

11 DCNC2006/1717/F - CHANGE OF USE FROM REDUNDANT FARM BUILDINGS TO NON-COMMERCIAL AGRICULTURAL MACHINERY REPAIR AND SERVICE WORKSHOP WITH OFF ROAD PARKING FOR THREE LORRIES AT UPPER HOUSE, EDWYN RALPH, BROMYARD, HEREFORDSHIRE, HR7 4LU

**For: R Harris per The Land Use Consultancy
141 Bargates Leominster Herefordshire HR6 8QS**

Date Received:
31st May 2006

Ward: Bringsty

Grid Ref:
64312, 58058

Expiry Date:
26th July 2006

Local Member: Councillor T Hunt

1. Site Description and Proposal

- 1.1 Upper House Farm is located in open countryside, designated as being of Great Landscape Value, to the south of Edwyn Ralph.
- 1.2 This application proposes the use of a modern portal framed building that has a floor area of some 620m², and is on the north side of Upper House, to non-commercial agricultural machinery repair and service workshop with off-road parking for 3 lorries.
- 1.3 Members may recall an identical application, 13 July, when it was resolved as follows:
 - 1) The County Secretary and Solicitor be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990, to set out heads of agreement and deal with any other appropriate and incidental terms or issues.
 - 2) Upon completion of the aforementioned planning obligation that officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions:
- 1.4 Despite numerous requests/reminders insufficient progress was made in terms of the Section 106 agreement, and the application was subsequently determined as 'finally disposed of' on 10 May 2006.
- 1.5 The current application, now retrospective, seeks to resolve the outstanding matters. The agent has been advised that in line with current advice, in order to meet BVpi 109 targets, if so resolved, the Section 106 will be required to be signed before the 8 week deadline.

2. Policies

2.1 Malvern Hills District Local Plan

Employment Policy 6 – Re-use of Rural Buildings
Landscape Policy 1 – Development outside Settlement Boundaries
Landscape Policy 3 – Development in Areas of Great Landscape Value

2.2 Hereford and Worcester County Structure Plan

CTC2 – Development in Areas of Great Landscape Value
CTC9 – Development Criteria

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft)

E11 – Employment in the countryside
LA2 – Landscape character and areas least resilient to change

- 2.4 PPS1 – Delivering Sustainable Development
PPG4 – Industrial and Commercial Development and Small Firms
PPS7 – Sustainable Development in Rural Areas
PPG13 - Transport

3. Planning History

NC2002/2174/F - Change of use of barn to workshop for light industrial use. Refused 17.10.2002.

NC2002/3592/F - Change of use of agricultural building to light industrial workshop. Refused 19.3.2003.

NC2004/0706/F - Change of use, with associated highway works, from redundant farm buildings to non-commercial agricultural machinery repair and service workshop with off-road lorry parking. Refused 12.7.2004. Appeal withdrawn.

NC2004/0707/F - Change of use, with associated works, from redundant farm building to non-commercial agricultural machinery repair and service workshop with off-road lorry parking. Refused 12.7.2004. Appeal withdrawn.

NC2005/1012/F - Change of use with associated works to non-commercial agricultural machinery repair and service workshop with off-road lorry parking for 3 lorries. Finally disposed of 10.5.06.

4. Consultation Summary

Statutory Consultations

- 4.1 None required.

Internal Council Advice

- 4.2 Traffic Manager: No objection subject to conditions.

