminaire

An appropriately scaled metric scaled block plan detailing the resultant lux levels on the ground.

- 3 - A watching brief should be kept during the works for the presence of slow worms and if found to be present during the work, operations should cease and an ecologist licensed by English Nature for surveys should be engaged to determine the populations and impact of the works together with mitigation and compensation. The presence of nesting birds should also be evaluated throughout the works and if revealed or potentially disturbed by the development then the Herefordshire Council's Ecologist should be notified.

Works should avoid disturbance to the nests, young, eggs, adults and nesting area.

4 - With regard condition 10 above the soil sampling testing suite must include metals, and speciated poly-aromatic hydrocarbons (PAH) and total petroleum hydrocarbons (TPH).

5 - Plan JER7016-002e details an acceptable surface water drainage/ pollution prevention system, with an attenuation pond (reedbed), swale and oil interceptors (type 1).

Overland flows entering the site have been satisfactorily addressed, with a cut-off system proposed at the site entrance, to prevent flow into the operational area. It is understood that the proposed system has been designed to cater for the 1 in 100 year storm event, which is acceptable. It is also noted that the existing site drain (an existing foul water sewer connection, part of the former residential property on the site) is to be removed, prior to construction so it does not act as a conduit for contaminants.

The swales and attenuation pond (wetland) will require maintenance and a statement would be required to give details to ensure this aspect.

6 - The attenuation pond and swales have added benefits, to the environment, in terms of its added water quality / biodiversity benefits. The pond should be planted with vegetation, such as reeds, in order to maximise the treatment of water quality prior to discharge to the watercourse. However, it should be noted that the part of the pond around the inlet should be designed to be kept clear of vegetation, so that it enables the boom to be properly installed and maintained thereafter. The continuous boom is considered an essential part of the design scheme, to trap any oils on the surface of the pond etc.

7 - For the avoidance of any doubt the plans to which this decision relate are: -

- Location Plan (Scale 1:35,000) Figure 1.1 received 15 March 2006
- Application Site Plan / Site Context (Scale 1:5,000) Figure 2.1 received 15 March 2006
- Block Plan - Drawing number WPL/Led (n) - 2004-2 (scales 1:200 and 1:2500) received 15 March 2006
- Indicative Landscape Proposals Figure 3.1 received 15 March 2006
- Drainage design - drawing number JER7016-002e received 15 March 2006.
- Floor plans of office accommodation / drivers reception (drawing number UO698/01 Rev. D) (Scale 1:50) received 14th March 2005
- Elevations of office accommodation /drivers reception (Scale 1:100) (drawing number U0698/02 Rev A.) received 22nd May 2006.

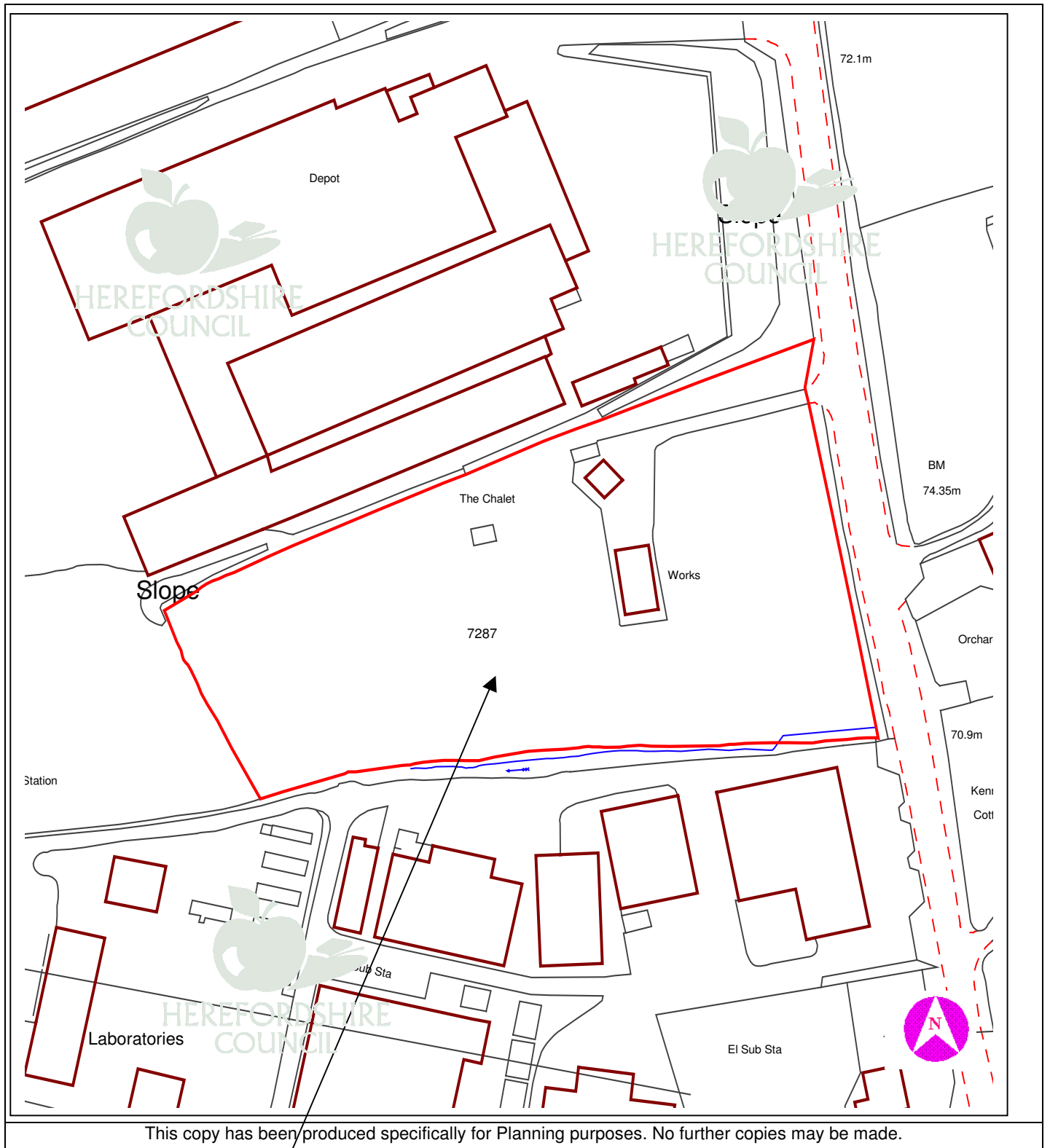
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNE2005/0825/F

SCALE : 1 : 1250

SITE ADDRESS : Watson Petroleum Limited, Bromyard Road, Ledbury, Herefordshire, HR8 1LG.

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