

## HARROGATE BOROUGH COUNCIL

### PLANNING AREA2 DC COMMITTEE – AGENDA ITEM 6: LIST OF PLANS.

**DATE: 8 February 2005**

<b>PLAN:</b> 02	<b>CASE NUMBER:</b> 04/00034/FUL
<b>APPLICATION NO.</b> 6.113.3.D.FUL	<b>GRID REF: EAST</b> 447865 <b>NORTH</b> 456030
	<b>DATE MADE VALID:</b> 09.01.2004
	<b>TARGET DATE:</b> 05.03.2004
	<b>WARD:</b> Ribston

**APPLICANT:** Ainsty Farms Direct

**AGENT:** M J F Architects

**PROPOSAL:** Erection of detached single storey building to be used as farm shop and distribution unit and associated car parking (revised scheme).

**LOCATION:** Land To The Rear Of The Former Little Chef York Road Green Hammerton  
York North Yorkshire

### REPORT

THIS APPLICATION WAS CONSIDERED AT THE LAST AREA 2 DEVELOPMENT CONTROL COMMITTEE ON 18th JANUARY 2005, WHERE MEMBERS WERE MINDED TO APPROVE THE APPLICATION CONTRARY TO THE OFFICERS RECOMMENDATION. THE REASONS GIVEN WERE:

1. The application supports the local economy
2. The application complies with Policies E8, C15 and S4; and
3. A S106 agreement to control the amount of retail floorspace, the range of goods sold and the geographical areas from which they are sourced be completed

UNDER THE SPECIAL PROCEDURE IT IS NECESSARY TO CONSULT CABINET MEMBER (PLANNING) AND THE COUNCIL'S SOLICITOR FOR THEIR COMMENTS BEFORE RETURNING THE APPLICATION TO COMMITTEE FOR MEMBERS TO CONSIDER IN LIGHT OF THESE COMMENTS.

CABINET MEMBER (PLANNING) - Members must be clear about the reasons for departing from officer's advice - but it is my view members must be satisfied that the benefits of the existing and expanded farm shop business to the rural economy outweigh the harm to planning policy objectives resulting from a new building in the open countryside.

SOLICITOR TO THE COUNCIL - Whilst Members accepted that the development did not amount to farm diversification in planning policy terms, nevertheless they gave significant weight to the development supporting the local rural economy. Members are entitled to consider this issue as material to the determination of the application and it is within their

discretion to attribute more weight to this issue than officers did in their report to Committee.

Members considered that the application complied with Policies E8, C15 and S4 of the Harrogate District Local Plan. These policies each require subjective judgement and Members are entitled to give less weight to these policies in their consideration of the application. However, to do so Members must be satisfied that the proposal does not affect the character or appearance of the Countryside.

Finally, Members attached weight to the completion of a Section 106 agreement which would control the type and source of the products handled by this enterprise so that it retained a significant link to the local rural economy. Officers will update Members on progress to the completion of the agreement at Committee.

## REPORT

This application was originally considered at Area 2 Development Control Committee on 1st June 2004 when Members resolved to approve the application subject to the following :

- a S106 agreement to control the amount of retail floorspace, the range of goods sold and the geographical areas from which they are sourced
- consultation with Cabinet Member (Planning) and the Council's Solicitor, under the Special Procedure due to conflict with Policies S1 and S4,
- advertising of the application as a departure.

Following the committee resolution on 1st June, a further report setting out Cabinet Member comments and Solicitor's comments was taken to the HOPS/Chair meeting on 28th June 2004, where it was resolved to approve the application subject to the completion of the S106 agreement. The application has also now been advertised as a departure.

During the course of negotiations over the S106 agreement a letter threatening judicial review of the decision to approve this application was received from solicitors acting on behalf of an objector. At this time no formal decision has been made on the application, as the resolution to approve was dependant on completion of a S106 agreement and this has yet to be completed. As a result of this threat the Council's Solicitor has sought to clarify further the nature of the business to ensure that the relevant policies had been applied to the consideration of the application. An important consideration in the assessment of the application had been that the enterprise constituted a farm diversification scheme. This was on the basis that the retail business was supplied from a cooperative of local farms, and that the retail business was ancillary to the farming enterprise of the cooperative. Through further discussions with the applicant it has emerged that the cooperative has been wound up and had no legal status. Whilst Ainsty Farms Direct (AFD) is a registered agricultural holding it is very small scale and the retail business cannot be described as ancillary to it. It therefore appears that whilst the farm shop started out as a farm diversification scheme, due to the winding up of the cooperative and the scaling down of the farm associated with AFD, the farm shop is no longer ancillary to a farming enterprise, and can therefore no longer be described as farm diversification.