5. Representations

- 5.1 Parish Council observations not yet received.
- 5.2 A letter of objection has been received from Mr R Turner, Old Cross Farmhouse, making the following comments:
1. How many more retrospective applications will there be?
 2. No mains sewer at Upper House Farm, and a public right of way crosses the site, despite what is said on the application form.
 3. Conditions proposed on the previous application have not been met.
 4. It is absurd to describe the proposal as non-commercial.
 5. I maintain that this location is unsuitable for an industrial operation. Far more appropriate locations exist in Bromyard.
- 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 background to the submission of this application is set out in paras 1.4 and 1.5. The appeals made prior to the previous recommendation were withdrawn following that decision.
- 6.2 Employment Policy 6 of the Malvern Hills District Local Plan deals specifically with the re-use of rural buildings to business uses, as defined in Use Classes B1, B2 and B8, subject to an extensive criterion, including landscape impact, highway safety and effect on the amenity of neighbours. The proposal falls within Use Class B2.
- 6.3 Whilst the application building is a modern portal framed structure, it is of a size and construction suitable for employment use. Although located outside the settlement boundary of Edwyn Ralph, it is considered to be closely related to the village for economic use.
- 6.4 The determining factor in this application is the matter of highway safety. The site is accessed off a narrow unclassified road that exits onto Church Lane. Although previously the Traffic Manager has considered the road network unsuitable in its width to serve the previous proposals, which were unlimited in terms of traffic generation, no objection is raised to this proposal subject to the applicant entering into an agreement with the Council restricting the development to 3 lorries and movements of vehicles throughout the day, which is in line with the Vehicle Operators Licence granted by the Traffic Commissioners. By restricting the application to this number of lorries, the Traffic Manager does not consider the proposal will lead to an intensification in use of a junction, Church Lane, with the B4214, which does not have an accident history.

RECOMMENDATION

1) Subject to no representation raising matters not previously considered by 19 July, the Legal Practice Manager be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990, to set out heads of agreement and deal with any other appropriate and incidental terms or issues. The Heads of Terms are as set out below.

2) Upon completion of the aforementioned planning obligation that officers named in the Scheme of Delegation to Officers be authorised to issue planning permission 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. E06 - Restriction of Use (non-commercial agricultural machinery repairs and service workshop) (Class B2)

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity.

Informatives:

- 1. This permission is granted pursuant to an agreement under Section 106 of the Town and Country Planning Act 1990.

- 2. N15 (Reasons for planning permission)

3) That the officers named in the Scheme of Delegation to Officers be authorised to amend the above conditions as necessary to reflect the terms of the planning obligation.

Decision:

Notes:

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Background Papers

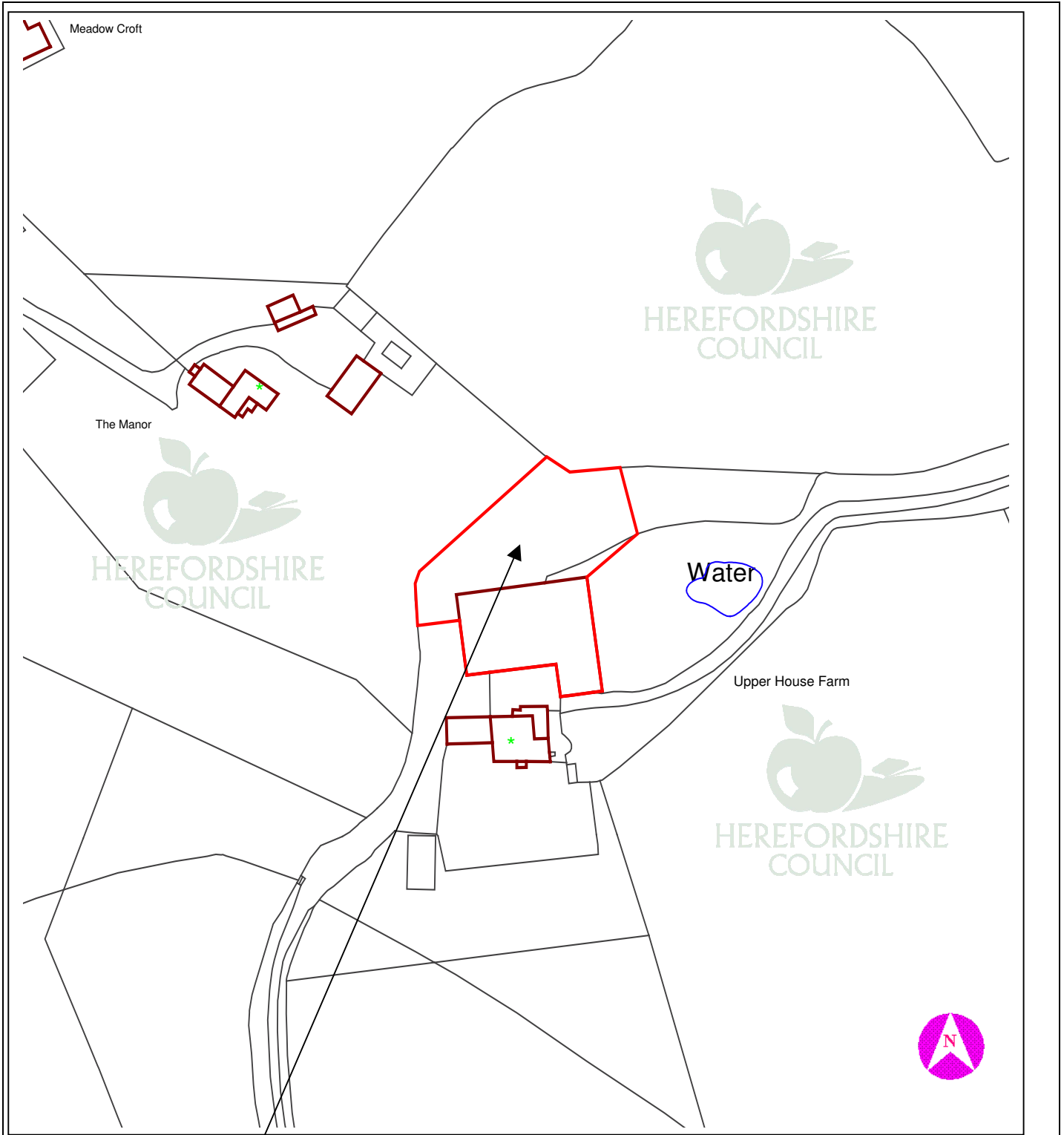
Internal departmental consultation replies.

**DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990**

Planning Application – DCNC2006/1717/F
Change of use from redundant farm buildings to non-commercial agricultural machinery
repair and service workshop with off road parking for 3 lorries.
At Upper House, Edwyn Ralph, Bromyard, Herefordshire, HR7 4LU

1. Not more than three lorries shall be permitted on Site A at any time
2. Not to keep any lorries on Site A except within the Buildings
3. The maximum gross weight of a lorry permitted under paragraphs 1 and 2 of this Schedule shall not exceed 27 tonnes
4. Not to exceed three lorry movements at Site A during the 24 hour day
5. Lorry movements shall not occur outside the hours of:
 - 5.1 0700 hours to 2200 hours on weekdays;
 - 5.2 0700 hours to 1300 hours on Saturdays; or
 - 5.3 at any time whatsoever on Sundays Bank holidays and Public Holidays
6. Lorry engines shall not run for more than 3 minutes on starting up or upon return to Site A
7. Not at any time to keep store or operate any lorries on Site B [except for]
8. Not to carry out any works or actions to the hedgerows between the classified highways U65017 and U65016 and Site A and Site B except in accordance with a scheme of management previously agreed in writing with the Council (“the Scheme”) that specifies:
 - 8.1 the objectives of the Scheme
 - 8.2 the name address and appropriate qualifications of the contractor appointed by the Owner to deliver the Scheme
 - 8.3 the timetable for routine inspections of the Scheme by the contractor and the submission of written reports to the Council
 - 8.4 the proposed schedule and content of the maintenance operations that are required to establish the new planting arrangements
 - 8.5 the proposed schedule and content of the operations that will be applied in the post establishment period in order to manage the new planting arrangements to achieve the overall objectives of the Scheme in accordance with good aboricultural and landscape management practice

9. The Owner and the Council will jointly review the Scheme at intervals not exceeding 1 year commencing from the date of [] and may agree appropriate changes to the schedule of operations for the remainder of the Scheme consistent with the Scheme objectives
10. The Scheme shall include indications of all existing trees and hedgerows within Site A and Site B beside the classified highways U65016 and U65017 and details of any to be retained, together with measures for their protection. All proposed planting shall be clearly described with species, sizes and planting numbers.
 - 10.1 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 occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 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. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
 - 10.2 None of the existing trees and hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed, felled, lopped or pruned without the prior consent in writing of the local planning authority.



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APPLICATION NO: DCNG2006/1717/F

SCALE : 1 : 1250

SITE ADDRESS : Upper House, Edwyn Ralph, Bromyard, Herefordshire, HR7 4LU

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