

**7 DCCE2006/2211/F - 5 NO. 1 BEDROOM SUPPORTED LIVING UNITS. LAND OFF ANDREWS CLOSE, HEREFORD, HR1 2JX.**

**For: Herefordshire Housing Association, per Mr. D.D. Davis, 2 St. Oswald's Road, Worcester, WR1 1HZ.**

**Date Received: 4th July, 2006**

**Ward: Central**

**Grid Ref: 51781, 39829**

**Expiry Date: 29th August, 2006**

Local Member: Councillor D.J. Fleet

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

- 1.1 This application seeks planning permission for the erection of five supported living units on land off Andrews Close, Hereford. The proposal involves the erection of five units, each one bedroom, in a single one-and-a-half storey property. The first floor accommodation is provided within the roof space. Parking for five vehicles is proposed, together with a turning head. The proposal also involves works to an existing garage block, resulting in an overall loss of 5 garages.
- 1.2 The application site is currently open space and garaging serving the local vicinity. The open space was historically an area of allotments, though this use has now ceased. A footpath, Union Walk, runs along the northern boundary of the application site. The site is served by a single track access lane off Andrews Close. The access track currently serves the garages on the application site, of which there are currently 29. To facilitate the proposed access arrangements improvements to the track involving land currently within the curtilage of No. 6 Andrews Close are proposed, together with the widening of a section of Andrews Close.

## **2. Policies**

### **2.1 National Planning Policy:**

PPS1	-	Delivering sustainable development
PPG3	-	Housing
PPG9	-	Nature Conservation

### **2.2 Hereford Local Plan:**

ENV14	-	Design
ENV15	-	Access for all
H3	-	Design of new residential development
H6	-	Amenity open space provision in smaller schemes
H12	-	Established residential areas – character and amenity
H13	-	Established residential areas – loss of features
H14	-	Established residential areas – site factors
NC6	-	Criteria for development proposals
NC7	-	Development proposals – habitat creation and enhancement
NC8	-	Protected species

T5 - Car parking – designated areas

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and historic heritage
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR5	-	Planning obligations
H16	-	Car parking
T6	-	Walking
T7	-	Cycling
T11	-	Parking provision
T16	-	Access for all
NC5	-	European and nationally protected species
NC6	-	Biodiversity Action Plan priority habitats and species
NC7	-	Compensation for loss of biodiversity
RST4	-	Safeguarding existing recreational open space

### 3. Planning History

- 3.1 DCCE2006/0058/F - Erection of 5 no. 1 bedroom supported living units. Refused 2nd March, 2006.
- 3.2 DCCE2005/1210/F - Erection of 5 no. 1 bedroom supported living units. Withdrawn 28th July, 2005.

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 None

#### Internal Council Advice

- 4.2 Conservation Manager: The Council's Ecologist advises that further survey for protected species should be carried out by an appropriately qualified ecological consultant and at an appropriate time of year. This should cover the neighbouring gardens and their ponds where access is made available. The applicant should show that they have made reasonable effort to seek this access, and provide evidence where it has been refused. A habitat creation and management scheme should be drawn up by an appropriately qualified ecological consultant for part of the garden area, and submitted for approval by Herefordshire Council's Ecologist. In the absence of such information it is advised that this application should be refused.
- 4.3 Traffic Manager: No objection subject to conditions but makes the following comment:

*'The existing access road to the garage is proposed to be widened to 3.6m, which meets our criteria for an access serving five dwellings. Although there will be an increase in*

*traffic, this width is adequate to allow a car and pedestrian to pass safely, and is an improvement to the current situation. The design has been modified from the previous application to allow for refuse vehicles to enter and leave the access road, and will similarly allow access for servicing and delivery vehicles. There may however be problems with access by the size of vehicles that are likely to be delivering to the site during the construction phase.*

*The proposal indicates the radii at the junction of the access road with Andrews Close to be kerbed but as this severely restricts the footway along Andrews Close, I would suggest that it would be better to be changed to a vehicular crossing to maintain easy pedestrian access and priority along Andrews Close. The access road would, however, not be adopted and in this format would not provide a turning provision for Andrews Close.*