AFD's status as a farm diversification scheme is vital to the application of relevant policies to the proposal, and in view of the new information which now means that the proposal

cannot be considered as a farm diversification scheme the proposal must be reassessed, therefore this application is being brought back to Area 2 Development Control Committee for consideration again.

### **SITE AND PROPOSAL**

The site is located adjacent to the Skipbridge Petrol Filling Station, and to the rear of the former Little Chef, now trading as Sweet Basil Chinese Restaurant to the south of the A59, and to the east of the villages of Green Hammerton and Kirk Hammerton. The site lies in the open countryside. Access to the site is via the existing access to the petrol filling station and the existing restaurant.

The application proposes erection of a single storey building of 289sqm to be occupied by Ainsty Farms Direct as a farm shop and distribution unit. Ainsty Farms Direct (AFD) currently operate from a small unit on the opposite side of the A59, at Green Hammerton. This unit is rented from the owners of the adjacent car dealership and it is understood that once AFD have secured alternative premises the car dealership will subsume the unit for the ongoing expansion of their business. As well as sales from the premises itself, AFD have an increasing internet ordering business.

Staff car parking is proposed to the west of the proposed unit, and customer parking is proposed to be shared with the existing restaurant. The building is proposed in brick with a pan tile roof, and the internal layout is such that the majority of the floorspace is given over to food processing, packing, storage and distribution of food, and only a small proportion of the floorspace is given over to public sales area, approximately 15%. The remainder of the floorspace is given over to storage and preparation areas which serve both the on site retail sales and the internet delivery service, which is also run from the premises.

The application is supported by an Assessment of Planning Issues which sets out the justification for the proposal, confirmation of Ainsty Farms Direct status as an agricultural holding, a letter from the Farm Retail association confirming their guidelines for farm shop enterprises, and information about the proportion of throughput from local producers and year on year sales figures.

### **MAIN ISSUES**

1. Principle/ Planning Policy Issues
2. Visual Amenity/Impact on Landscape
3. Environmental Health & Drainage Issues
4. Access and Parking

### **RELEVANT SITE HISTORY**

6.113.3.FUL - Forming an overnight caravan stop site at Skipbridge Service Station;  
Refused 23.10.1974

6.113.3.A.FUL - Establishing a residential and touring caravan site at Skipbridge Filling Station; Refused 30.06.1976

6.113.3.B.OUT - Change of use to caravan park for residential static and touring caravans;  
Refused 21.09.1977

6.113.3.C.FUL - Erection of detached two storey building to be used as a farm shop and

distribution unit with offices and associated parking; Withdrawn 23.04.2003

## **CONSULTATIONS/NOTIFICATIONS**

### **Parish Council**

Kirk Hammerton

### **Environment Agency**

No objection subject to conditions

### **Environmental Health**

Comment on food hygiene requirements and suggest restricted hours of opening

### **H.B.C Land Drainage**

Means of surface water drainage should be confirmed

### **Highway Authority**

No objections subject to conditions

### **Local Plans Policy**

Refer to assessment below

### **Claro Internal Drainage Board**

Drainage methods to be confirmed

### **Economic Development Officer**

Beneficial to rural economic base, likely to add value to the local economy

### **Countryside Officer Dan McAndrew**

Offers strong support for the proposal

### **Landscape Officer**

Refer to assessment

## **APPLICATION PUBLICITY**

**SITE NOTICE EXPIRY:** 16.07.2004

**PRESS NOTICE EXPIRY:** 16.07.2004

## **REPRESENTATIONS**

**KIRK HAMMERTON PARISH COUNCIL** - The Parish Council does not object but makes the following comments:

"The Parish Council would like to see safeguards to ensure that the proposed premises is to be supplied by local suppliers and that this will not then be turned into a supermarket/retail outlet"

**OTHER REPRESENTATIONS** - One letter of objection has been received from agents acting on behalf of the owner of the Skipbridge Service station the letter sets out the following concerns:

- That the current Ainsty Farm Shop enterprise is not a farm shop but an ordinary A1 retail outlet.
- The proposal does not comply with PPG6
- The proposal is contrary to Structure and Local Plan Policy
- The proposal represents an opportunity to secure a new dwelling in the open countryside by conversion of the building in the future
- The proposal represents an unsustainable form of retail development that has the ability to undermine the vitality and viability of existing retail centres.

