

AGENDA

Planning Committee

Date: **Wednesday 8 January 2014**

Time: **10.00 am**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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Agenda for the Meeting of the Planning Committee

Membership

Chairman

Councillor PGH Cutter

Vice-Chairman

Councillor BA Durkin

Councillor PA Andrews

Councillor AM Atkinson

Councillor AN Bridges

Councillor PJ Edwards

Councillor DW Greenow

Councillor KS Guthrie

Councillor J Hardwick

Councillor JW Hope MBE

Councillor MAF Hubbard

Councillor RC Hunt

Councillor Brig P Jones CBE

Councillor JG Lester

Councillor RI Matthews

Councillor FM Norman

Councillor AJW Powers

Councillor GR Swinford

Councillor PJ Watts

AGENDA

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the Minutes of the meeting held on 11 December 2013.</p>	5 - 24
5.	<p>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p>	
6.	<p>APPEALS</p> <p>To be noted. (Report to Follow)</p>	
7.	<p>123317/O LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF</p> <p>Class A 1 food store, petrol filling station and associated parking and servicing facilities, resizing and refurbishment of two Class B units and associated highway works.</p>	25 - 52
8.	<p>130616/F LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE</p> <p>Hybrid planning application (part detailed/part outline) for the part demolition of existing buildings and structures and mixed use development of the site to provide a retail store, petrol filling station, residential and associated works.</p>	53 - 74
9.	<p>132192/F LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG</p> <p>Change of use of redundant farm buildings into 3 residential cottages to be used as holiday lets. Erection of 5 demountable geodomes (or shepherds huts). Purpose built shower/wc adjacent to farm buildings (to replace soon to be demolished new build stable block). Communal lounge/dining and kitchen for geodome guests in existing buildings.</p>	75 - 92
10.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 28 January 2014</p> <p>Date of next meeting – 29 January 2014</p>	

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HEREFORDSHIRE COUNCIL

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 11 December 2013 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, FM Norman, AJW Powers, R Preece, GR Swinford and PJ Watts

In attendance: Councillors JA Hyde and J Norris

93. APOLOGIES FOR ABSENCE

Apologies were received from Councillors RC Hunt, Brigadier P Jones and RI Matthews.

94. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor R Preece attended the meeting as a substitute member for Councillor RI Matthews.

95. DECLARATIONS OF INTEREST

Agenda item 8 – 131732/F The Slip Tavern, Much Marcle Ledbury

Councillor AM Atkinson declared a non-pecuniary interest because one of the other licensed premises in the area was one of his customers.

Agenda item 9 – 131981/F Barn at Everstone Farm, Peterstow, Ross-on-Wye

Councillor DW Greenow declared a non-pecuniary interest because he knew the applicant.

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

Agenda item 10 – 132446/O Land at Junction of A44 and Panniers Lane, Bromyard, Herefordshire

Councillor GR Swinford declared a Disclosable Pecuniary Interest as his Partnership had acted as Planning Agent.

Agenda item 11 – 132448/O Land Adjacent to Longlands, Lower Hardwick Lane, Bromyard, Herefordshire

Councillor JG Lester declared a non-pecuniary interest because he knew the applicant.

Councillor GR Swinford declared a Disclosable Pecuniary Interest as his Partnership had acted as Planning Agent.

Agenda item 14 – 132674/O Land East of Weobley Primary School, Weobley, Herefordshire

Councillor MAF Hubbard declared a non-pecuniary interest because he knew the applicant.

96. MINUTES

RESOLVED: That the Minutes of the meeting held on 20 November 2013 be approved as a correct record and signed by the Chairman, subject to recording the declarations of non-pecuniary interests made at that meeting by Councillors BA Durkin and J Hardwick for agenda item 10 – 132033/F and 132034/C – Land at Chestnuts the Avenue, Ross-on-Wye, Herefordshire, as members of the Wye Valley AONB Joint Committee.

97. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

98. APPEALS

The Planning Committee noted the report.

99. 131680/F LAND OFF TUMP LANE, MUCH BIRCH, HEREFORDSHIRE, HR2 8HW

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mrs A Cook, Chair of Much Birch Parish Council, spoke expressing concerns about aspects of the application. Mr K James and Ms R Rigby spoke in objection and Mr A Padmore, the applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Norris, the local ward member, spoke on the application.

He commented on a number of issues including:

- There was local opposition to the development of a greenfield site. There were other sites more appropriate for residential development.
- The proposed standards for the housing could be improved with an insistence upon greater energy efficiency.
- The proposed footpath linking the development to the west and to Wormelow was inadequate. A suitable footpath could be provided if the applicant made available land within the applicant's ownership.
- There had been a lack of consultation on the revised proposals.

The debate opened and the following principal points were made:

- Highway and pedestrian safety was of paramount importance. The proposed footpath was not of an appropriate standard. Account had to be taken of the large agricultural vehicles using Tump Lane, the amount of traffic and its speed. Alongside these concerns about safety, in the absence of an appropriate footpath the sustainability of the development had to be questioned.
- There was clearly the possibility of further applications for residential development in the area. The Committee should insist that appropriate pedestrian access was provided, making this a condition of granting planning permission.

- It should be noted with regard to the proposal to build properties to the code 3 standard for sustainable homes that that was the minimum standard the Council considered acceptable for affordable housing.
- The need for affordable housing was acknowledged. It was noted that the scheme attracted grant funding which would be lost if the houses were not built before March 2015.
- A suggestion was made that the Committee should defer consideration of the application to permit further discussions with the landowner to seek to resolve the concerns about pedestrian access.
- The Development Manager commented that the possibility of future applications in the location was not a relevant consideration. The Committee had to consider, not whether the scheme was ideal, but whether it was satisfactory, given the need for affordable housing. A decision to grant planning permission could not be made conditional on the provision of a footpath to a standard required by the Committee. Traffic Regulation Orders were also outside the Committee's remit. It would be an option to defer the application to allow for discussions with the applicant over the possibility of negotiating a better footpath as part of the associated S106 agreement. However, it had to be borne in mind that affordability of the scheme may make it difficult to reach agreement.
- The Principal Planning Officer commented, in response to questions, that consultation on the revised proposals had taken place with those who had made representations on the original proposal.

The local ward member was given the opportunity to close the debate. He supported a deferral and requested that the Parish Council and residents were kept fully informed.

RESOLVED: That consideration of the application be deferred for further information and discussion.

100. 131732/F THE SLIP TAVERN, MUCH MARCLE, LEDBURY, HR8 2NG

The Principal Planning Officer gave a presentation on the application, and noted that a statement of positive and proactive working needed to be added to the recommendation as an informative.

In accordance with the criteria for public speaking Mr R Page, a resident, and Mr S Crowther, of CAMRA, spoke in objection to the application and Mr Ranford, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor BA Durkin, the local ward member, spoke on the application.

He commented on a number of issues including:

- There was local concern over the loss of an amenity. There were other premises in the vicinity but the Slip Tavern offered something different.
- The report set out the drop in turnover over the past five years. However, there was an offer to purchase and run the premises as a public house. He considered that the local people wanted the local amenity to remain and planning policy supported this approach in principle. He therefore supported the officer recommendation that the application should be refused.

The debate opened and the following principal points were made:

- A Member suggested that the Committee should concern itself solely with whether a public house in that location was sustainable. An offer had been made and the application should be refused, providing an opportunity for the viability of the premises to be put to the test.
- It was noted that the applicant was requesting more time to market the property. However, it was suggested that the site should have been thoroughly marketed before a planning application had been submitted and there should therefore be no further deferral.
- The Development Manger commented that the price at which the property was marketed was a relevant consideration and considered that the application should be determined.

The local ward member was given the opportunity to close the debate and reiterated his view that the application should be refused.

RESOLVED: That planning permission be refused for the following reasons:

1. **The Central Government advice contained within paragraphs 28 and 70 of the National Planning Policy Framework, Policies S11, CF6 and TCR14 of the Herefordshire Unitary Development Plan 2007 and policies SC1 and RA6 of the Core Strategy effectively seek to retain public houses as their value to rural communities unless it can be demonstrated that they are no longer viable. In this instance it is considered that:-**

- **the length of the marketing period, being less than twelve months, has been inadequate;**
- **the marketing strategy has been somewhat lacking due to the failure to market through the national industry media / trade journals;**
- **the original marketing price of £350,000, recently reduced to £335,000 does not reflect the true market value of the premises taking account of its recent turnover. In this regard it is considered that the true market value is best ascertained by comparing the sold prices of similar public houses not the asking prices;**
- **there is no reason to suggest that the ‘Slip Tavern’ does not have the potential to be viable given its location and physical characteristics; and**
- **a reasonable offer for the ‘Slip Tavern’ has been rejected.**

As such, the proposal is considered to be contrary to the Central Government advice contained within paragraphs 28 and 70 of the National Planning Policy Framework, Policies S11, CF6 and TCR14 of the Herefordshire Unitary Development Plan 2007 and Policies SC1 and RA6 of the Core Strategy.

INFORMATIVE

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against the provisions of the Development Plan (i.e. the Herefordshire Unitary Development Plan 2007) and other material considerations (including the Central Government advice contained within the National Planning Policy Framework and the emerging Core Strategy), clearly setting out the reason for refusal. The reason for refusal allows the applicant to consider whether or not to lodge an appeal. Similarly the reason for refusal allows the applicant to consider whether to submit a fresh application for the same development at a future date.

The Local Planning Authority would not encourage the submission of a fresh application for the same development unless the 'Slip Tavern' has been marketed appropriately (including through the national industry / media such as Morning Advertiser and Dalton's Weekly) for a period of at least 12 months at a price no higher than £275,000 with no reasonable offers having been received.

(The Committee adjourned between 11.30 and 11.36 am)

101. 131981/F BARN AT EVERSTONE FARM, PETERSTOW, ROSS-ON-WYE, HR9 6LH

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs J Joseph, the applicant's agent, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JA Hyde, the local ward member, spoke on the application.

She supported the arguments advanced by the applicant's agent in support of the scheme and commented on a number of issues including:

- The development provided much needed affordable housing.
- Facilities were accessible.
- The access off the A49 was adequate.
- The current permission for a change of the farm building to B1 light industrial use was inappropriate in that location.
- An exception to policy was justified.

The debate opened and the following principal points were made:

- Residential use was preferable to B1 use which would generate considerable commercial traffic.
- The development was sustainable. There was access to a bus service and other services and facilities.
- The type of development proposed would meet a local need. It would help to support the rural economy.
- The Committee needed to be cautious about refusing the application. The dwelling was not "isolated" and paragraph 55 of the National Planning Policy Framework would therefore not apply.

- It was suggested that the developer should be required to make the properties as economical as possible to use given the cost of utilities.
- The comparative merits of retaining the building and developing it, or new build, were discussed. Some suggested the proposal represented poor design and was not sustainable; others thought the scheme was a good design and was certainly an improvement on the existing building.
- The Parish Council supported the proposal. There was a need for such housing and there remained a shortfall in the Council's five year housing land supply.
- It was suggested that there should be a condition removing permitted development rights.
- The report made clear that the housing was not affordable housing as defined in policy but was low cost market housing with no legal mechanism to ensure affordability in the long term. It was therefore questioned whether the properties would remain within reach of local people in the longer term.
- The proposal contravened a number of policies.

The Development Manager commented that the proposal was not on its own sustainable. There was a balance to be struck. He did not consider the arguments in support for the development outweighed the reasons for refusing it. Granting permission would undermine a number of policies.

The Principal Planning Officer commented on the characteristics of an affordable housing scheme as defined by policy and how this contrasted with the proposed development. He noted that the applicant could have proposed an affordable housing development as defined by policy but had chosen not to do so. The application also contained no proposals for energy efficient measures. If the Committee was minded to approve the development he suggested there should be conditions relating to use of materials, removal of permitted development rights and a hedgerow management scheme.

Members cited a number of policies in support of the development:

DR1 - Design

DR4 - Environment

S1 - Sustainable Development

H14 - Re-using previously developed land and buildings

HBA 12 – Re-use of Rural Buildings

HBA 13 (2) – demonstrable local housing need.

S11 – Community Facilities and Services

T11 – Parking Provision

The local ward member was given the opportunity to close the debate. She reiterated her support for the scheme.

RESOLVED: That planning permission be granted and officers named in the scheme of delegation be authorised to finalise the conditions in consultation with the local ward member and the applicant.

INFORMATIVE

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. The Planning Committee of the Council considered that the shortfall in the Council's 5 year housing land supply should be attached significant weight. They also considered the site to be a brownfield site in a relatively sustainable location. They also considered that the dwellings would be affordable due to their limited size.
- 2 The landscaping details pursuant to condition 5 should include, amongst other matters, the retention of the existing hedgerows and the planting of a new hedge of native species along the southern boundary of the site.
- 3 It is possible that unforeseen contamination may be present on the site as a result of its former agricultural/orchard use. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should there be any concern about the land.

102. 132446/O LAND AT JUNCTION OF A44 AND PANNIERS LANE, BROMYARD, HEREFORDSHIRE, HR7 4QR

(Councillor GR Swinford having declared a disclosable pecuniary interest left the meeting for the duration of this item.)

The Senior Planning Officer gave a presentation on the application, and an amendment made following the publication of the agenda was provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking Mr R Page, the applicant's agent, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution Councillors JG Lester and A Seldon, the local ward members, spoke on the application, indicating their support.

RESOLVED That planning permission be granted subject to the following conditions:

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **L01 Foul/surface water drainage**
6. **L02 No surface water to connect to public system**
7. **L03 No drainage run-off to public system**

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **HN01 Mud on highway**
3. **HN04 Private apparatus within highway**
4. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
5. **N11C General**
6. **HN05 Works within the highway**

103. 132448/O LAND ADJACENT TO LONGLANDS, LOWER HARDWICK LANE, BROMYARD, HEREFORDSHIRE

(Councillor GR Swinford having declared a disclosable pecuniary interest left the meeting for the duration of this item.)

The Senior Planning Officer gave a presentation on the application, and noted that notwithstanding the under provision of housing in the County, refusal was justified for the reasons set out in the report.

In accordance with the criteria for public speaking, Mr R Page, the applicant's agent, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors JG Lester and A Seldon, the local ward members, spoke on the application.

Councillor Seldon questioned whether the development was isolated, drawing attention to the existing development and the traffic it generated, noting also the amount of pedestrian usage of the lane which was close to one of Bromyard's major public footpaths.

Councillor Lester spoke in support of the application. He commented that the development was not remote from facilities; there were already 7 dwellings on the lane; the surrounding area was likely to be the site for some 500 houses.

The debate opened and the following principal points were made:

The development did not physically relate to Bromyard and was premature.

There were considerable access problems. The access road is dark and narrow. There is no proper pavement, no lit access nor is there a reasonable walking distance to amenities as required for sustainable development.