*The provision of a passing lay-by on Andrews Close is necessary to allow vehicles to pass and prevent vehicles reversing back onto the roundabout and only locally reduces the footway on both sides. An acceptable width of footway remains after construction of the widening, however there will be restrictions during the construction phase.*

*The increase in traffic due to the development will be in part mitigated by the loss of 5 garages.*

*I consider that, although marginal, the proposals could provide an acceptable means of access to serve the garages and proposed development when complete and therefore on that basis have not recommended refusal.*

*However, I am very concerned that there is likely to be significant disruption to the residents of Andrews Close during the construction phase due to the narrowness of Andrews Close and the access road and restrictiveness of the site itself and also the necessity to get utility services and drainage to the site along the access road. Due to the restricted size of the site, the provision of parking for workers will be limited and may lead to indiscriminate illegal parking in the area, which would not be in the interests of highway safety. Further information should be sought as to how the construction works will be carried out'.*

- 4.4 Strategic Housing Manager: *'...Fully support this application..as this meets the need to provide homes with support for the vulnerable as identified in the housing strategy for Herefordshire 2005-2008, as well as the supported people strategy 2005-2010'.*
- 4.5 Forward Planning Manager: *'In the adopted Hereford Local Plan the application site is an established residential area therefore Policies H12 - 14 apply. There would not appear to be any obvious loss to residential amenity as a result of the proposals, as the elevations are relatively low impact; and adjoining properties' gardens bound the majority of the site, which may alleviate any potential privacy issues. The applicants appear to have overcome any access issues.*

*However, in the emerging Herefordshire Unitary Development Plan the application site is safeguarded as open space/allotments under Policy RST4 of the UDP. Development proposals that would result in the loss of public or private open spaces with recreational value, or facilities that help meet the recreational needs of the community will not be permitted unless there is a clear excess in the area (taking account of the wider recreational value of such provision) or alternative provision of at least equivalent community benefit is provided in a convenient and accessible location. It's understood*

*that the land is currently under utilised and is considered to have little recreational or amenity value. If this were to be confirmed by the relevant department then the proposal would be more acceptable. However, that said, it may still be appropriate to seek some sort of developer contribution towards alternative provision. It would appear that many of the issues from the previous application have been resolved. There is an issue regarding the loss of amenity space, as this does not conform to Unitary Development Plan policy. However, if it were agreed that there is a clear excess of open space in the area that is of greater amenity value then the proposal would appear to be acceptable. If this is not the case then it may be appropriate to seek developer contributions to alleviate such a loss'.*

- 4.6 Parks Manager: '*...The applications is for five residential units and should therefore provide either open space on site or a contribution towards the improvement of a local area. We have suggested a contribution of £500 per unit would be appropriate, which would be used towards...the Portfield site...'*

## **5. Representations**

- 5.1 Hereford City Council: The City Council has no objection to this application for planning permission but HCC retains a concern as to width of access road.

- 5.2 Local Residents: 26 letters of objection have been received from local residents, these have been received from 14 sources. The comments raised of planning relevance can be summarised as follows:

1. The development will result in the loss of an important area of open space, which is identified as safeguarded open space in the Herefordshire Unitary Development Plan;
2. The proposed contribution of 500 per unit is wholly inadequate to mitigate against the proposed loss of this area of open space;
3. The parking and access arrangements are inadequate and unacceptable and will prove detrimental to highway safety;
4. The submitted ecological report is inadequate. This has been confirmed by the Council's Ecologist and English Nature. A second survey has been identified as being required and this should be secured before a decision is made upon the application;
5. The construction process will result in unacceptable noise and disturbance;
6. More appropriate sites are available;
7. There are no provisions for waste storage on site;
8. The site is next to an identified Public Right of Way though the developer does not identify this;
9. The proposed access route does not adequately provide for pedestrians;
10. The proposed access route is inadequate for servicing and access by large vehicles;
11. The provided parking is inadequate for this use which will result in an intensification of the use of the access;
12. The Public Right of Way must not be allowed to be stopped up or obstructed;
13. The footpath should not be enclosed in the interests of public safety;
14. The site is unacceptable to provide the required residential amenities for the occupiers of the units, the site is isolated and enclosed;
15. Potential for asbestos contamination;
16. The design is not in keeping with the local area;
17. Unacceptable impact upon residential amenities resulting from overlooking;