Since the application was considered at committee on 1st June 2004 a further letter of objection has been received from agents acting on behalf of the same objector. This letter states that the application should have been advertised as a departure from the development plan and the Secretary of State notified. On the 4th October 2004 a letter was received from solicitors acting on behalf of the objector threatening judicial review of the decision at such time as the S106 was completed and the decision made.

Four letters of support had been received initially; one from an organic food supplier, one from Green Hammerton Parish Council, and two from local residents.

A petition of 224 signatures of customers of the shop stating "I am writing to pledge my support for Ainsty Farms Direct in their bid to build a larger farm shop as this will enable me to access an extended range of fresh, local produce and will be of great importance to the local economy" was submitted with the application. Over twenty letters of support were submitted with the previous application from existing local suppliers which the applicant has asked to be taken into account of in consideration of this application.

More recently, in light of the application coming back before committee, a further 22 letters of support have been received as well as a 140 signature petition.

**VOLUNTARY NEIGHBOUR NOTIFICATION** - None undertaken.

#### RELEVANT PLANNING POLICY

- PPS1 Planning Policy Statement 1: Delivering Sustainable Communities
- PPG6 Planning Policy Guidance 6: Town Centres and Retail Developments
- PPG7 The Countryside: Environmental Quality and Economic and Social Development
- PPG13 Planning Policy Guidance 13: Transport
- LPS01 Harrogate District Local Plan (2001, as altered 2004) Policy S1: New Shopping Development
- LPS04 Harrogate District Local Plan (2001, as altered 2004) Policy S4: Shopping in the Countryside
- LPC13 Harrogate District Local Plan (2001, as altered 2004) Policy C13: Agricultural and Forestry Development
- LPC14 Harrogate District Local Plan (2001, as altered 2004) Policy C14: Farm Diversification

- LPC15 Harrogate District Local Plan (2001, as altered 2004) Policy C15: Conservation of Rural Areas not in Green Belt
- LPC02 Harrogate District Local Plan (2001, as altered 2004) Policy C2: Landscape Character
- LPE08 Harrogate District Local Plan (2001, as altered 2004) Policy E8: New Industrial and Business Development in the countryside
- LPA01 Harrogate District Local Plan (2001, as altered 2004) Policy A1: Impact on the Environment and Amenity
- LPHD20 Harrogate District Local Plan (2001, as altered 2004) Policy HD20: Design of New Development and Redevelopment

## **ASSESSMENT OF MAIN ISSUES**

**1.PRINCIPLE/PLANNING POLICY ISSUES** - Development in the Open Countryside - The site lies outside of the development limits of the nearest settlement Kirk Hammerton, and as such lies within the open countryside. Policy C15 is relevant to consideration of proposals for new building in rural areas outside of the Green Belt and states that in these areas existing land uses are expected to remain undisturbed. Development is only permitted in a few limited circumstances, these include proposals which contribute to the rural economy which comply with Policy E8. Policy E8 concerns new industrial and business development in the open countryside, where certain criteria are met. Farm diversification proposals are generally acceptable in the countryside under Policy E8. By their very nature they have to be located outside settlements usually on farm holdings in the countryside. When advising members previously on this proposal, its acceptance as farm diversification at the time meant that the proposal complied with Policy E8. The storage/distribution and packing and processing element of this proposal still falls to be considered under Policy E8. Criterion A ii) of this Policy allows:

"small scale new building adjacent to a rural settlement, which is well related to the settlement, benefits the rural economy and reduces the need for increased car commuting to urban centres."

This proposal can be described as small scale, it would (if adequately controlled by S106 agreement) benefit the rural economy and by providing jobs for local people probably reduces the need for car commuting to nearby urban areas. However, whilst in relatively close proximity to Kirk Hammerton the proposal site is neither adjacent nor well related in visual terms to the settlement. It is adjacent to buildings which form ribbon development extending along the A59, which do not lie within a defined settlement boundary. Officers consider it would comply with the other two criteria of Policy E8 in relation to traffic and impact on character, appearance and amenity of the area.