One additional dwelling in the location would not have an adverse impact and with 7 dwellings already in the location the proposed development was not isolated.

The Development Manager commented that the development did not meet the requirements of the interim protocol for developments outside of adopted settlement boundaries. It was isolated and premature.

The legal officer noted that the statement of positive and proactive working would be acknowledged and added to the decision.

The local ward members were given the opportunity to close the debate. Councillor Lester reiterated his support for the application.

RESOLVED: That planning permission be refused for the following reasons:

1. **The application site is remote from the settlement of Bromyard failing to physically relate to it. As such, the proposal does not respect the defined pattern of local development as required by policies S1 and DR1 of the Herefordshire Unitary Development Plan and the objectives of the National Planning Policy Framework, where paragraph 61 is of particular relevance.**
2. **Lower Hardwick Lane is a narrow, unlit lane with no recognised footpath. It would be unsafe to encourage further pedestrian use of this lane and as such the site is unsustainably located contrary to Policy S1 of the Herefordshire Unitary Development Plan and the objectives of the National Planning Policy Framework.**
3. **None of the exemption criteria listed under paragraph 55 of the National Planning Policy Framework and Policy H7 of the Herefordshire Unitary Development Plan which state circumstances where residential development in the open countryside may be acceptable have been met.**

INFORMATIVE

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

(The Committee adjourned between 12.50pm and 2.00pm.)

104. 132014/CD MERRY GO ROUND DAY NURSERY, BOYCOTT ROAD, HEREFORD, HR2 7RN

The Principal Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor R Preece, one of the local ward members, spoke on the application. He indicated his support, noting that the principal concern related to traffic management and the introduction of a traffic management plan had significantly reduced any problems.

The debate opened and some concerns were expressed about the impact on residents. The Development Manager confirmed that if the nursery did not operate in accordance

with the traffic management plan it would be in breach of its planning permission and enforcement action could be taken.

RESOLVED: That planning permission be granted subject to the following conditions:

1. **F20 Temporary permission and reinstatement of land**
2. **The operation of the nursery shall be undertaken in accordance with the traffic management plan received on 23 July 2013. A detailed written record shall be kept of the measures undertaken to prevent parking in Boycott Road/promote parking within the church car park. Documentation shall be made available for inspection upon reasonable request by the local planning authority.**

Reason: In the interests of highway safety having regard to Policy DR3 of the Herefordshire Unitary Development Plan and having regard to the amenities of local residents in accordance with Policies DR2 and CF5 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

105. 132674/O LAND EAST OF WEOBLEY PRIMARY SCHOOL, WEOBLEY, HEREFORDSHIRE

The Senior Planning Officer gave a presentation on the application.

The debate opened, with discussion of the Parish Council's request, set out at paragraph 5.1 of the report, that within the Section 106 agreement the time period for taking up the affordable homes should be increased from 84 working days to 120 working days to increase the opportunity for local people to apply for the houses.

The Development Manager agreed to undertake further discussions on this matter as part of the Section 106 agreement.

RESOLVED: That subject to the completion of a S106 agreement, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions and any other conditions considered necessary by officers.

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**

5. **B07 Section 106 Agreement**
6. **C01 Samples of external materials**
7. **H29 Secure covered cycle parking provision**
8. **G10 Landscaping scheme**
9. **G11 Landscaping scheme - implementation**
10. **L01 Foul/surface water drainage**
11. **L02 No surface water to connect to public system**
12. **L03 No drainage run-off to public system**
13. **No timber panel fencing will be installed alongside the rear or front elevations of the dwellings hereby permitted.**

Reason: In consideration of the visual impact on the surrounding area and to comply with Policies HBA6 and LA2 of the Herefordshire Unitary Development Plan.

14. **Provision will be made within the curtilage of each dwelling for adequate means of refuse storage in accordance with detail to be submitted in support of the future 'Reserved matters' application in connection to the development hereby approved.**

Reason: With consideration to adequate means of refuse collection and to comply with Policy S10 of the Herefordshire Unitary Development Plan.

15. **The recommendations set out in Section 5 the ecologist's report dated August 2013 must be followed in relation to the identified protected species and habitat enhancement. Prior to commencement of the development, a full working method statement together with a habitat enhancement plan must be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any**

representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2. HN04 Private apparatus within highway**
- 3. HN05 Works within the highway**
- 4. N11C General**

106. 132304/F LAND TO THE REAR OF WHITE HOUSE, STAUNTON-ON-WYE, HEREFORDSHIRE, HR4 7LR

The Senior Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope MBE, the local ward member, spoke in support of the application, highlighting the officer's appraisal of the scheme set out at paragraphs 6.2-6.4 of the report and the presumption in favour of development.

He also requested that a position statement on the five year housing supply should be sent to every Parish Council so that everyone knew where they stood.

The Planning Officer confirmed that the public footpath to which the proposed parking area was close would be protected.

RESOLVED: That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. Solar panels or other external renewable energy installations**
- 4. F08 No conversion of garage to habitable accommodation**
- 5. F14 Removal of permitted development rights**
- 6. F16 No new windows in specified elevation**
- 7. G11 Landscaping scheme - implementation**
- 8. H09 Driveway gradient**
- 9. H13 Access, turning area and parking**
- 10. I24 Standard of septic tank/soakaway system**
- 11. I16 Restriction of hours during construction**

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning**

policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. **Prior to the commencement of development, the applicant is advised to contact the PROW Officer to arrange a site visit to confirm the exact position of Public Footpath SY6. Any threat to the safe use of the footpath may require an application for its temporary closure.**

107. 132629/F LAND AT REAR OF STANDALE, STAUNTON-ON-WYE, HEREFORDSHIRE, HR4 7LT

The Senior Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope MBE, the local ward member, spoke in support of the application, highlighting the officer's appraisal of the scheme set out at paragraphs 6.2-6.4 of the report and the presumption in favour of development.

Some regret was expressed at the possible demolition of a chimney on Standale to widen access and the detrimental effect this would have on the character of the village, noting also the traffic calming effect of the narrower access. Having been advised that no condition could be imposed to require the chimney's preservation it was proposed that a note should be added to the decision notice requesting that the chimney should be retained.

RESOLVED: That planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **C64 Restriction on separate sale**
4. **Occupancy restriction**
5. **G11 Landscaping scheme - implementation**
6. **H09 Driveway gradient**
7. **H13 Access, turning area and parking**
8. **I24 Standard of septic tank/soakaway system**

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

Note to Applicant

If possible the Planning Committee expressed a wish for the chimney on Standale to remain.

108. 132566/CD HOPE FAMILY CENTRE, HEREFORD ROAD, BROMYARD, HEREFORDSHIRE, HR7 4QU

The Planning Officer gave a presentation on the application, adding that Bromyard and Winslow Town Council had now indicated its support for the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JG Lester, one of the local ward members, spoke in support of the application commenting that his fellow local ward member, Councillor A Seldon, and the Town Council were also in support

RESOLVED: That planning permission be granted subject to the following conditions:

- 1. The use of the development hereby approved shall be strictly ancillary to the use of the existing premises on site (i.e. HOPE Family Centre), other than the Multi Use Area identified on drawing number PSD/H/13/MAO submitted under this application, which can be used by a maximum of four Herefordshire Council Employees as a multi-agency office.**

Reason: To ensure that the development is in-keeping with the existing use on site and to comply with the requirements of Policy CF5 of the Herefordshire Unitary Development Plan.

- 2. The permission hereby granted is an amendment to planning permission DCNC0009/1820/CD dated 10 November 2010 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.**

Reason: For the avoidance of doubt and to comply with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan.

- 3. Within 3 months of the date of this permission a detailed plan identifying the 4 allocated parking spaces for the Council Employees shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than for the parking of Council Employees.**

Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

- 4. To ensure the development remains ancillary to the main use of the site a log book shall be kept of all Council Employees using the**

facility, identifying the date and times of use as well as their position held within the Local Planning Authority. The log book shall be made available at all times to the Local Planning Authority to inspect.

Reason: To ensure that the development is ancillary with the main use of the site and the use as a community centre continues to comply with the requirements of Policy CF5 of the Herefordshire Unitary Development Plan.

5. H30 Travel plans

INFORMATIVE

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

109. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 2.45 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 11 December 2013

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

SCHEDULE OF COMMITTEE UPDATES

7 131680/F - PROPOSED ERECTION OF 12 AFFORDABLE DWELLINGS, COMPRISING A MIXTURE OF 2 AND 3 BED HOUSES ON LAND OFF TUMP LANE AT TUMP LANE, MUCH BIRCH, HEREFORDSHIRE, HR2 8HW

For: Markey Builders (Gloucester) Ltd per BM3 Architecture Ltd, 28 Pickford Street, Digbeth, Birmingham, West Midlands B5 5QH

ADDITIONAL REPRESENTATIONS

The Housing Manager comments as follows

The Housing Needs and Development team support the 100% affordable housing application that provides 12 affordable homes on the Tump Lane site. The developing Housing Association are a preferred partnering organisation of the Council who have worked closely with the Housing team to ensure that the correct mix and tenure are being delivered on the site. Various consultation events have been provided in the community by the Housing Association to allow the community to ask questions and comment on the plans and proposals and where possible these comments have been implemented.

The houses are to be built to the higher standards of Lifetime Homes and code 3 for sustainable homes, therefore providing extremely good quality housing and reducing energy bills for those already on lower earnings. The Housing Association is making this possible even though the Homes and Communities Agency have significantly reduced the amount of available grant. All of the properties on completions and subsequent lets will be advertised through Home Point and made available to applicants in housing need with a local connection to Much Birch in the first instance.

Four letters of objection have been received in response to the submission of revised plans relating to the provision of a footpath. The points raised in the issues raised are already summarised in paragraph 5.4 of the main report.

OFFICER COMMENTS

The recommendation needs to be amended given that it does not establish the need for a Section 106 Planning Obligation to be completed before planning permission can be granted subject to planning conditions

CHANGE TO RECOMMENDATION

That subject to completion of a Section 106 planning obligation in accordance with the draft Heads of Terms annexed to the report the officers named in the Scheme of Delegation to Officers be authorised to grant planning permission subject to conditions noted in the report and subject to any further conditions considered necessary by officers.

**10 132446/O - SITE FOR CONSTRUCTION OF 2 NO. DWELLINGS.
AT LAND AT JUNCTION A44 AND, PANNIERS LANE,
BROMYARD, HEREFORDSHIRE, HR7 4QR**

**For: Mr And Mrs Berry per Bodkin Hall, Edwyn Ralph,
Bromyard, Herefordshire HR7 4LU**

ADDITIONAL REPRESENTATIONS

OFFICER COMMENTS

The following should replace paragraph **6.17** of the original report.

On 4 March 2009, the local planning authority temporarily suspended the requirement for residential development of five dwellings or less to accord with the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) where development would commence within a year of the date of permission for full planning permissions or where the reserved matters for outline applications were submitted within 2 years. In this instance, the submission is for outline permission and states a preference for the above. As such the requirement for Section 106 contributions is waived and reserved matters are required within 2 years of permission being granted.

NO CHANGE TO RECOMMENDATION



MEETING:	PLANNING COMMITTEE
DATE:	8 JANUARY 2014
TITLE OF REPORT:	<p>N123317/O - CLASS A1 FOOD STORE, PETROL FILLING STATION AND ASSOCIATED PARKING AND SERVICING FACILITIES, RESIZING AND REFURBISHMENT OF TWO CLASS B UNITS AND ASSOCIATED HIGHWAY WORKS AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF</p> <p>For: Mr Liptrott per Mr Barris Liptrott, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU</p>
WEBSITE LINK:	http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123317&NoSearch=True

Date Received: 21 November 2012 Ward: Leominster Grid Ref: 350133,258042
South

Expiry Date: 21 February 2013

Local Members: Councillors RC Hunt and PJ McCaull

1. Introduction

- 1.1 Members will recall that this application was reported to Planning Committee on 18 September 2013 (attached as appendix A) , and was deferred in order to give the applicant the opportunity to address the reasons for refusal recommended at that time. Accordingly the applicant has submitted a supplementary document setting out their rebuttal of the reasons for refusal and their conclusions as to why they consider the proposal to be acceptable. The Executive Summary of the document is attached as appendix B to this report.
- 1.2 The first part of this report will consider the additional document received and determine whether the recommended reasons for refusal in the original report have been addressed with an updated recommendation. The main body of the original report then follows.

2. Comments on Planning and Retail Response – October 2013

- 2.1 The applicant's response makes comparisons between this proposal and that for the site at Mill Street, particularly in terms of sequential testing and retail impact. It also suggests that this committee report makes repeated references to the 'competitor' site at Mill Street and that this has influenced the recommendation made to refuse their application. Your officers are of the view that this is entirely misleading. The report refers to the Mill Street site in relation to sequential testing; as it rightly should, and then in respect of the availability of employment land in order to clarify the fact that Dales have secured a new site on the Enterprise Park.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- 2.2 Comparisons in terms of sequential testing are difficult to avoid as this ultimately requires a conclusion to be drawn about the viability, suitability and availability of sites. Your officers have suggested that the site on Mill Street represents a sequentially preferable site in geographic terms, but have acknowledged that there are some technical issues that may have implications on its viability. However, the applicant has simply relied on the concerns raised in relation to the current proposal for the site at Mill Street; a scheme which they acknowledge is significantly larger than their own, rather than making an assessment of whether their own scheme could be located on that site. For this reason your officers remain of the opinion that the sequential test is not sufficiently robust.
- 2.3 The document makes a comparison of the retail impacts of the two proposals to determine which is the least harmful to the vitality and viability of the town centre. It questions the accuracy of the retail assessment submitted in support of the application for the site at Mill Street, considers that, due to its size, the competitor proposal will draw more trade from the Morrisons store and will have a greater impact on the town centre, and concludes that this scheme is acceptable in terms of its retail impact on Leominster Town Centre.
- 2.4 Whilst your officers would concur with the notion that a larger store would have a greater impact, simple comparisons between two competing schemes are not helpful and the point that each scheme should be treated on its own merits is reiterated. Your officers are of the view that the relative impact of the proposal on the viability and vitality of the scheme is not only related to the size of the store and the range of convenience and comparison goods on offer, but also its proximity to the town centre and the likelihood of it generating linked trips.
- 2.5 Notwithstanding the measures outlined within the draft heads of terms agreement, your officers are not convinced that financial contributions towards the improvement of local bus services will demonstrably increase the likelihood of linked trips to the town centre occurring. The report from Deloitte suggests that the sustainability benefits arising from the proposal are, *"...difficult to accept as the store is set within an industrial area, with a limited number of residents who would therefore be within easy walking distance of the store."*
- 2.6 The site is not, as the Executive Summary suggests, located in close proximity to the area proposed for the urban expansion of Leominster, but is over 700 metres from Hereford Road to the west. No convincing argument has been advanced to dissuade your officers from their initial view that the proposal is not sustainable.
- 2.7 The applicant has continued a dialogue with the Environment Agency about the potential impacts of the petrol filling station on the Secondary Aquifer and Groundwater Source Protection Zone. It is understood that this matter has now been resolved to the satisfaction of the Environment Agency with an agreement that the fuel storage tanks will be partially submerged but, at the time of writing this report, written confirmation of such has yet to be received. However, your officers are sufficiently reassured that this matter has been addressed and that this reason for refusal is no longer relevant.
- 2.8 The applicant has also submitted a heads of terms agreement and this reason for refusal can also be set aside.
- 2.9 Notwithstanding this, your officers are not assured that all of the matters raised in the original report to Planning Committee on 18 September 2013 have been addressed. The proposal remains contrary to the Herefordshire Unitary Development Plan and the National Planning Policy Framework and the application is therefore recommended for refusal.