18. Drainage issues;
19. The local highway network is inadequate to serve this site during construction or upon completion;
20. The land is Greenfield land, not Brownfield land;
21. The area is well used as a play area and amenity space;
22. The access is inadequate for emerging vehicles;
23. The land should instead be made more usable as open space/nature reserve;
24. The proposal will cause problems in accessing the rear of properties currently accessed via this area of open space;
25. There are still allotments on site which will be lost if this development is permitted.

A number of objections were also raised to the potential occupants of these units. Having regard to this issue Members are advised that two relatively recent court cases (West Midlands Probation Committee v S.O.S., and 7/11/97, R v Broadland DC ex parte Dove, Harpley and Wright 26/1/98) consider anti-social behaviour and in these instances it was accepted that such an issue could be considered as a material consideration. However, typically such a risk will relate to hazards to health or public safety where a genuine risk can be factually demonstrated and supported by evidence. In this instance it is considered that it is a purely subjective suggestion that this proposal will result in anti-social behaviour and an associated risk to public health and/or safety. The concerns of local residents are understandable but a proposal to house vulnerable persons in a property managed by an appropriate housing organisation cannot be said to represent an absolute risk in itself and therefore does not form a planning basis upon which to object to this proposal.

It is also advised that a number of non-planning matters were also raised including undue influence, budgetary issues, land ownership, and the existence of a legal agreement potentially impacting upon the development of this land. These are not matters for consideration in the context of this application.

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

## **6. Officers Appraisal**

- 6.1 It is considered that the following matters represent the principal issues for consideration with this application:

- Principle
- Highway Issues
- Public Open Space
- Ecology
- Residential Amenities
- Design and Scale
- Visual Amenities
- Impact of Construction Process
- Footpath.

### Principle

- 6.2 The application site falls within an Established Residential Area as identified in the adopted Hereford Local Plan. The development of this site in the context of this Development Plan is therefore accepted in principle. Turning to the emerging

Herefordshire Unitary Development Plan (Revised Deposit Draft), it is of note that the application site is now identified as protected open space. The Public Inquiry into the Revised Deposit Draft closed in June 2005 and the Inspector's report published in March 2006. The proposed modifications have now been published and on this basis it is considered that the Herefordshire Unitary Development Plan now takes primacy. Policy RST4 of the Herefordshire Unitary Development Plan (Revised Deposit Draft) relates specifically to the safeguarding of open space. This policy advises that development that would result in the loss of an area of public open space will not be permitted unless there is an excess of such space in the area, or if alternative provision of at least equivalent community benefit is provided in a convenient and accessible location. The proposal must therefore be considered in this context.

#### Highway Issues

- 6.3 The access has proved particularly problematic with this site and directly resulted in the lack of support for the previous two proposals. Subsequent to the refusal of the most recent application (DCCE2006/0058/F) further liaison took place with the Council's Highway Authority and Highway Engineers. The access has now been revised to facilitate improvements to the junction point of the access track and it is proposed to widen a section of Andrews Close to enable vehicles to pass. The Traffic Manager is satisfied that the access arrangements are adequate to serve the garages and proposed development and tracking details have been submitted to demonstrate that larger rigid body vehicles, such as refuse collection vehicles, can turn into the access land from Andrews Close.
- 6.4 In other respects the proposed parking provision meets national and local guidelines and the additional vehicle movements associated with this development will in part be off set by the removal of 5 garages from the garage block. Turning is available on site ensuring appropriate manoeuvring space. The improvements to the access arrangements and the widening of Andrews Close will further assist in ensuring that the access and parking arrangements proposed adequately provide for the proposed development.