Hence, whilst acceptable under most aspects of Policy E8, the proposal conflicts with the important locational element of Policy E8. The main reasons for such locational elements are 1) to ensure any new built form is well related to the existing built form of settlements and therefore does not represent isolated encroachment of built form in the countryside, and 2) to ensure that the location is sustainable and allows the opportunity for reducing trips to it by car by being close to potential employees and public transport. It is considered that whilst the proposal's location and relationship to existing built form and the settlement of Kirk Hammerton would not be in serious conflict with the objectives of this element of Policy E8, it should be remembered that E8 only applies to the internet ordering business and associated packaging and storage facilities element of the proposal, it is not applicable

to the retail element. The proposal does not wholly comply with Policy E8 and also therefore is also contrary to Policy C15.

Policy E6 of the Local Plan allows local firms to extend their existing sites into the countryside if there is no alternative within the site itself and it would not cause unacceptable planning problems e.g. traffic or significant adverse effect on the character or appearance of the countryside. In this case the extension of this successful business is not an option due to the landlords ending of tenancy on the site. Therefore although Policy E6 does not apply to this proposal, the Council's clear support for local firms to expand even where this does involve some encroachment into the countryside is a material consideration for members to take into account when looking at the planning balance of this case.

Supporting information supplied with this application confirms Ainsty Farms Direct's status as an agricultural holding in its own right, and details the percentage of food sold from local producers. PPS7 refers to farm diversification as including proposals such as farm shops, farm based food processing, and farm based food packing, and this can include processing and packing of produce from other farms. The application explains that AFD is a registered agricultural holding (no. 48/768/0026) with land at Skipbridge and is registered with DEFRA. All livestock grazed and fattened on holding is processed through the farm shop in addition to the produce sourced from local farmsteads. It is apparent however from recent discussions with the applicant that the scale of AFD's farming enterprise is minimal in comparison to the farm shop enterprise, and that the farmshop is therefore not ancillary to the farming enterprise. In other words, whilst AFD is an existing farm, the farmshop element of the business is not ancillary to the farming enterprise, and cannot therefore be described as a farm diversification scheme. Policy C14 of the Local Plan is supportive of farm diversification and permissive of new buildings, where it is not possible to reuse an existing building and where they comply with Policy C13 regarding agricultural development. Because the farmshop cannot be properly described as a farm diversification scheme Policies C14 and C13 are no longer applicable to the consideration of this application.

Retail Policy Issues - Policy S4 is also relevant to consideration of the proposal, referring to shopping in the countryside. New shopping development in the countryside is only permitted where it is ancillary to an existing established production or manufacturing activity, subject to satisfying a number of criteria. Given the farm shop can not be considered as ancillary to the farming enterprise the proposal is contrary to Policy S4. Policy S1 is also relevant with regard to the retail element of the scheme, the main issue being whether the farm produce retail element should be subject to the Policy S1 tests of establishing a need for the retail floorspace and that there are no sequentially preferable location where the floorspace could be located. The degree to which the tests of need and sequential approach are to be met, and on occasion their relevance, is a matter of judgement based on the particular proposal.

In the case of small retail elements linked to other uses in rural areas tests of need and sequential approach are difficult to apply. Indeed, in paragraph 3.21 and 3.22 of PPG6 dealing with shops ancillary to other uses e.g. petrol filling stations and farm shops, there is no such requirement for these tests to be met. These types of uses are generally encouraged as providing new sources of jobs and services, so contributing to the diversity of the rural economy providing they do not impact adversely on nearby village shops.

Indeed officers recently concluded that there was no policy objection to an extension to the retail floorspace of the Skip Bridge Petrol Filling Station, York Road, Green Hammerton on the basis of accepting the applicant's general argument that there had been a significant increase in population of the area not matched by an increase in shops. Officers also accepted that in this case the small scale of the extension and its ancillary nature did not warrant further information on the sequential approach. Some concern was expressed on the impact of the proposal on local shops but on balance the proposal was considered acceptable.

It is therefore considered that in relation to this proposal lack of fully evidenced information on need and lack of the application of the sequential approach does not warrant the refusal of this proposal in terms of retail policy. (Cabinet Member Planning and Council's Solicitor's comments were sought with regard to this conflict with Policy in June 2004, and the position has not changed in relation to this policy as a result of the new information received about the status of the business).