Recommendation

That planning permission is refused for the following reasons:

1. The Local Planning Authority does not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the National Planning Policy Framework and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.
2. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.
3. Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.
4. The proposal would result in the loss of good quality employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.
5. The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to the guiding principles of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.

Informative

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

APPENDIX A

MEETING:	PLANNING COMMITTEE
DATE:	18 SEPTEMBER 2013
TITLE OF REPORT:	N123317/O - CLASS A1 FOOD STORE, PETROL FILLING STATION AND ASSOCIATED PARKING AND SERVICING FACILITIES, RESIZING AND REFURBISHMENT OF TWO CLASS B UNITS AND ASSOCIATED HIGHWAY WORKS AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF For: Mr Barris Liptrott, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU
WEBSITE LINK:	http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123317&NoSearch=True

Date Received: 21 November 2012 **Ward: Leominster South** **Grid Ref: 350133,258042**

Expiry Date: 21 February 2013

Local Members: Cllr PJ McCaull and Cllr Roger C Hunt

1. Site Description and Proposal

- 1.1 The development site amounts to 2.7 hectares of employment land. It consists of an existing factory complex and outside storage areas, sitting within a predominantly industrial area, but in relatively close proximity to residential areas to the north west; the closest dwelling being approximately 250 metres away as the crow flies.
- 1.2 The site is bounded on 3 sides by public highways; beyond which are a series of individual commercial units. Bounding the site to the south is a small brook and further beyond is Leominster Enterprise Park. Beyond the Enterprise Park to the south and east is open countryside, intersected only by the railway line and adjacent A49 trunk road running in a north south direction to the eastern side of Leominster.
- 1.3 Southern Avenue runs along the front of the site and provides the main access road linking the various industrial uses within the vicinity with the rest of Leominster. Continuing in a westerly direction the road leads to Hereford Road, a primarily residential area, with direct access into the town centre. Southern Avenue continues northwards, turning to Worcester Road, through further Industrial areas in the direction of the railway station and again to the town centre beyond.
- 1.4 The site is currently occupied by a series of industrial units with three separate occupants. The largest of these is Thomas Panels who occupy the largest premises and have sizable areas of external storage. Two smaller portal framed industrial units are located to the west of Thomas Panels, one fronting onto Southern Avenue with the other located behind.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- 1.5 The proposal is made in outline, with all matters except access to be reserved for future consideration, and is for the construction of a retail food store and associated infrastructure, a four pump petrol filling station and the re-development of existing industrial units. There is no specified end user for the store at the present time. Although in outline the proposal is specific about the size of the store, amounting to a gross internal floor area of 4,180 m², with a net retail floor area of 2,926 m² and includes the provision of a 246 space car park.
- 1.6 The main access to the retail element of the development remains from Southern Avenue via a new roundabout junction; incorporating new and improved footpaths and cycle ways and a new bus stop to serve the development. The access road sweeps into the site to form a link road running parallel with Southern Avenue enabling the petrol filling station (PFS) to be located to the left and the main customer car park to the right.
- 1.7 The submission includes an indicative layout and elevations of the proposed retail store and these show a building facing onto Southern Avenue with the car park in the foreground. The plans show a contemporary design with a building finished in a combination of timber cladding and glazing in aluminium frames.
- 1.8 The proposal is supported by a range of documents which are listed as follows:
- Design & Access Statement
 - Economic Statement
 - Statement of Community Involvement
 - Preliminary Contaminated Land Assessment
 - Retail Assessment
 - Ecological Survey
 - Transport Assessment
 - Travel Plan
 - Stage 1 Road Safety Audit
 - Flood Risk Assessment
 - Section 106 Heads of Terms

2. Policies

2.1 National Planning Policy Framework

Paragraph 19 – This reinforces the Government’s desire to support sustainable economic growth and reads as follows:

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 22 – This advises against the long term protection of land for specific purposes where there is a lack of demand:

Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Paragraphs 23 to 27 – These paragraphs comments specifically on the need to ensure that town centres retain their vitality. They also comment on matters to be considered when assessing proposals for new retail proposals:

Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

This part of the NPPF goes on to advise that applications should be supported by retail assessments to determine the impact of the proposal on town centre vitality and viability up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. It concludes by stating that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable development
S4	-	Employment
S5	-	Town centres and retail
S6	-	Transport
S7	-	Natural and historic heritage
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
E5	-	Safeguarding employment land and buildings
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability
TCR9	-	Large scale retail and leisure development outside central shopping and commercial areas
TCR18	-	Petrol filling stations
T6	-	Walking
T8	-	Road hierarchy
T11	-	Parking provision
NC1	-	Biodiversity and development
NC7	-	Compensation for loss of biodiversity
NC8	-	Habitat creation, restoration and enhancement

2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS6	-	Addressing climate change
LO1	-	Development in Leominster
RA6	-	Rural economy
MT1	-	Traffic management, highway safety and promoting active travel
E2	-	Re-development of existing employment land and buildings
E5	-	Town centres
LD3	-	Biodiversity and geodiversity
LD4	-	Green infrastructure

- SD1 - Sustainable design and energy efficiency
- ID1 - Infrastructure delivery

2.4 As part of the evidence base for the completion of the Core Strategy the Council has commissioned a Town Centres Study update and this was completed in December 2012. This is referred to in the following Officer's Appraisal and is considered to be material to the determination of this application.

2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

3.1 There is a long planning history relating to the site. The following three applications are the most recent and are considered to be most relevant to the application:

N102032/F – Proposed extension to Unit 5, Southern Avenue – Approved 06/10/10

NC100060/F – Refurbishment and extension of industrial unit - 6, 7 & 8 Brierley Way – Approved 30/04/10

DCNC2008/1261/F – Proposed three buildings to provide nine units for B2 and B8 use – Unit 5, Southern Avenue – Approved 01/08/08

4. Consultation Summary

4.1 Statutory Consultations

4.1 Highways Agency – No objection

4.2 English Heritage – No objection

4.3 Welsh Water – No objection subject to the imposition of conditions to ensure that foul and surface water are drained separately from the site

4.4 Environment Agency – With specific regard to the proposed petrol filling station the Environment Agency object to the application and have requested the submission of further information. The proposed site is located on a Secondary Aquifer of the Raglan Mudstone Formation bedrock aquifer, and is also located within a Groundwater Source Protection Zone 2 for a Welsh Water public water supply well at Midsummer Meadow to the east of the site near to the A49.

4.5 In the first instance, with reference to the above, we would expect the applicant to demonstrate that this site is the most suitable for the proposed use in this sensitive location i.e. it is unclear if there is a recognised need for a petrol station in this location; and if there may be more appropriate, alternative sites. We would require the applicant to justify that underground storage is essential i.e. that an above ground solution would be impossible.

4.6 The site also lies in close proximity to the River Lugg which is a Site of Special Scientific Interest (SSSI) at this location and also classified as a Special Area of Conservation (SAC) further downstream. Protection of the water environment is particularly important due to the requirements of the Water Framework Directive (WFD). The WFD sets a target of achieving

'good status' or 'good potential' in all water bodies by 2015 and there must be no deterioration in the existing status of water bodies.

- 4.7 On the issue of flood risk, the whole site is located within the 1 in 100 year floodplain whilst the updated Map, in conjunction with the submitted site levels, demonstrate that the site lies primarily within the 1 in 1000 year floodplain. The modelled 1 in 100 year flood level at this location is 68.2mAOD.
- 4.8 The topographic site survey indicates that the site levels are 67.9mAOD at their lowest and 68.8m AOD at their highest. The lowest part of the site, including the location for the proposed retail building, is therefore in an area at risk of shallow flooding during the 1 in 100 year flood event.
- 4.9 In order to flood proof the new building we would recommend raising of the finished floor levels 300 - 600mm above the 1 in 100 year plus 20% (allowance for climate change) flood level, including any additional flood proofing. The site layout therefore should, if viable, be re-designed so that the main retail building is located on the higher parts of the site, i.e. FZ1 and on land above the 1 in 100 year flood level of 68.2mAOD with the car parking located on the lower lying ground with existing levels maintained. This would reduce the volume of infill required to raise floor levels and negate the need to provide floodplain storage compensation.

Internal Council Consultations

- 4.10 Transportation Manager – Objects to the application on the basis that the site is remote from the town centre, in an unsustainable location and that the overwhelming majority of trips to the site will be by private motor car. Notwithstanding this, the designs of highway improvements are acceptable in themselves, and if you are minded to grant planning permission, they will go some way to mitigate the worst effects of the development's siting, although not enough to compensate for the poor position of the site itself.
- 4.11 Environmental Health and Trading Standards Manager – No objection subject to conditions
- 4.12 Public Rights of Way Manager – No objection
- Conservation Manager
- 4.13 Landscape – No objection subject to the imposition of conditions
- 4.14 Ecology – The existing layout is not acceptable with the service yard too close to the stream, but no objection in principle provided that a sufficient buffer zone of at least 6 metres can be provided in mitigation. It is also recommended that additional biodiversity enhancement measures are required.
- 4.15 Historic Buildings – Raises concerns about the impact of the proposal on the town centre and the potential impact of increased vacancy rates on the historic core.

5. Representations

- 5.1 Leominster Town Council – Object to the application on the grounds that:
- The site is Class B and not Class A retail
 - It will have a major effect on town centre business
 - Possible flooding
 - Issues surrounding the contamination of the land
 - Leominster Parish Plan has strong support for independent businesses

- 5.2 River Lugg Internal Drainage Board – No objection subject to a requirement that no additional surface water runoff is permitted to the ditch to the south of the application site without the written consent of the Board.
- 5.3 CPRE – Object to the application on the basis that the proposed development seriously threatens the viability of the excellent local shops and consequently the character of the town. Their comments also refer to the ‘Portas Review’ commissioned by the Government in 2011 and its aim to put the heart back into High Streets. This proposal is considered contrary to the aims of the review.
- 5.4 Leominster Civic Society – Object to the proposal on the following grounds:
- Consider that the building of any further supermarkets in the town is likely to seriously damage the economic well-being of the town centre, its local shops and in turn a network of other local businesses.
 - The proposal will have a long-term effect on the character of Leominster conservation area due to the probability of shop closures and consequent lack of investment.
 - The proposal will result in the loss of high quality employment land.
 - Concern that the proposal would lead to a loss of existing employment from town centre shops.
 - Unsustainable location
 - The introduction of a further roundabout and additional traffic will impede traffic flows at peak times.
- 5.5 North Herefordshire Constituency Green Party – Object to the application on the following grounds:
- The proposal will increase car dependency contrary to sustainability objectives.
 - The store is out-of-town and will damage the existing town retail area.
 - The closure of shops will lead to the neglect of historic buildings.
 - The retail impact assessment completed by the applicant’s agent concludes that there will be a substantial impact in terms of loss of trade in the town centre.
 - It will have a particular impact on the Co-Op which plays a pivotal role in the town centre
- 5.6 Sixty four surveys completed by independent traders in the town centre have been received. The survey asks a number of questions of those completing it, including whether they consider the proposal would have an impact on their business. Forty seven of the respondents considered that the proposal would have an impact on their business, and these impacts are summarised as follows:
- Less people will visit the town centre, causing businesses to close
 - Knock on effect to local producers who supply businesses
 - Unable to compete with supermarket prices
 - A supermarket will sell the same products that are available in town centre in direct competition
 - Free parking at a supermarket will stop people using the town where they have to pay
 - Tourists will be diverted out of the town with a loss of new customers, particularly if the store has a coffee shop
 - The proposal would have a positive impact as it would encourage more people to shop locally
- 5.7 Forty four letters of objection have been received in response to the Council’s statutory consultation period. In summary the points raised are as follows:

- The proposal is contrary to Policy TCR9 of the Herefordshire UDP as projections show that additional retail space is not required in the next 10 years
- The site is zoned for industry and its loss is contrary to Policy E5 of the Herefordshire UDP
- The proposal will have a detrimental effect on the vitality of the town centre, contrary to Policies TCR1, TCR13 and S5 of the Herefordshire UDP
- The proposal is contrary to recent Government guidance on town centre vitality following the Portas Review
- The proposal will impact upon local business and will either see jobs moved from one employer to another, or will actually reduce employment opportunities
- The developer's suggestion that they would provide bus services between the site and town centre would be commercially unviable.
- The scheme would increase traffic along Etnam Street and Hereford Road, causing congestion and impacting upon highway safety in front of Leominster Infants and Primary schools
- The proposal is unsustainable due to its out of town location and it would increase car dependency, contrary to the National Planning Policy Framework
- The store would not be close enough to most homes in Leominster for people to walk to
- Untenanted business premises would lead to buildings falling into disrepair and impacting upon the town's tourist trade
- Lack of repair of listed buildings in the town centre will impact detrimentally upon its status as a conservation area
- Leominster has sufficient supermarket retail premises already
- The proposal will impact upon flooding issues as a result of further surface water run-off within the River Lugg Special Area of Conservation (SAC)
- A local population of water voles would be adversely effected by the proposal
- The projected 7% (£1.8 million) loss of trade to independent business outline in the applicant's retail statement does not factor in the loss of business for suppliers and services to that local sector
- The sequential test does not take account of the Dales site at Mill Street when it is well known that it has been promised to Sainsburys
- The proposals are contrary to the aims of the Leominster Parish Plan which seeks to encourage more shoppers and visitors into Leominster by promoting new and existing independent shops and to seek the democratic consent of the whole community about proposals for new large-scale retail development

5.8 An objection has also been lodged by England & Lyle Planning Consultants, acting on behalf of the Co-Operative Group. In summary the points raised are as follows:

- The applicant's have failed to adequately assess the Dales site on Mill Street in their sequential test. It is understood that Dales are proposing to re-locate and that there is an intention to re-develop the site at Mill Street, which include a new retail food store. Whilst the Co-Operative Group would have concerns about any such proposal, it remains apparent that the site is available and it is concluded that the development fails to satisfy the sequential approach to site selection in line with guidance contained in paragraph 27 of the NPPF.
- The applicant's estimate of trade diversion from Hereford of 20% is an over-estimation and the proposed food store would compete to a greater degree with existing stores in Leominster
- The proposal would have a significant impact upon the Co-Operative and would reduce the amount of linked trips between in and other retailers in the town centre
- The proposal may prejudice the prospects of maintaining retail uses within historic buildings in the town, resulting in increased levels of vacancy, undermining the

character and appearance of the conservation area and reducing the attractiveness of the town to tourists

- The assessed impact on Leominster town centre would have a significant impact on the overall vitality and viability of the centre, contrary to the NPPF
- The proposal would result in the loss of safeguarded employment land, contrary to Policy E5 of the Herefordshire UDP

5.9 An objection has also been lodged by Barton Willmore Planning Consultants, acting on behalf of Frank H Dale Ltd. In summary the points raised are as follows:

- A sequentially preferable site exists at Dales' site at Mill Street. The company have made clear their intention to re-locate. The site is accessible and well connected to Leominster town centre. The applicant's retail assessment does not adequately assess the merits of the site and consequentially is not sufficiently robust. The proposal is considered contrary to paragraph 27 of the NPPF and Policy TCR9 of the Herefordshire UDP
- An alternative site for the relocation of the existing business at Southern Avenue has not been identified, contrary to Policy E5 of the Herefordshire UDP

5.10 Four letters of support have also been received. In summary the points raised are as follows:

- Leominster only has one large store and there is undoubtedly a need for another store without it impacting upon the town centre
- The site would have good access onto the A49 and new shoppers would be attracted to the town
- Access to Morrisons via Bargates is difficult and the store causes congestion
- The existing businesses on the site are to re-locate so no jobs will be lost
- There are many people on this side of Leominster who could walk to the site, alleviating congestion at peak times

5.11 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 In order to ensure a detailed assessment of this proposal, the Council has commissioned its own independent advice in respect of the retail impact study submitted by the applicant. This has been undertaken by Deloitte, who also completed the Town Centres Study update as part of the evidence base for the Core Strategy. The basis for the advice encapsulate the material planning considerations against which this proposal should be determined, and these are broadly considered to be as follows:

- Whether there are sequentially preferable sites that could meet the identified need for additional retail floorspace within Leominster;
- The impact of the proposal on the vitality and viability of Leominster town centre;
- The likely impact of the proposal upon the historic and architectural heritage of Leominster Town Centre / Conservation Area (e.g. retaining viable uses for the listed buildings within the Town Centre);
- The likelihood or otherwise of linked trips to the town centre;
- Whether the proposal delivers a sustainable pattern of development reducing the need to

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- travel, especially by car;
- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.

The report will consider each of these matters in turn and will also consider other issues including ecological impacts and flood risk.

Sequential Testing

6.2 The application of a sequential approach and impact tests to non-central retail proposals (and other town centre uses) remains a key policy requirement of the NPPF. It maintains a ‘town centre first approach’ as the Government is committed to promote the vitality and viability of town centres and in this respect Policy TCR9 of the UDP is consistent with the NPPF. In addition, town centre sites tend to be in sustainable locations that reduce the need to travel, especially by car. Sites should be selected using the sequential process in the following order:-

- a) sites in the town centre;
- b) sites on the edge-of centre; and
- c) sites out-of centre.

In this case it has been agreed by all parties that the application site is in an out-of-centre location.

6.3 In accordance with the NPPF the applicant’s retail impact assessment includes a sequential test to identify possible alternative sites within the Leominster area. It has identified four alternative sites and these are listed below with some basic information about each:

- Burgess Street Car Park – approximately 0.4 hectares in a town centre location and also within Leominster Conservation Area. Surrounded by mixed use types including retail, offices and residential.
- Land to the west of Dishley Street – a car park of approximately 0.2 hectares in an edge of centre location and also surrounded by a mix of uses including a car repair garage, car showroom, dental centre and Spa shop.
- Broad Street Car Park – a 1.2 hectare Council owned surface car park, fire station and retail outlet in an edge of centre location.
- Dales site, Mill Street – 5.2 hectares of employment land in an out of centre location approximately 350 metres north east of the town centre. Residential areas lie to the north and east.

6.4 The first three sites are all, at least in part, within the ownership of the Council. The applicant’s have commented that the sites at Burgess Street and Dishley Street are of insufficient size to accommodate the development proposed. Although the feasibility of developing these sites does not appear to have been tested, the constraints of each of them are considered to be prohibitive to a development comparable to that proposed, a view confirmed by Deloitte in their advice.

6.5 The site at Broad Street is identified in the Council’s Town Centres Study update as one that may be appropriate for development to meet future floor area capacity. Its re-development would require the relocation of the fire station and an agreement with the owners of the retail unit that fronts onto Broad Street to purchase their building and land. It would also require an agreement from the Council to sell the land. The applicant’s assessment of the site states that they have contacted the Council’s Estates Officer and that it is not available. This can be

confirmed by the case officer who has made separate enquiries of colleagues in Property Services. Notwithstanding the lack of a feasibility study for the development of the site, it is reasonably concluded that it is not available.

- 6.6 The site identified as Dales on Mill Street is, like the site that is the subject of this application, in an out of centre location. The Council finds itself in an unusual position in that it is also considering an application on the Dales site for a mixed development of food retail, commercial and residential uses. The application has been through an initial consultation process and a number of objections have been raised by statutory consultees including Network Rail and the Environment Agency. It has also attracted a significant number of objections from third parties for similar reasons to those identified earlier in this report. Dales have a recent planning permission for the relocation of their premises to Leominster Enterprise Park and these matters are considered to be material to the determination of this application.
- 6.7 In separate correspondence the applicant has commented that the technical issues of flooding and proximity to the railway crossing represent considerable problems that do not exist with this application site. They also express the view that the Mill Street site is not well connected to the town centre and doubt whether customers would be encouraged to walk to and from the town centre to make linked trips. However, the applicants retail consultant has failed to properly consider the site at Mill Street. When the original retail assessment was completed it was not clear that the site would become available and the assessment comments on this basis. However an update to the report, completed in April 2013, when the proposals for the Mill Street site were in the public domain, fails to make any mention of the site.
- 6.8 It is your officers view that in simple geographic terms, the site at Mill Street is considered to be sequentially preferable to this application site, being significantly closer to the town centre. Notwithstanding the opinion of the applicant, its closer proximity to the primary shopping area than the site to which this application relates, would offer greater potential for linked trips to be made, albeit that it is also an out of centre site. It is also immediately adjacent to residential areas and would offer a genuine opportunity for customers to walk to and from the site. Dales have made clear their intention to relocate their premises to Leominster Enterprise Park and have permission to do so. An application has been submitted for re-development of the Mill Street site and it is therefore reasonable to conclude that the site is available.
- 6.9 The fact that the site at Mill Street is considered to be sequentially preferable should not be taken to prejudice the outcome of that application. There are a number of technical matters relating to the site that the applicant is currently actively seeking to resolve, and the proposal is materially different to that being considered here. Deloitte have also been engaged to undertake a similar exercise of the retail assessment submitted. The application will be reported to committee in due course and must be determined on its own merits.
- 6.10 It is therefore concluded that the submitted sequential assessment is not sufficiently robust and as such is considered to be contrary to the NPPF and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan.

Impact upon the vitality and viability of the existing town centre

- 6.11 The quantitative assessment of convenience goods floorspace needs in Leominster town centre in the Town Centres Study update indicates that there will be a demand for additional floorspace over the Core Strategy plan period as follows:

Year	Floor space capacity (net sq m)
2012	+1,483 to +3,412
2016	+1,670 to +3,842
2021	+1,938 to +4,458
2026	+2,242 to +5,157

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- 6.12 Although the proposal is only in outline, the supporting documentation to the application indicates that the net floor area of the retail store would be 2,926 m². This falls towards the upper end of the margin for floor space demand in 2012, but well within the parameters shown for 2016. The size and scale of the proposal is considered by officers to be proportionate to current identified demand for additional convenience floor space. However, the study also assumes that opportunities for provision will exist within the town centre, drawing more shoppers into the town centre and complementing existing independent shops.
- 6.13 Leominster currently has three food retail stores; Morrisons, Aldi and Co-Op. The applicant's retail assessment highlights the fact that both Morrisons and Co-Op are trading well above company benchmark averages (105% and 124% respectively), and suggests that this level of overtrading is due to a lack of genuine choice and competition in the main food shopping sector. It also suggests that their surveys of the stores provide evidence that they are both extremely busy.
- 6.14 Qualitative tests of overtrading include whether the store is excessively busy or uncomfortable for shoppers and include matters such as inadequate shelf space to stock goods, narrow aisles and queuing at tills. These are matters that are difficult to resolve without increasing the floorspace of a store.
- 6.15 The Town Centre Study update advises that, despite the current economic downturn, Leominster town centre appears to be in good health with low vacancy rates and a good mix of national and independent retailers. The assessment completed by the applicant's retail consultant highlights this point. It goes on to state that the proposed store is of a size and scale to compete directly with Morrisons, adding to the level of choice in the town and its surrounding catchment area and enhancing the attractiveness of Leominster as a market town.
- 6.16 The applicant's retail assessment goes on to consider the trade draw of the proposal from its immediate competitors and these are shown as follows:
- 9% (£2.6m) of trade drawn from existing retail facilities in Leominster Town Centre:
- 3% (£0.7m) from the Co-op store, Dishley Street.
 - 7% (£1.8m) from other stores in the town centre.
- 51% (£14.1m) from out-of-centre facilities in Leominster:
- 8% (£2.2m) from Aldi, Dishley Street
 - 40% (£11.1m) from Morrisons, Baron's Cross Road.
 - 3% (0.8m) from other out-of-centre stores in Leominster and others in Zone 3.
- 6.17 The advice provided for the Council by Deloitte accepts the methodology employed by the applicant's retail consultant in the completion of their assessment. It advises that Leominster's convenience shops currently attract 86.2% of Zone 3 (Leominster's identified catchment area) residents' expenditure, of which approximately 44% is captured by Morrisons. The Deloitte advice notes that although Morrisons is the dominant foodstore for residents, other convenience outlets in Leominster attract an almost equal amount (42%) of Zone 3 residents' convenience expenditure. The most popular destination for Zone 3 residents convenience shopping other than Leominster is Hereford's convenience shops, but they attract only 8.3% of Zone 3 residents' expenditure.
- 6.18 Deloitte's report also notes that the retention rate for convenience goods from Zone 3 (Leominster) residents is high (because the town already has a large foodstore, discount food store and town centre Co-Op). The scope for further clawback is therefore limited. The

proposed store would provide an alternative to the Morrisons store for Leominster residents, rather than being a new type of facility to which they have not previously had access.

- 6.19 The advice goes on to note that the estimated trade diversion impacts on other town centre shops is relatively modest, but considers that this is the most difficult to judge. This is because such facilities are mostly independent shops varying significantly in their operations. The margins of some of these retailers may be tight so that even small diversions of trade can have serious consequences. In short, irrespective of the application proposals, independent traders are facing challenging times. Deloitte's advice concludes that they are less confident about the resilience of the 'other' shops (as compared with the Morrisons store), but their vulnerability is related to wider factors than the application proposal alone. The economic recession has had a major impact on retailing, particularly in the smaller centres.
- 6.20 The report by Deloitte does express some concerns in respect of the individual impacts assessed for the Aldi and Co-Op stores. It acknowledges the respective floor areas of the two stores as 1,099 sq. m and of the Co-Op 756 sq. m and then comments on the apparent disproportion between the projected trade diversion experienced by each if the development were to be approved. The applicant's retail assessment estimates that the trade diversion from the Aldi store would be £2.2m, as compared to £0.7m for the Co-Op. Deloitte's report accepts that this is justifiable in part because of the higher floor space and the significantly higher turnover attributed to the Aldi store by the 2012 Shopper Interview Survey. However, they are of the view that the difference between the estimates is disproportionate.
- 6.21 The estimated trade diversions result in a 2018 trade impact on Aldi of 18.4% and 10.7% on the Co-Op. Aldi is a discount trade offer which because of its business model generally claims to have some resilience to competition from large foodstores. Deloitte are therefore of the view that the impact on the Co-Op could be a little more than indicated in the retail assessment and the impact on Aldi correspondingly less.
- 6.22 Aldi and Co-op are both well placed in relation to the town centre and there is clear evidence to show that their customers will undertake linked trips to other shops. A diversion of trade from both may have further implications for other independent retailers in the town centre beyond those identified in the applicant's retail assessment.
- 6.23 The Deloitte advice concludes that despite its relative health, there can be no doubt that Leominster is vulnerable to the changes in retailing that are taking place. Concern is therefore expressed that the introduction of a second large foodstore in Leominster outside the town centre, in a location that is unlikely to generate significant linked trips, could significantly undermine the shopping role and function of the town centre.
- 6.24 It is therefore considered that the proposal is contrary to the NPPF and Policies S5, TCR1, TCR2 and TCR9 of the UDP.

Linked Trips

- 6.25 Whilst highway matters and sustainability are dealt with later, the issue of linked trips is so intrinsically linked to the issue of impact upon the viability and vitality of the town centre that it is addressed at this stage of the report.
- 6.26 The application site is a walking distance of approximately 1.25 kilometres to the town centre boundary, 700 metres to the railway station and 450 metres to the closest residential area. The routes are generally flat but it is considered that the walking distance is such that people are very unlikely to make linked trips with the town centre. Whilst a financial contribution may be made via a Planning Obligation under Section 106 of the Act that may make these routes more attractive, they could never bring the site physically closer to the town centre.

- 6.27 In their critique of the applicant's retail assessment, the Council's consultant has stated that the benefits of the proposal from linked trips to the town centre are likely to be marginal. The proposed store is a similar distance from the town centre as the existing Morrisons store. With very limited clawback and the bulk of the store's turnover being diverted from Morrisons, there is no reason why residents should make additional visits to the town centre. Any 'linked trip' benefits arising would have to be from new shoppers who currently do not visit the town (mostly from outside the town's acknowledged catchment area). Hence it considered that any benefits would be very limited.
- 6.28 Therefore it is considered that the store would become a destination in its own right with shoppers unlikely to visit the town centre. Notwithstanding this, any linked trips that might be made are most likely to be undertaken as a separate car trip which is in itself unsustainable. The proposal is therefore considered to be contrary to the aims of the NPPF to promote sustainable development and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

Impact upon Heritage Assets

- 6.29 Leominster's town centre is also designated as a Conservation Area and contains many listed buildings. Intrinsic to its character are the retail uses. Given the view formed above that the proposal would have an adverse impact upon the viability and vitality of Leominster town centre, it is submitted that there would be a secondary negative impact upon the character of the Conservation Area. Clearly to retain retail uses within existing premises, many of which are listed, the businesses must remain viable.
- 6.30 Chapter 12 of the NPPF relates to the historic environment. It requires that local planning authorities should take into account the desirability of sustaining and enhancing heritage assets and of new development making a positive contribution to local character and distinctiveness. Paragraph 128 of the NPPF states:

"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected..."