#### Public Open Space

- 6.5 As discussed above, the application site is designated as protected public space in the emerging Herefordshire Unitary Development Plan. Policy RST4 provides protection to such areas requiring either a demonstration of an excess of space in the locality, or ensuring that the loss of the space is offset through appropriate contributions towards alternative provision. In this case the Parks Manager has not looked to resist the loss of this area of space, and has recommended that if planning is supported a contribution be secured to enable improvements to the nearby Portfields Open Space, which is currently poorly equipped. It is considered that the Portfields site offers the potential to serve a larger neighbourhood and be better utilised than is currently the case. The provision of effective play provision for toddlers, juniors and teenagers is important and this is sometimes best achieved through improving certain sites at the loss of less significant areas of little or less recreational value, as is the case here. The Council's current guidelines require a contribution of £500 per unit for a development of this type. This will be secured through a Section 106 Agreement, the Draft Heads of Terms for which are attached in Annex A.

### Ecology

- 6.6 The application was submitted with an Ecological Statement. This Statement was a resubmission of the report submitted in support of the previous application (DCCE2006/0058/F). The Council's Ecologist advised on this previous application that the submitted details were acceptable and that the site was not optimal. It was advised, however, that appropriate conditions be attached to require further survey work in the spring on the basis that the survey was not taken at the ideal time for, particularly, slow worms. A similar position was taken with this current proposal, however, the Council's Ecologist, after informal discussion with English Nature, advised that a survey should be secured prior to the determination of the application, not after. This is in accordance with best practice.
- 6.7 No slow worms or great crested newts, the two principal species of note in this instance, were found on the application site, and equally it does not appear to be a suitable habitat for them. However, it is also the case that their presence cannot be ruled out and the potential exists for species to be present in the adjacent sites. The carrying out of the survey in September is also not ideal. On this basis it is clearly desirable for a further survey to be carried out in the spring, covering a wider area. On the basis of this the applicant was requested to Withdraw the application pending the completion of such a survey. This was, resisted on the grounds that this position was not taken in the previous application and, furthermore, that the report '*categorically states that the site is not only sup-optimal but provides adverse conditions for Great Crested Newts...*'. Of significance is the fact that the previous refusal on this site (DCCE2006/0058/F) was on the basis of highway safety and the loss of the open space without mitigation, not on ecological grounds. It is therefore considered that a refusal on the basis of no new survey would now be untenable. It is therefore proposed to maintain the position taken in the previous application on this site and condition a further survey prior to commencement of works on site, with provisions to enable effective mitigation measures should new information come to light.

### Residential Amenities

- 6.8 The proposed building is, at the closest point, approximately 25 metres from the closest neighbouring properties. It is therefore considered that privacy and inter-visibility will be within acceptable limits. The overlooking of the rear garden area of properties on Central Avenue will be more pronounced, though it is not considered that this is of concern such that a refusal could be substantiated. The arrangement will be appropriate are reflective of modern sting principals.

### Design and Scale

- 6.9 The design of this building is not characteristic of the neighbouring properties on Central Avenue and Andrews Close, but that is not to say it is inappropriate in concept. The design approach is led by the need to minimise the scale of this building having regard to the sensitivity of the siting. The proposal is a one-and-a-half storey building with first floor accommodation provided within the roof space, this ensures that the building is appropriate in scale for this relatively modest and confined site. The design concept is modest and low key but not unattractive and it is considered that with the use of appropriate materials the building will integrate acceptability into the locality.

### Visual Amenities

- 6.10 The existing garage block is in need of investment and the proposed development includes enhancement works to the block. In respect of the remainder of the site the loss of an open area of green open space is always regrettable but this areas cannot be considered to have significant value to a wider community. It is considered that the enhancement of the Portfields Open Spaces enables to the provision of the most effective and appropriate open space and play provision for the wider community. The building itself is of an appropriate design and in some respects making the area 'living space' and the improvement of the garage block and inclusion of this area within the 'used' area, will enhance its contribution to the visual amenities of the locality. Overall it is considered that the visual amenities of the locality will be maintained through this development.