Other Material Considerations - It is recognised that the existing operation of AFD does support farms in the local area by providing them with an outlet through which to sell their products both through the farm shop on site, and their growing internet sales business (approximately 50% of the shops sales are from AFD's farm or farms within local Parishes, and a further 31% of sales are from elsewhere in North Yorkshire). The business therefore helps to diversify the rural economy reflecting the aims of PPS7 and the Harrogate District Local Plan. It operates in a sustainable manner and many suppliers are less intensive farmers. Food miles are kept low, and the shop provides an outlet for fresh local seasonal produce, as well as local meat. The proposal has strong support from the Council's Rural Strategy Officer and it is reasonable to assume that allowing its expansion into new premises will help it further to contribute to the rural economy provided it is properly controlled. The applicants have agreed that should the application be supported they will enter into a S106 agreement to control the operation to that of a farm shop. Should the proposal be supported it is recommended that the S106 incorporate the following requirements:

- to restrict to the % floorspace of the building which can be used for retail sales, to ensure that this element of the operation remains ancillary, and does not become a function in its own right
- to restrict the use of the building to that of a farm shop with at least 50% of goods sourced from AFD and local farms within an 8 mile radius of the site, at least 30% from within a 30 mile radius of the site, and the remainder from elsewhere.
- to restrict the goods which can be sold from the premises to food goods only

It is considered that a legal agreement on this basis would ensure that the proposal would continue to contribute to the rural economy in the same way the business does at present, and that it would not become a more mainstream retail/internet sales business.

It is a material consideration that the proposal is for the relocation of an existing business, which is acknowledged to be important to the rural economy, and that on the information provided it is understood that the business could not continue at its current premises due to its lease being due to expire next summer.



There are therefore material considerations which are in favour of the proposal, it is your officers' view however that these material considerations do not adequately outweigh the harm to planning policy objective of constraining new development in the open countryside.

**2. VISUAL AMENITY/IMPACT ON LANDSCAPE** - The application proposes erection of a new building within the open countryside. As such the impact of the landscape is an important consideration. The proposal is much improved on the previous application being a smaller single storey building, better related to the existing buildings on the southern side of the A59. Additional car parking is kept to a minimum by sharing the existing restaurant car park. Revised plans have been submitted which incorporate a reduced ridge height to the building reducing its impact on the landscape. Whilst the new building will undoubtedly have some impact on the landscape it is considered that the proposed design and location of the building, in a position which is well related to the existing buildings, minimises that impact. Were the application supported in other respects, a condition would be required to secure the reinforcement of the existing hedgerows with a satisfactory landscaping scheme which will help to screen the development from longer distance views.

**3. ENVIRONMENTAL HEALTH & DRAINAGE ISSUES** - The environmental health department have provided comments relating to food hygiene. They have also recommended that the hours of operation be restricted to 08.00 to 18.00 Mondays to Fridays and 08.00 to 17.30 Saturdays with nothing on Sundays or Bank Holidays, it is considered however that to impose such restrictions would be unreasonable as the restaurant and petrol filling station adjacent do not have such restrictions imposed on their opening hours, nor are there any residential properties in the immediate vicinity. The existing business is understood to operate outside of these hours. It is therefore not considered necessary to restrict the hours of use/opening, should the application be approved.

**4. ACCESS AND PARKING** - The application proposes to utilise the existing restaurant car parking as a shared facility for customers and in addition 4 staff car parking spaces are proposed to the west of the new building. The existing access from the A59 will be utilised. The Highway Authority have no objections to the proposals subject to a condition requiring the proposed parking turning and manoeuvring to be provided and retained.