It goes on to say;

"The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."

- 6.31 The potential trade diversion from retail premises within the town centre, and the edge of centre stores of Aldi and Co-Op which promote linked trips to independent retailers, will mean that there is a prospect of existing retail businesses ceasing trading. This would lead to the vibrancy of Leominster town centre declining. If one does not have viable uses for listed buildings they are likely to fall into disrepair. Whilst alternative uses may be found, these would be of a fundamentally different character. It would be detrimental to the Conservation Area and may lead to it becoming a heritage asset which is at risk.
- 6.32 The potential impact upon Leominster Conservation Area was raised as an issue at pre-application stage and it was advised that this should be addressed in any formal submission. The documents submitted in support of the application do not specifically make mention of any potential impacts and it is therefore considered that the proposal is contrary to the NPPF and Policy S7 of the Herefordshire UDP.

Highway Safety and Sustainability

- 6.33 From a highway capacity point of view it is considered that the local highway network can satisfactorily accommodate the proposed development. Similarly it is considered that the vehicular means of access and associated visibility splays are adequate.

- 6.34 However, good planning involves the proper integration of land-use planning and transportation planning. It is now a fundamental of the planning system, reflected in both Central Government advice and Development Plan policy, that development should be located so as to reduce the need to travel especially by way of the private motor vehicle. Such sustainable patterns of development also respond to issues of climate change. Ideally one should locate such developments in close proximity to the existing commercial core and transport nodes.
- 6.35 The proposed development is located in a position that is not realistically accessible by modes of transport other than the private motor vehicle. Leominster railway station is some 700 metres away and the site is within walking distance of a limited proportion of the town's residential areas, particularly when compared to the geographical relationship between Morrisons on Barons Cross Road and the Buckfield residential estate opposite.
- 6.36 As a consequence it is considered that the location of the proposal is such that it would increase reliance upon the private motor vehicle, contrary to the guiding principles of the NPPF and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

Loss of Employment Land & Other Employment Issues

- 6.37 The site is currently used for employment purposes, is located within an area that is designated as safeguarded employment land by Policy E5 of the UDP, and is rated as 'good' in the Council's Employment Land Study 2012. It has a good vehicular access and is divorced from residential properties to such a degree that a general industrial use can satisfactorily take place without any detriment to amenity. It is well located in terms of access to the wider road network with direct access to the A49(T).
- 6.38 As stated earlier in the report, an operator for the proposed food store has not been identified. Consequently the Economic Statement accompanying the application is unable to give a specific forecast of the numbers of new jobs likely to be created. However, it relies on advice given in the Homes and Communities Agency Employment Densities Guide which estimates that 172 full time equivalent new jobs in Leominster would be created. This figure is based on the net internal area of the store.
- 6.39 The Economic Statement goes on to consider the current availability of employment land and space in Leominster. It identifies that there is either 3.06 or 7 hectares of land available, dependent upon the availability of plots amounting to 3.94 hectares which have been sold subject to contract, and other areas within the locality that would bring the potential availability to 8.25 hectares. The report concludes that there is an ample supply of employment land in Leominster, that there are a large number of vacant employment premises and that the proposal would not prejudice the Council's employment land strategy.
- 6.40 The statement also includes correspondence from the directors of Thomas Panels & Profiles Ltd who currently occupy the main factory premises and an outside storage area amounting to 1.82 hectares in total. The buildings have been adapted to suit their particular requirements over time but the business has now outgrown the site and it needs to re-locate if it is to expand in the long term. The correspondence states:
- "Our preferred location is Leominster; this town is an ideal location for us. At present there is little industrial land of any size available which we are working hard to secure. In 5 years time, suitable land is likely to be less available in Leominster and this would force us to leave the town and seek relocation in another area."*
- 6.41 As referred to earlier in this report, Dales have recently secured planning permission for the relocation of their existing business at Mill Street to a large site on the Leominster Enterprise

Park. This accounts for the potential availability of land referred to in the Economic Statement and means that only 4.31 hectares of land are currently available.

- 6.42 Policy E5(2) states that any retail use within designated employment sites should be ancillary to an otherwise acceptable Part B or other employment generating use. The application is contrary to this policy as it would replace the entire employment use.
- 6.43 The clear inference of the Economic Statement is that the loss for employment use is justified as there is adequate provision elsewhere within the town. However, the statement made by the directors of Thomas Panels directly contradicts this as they are quite clear that there is insufficient land available within the town to meet their aspirations to expand. The loss of their site to a retail use would, in your officer's opinion, significantly impinge upon the Council's ability to meet future demand for employment land.
- 6.44 Paragraph 6.4.26 of the UDP states that retail development within employment sites could detrimentally impact future employment development. The proposed development would have a detrimental impact upon both the employment opportunities on the existing site and, alongside the shortage of good quality employment land in Leominster, a detrimental impact upon the wider economic development of the area.
- 6.45 Paragraph 22 of the NPPF advises that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose should be avoided. However, this has not been demonstrated. Whilst the current economic climate is not ideal for business growth, the up-take of plots on Leominster Enterprise Park is good. Dales have secured a permission to relocate, and the current occupants of the site to which this application relates are also looking to expand their business. These are considered to be clear indicators of demand within the town.
- 6.46 In conclusion, the loss of the land to retail use is unwarranted. Its loss would unacceptably erode the ability of the Council to ensure adequate provision of employment land moving forward and the application is therefore contrary to Policies E5 and S4 of the Herefordshire UDP.

Impacts of the Petrol Filling Station

- 6.47 The Environment Agency has been the only consultee to comment in detail about this aspect of the proposal, and has expressed concerns about its potential impact upon a Secondary Aquifer and Groundwater Source Protection Zone. The concerns lie with the introduction of underground storage tanks (USTs). They suggest that there is historic evidence that USTs do leak and contaminate the underlying aquifer, supply wells, boreholes and nearby watercourses. They recommend that the petrol filling station should be designed to the highest of modern protection measures specification in order to protect groundwater resources in the underlying aquifer(s) and the nearby watercourse, including measures for the protection of controlled waters from the possibility of any future USTs and associated fuel lines to dispensing pumps leaking.
- 6.48 The Environment Agency comments refer to guidance in their recently revised Groundwater Protection: Policy and Practice (GP3) which states that:
- "We will object to storage of hazardous substances below the water table in principal or secondary aquifers"; unless:*
- "there is evidence of overriding reasons which indicate a) the activity cannot take place on unproductive strata (elsewhere); and b) the storage must be below ground."*
- 6.49 The applicant's agent has submitted a further response to the Environment Agency's request for further information which is based, in part on the sequential testing undertaken in relation to

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the retail assessment, concluding that geological conditions are similar across three of the four sites and that it reasonable to include a petrol filling station as part of the proposal in order for the scheme to compete equally with the existing Morrisons store. It also advises that there are no operational petrol filling stations within 1km of the application site.

- 6.50 The further response goes on to advise that concerns raised about the pollution of groundwater and watercourses would be addressed by the installation of double skin tanks and pipework, the encasement of tanks in a concrete surround, a leak detection system and the use of a staff training manual to explain the site-specific environmental risks associated with the petrol filling station for future operators, together with actions to be taken in the event of a pollution incident.
- 6.51 The applicant's agent suggests that the relocation of the store would require it to be located closer to the Leominster Compensation Ditch and that this could result in a greater risk to controlled waters in the event of a fuel spillage.
- 6.52 The Environment Agency has yet to respond to the applicant's most recent response. Their technical advice about the impact of USTs on groundwater and watercourses will ultimately determine whether the proposed petrol filling station is acceptable, or if there is a fundamental objection to its inclusion in the scheme. A further verbal update will be provided based upon the additional advice received from the Environment Agency

Flood Risk

- 6.53 The issue of flood risk is clearer and the applicant has gone some way to satisfying the comments raised by the Environment Agency. The update report suggests that the proposed site layout should be retained as submitted, but incorporating the Environment Agency's recommendation that the finished floor level should be raised a minimum of 300mm above the 1 in 100-year plus 20% flood level.
- 6.54 Some concerns have been raised by others about a perceived increased risk from surface water flooding. However, the site is currently hard surfaced and this area is not significantly increased by this proposal. The applicant has indicated that a sustainable drainage system would be installed should planning permission be granted and the flood risk assessment submitted in support of the application indicates that this would be a feasible approach, subject to further detailed design. This is considered to be a reasonable approach given that this is an outline application.

Ecological Impacts

- 6.53 The application is supported by an ecological survey. It covers all aspects of ecological interest across the site, but a separate report focuses specifically on the potential presence of otters and water voles in the locality and particularly the Leominster Compensation Ditch which bounds the site to the south.
- 6.54 The report advises that no evidence of otters was to be found, but confirmed the likely presence of water voles. Accordingly the mitigation strategy included with the report advises that a buffer zone of at least 3 metres from the water's edge should be maintained, with an actual recommended buffer of 5 metres preferred.
- 6.55 The Council's Ecologist expresses some concern that, with only a 3 metre buffer zone, there will be some disturbance to water vole habitat during and post-construction. It was recommended that additional mitigation and compensation measures are required, with a minimum buffer zone of at least 6 metres throughout to provide sufficient protection, including the retention of the existing hedgerow and some additional native-species planting set back from the bank.
- 6.56 The application has been made in outline and only access is to be determined at this stage. If the application were to be approved a condition could reasonably be imposed to require a 6

metre buffer strip along the Leominster Compensation Ditch, along with one requiring a detailed ecological mitigation and compensation plan.

Draft Heads of Terms

- 6.57 Discussions have continued between the applicants and the Council regarding the level of contributions required, particularly in respect of improvements to pedestrian links to the application site. A detailed schedule of works have been agreed, but due to the transition of responsibilities for highway works from Amey to Balfour Beatty, a detailed costing for these works has not been provided and therefore an agreed Heads of Terms is not available. If Committee were minded to approve the application it is recommended that any permission should be subject to the completion of a legal agreement under Section 106 of the Town & Country Planning Act.
- 6.58 However, given the recommendation is for refusal, a further reason for refusal is required on the ground that there is no completed legal agreement under Section 106 of the Town and Country Planning Act 1990 and as such the proposal is contrary to policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Local Planning Authority's adopted Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

Conclusion

- 6.59 In the light of the above appraisal it is considered that the proposal is contrary to both Central Government advice and Development Plan policy. Furthermore whilst the emerging policies of the Draft Core Strategy can only be given very limited weight at this stage, consideration has been given to the consistency of these policies in relation to the saved policies of the Herefordshire Unitary Development Plan and the NPPF. It is considered in particular, that draft policy E5 would continue to support the need for sequential testing of sites whilst policies SD1, SS1 and SS6 promote the presumption in favour of sustainable development and developing sites that are located in sustainable locations where there is a genuine choice of non-car based means of access. The fundamental objections to the proposal as outlined in recommended grounds of refusal 1-5 (inclusive) cannot be overcome by way of an amendment to the submitted scheme or through negotiation.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The Local Planning Authority does not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the National Planning Policy Framework and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 3. Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposal would result in the loss of good quality employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential**

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or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.

5. The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to the guiding principles of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.
6. The proposed development would necessitate a planning obligation compliant with the criteria set out in the Supplementary Planning Document - 'Planning Obligations' to secure contributions toward sustainable transport infrastructure, including enhanced pedestrian and cycle links to the Leominster Town Centre, to mitigate against the impact of the development. A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

INFORMATIVES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 123317/O

SITE ADDRESS : LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF

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Further information on the subject of this report is available from Mr A Banks on 01432 383085



1.0 Executive Summary

1.1 Introduction

1.1.1 The statement addresses the Planning Committee Report (18 September 2013) relating to our client's mixed use development proposal at Southern Avenue, Leominster. Each draft reason for refusal in the Committee Report is assessed with reference to the available evidence. This evidence forms the basis of relative assessment of the competitor scheme at the Dales site, Mill Street.

1.2 Sequential Approach to Site Selection

1.2.1 The Southern Avenue proposal complies with the requirements of the sequential approach to site selection. There are no suitable, available or viable alternative in or edge-of-centre sites in Leominster capable of accommodating the proposed development, even on a fully flexible basis.

1.2.2 The out-of-centre site at Dales on Mill Street is not sequentially preferable owing to:

- It not being well connected to the town centre and no evidence of it being likely to generate any significantly greater number of actual linked trips. Deloitte express this opinion in their independent advice.
- There being at least reasonable doubt as to the suitability of the site for main food retail development, owing to outstanding flood risk and highways matters.

1.3 Retail Impact

1.3.1 The Council's own evidence base concludes that there is available expenditure capacity to support a new foodstore in Leominster of the size and scale proposed at Southern Avenue (not larger). The same evidence base concurs with the consensus that Leominster Town Centre is both vital and viable. In this context, there is no evidence to support the draft reason for refusal on retail impact grounds for the Southern Avenue proposal. The scheme will deliver significant social, economic and environmental benefits locally in a manner that is unlikely to have any significant adverse impact on the vitality and viability of the town centre.

1.3.2 The Council's independent retail advisers (Deloitte) concurred with the data assumptions and methodology used to assess likely retail impact in the WYG Retail Assessments. This included the use of the trading profile of the existing Morrisons store as a robust proxy. It is imperative the



Council use this agreed basis to fairly assess the likely impact of the two competitor schemes in Leominster.

- 1.3.3 The Dales proposal is for a Sainsbury's foodstore that is 59% bigger net sales area than the Southern Avenue proposal. It has a 68% larger turnover. Logically, it follows that the materially greater store size and turnover will result in a significantly greater impact on the town centre.
- 1.3.4 In this context, it is demonstrated that concerns highlighted by Deloitte in relation to the retail assessment supporting the Dales proposal result in an unrealistic suppression by Dales of the likely retail impact of the proposal. This includes a reliance on trade from outside the Study Area and failure to use the existing Morrisons store as a proxy. The outcome is twofold: the forecast impact of the Dales proposal on the town centre is suppressed to an illogically low level; and the assessment is not a reliable but challengeable basis on which to determine the likely impact of the proposal.
- 1.3.5 To illustrate the unreliable nature of the Dales figures, WYG have undertaken a market share assessment of the Dales proposal using the parameters agreed with Deloitte. This results in a significantly greater impact on Leominster Town Centre. The Deloitte conclusion that the Dales scheme is unlikely to generate linked trips indicates the significantly greater impact of the scheme relative to our client's proposal which will not be overcome through increased spin off trade. It follows that, of the two competitor schemes, it is the Southern Avenue proposal that is acceptable in terms of forecast retail impact on the vitality and viability of Leominster Town Centre.