### Impact of Construction Phase

- 6.11 Following the request for further information from the Council's Traffic Manager in relation to the construction phase and the Agent acting on behalf of the applicant confirmed that the access improvements to Andrews Close and the access track will take place prior to the construction generally. The site establishment (compound etc) will be located on the main site and it is not anticipated that an off-site compound will be required. An appropriate condition will ensure that appropriate details, such as the siting of the compound, are agreed prior to the commencement of development. A planning condition will also ensure that construction working is restricted to appropriate times.

### Footpath

- 6.12 A footpath runs adjacent to, but outside of the application site. This is not an adopted Public Right of Way but is a designated footpath (F80209). It is unlikely that the footpath will be impacted upon by this development but it is confirmed that an appropriate informative will be attached advising of the status and protection to be afforded to the footpath.

### Conclusion

- 6.13 On balance it is assessed that the previous concerns associated with the development of this site have been satisfactorily addressed and, subject to effective conditioning, this proposal represents an acceptable form of development in accordance with national and local planning policy.

## **RECOMMENDATION**

- 1) **The Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 by 1st December, 2006 in accordance with the Heads of Terms set out in Appendix 1 to this report and any additional matters and terms as he considers appropriate.**
  - 2) **Upon the completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any further conditions considered necessary by officers.**
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. A06 (Development in accordance with approved plans).**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.**

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

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

- 4. F16 (Restriction of hours during construction).**

**Reason: To protect the amenity of local residents.**

- 5. F39 (Scheme of refuse storage).**

**Reason: In the interests of amenity.**

- 6. F41 (No burning of materials/substances during construction phase).**

**Reason: To safeguard residential amenity and prevent pollution.**

- 7. F48 (Details of slab levels).**

**Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.**

- 8. G01 (Details of boundary treatments).**

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

- 9. G04 (Landscaping scheme (general)).**

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

- 10. G05 (Implementation of landscaping scheme (general)).**

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

- 11. Prior to the commencement of development within the application site a further ecological survey shall be carried out in accordance with parameters and a timescale to be agreed with the local planning authority prior to the commencement of the survey. The survey shall then be carried out in accordance with the agreed details and submitted to the local planning authority for assessment**

**Reason: To ensure that the nature conservation interest of the site is protected.**

- 12. No development shall take place within the application site until details of the ecological mitigation provisions to be made and associated timetable for implementation have been submitted to and agreed in writing by the local**

planning authority. The mitigation shall be based upon the outcome of the survey required by Condition 12 above and the mitigation shall be carried out in accordance with the approved details.

Reason: To ensure that the nature conservation interest of the site is protected.

13. H06 (Vehicular access construction).

Reason: In the interests of highway safety.

14. H13 (Access, turning area and parking).

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

15. H27 (Parking for site operatives).

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

**Informatives:**

1. N01 - Access for all.
2. N03 - Adjoining property rights.
3. N04 - Rights of way.
4. N11A - Wildlife and Countryside Act 1981 (as amended) – Birds.
5. N11B - Wildlife & Countryside Act 1981 (as amended) and Conservation (Nat. Habitats & C.) Regs 1994 – Bats.
6. HN01 - Mud on highway.
7. HN05 - Works within the highway.
8. HN07 - Section 278 Agreement.
9. HN10 - No drainage to discharge to highway.
10. N15 - Reason(s) for the Grant of PP/LBC/CAC.
11. N19 - Avoidance of doubt.
12. This permission is granted pursuant to an agreement under Section 106 of the Town and Country Planning Act 1990.
13. That the officers named in the Scheme of Delegation to Officers be authorised to amend the conditions as necessary to reflect the terms of the planning obligation.