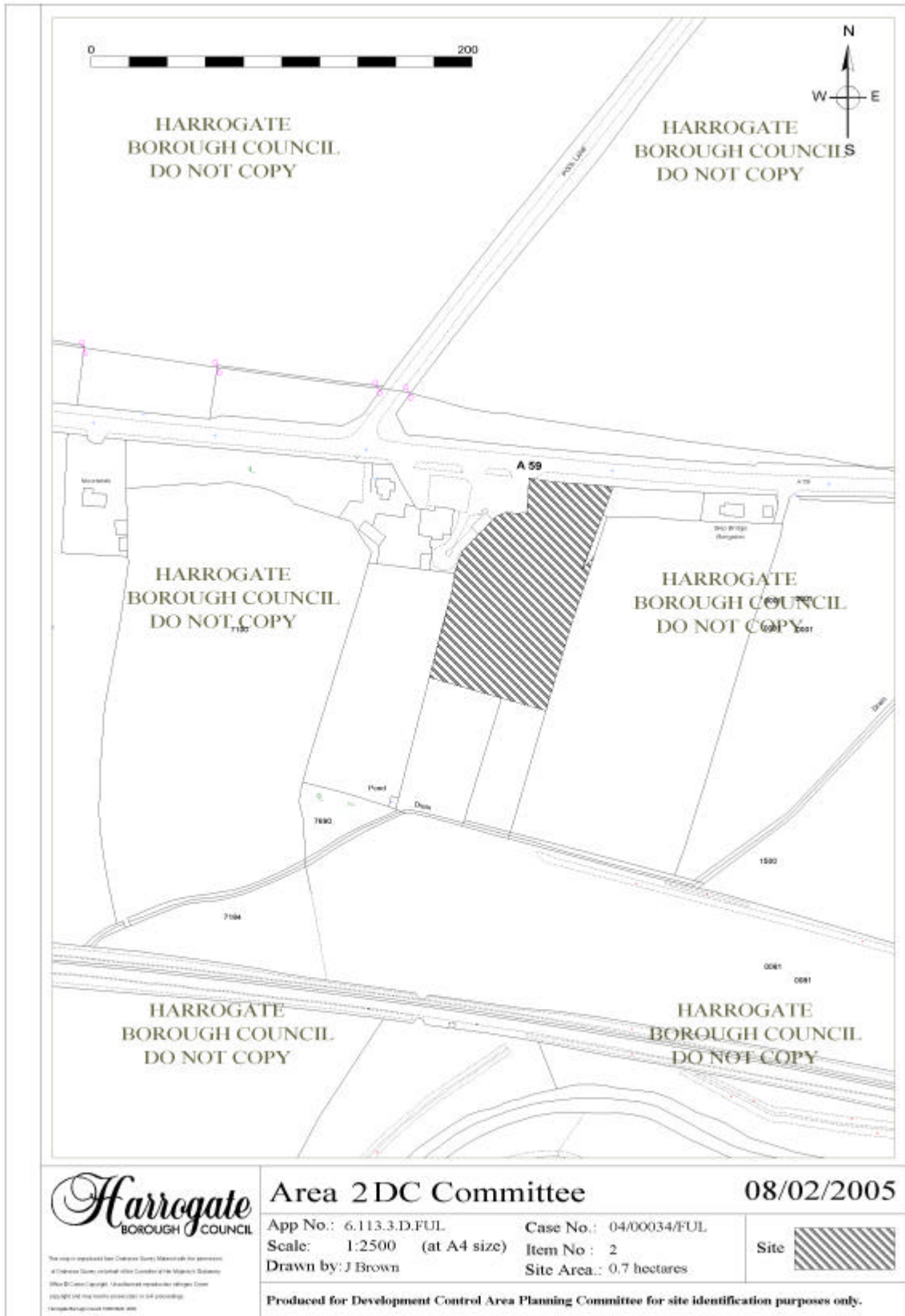
**CONCLUSION** - Whilst the farm shop clearly started out as a form of farm diversification, it can no longer be accurately described as such given that the farm enterprise is minimal in comparison to that of the shop. Because the proposal does not represent a form a farm diversification the proposal is contrary to relevant the Local Plan Policies. The benefits to the rural economy of the proposal are recognised, as is the pressing need to relocate this valuable rural enterprise, and these are important material considerations. It is not considered however that these material considerations outweigh the fundamental policy objection to a new building in the countryside.

**CASE OFFICER:** Ms S Purvis

## RECOMMENDATION

That the application be REFUSED. Reason(s) for refusal:-

- 1 The proposal does not constitute a form of farm diversification and therefore the proposal is contrary to Policies S4 and E8, and there is therefore insufficient justification for a new building in the open countryside to relocate the existing business, as such the proposal is also contrary to Policy C15 of the adopted Harrogate District Local Plan.



**Harrogate**  
BOROUGH COUNCIL

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**Area 2 DC Committee**

**08/02/2005**

App No.: 6.113.3.D.FUL

Case No.: 04/00034/FUL

Scale: 1:2500 (at A4 size)

Item No: 2

Drawn by: J Brown

Site Area: 0.7 hectares

Site



**Produced for Development Control Area Planning Committee for site identification purposes only.**