1.4 Heritage Impact

- 1.4.1 The draft reason for refusal relating to heritage impact is unfounded. In any event, Morbaine have agreed financial contributions to fund initiatives to support the attraction of the town centre, addressing the reason for refusal. Should the Council maintain there is a demonstrable link, it is only logical that the materially greater impact of the Dales scheme would result in a significantly greater heritage impact on the town centre.

1.5 Loss of Employment Land

- 1.5.1 In contrast to the draft reason for refusal, the available evidence indicates the Southern Avenue scheme will not prejudice the supply of employment land in Leominster relative to identified demand. In this context, the scheme will deliver significant positive investment in 3 local firms, funding their relocation locally and facilitating their planned future growth. This coupled with the



regeneration of the application site and considerable job creation benefits at the foodstore matching well the unemployment profile in Leominster weigh heavily in favour of granting planning permission. The scheme constitutes positive economic development in line with NPPF guidance and the Government growth agenda.

- 1.5.2 The balance of relevant considerations in relation to the Dales scheme is similar. Significantly however, there is no demonstrable link between the relocation of the Dales operation and the redevelopment scheme. Relocation is likely to be delivered independently of the capital receipt generated by the redevelopment of the site, Dales having already purchased their relocation site. More suitable alternative uses could be developed on the Dales Mill Street site without prejudice to the relocation of the Dales industrial business locally.

1.6 Sustainable Location

- 1.6.1 The Southern Avenue site is located in an established mixed commercial and strategic employment area, which forms an existing destination in Leominster. The complementary commercial uses in the area are accessible by bus, with an existing service operating along Southern Avenue itself. The application proposal includes significant improvements to the connectivity of the site and surrounding area by modes other than the private car: a financial contribution towards improved bus services and links with the train station and town centre; and extensive foot and cycle way improvements agreed with the Highways Authority. On this basis, the site is accessible and the proposal actively promotes alternative modes of transport.
- 1.6.2 Principles of sustainable development include effective spatial planning to meet future growth requirements. The emerging Herefordshire Core Strategy identifies the Council's preferred approach in this regard being a 1,500 home strategic urban extension to the south west of Leominster (as well as a potential 10ha extension to Leominster Enterprise Park). The area is also earmarked as the preferred direction of longer term growth beyond 2031. This planned growth is in close proximity of the application site. It is sustainable to improve service provision in the only area of strategic growth identified in the town. This is particularly the case given there are no town centre sites and the scheme complies with the sequential approach to site selection.

1.7 Heads of Terms

- 1.7.1 Draft Heads of Terms have been submitted to the Council, consisting of:



- £1m to be split between subsidising car parking in the town centre, improved bus linkages and, potentially, a heritage grant for existing retail businesses, and also foot and cycle way improvements agreed with the Highways Authority.
- There is also a commitment to BREEAM 'Very Good'.

1.8 Contamination

1.8.1 Further consultation with the Environment Agency (EA) has resulted in an agreed technical solution to overcome their objection. The EA now consider the application to be acceptable in terms of groundwater and contamination.

1.9 Conclusion

1.9.1 The report demonstrates the balance of available evidence contrasts with the viewpoint adopted by officers in the Committee Report, weighing in favour of granting planning permission for the Southern Avenue proposal. Each of the suggested reasons for refusal are unfounded or have been overcome since the Planning Committee in September 2013.

1.9.2 The relevant considerations in relation to the competitor scheme are similar to the Southern Avenue proposal. However, it is significant that the Dales site is out-of-centre and not sequentially preferable. It is also significant that the Dales scheme is materially bigger than our client's proposal, which logically will result in a significantly larger impact on Leominster Town Centre. There is no evidence that this difference in impact will be overcome through spin off trade associated with linked trips to the town centre.

1.9.3 There is no evidence of any link between the redevelopment of the Dales Mill Street site and the successful relocation of the Dales business, removing any associated justification for the larger size and scale of the store. More suitable alternative uses could be delivered on the site, providing more effective social and economic benefits to the town.

HEADS OF TERMS

Proposed Planning Obligation Agreement Section 106 of the Town and Country Planning Act 1990

Demolition of existing employment buildings and construction of Class A1 foodstore, petrol filling station and associated parking and servicing facilities, resizing and refurbishment of two Class B units and associated highway works, land at Southern Avenue, Leominster

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £250,000 to be used for the following purposes:-
 - 1.1 Subsidy of and improvements if necessary to town centre car parking provision.
 - 1.2 Any other town centre enhancements as necessary, at the discretion of the Council.
 - 1.3 Improvements as necessary to bus service linkage to the Southern Avenue site.
2. The sum at paragraph 1 above shall be paid on or before the commencement of the development and may be pooled with other contributions as appropriate. The money shall be administered by Herefordshire Council and/or another appropriate agency such as Leominster Area Regeneration Company.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council a sum of £500,000 (or such sum as is agreed with the Council) to provide improved highway and sustainable transport infrastructure to serve the development. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed). The money shall be used by Herefordshire Council at its option for any or all of the following purposes:-
 - 3.1 2.2km of shared footway/cycleway.
 - 3.2 0.25km of footpath upgrade.
 - 3.3 69 new dropped kerbs.
 - 3.4 Upgrade of pedestrian crossing.

Any monies not spent on these items shall be pooled with the £250,000 payment referred to at paragraph 1 above.

4. The developer covenants with Herefordshire Council not to commence construction of the development until new facilities have been constructed in Leominster for Thomas Panels and Profiles Limited and are available for occupation.
5. The developer covenants with Herefordshire Council to construct the foodstore development to BREEAM Retail standard of Very Good that is applicable at the time of commencement of construction. Independent certification shall be provided prior to commencement of the development and prior to first use of the foodstore confirming compliance with the required standard.
6. In the event that Herefordshire Council does not for any reason use the sums referred to in paragraphs 1 and 3 above for the purposes specified in the Section 106 Agreement within 10 years of the date of the Agreement then the Council shall repay to the developer the said sums, or such part thereof which have not been used by Herefordshire Council.
7. The sums referred to in paragraphs 1 and 3 above shall be linked to an appropriate index as indicated by Herefordshire Council, with the intention that such sums will be adjusted accordingly to a percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
8. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in the Heads of Terms as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before commencement of the development.
9. The developer shall pay to Herefordshire Council on or before completion of the Section 106 Agreement the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



MEETING:	PLANNING COMMITTEE
DATE:	8 JANUARY 2014
TITLE OF REPORT:	130616/F - HYBRID PLANNING APPLICATION (PART DETAILED/PART OUTLINE) FOR THE PART DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND MIXED USE DEVELOPMENT OF THE SITE TO PROVIDE A RETAIL STORE, PETROL FILLING STATION, RESIDENTIAL AND ASSOCIATED WORKS. AT LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE, For: Frank H Dale Ltd per 7 Soho Square, London, W1D 3QB
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=130616

Date Received: 1 March 2013

**Ward: Leominster
North**

Grid Ref: 349850,259630

Expiry Date: 31 July 2013

Local Members: Councillors P Jones CBE and FM Norman

1. Site Description and Proposal

- 1.1 The application site is located off the A44, known as Mill Street, which serves as the main east/west route through Leominster, and in turn connects directly with the A49(T) approximately 200 metres to the east of the application site.
- 1.2 It amounts to 6.29 hectares of flat land, part of which is given over to commercial use and contains two large factory buildings, two storey office building and associated parking which currently are the premises for Frank H Dale Ltd, a structural steel frame fabrication business. These buildings occupy a prominent position, set back but clearly visible from Mill Street. The remainder of the site is used as a service yard for the factory, with disused grassland further beyond.
- 1.3 The site is currently bounded to the north and west by residential properties on Porters Mill Close, Cheaton Close and Upper Marsh. The immediate boundary to the east is defined by a combination of the River Lugg and railway line. As referred to above, Mill Street forms the southern boundary. Notwithstanding the application site itself, the northern side of Mill Street is otherwise residential in its nature, and a Grade II listed building, known as The Poplands, immediately bounds the site at its south eastern corner. A B&Q retail outlet lies directly opposite on the southern side of Mill Street, with the Kenwater and precincts of The Priory Church further beyond.
- 1.4 The application to be considered is made as a hybrid proposal, including detailed plans for an A1 food retail store, petrol filling station (PFS) and its associated car park and service areas, and an outline proposal for residential development and an associated access. These two

Further information on the subject of this report is available from Mr A Banks on 01432 383085

aspects will be described separately in the following paragraphs. Whilst the majority of the two factory buildings are to be demolished to accommodate the development, an element of the building within the south western quadrant of the site is to be retained and will continue to be operated by the land owner as part of their steel fabrication business. The office building that fronts onto Mill Street is also to be retained, along with its parking area, and will also be used by Dales.

Food Retail Store, Car Park, Service Areas and PFS

- 1.5 This part of the application comprises a detailed proposal for the erection of a new supermarket to be operated by Sainsbury's. The plans have been amended since their original submission and now show a store with a gross floor area of 7,530 square metres; a reduction from the original submission of 7,792 square metres. It is however noted that the floor area for sales remains unchanged at 4,645 square metres. The proposals suggest that the retail floor space will be split 70/30 between convenience and comparison goods, and would also contain an ancillary customer café.
- 1.6 The supermarket is provided with car parking for 506 vehicles which include 20 parent and child spaces, 30 DDA compliant spaces and 20 staff spaces. Additionally the plans also indicate the provision of cycle parking immediately adjacent to the store entrance.
- 1.7 The proposed building is set back within the application site and towards the eastern boundary, with its service yard behind. The plans show it to have a simple rectangular form with its main western elevation predominantly glazed. Its shallow pitched roof minimises its overall height to 8.4 metres. The scheme also includes the provision of a biomass boiler. This is located on the eastern boundary, within the service area. The most prominent feature of this element of the scheme is the requisite chimney stack which rises to a height of 11 metres.
- 1.8 The petrol filling station is located closer to the Mill Street road frontage and includes a six pump facility with an associated kiosk with an internal floor area of 102 square metres
- 1.9 Amendments to the scheme also show the creation of a roundabout junction on Mill Street to gain access to the site, replacing the originally proposed traffic light junction. The roundabout will also provide a revised access to B&Q on the opposite side of Mill Street. A second roundabout is also proposed within the application site to allow access to the proposed PFS, and the movement of delivery vehicles in and out of the service yard.

Residential Development

- 1.10 The proposed residential part of the site amounts to 1.48 hectares and is roughly an L shaped piece of land extending along the northern and western boundaries. An indicative layout suggests that the site is capable of accommodating up to 50 dwellings, and that access would be provided separately to the proposed supermarket via a continuation of the access to the service yard to the rear of the factory via Porters Mill Close. The substantive part of this area is allocated specifically for housing under policy H2 of the Herefordshire Unitary Development Plan.
- 1.11 The application is accompanied by a series of supporting documents which are listed below:
 - Design & Access Statement
 - Planning & Retail Statement (incorporating a statement on economic benefits)
 - Landscape Character & Visual Assessment
 - Transport Assessment
 - Travel Plan

- Flood Risk Assessment & Drainage Strategy
- Extended Phase 1 and Phase 2 Protected Species Survey
- Noise Assessment
- Air Quality Assessment
- External Lighting Statement
- Site Waste Management Plan
- Utility Statement
- Sustainability Statement
- Contaminated Land Report
- Desk-based Archaeology Assessment
- Statement of Community Involvement
- Draft Heads of Terms Agreement

1.12 A Screening Opinion has also been completed in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 and it has been concluded that the proposed scheme does not constitute EIA development, and therefore an Environmental Statement is not required.

2. Policies

2.1 National Planning Policy Framework

Paragraph 14 – Emphasises the presumption in favour of sustainable development. In terms of decision-taking the paragraph reads as follows:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted

Paragraph 19 – This reinforces the Government's desire to support sustainable economic growth and reads as follows:

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraphs 23 to 27 – These paragraphs comment specifically on the need to ensure that town centres retain their vitality. They also comment on matters to be considered when assessing proposals for new retail proposals:

Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in

town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

This part of the NPPF goes on to advise that applications should be supported by retail assessments to determine the impact of the proposal on town centre vitality and viability up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. It concludes by stating that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable development
S4	-	Employment
S5	-	Town centres and retail
S6	-	Transport
S7	-	Natural and historic heritage
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR7	-	Flood risk
DR9	-	Air quality
DR10	-	Contaminated land
DR13	-	Noise
H1	-	Hereford and the market towns: settlement boundaries and established residential areas
H2	-	Hereford and the market towns: housing land allocations
H9	-	Affordable housing
H13	-	Sustainable residential design
H14	-	Re-using previously developed land and buildings
H19	-	Open space requirements
E5	-	Safeguarding employment land and buildings
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability
TCR3	-	Primary shopping frontages
TCR9	-	Large scale retail and leisure development outside central shopping and commercial areas
TCR18	-	Petrol filling stations
T6	-	Walking
T8	-	Road hierarchy
T11	-	Parking provision
NC1	-	Biodiversity and development
NC3	-	Sites of national importance
NC4	-	Sites of local importance
NC7	-	Compensation for loss of biodiversity
NC8	-	Habitat creation, restoration and enhancement
HBA4	-	Setting of listed buildings

2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

SS1	-	Presumption in favour of sustainable development
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Further information on the subject of this report is available from Mr A Banks on 01432 383085

SS4	-	Movement and transportation
SS6	-	Addressing climate change
LO1	-	Development in Leominster
RA6	-	Rural economy
H1	-	Affordable housing – thresholds and targets
OS1	-	Requirement for open space, sports and recreation facilities
OS2	-	Meeting open space, sports and recreation needs
MT1	-	Traffic management, highway safety and promoting active travel
E2	-	Re-development of existing employment land and buildings
E5	-	Town centres
LD3	-	Biodiversity and geodiversity
LD4	-	Green infrastructure
LD5	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency
ID1	-	Infrastructure delivery

As part of the evidence base for the completion of the Core Strategy the Council has commissioned a Town Centres Study update and this was completed in December 2012. This is referred to in the following Officer's Appraisal and is considered to be material to the determination of this application.

- 2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

- 3.1 A series of planning applications for extensions to the factory premises have been submitted and approved over a 15 year period and these are as follows:

NC07/3909/F – Re-location of staff car park and new fence to the rear of the site

NC07/1104/F – Extension of loading bay to east elevation, new canopy to north elevation and chimney stack to paint workshop

NC06/3638/F – Single storey extensions

NC06/0672/F – Extensions to factory and ancillary accommodation

NC01/3367/F – Alterations and extensions to factory and extension to yard

N98/0492/N – Refurbishment of site to include extension to factory, re-cladding of buildings and the erection of a new office building

4. Consultation Summary

Statutory Consultations

- 4.1 Highways Agency – Have considered the Transport Assessment that has been submitted in support of the application and comment as follows:

Given that the TA demonstrates that there is reasonable spare capacity at the A49/Mill Street junction, with development flows in future years, we are satisfied that the proposed development will have minimal detrimental impact on the Strategic Road Network

Accordingly the Highways Agency raise no objection to the proposal.