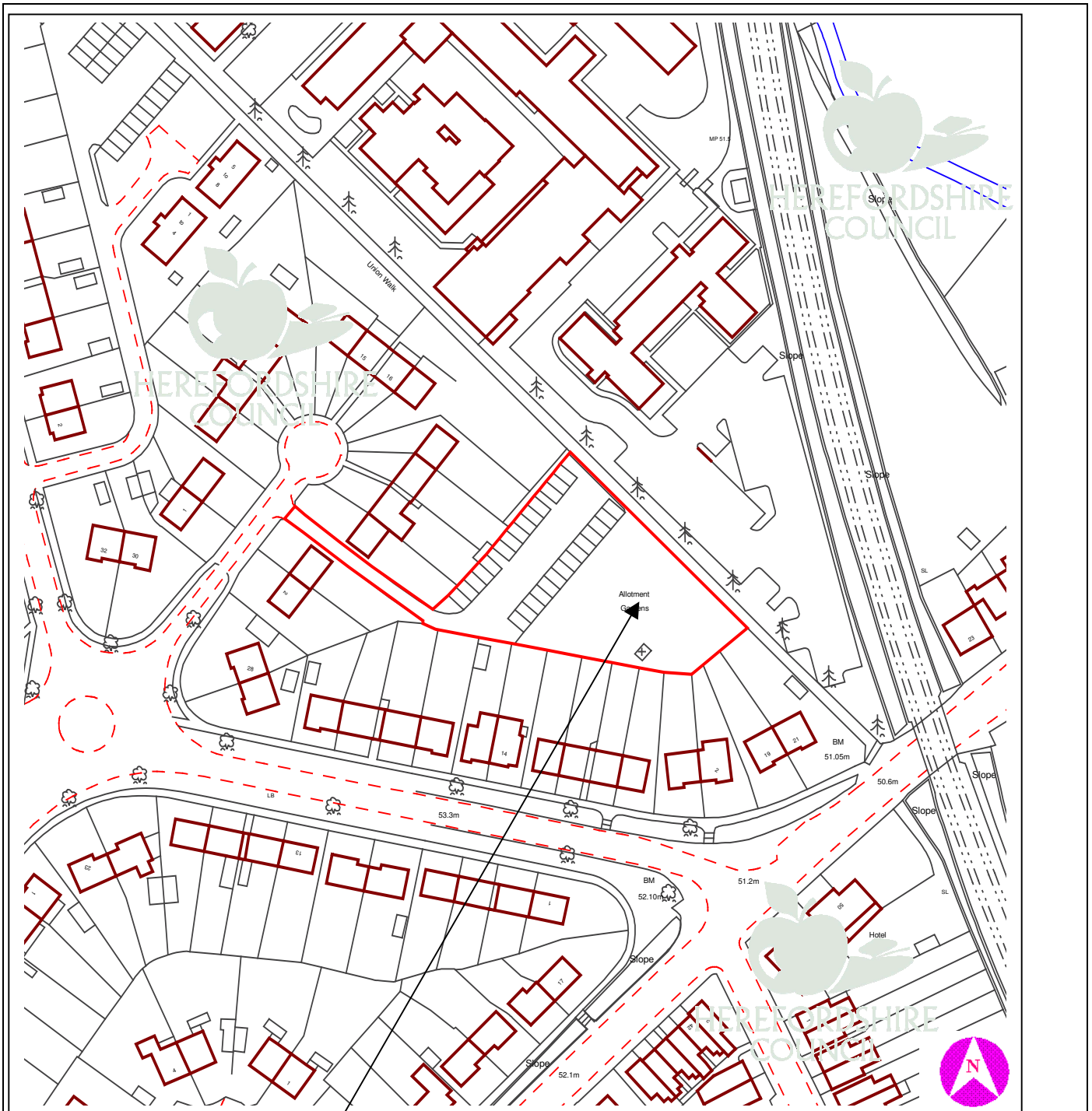
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCCE2006/2211/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** Land off Andrews Close, Hereford, HR1 2JX

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## **DRAFT HEADS OF TERMS**

### **Proposed Planning Obligation Agreement**

### **Section 106 Town and Country Planning Act 1990**

- Planning Application – DCCE2006/2211/F
  - Residential development of 5 no. 1 bedroom supported living units
  - At Land off Andrews Close, Hereford.
1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £2,500 to provide for the cost of a enhancements and improvements to the 'Portfields' play area/open space facilities which sum shall be paid on or before the commencement of the development.
  2. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
  3. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
  4. The developer shall complete the Agreement by the 1st December, 2006 otherwise the application will be registered as deemed refused.

Adam Sheppard - Senior Planning Officer  
Peter Yates - Development Control Manager

3rd October, 2006