- 4.2 English Heritage – Recommend that the layout should be modified so as to define Mill Street more clearly with buildings, which would probably mean siting the petrol station further back into the site.
- 4.3 Natural England – Given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on the River Lugg SSSI as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.
- 4.4 Welsh Water - No objection subject to the imposition of conditions to ensure that foul and surface water are drained separately from the site.
- 4.5 Environment Agency – Object to the application. The concerns raised are detailed below. With specific regard to the inclusion of a petrol filling station in the scheme their comments are as follows:

The application site falls within a water sensitive location being in a Secondary Aquifer within a groundwater Source Protection Zone 2 (SPZ 2) for a Welsh Water public drinking water supply abstraction at Midsummer Meadows. It is also adjacent to, and within hydraulic continuity of, the River Lugg (SSSI) which is a tributary of the Lugg and Wye Special Area of Conservation (SAC) further downstream.

The development falls within a Water Framework Directive (WFD) Drinking Water Protected Area. The site is within the catchment of the confluence of the Norton Brook to the River Arrow, which is currently meeting its WFD objectives. The aim is to achieve good status by 2027.

The siting of a petrol filling station (PFS) in this location, with underground fuel tanks, carries a high risk. The groundwater table is more than likely high (with the groundwater also used for drinking water supply), providing baseflows to the nearby River Lugg. The applicant should provide additional site investigation works within the footprint of the proposed petrol filling station, to determine the depth to groundwater table.

If further investigation confirms that the underground tanks must be located within the water table then we will maintain our objection to the application. The applicant may wish overcome the above concerns by utilising above ground storage tanks in a revised site layout.

Therefore we would seek confirmation that your Council deem a PFS necessary within Leominster with regard to demand and viability of the overall scheme; and that you are satisfied with such an installation in a sensitive location having considered alternative sites in areas of lower risk (even within aquifers).

The Environment Agency has also commented upon the fact that the site falls within Flood Zone 3. They also acknowledge the fact that it is also within an area that is defended by the Leominster Flood Alleviation Scheme and that their recently completed flood modelling (completed March 2013) shows that the defences along the northern boundary of the site to be below the 1% plus 20% (*allowance for climate change*) level of protection. At the present time this section of the FAS only defends against flood events up to and including the 1 in 50 year, thus putting the site at risk of flooding.

The Environment Agency are currently concerned that the submitted FRA is not sufficiently detailed. They comment that it should include information that demonstrates there will be no

adverse impact or increase in flood risk to existing properties or third party land as a result of this development. Given that flood risk, post development, will be increased for 4 properties by 100mm to 300mm during a 1 in 100 year plus climate change event, the FRA needs to include appropriate measures to confirm and ensure that the properties will not be at greater risk of flooding post development.

The FRA should also confirm safe access for pedestrians and vehicles and appropriate finished floor levels based on the outcome of the breach and overtopping assessment.

- 4.6 Network Rail - On the basis of the amended plans which show the replacement of the signalised junction with a traffic roundabout, Network Rail do not object to the application subject to the imposition of a condition to the effect that the retail store and petrol filling station will not open until the planned works to install full barriers to the level crossing by Network Rail have taken place (due to be implemented in 2015).

Internal Council Consultations

- 4.7 Transportation Manager – Objects to the proposed development because of the risk to highway users from queuing traffic at and across the Mill Street level crossing. It is noted that a roundabout is proposed at the site entrance in lieu of the traffic signals originally proposed, but it will not affect queuing traffic at busy times, as the queue is caused by down-stream congestion further into the town. The queue is often over the crossing, and the increased traffic attracted by the proposed store will only worsen the problem.

A subsidiary objection is raised by the proposed size of the supermarket. The size implies a broad range of goods for sale, which will inevitably increase traffic over the level crossing more than a more modest sized store would generate.

- 4.8 Environmental Health and Trading Standards – No objection subject to the imposition of conditions to require further assessment of the potential contaminants associated with previous uses of the site.

- 4.9 Conservation Manager

Historic Buildings – Identifies two separate issues to be considered: the direct physical impact upon adjacent heritage assets and the effect on the vitality of the historic town centre.

With regard to the first point it is noted that the existing setting of the adjacent assets is that of a large industrial building. With good design, the quality of the visual setting of the Grade II listed Poplands and the associated group of houses will not be further degraded – and could be improved. The setting of the conservation area is subject to the same considerations.

The effect on the well-being of the historic town centre is more difficult to evaluate and the application of specialist independent commercial advice to test the likely impact of the development on the town centre is vital.

- 4.10 Ecology – A screening report has been completed to determine the effects of the development on water quality within the River Wye Special Area of Conservation (SAC). It has been concluded that the proposal has no likely significant effects on the River Wye SAC.

With regard to the ecological reports submitted with the application, it is noted that there are issues to be resolved regarding the translocation of reptiles and biodiversity enhancement, but no objection is raised subject to the imposition of conditions to address these matters.

- 4.11 Archaeology – No objection subject to the completion of a field evaluation report.

4.12 Emergency Planning Officer – Notes that the site is susceptible to flooding but does not object to the proposal.

5. Representations

5.1 Leominster Town Council – Initially recommended approval subject to Network Rail objections being resolved, but recommend refusal of the amended scheme. The Town Council have also forwarded thirty three letters of objection that they have received. A number of these are duplicates that have been sent separately to the local planning authority and the issues raised are summarised later in the report.

5.2 River Lugg Internal Drainage Board – Raise no objection to the proposal but recommend that storm water run-off from the site should be at Greenfield run-off rates.

5.3 Leominster Civic Society – Objects to the application on the following grounds:

- The economic well-being of the town. Town centre shops will not be able to compete against the range and price of goods available, or the provision of free car parking, leading to shop closures and job losses.
- The heart of Leominster, together with the character of the conservation area, will be damaged because less money will be available to maintain buildings.
- Environmental concerns relating to flood risk, reduced air quality due to increased traffic movements along Mill Street, and impacts on local residents during construction and from increased lighting of the site.
- Question the findings of the revised Transport Assessment as they have witnessed traffic backed up onto the A49 on many occasions. It is also noted that the assessment makes no mention of traffic associated with Brightwells.
- Job creation associated with supermarkets often fails to fulfil the stated aims and it is noted that in 2011, whilst supermarkets increased their floor areas by 2.75 million square feet across the country, the number of people employed fell by 400.

5.4 North Herefordshire Constituency Green Party – Object to the application on the following grounds:

- ‘One-Stop-Shop’ superstores in out-of-centre locations such as this do irreparable damage to existing town centre retail areas, resulting in the closure of small businesses, empty shops and the neglect of historic buildings.
- The claim that customers will walk to town to make further purchases is not credible as the site is too far away.
- Customers driving to the superstore are unlikely to drive to the town centre and re-park, thus moving from a free car park to paid parking.
- The retail impact will be substantial and will lead to a loss of trade in the town centre, including larger traders such as the Co-Operative store which plays a pivotal role in Leominster due to its location. A significant trade diversion from this store will reduce the amount of linked trips to the rest of the town centre.

5.5 Fifty three surveys completed by independent traders in the town centre have been received. The survey asks a number of questions of those completing it, including whether they consider the proposal would have an impact on their business. Forty four of the respondents considered that the proposal would have an impact on their business, and these impacts are summarised as follows:

- Less people will visit the town centre, causing businesses to close
- Knock on effect to local producers who supply businesses
- Unable to compete with supermarket prices

- A supermarket will sell the same products that are available in town centre in direct competition
- Free parking at a supermarket will stop people using the town where they have to pay
- Tourists will be diverted out of the town with a loss of new customers, particularly if the store has a coffee shop
- The proposal would have a positive impact as it would encourage more people to shop locally

5.6 Eighty two letters of objection have been received in response to the Council's statutory consultation period. In summary the points raised are as follows:

Retail and economic impact

- Leominster has sufficient supermarket retail premises already.
- The proposal is contrary to Policy TCR9 of the Herefordshire UDP as projections show that additional retail space is not required in the next 10 years.
- The proposal will have a detrimental effect on the vitality of the town centre, contrary to Policies TCR1, TCR13 and S5 of the Herefordshire UDP and paragraphs 23-27 of the National Planning Policy Framework.
- The proposal is contrary to recent Government guidance on town centre vitality following the Portas Review.
- Trade diversion from Co-Op and Aldi will impact on the number of linked trips between these stores and independent shops in the town centre.
- Independent shops do not have the resilience to withstand the further 7% loss of business suggested by the retail assessment.
- The jobs created by the proposal will be outweighed by those lost as independent shops close, and the subsequent knock-on effects to other local suppliers and service providers.
- Supermarket customers will not walk to town due to its distance away.
- The provision of free parking represents an unfair trading advantage which shops in the town centre cannot offer.
- Untenanted business premises would lead to buildings falling into disrepair and impacting upon the town's tourist trade.

Impact on heritage assets

- The proposal will have a detrimental impact on The Poplands, a Grade II listed building adjacent to the site.
- Lack of repair of listed buildings in the town centre will impact detrimentally upon its status as a conservation area.

Flood risk and water quality

- Concerns about the increased risk of flooding, both as a consequence of ground levels being raised within the site, and from additional surface water run-off.
- The proposal will impact upon water quality within the River Lugg Special Area of Conservation (SAC). Increased run-off will add to phosphate levels in the watercourse.

Highway matters

- Questions raised about the validity of the traffic survey. Why was it not completed at a busier time of the year and why does it not account for seasonal variations of traffic movements (bank holidays/summer traffic)?
- Concerns about highway safety, particularly due to the proximity of the proposed junction to the level crossing and the possibility of traffic backing up.

- Increase in traffic congestion along Mill Street and also at the junctions with the A49 and B4361.

Environmental concerns

- Increase in noise in the local area associated with traffic and with night-time deliveries to the store.
- The Air Quality Assessment is based on low traffic flows that do not reflect seasonal variations.

Impacts of the petrol filling station

- The proximity of the petrol filling station to houses represents a health and safety concern.
- There is no need for another petrol filling station when there is an existing one that is better located in close proximity.

Other issues

- The transfer of the existing business on the site to the Enterprise Park should not be used to justify this proposal.
- The site is more appropriate for housing and should be used to provide more affordable dwellings.
- A smaller supermarket designed for the needs of the immediate locality could be more feasible.
- Herefordshire Council rejected a similar proposal by Sainsbury's in Ledbury. This proposal should result in the same outcome.

5.7 A petition with 26 signatures from residents on Porters Mill Close has been received. The signatories express concerns that additional flood defences will be required as a consequence of the development and question whether this will impede drainage elsewhere and thus increase the risk of flooding to their properties.

5.8 An objection has also been lodged by England & Lyle Planning Consultants, acting on behalf of the Co-Operative Group. In summary the points raised are as follows:

- The applicant's estimate of trade diversion from Hereford of 20% is an over-estimation and the proposed food store would compete to a greater degree with existing stores in Leominster.
- The assumption in the retail statement supporting the application that the Co-Operative is overtrading is incorrect. It is estimated that the proposal will have a trade impact of 38%, reducing turnover to a level that would make the store unviable.
- The proposal would have a significant impact upon the Co-Operative and would reduce the amount of linked trips between it and other retailers in the town centre.
- The assessed impact on Leominster town centre would have a significant impact on the overall vitality and viability of the centre, contrary to the NPPF.

5.9 An objection has also been lodged by Peacock & Smith Planning Consultants, acting on behalf of Wm Morrison Supermarkets Plc. In summary the points raised are as follows:

- The site is in an out-of-centre location. The distance of the proposal from the Primary Shopping Frontage has been calculated by measuring from the periphery of the site, and not to the store entrance. The distance of 350 metres quoted in the retail assessment is therefore inaccurate.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- The loss of employment land is contrary to Policy E5 of the Herefordshire Unitary Development Plan. There is no evidence to suggest that the site has been marketed for alternative employment use.
- The Council should satisfy itself that the site comprising Broad Street car park does not represent a sequentially preferable site that is neither suitable, available or viable for retail use.
- The proposal is likely to have a significant adverse impact on existing convenience retail facilities in Leominster, including the in-centre Morrisons store at Barons Cross Road.

5.10 An objection has also been lodged by DTS Raeburn Geotechnical and Environmental Engineering Consultants, acting on behalf of Morbaine Limited, the applicant for the site for a supermarket on Southern Avenue (123317/O). In summary the points raised are as follows:

- The Flood Risk Assessment does not demonstrate that the risk of flooding at the site and to surrounding properties can be adequately managed, given that the site is within a Flood Zone 3a.
- The site at Southern Avenue is a sequential preferable site with respect to flood risk. The proposal does not consider any other sequentially preferable sites in this regard.
- The proposal includes the provision of a petrol filling station with associated underground storage tanks. These would be located within a Groundwater Protection Zone and the applicant has failed to demonstrate that the site is suitable for the proposed use.

5.11 Representation has been submitted on behalf of B&Q Plc. They advise that they are broadly supportive of the proposal for a food store as they consider that it would increase footfall to their store directly opposite. Their only concern relates to the proposed traffic light controlled junction.

5.12 Four letters of support have been received. In summary the points raised are as follows:

- The site would be accessible from the town centre by foot via Church Street, the bridge over the Kenwater and through B&Q car park.
- The development would lessen the amount of vehicles on the A44 (Bargates).
- Increased competition for existing supermarkets in the town.
- There are limited shopping opportunities in Leominster and a development that would increase footfall would help to improve the town centre.
- The scheme will bring new jobs to the area.
- A large number of people travel to supermarkets in Hereford.

5.13 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 In order to ensure a detailed assessment of this proposal, the Council has commissioned its own independent advice in respect of the retail impact study submitted by the applicant. This has been undertaken by Deloitte, who also completed the Town Centres Study update as part of the evidence base for the Core Strategy and have assessed the proposal for the application at Southern Avenue. Their response covers a number of aspects in relation to retail impact as follows:

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- Whether there are sequentially preferable sites that could meet the identified need for additional retail floor space within Leominster;
- The impact of the proposal on the vitality and viability of Leominster town centre;
- The likely impact of the proposal upon the historic and architectural heritage of Leominster Town Centre / Conservation Area (e.g. retaining viable uses for the listed buildings within the Town Centre);
- The likelihood or otherwise of linked trips to the town centre;
- Whether the proposal delivers a sustainable pattern of development reducing the need to travel, especially by car;
- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.

6.2 These matters will be considered in turn by this report. The application has generated significant public interest and other material considerations that have been raised are detailed in the representations section of this report. Matters relating to highway safety, flood risk, impacts on heritage assets, concerns relating to the provision of a petrol filling station on the site, loss of employment land and environmental issues will also be assessed.

Sequential Testing

6.3 The application of a sequential approach and impact tests to non-central retail proposals (and other town centre uses) remains a key policy requirement of the NPPF. It maintains a 'town centre first approach' as the Government is committed to promote the vitality and viability of town centres and in this respect Policy TCR9 of the UDP is consistent with the NPPF. In addition, town centre sites tend to be in sustainable locations that reduce the need to travel, especially by car. In this case it has been agreed by all parties that the application site is in an out-of-centre location, being 350 metres when measured as a direct line and approximately 475 metres walking distance from the closest part of the Primary Shopping Frontage as defined by Policy TCR3 of the UDP. This is an accepted method of measuring distances between a site and the Primary Shopping Frontage of a town by retail experts and Planning Inspectors. The measurement should not be taken from what is notionally considered to be the centre of the shopping area.

6.4 In accordance with the NPPF the applicant's retail impact assessment includes a sequential test to identify possible alternative sites within the Leominster area. The retail assessment accompanying the application looks only at a site comprising Broad Street car park, the fire station and an adjoining and existing retail premises that fronts onto Broad Street. The site has been discounted by the assessment on the basis that it has been assessed under a separate application (at Southern Avenue), and the Council has concluded that it is not currently available.

6.5 The site at Broad Street is identified in the Council's Town Centres Study update as one that may be appropriate for development to meet future floor area capacity. Its re-development would require the relocation of the fire station and an agreement with the owners of the retail unit that fronts onto Broad Street to purchase their building and land. It would also require an agreement from the Council to sell the land. The availability of the car park has previously been investigated and it has been confirmed that it is not currently available.

6.6 The sequential test accompanying the application at Southern Avenue is more comprehensive in that it looks at other sites within and on the edge of the town centre – Burgess Street Car Park and Land to the west of Dishley Street. It has previously been concluded that these are either not available or not viable as alternative sites and have therefore been discounted.

6.7 It is therefore your officer's view that in simple geographic terms, the site at Mill Street is sequentially the most preferable site. Although it is in an out-of centre location, it is considered

to be within walking distance of the town centre and is well related to the residential areas immediately to the north and west of it. The site is clearly available and its current occupants have secured planning permission to re-locate to new premises on the Enterprise Park, although this has yet to be constructed.

- 6.8 Matters relating to the suitability and viability of the site are also material to determining whether the site is sequentially the most appropriate for development. Concerns about flooding and highway matters; particularly in respect of the sites close proximity to a level crossing have been raised by many objectors and are acknowledged by the applicant's agent. These will be assessed later in the report.

Impact upon the vitality and viability of the existing town centre

- 6.9 The quantitative assessment of convenience goods floor space needs in Leominster town centre in the Town Centres Study update indicates that there will be a demand for additional floor space over the Core Strategy plan period as follows:

Year	Floor space capacity (net sq m)
2012	+1,483 to +3,412
2016	+1,670 to +3,842
2021	+1,938 to +4,458
2026	+2,242 to +5,157
2031	+2,571 to +5,912

These figures reflect a combination of population growth and the projected residential growth of the town that underpins the Core Strategy as far as Leominster is concerned.

- 6.10 The proposal shows that the net floor space of the retail store amounts to 4,645 square metres, falling within the margins of projected floor space demand for 2026.
- 6.11 Leominster currently has three larger food retail stores; Morrisons, Aldi and Co-Op. The applicant's retail assessment highlights the fact that all three are trading well above company benchmark averages, and that they are overtrading. It goes on to consider that the proposal will compete most directly with Morrisons and the assessment considers the trade diversion that is likely to arise if the development were to be permitted. It assesses trade diversions based on the size and anticipated function of the store, its distance from competing facilities, ease of access, existing shopping patterns and overlap in goods sold.
- 6.12 The applicant's assessment judges that the turnover from convenience goods would be £28.5m in 2018 and that 14.9m would be diverted from Morrisons, representing just under half (49.6%) of that store's projected turnover. The next highest diversion is from food stores in Hereford, being £8m, whilst Aldi and the Co-Operative in Leominster follow with respective diversions of £1.7m and £1.0m. In both cases this amounts to 16% of their projected annual turnover at 2018. With regard to other independent food retailers within the town centre, the assessment estimates that £300,000 will be diverted from them to the proposed store and that this represents 6.1% of their projected turnover. However, further interrogation of these figures suggests that this figure should be 7.1%.
- 6.13 A similar assessment of trade diversions associated with the sale of comparison goods suggests that the proposed store would see an associated turnover of £7.3m in 2018. The most significant diversion will be from Hereford city, but that the £4.8m diverted would be marginal in terms of its impact on that study area whose overall turnover exceed £330m.
- 6.14 The main diversions in this regard are again from Morrisons (£300,000 diverted from their total turnover of £4.7m showing a 5.3% impact), and from retailers in the town centre (£1.5m of a total turnover of £32m representing an impact of 4.7%).

- 6.15 The advice provided for the Council by Deloitte accepts the methodology and data contained within the applicant's retail assessment. It does however question the estimates in respect of Morrisons. It suggests that, given that comparison goods purchases in large foodstores tend to be associated with a food (convenience) shopping trip, the 4.7% trade impact is considered to be low when taken with the 50% impact in respect of convenience goods.
- 6.16 The Deloitte report acknowledges the finding of the Town Centre Study update that Leominster town centre appears to be in good health. It also highlights the fact that existing convenience food retailers are trading well and manage to limit the leakage of retail expenditure with retention rates being high at 86%. They comment that this will lessen the potential for much further clawback from other areas. Your officers consider this to be an important point as it re-emphasizes the point demonstrated by the figures above that the proposal will largely see the re-distribution of turnover from existing retailers to this proposal.
- 6.17 Deloitte's assessment acknowledges that the trade impacts on Morrison's store are very high and that, while the store is trading well, these impacts must be seen in the context of Barons Cross having 'local centre' status in the UDP, and therefore perhaps justifies a level of protection that would not otherwise be the case.
- 6.18 The retail assessment completed by the applicant largely discounts the impact on Aldi on the basis that it occupies an edge-of centre position. Whilst its status as edge-of-centre is accepted, it is your officer's view that the impacts upon it should not simply be set aside. It is well related to the town centre, is immediately opposite the town's bus station and makes a different contribution to the convenience retail market with its focus on discounted products.
- 6.19 The quantitative impacts on Aldi and the Co-Operative are quite significant and these impacts will, in the opinion of the Deloitte report, result in a reduction in shopper activity. The same consequence also applies to the Morrisons store.
- 6.20 Aldi and Co-op are both well placed in relation to the town centre and it is reasonable to conclude that their customers will undertake linked trips to other shops. A diversion of trade from both may have further implications for other independent retailers in the town centre beyond those identified in the applicant's retail assessment.
- 6.21 The Deloitte report notes that the economic recession has had a major impact on retailing, particularly in smaller centres. It concludes that, despite its relative health, there can be no doubt that Leominster is vulnerable to the changes in retailing that are taking place and goes on to say that:

"We therefore have concerns that the introduction of a second large foodstore in Leominster of the size proposed outside the town centre could significantly undermine the shopping role of the town centre."

With regard to the Morrisons store and its position as a 'local centre' the report concludes as follows:

"The estimated impact on Morrison's within Barons Cross Local Centre of just under 50% would cause shopper activity / footfall to be significantly reduced, although the store is unlikely to suffer major contraction in its offer."

- 6.22 On the basis of this clear and independent advice, it is concluded by your officers that the proposal will have a significant detrimental effect on the vitality and viability of Leominster town centre and is therefore contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan.

Linked Trips

- 6.23 The notion that customers will visit the proposed supermarket and, as part of the same trip visit other shops and/or use other services within the town centre is an important factor when determining the impact of a scheme on the vitality and viability of a town centre. This not only relates to the location of the proposed development, but also upon the diversity of the goods and services that it seeks to provide.
- 6.24 The 2012 Town Centre Study Update does, as has previously been acknowledged, indicate a demand for additional convenience retail floor space in both the short and medium term. However, the study also assumes that opportunities for provision will exist within the town centre, drawing more shoppers in and complementing existing independent shops.
- 6.25 The report prepared by Deloitte surmises that the impacts on existing convenience stores, primarily Aldi and the Co-Operative, will be significant and will result in a reduction in shopper activity. It considers the possibility of 'spin-off' trade for existing shops arising from the development of a new food store but concludes that:
- "The proposed foodstore is not in the town centre and therefore its ability to provide for existing shops in the town centre is in our view open to question. This is particularly so because of the size of the proposed store and the wide range of both convenience and comparison goods that it would offer. By way of comparison, with a net sales area of 4,645 sq.m, the proposed store is significantly larger than the existing Morrisons having 2,694 sq.m net."*
- 6.26 By virtue of its size and the wide range of convenience and comparison goods that would be on offer, whilst at 475 metres it is within a reasonable walking distance of Leominster's town centre, the proposed supermarket is likely to become a 'one-stop-shop' for customers and will not result in linked trips to it.
- 6.27 Furthermore, with very limited clawback and a significant proportion of the proposed store's turnover being diverted from Morrisons, there is no reason why residents should make additional visits to the town centre. Any 'linked trip' benefits arising would have to be from new shoppers who currently do not visit the town (mostly from outside the town's acknowledged catchment area). Hence it is considered that any benefits would be very limited.
- 6.28 It is therefore concluded that the store would become a destination in its own right with shoppers unlikely to visit the town centre. This would be to the further detriment of the vitality and viability of the town centre. In light of the fact that the site is in an out-of-centre location, this calls into question its sustainability therefore the proposal is contrary to the National Planning Policy Framework in terms of its promotion of sustainable forms of development, and to Policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan.

Impact upon Heritage Assets

- 6.29 The Poplands is a Grade II listed building which fronts onto Mill Street and lies immediately adjacent to the application site. It is a timber framed building and is particularly prominent when passing along Mill Street in a westerly direction.
- 6.30 The existing setting of the listed building is that of a large industrial building and its requisite hard standing areas. The closest element of the proposed scheme to The Poplands is the petrol filling station and, in comparison to the existing industrial building, it is of a very modest scale. The main mass of building that comprises the supermarket is set further back in the site and will not have an obvious visual relationship with the listed building.

- 6.31 The Council's Conservation Officer has commented that with good design, the quality of the visual setting of the listed Poplands and the associated group of houses immediately to the east will not be further degraded and could be improved. In this respect the proposal is considered to accord with Policy HBA6 of the Herefordshire Unitary Development Plan.
- 6.32 Leominster's town centre is also considered to be an important heritage asset as it is designated as a Conservation Area and contains many listed buildings. Intrinsic to its character are the retail uses. Given the view formed above that the proposal would have an adverse impact upon the viability and vitality of Leominster town centre, it is submitted that there would be a secondary negative impact upon the character of the Conservation Area. Clearly to retain retail uses within existing premises, many of which are listed, the businesses must remain viable.
- 6.33 Chapter 12 of the NPPF relates to the historic environment. It requires that local planning authorities should take into account the desirability of sustaining and enhancing heritage assets and of new development making a positive contribution to local character and distinctiveness. Paragraph 128 of the NPPF states
"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected..."
- It goes on to say:
"The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."
- 6.34 The potential trade diversion from retail premises within the town centre, and the Aldi edge of centre store which promotes linked trips to independent retailers, will mean that there is a prospect of existing retail businesses ceasing trading. This would lead to the vibrancy of Leominster town centre declining. If one does not have viable uses for listed buildings they are likely to fall into disrepair. Whilst alternative uses may be found, these would be of a fundamentally different character. It is considered that this would be detrimental to the Conservation Area and may lead to it becoming a heritage asset which is at risk, contrary to the National Planning Policy Framework and Policy S7 of the Herefordshire Unitary Development Plan.

Impacts of the Petrol Filling Station

- 6.35 The Environment Agency has commented in detail about this aspect of the proposal, particularly expressing concerns about the fact that it is located within a Secondary Aquifer within a Groundwater Source Protection Zone 2, and the possibility of contamination of the underlying aquifer, supply wells, boreholes and nearby watercourses.
- 6.36 The Environment Agency comments refer to guidance in their recently revised Groundwater Protection: Policy and Practice (GP3) which states that:
"We will object to storage of hazardous substances below the water table in principal or secondary aquifers"; unless:
"there is evidence of overriding reasons which indicate a) the activity cannot take place on unproductive strata (elsewhere); and b) the storage must be below ground."
- 6.37 The Environment Agency have advised that the local planning authority should confirm whether the petrol filling station is necessary within Leominster with regard to demand and the viability of the scheme, and that it is satisfied that all other alternative sites in areas of lower risk; including within aquifers, have been considered.
- 6.38 Your officers have continued to liaise with both the applicant's agent and the Environment Agency and the applicant's consultants continue to be engaged in a dialogue with the Environment Agency to ascertain whether the technical issues that have been raised are

capable of resolution. However, as the application stands, and on the basis of the advice given by the Environment Agency, your officers are not satisfied that, by virtue of the inclusion of underground storage tanks for the associated petrol filling station, the proposal ensures that the quality of groundwater supplies will be safeguarded and therefore the scheme is contrary to Policies S2 and DR4 of the Herefordshire Unitary Development Plan.

Flood Risk

- 6.39 The Flood Risk Assessment (FRA) and Drainage Strategy accompanying the application acknowledges that the site lies within a Flood Zone 3 and that the northerly part of the site is prone to ponding during periods of prolonged and extreme rainfall events. This is also highlighted in a number of the letters of objection received, particularly from residents in Porters Mill Close who are concerned about an increased risk of flooding to their properties, particularly as the plans include the raising of the ground level across the site to 71m AOD, amounting to an increase of nearly a metre in some areas.
- 6.40 The FRA attributes the ponding of water on the site to a combination of a high groundwater table and ineffective soakaways. It accepts that the drainage by infiltration is not a viable option for the proposal and therefore discounts it as a practical solution, suggesting that surface water would be dealt with either by connection to the mains sewer, or by a new outfall to the River Lugg. In either circumstance the report advises that run off would be attenuated to a mean Greenfield rate through the inclusion of a storage tank for the retail element of the scheme, designed to accommodate a 1 in 100 year rainfall event plus a 30% climate change allowance. The increase in levels across the site is required in order that the required drainage falls can be achieved.
- 6.41 The Environment Agency has not raised an objection to the application in respect of flood risk but they do comment on two particular matters. First they advise that the site lies within an area defended by the Leominster Flood Alleviation Scheme, but that their most recent flood modelling indicates that at the present time this section only defends against flood events up to and including the 1 in 50 year, thus putting the site at risk of flooding. The second matter is that the FRA does not appear to apply a sequential test to identify reasonably available sites in areas that are less prone to flooding.
- 6.42 The applicant's consultant has engaged in discussions with the Environment Agency about the possibility of improving the flood alleviation scheme in order that it would provide an increased level of protection for the site and 277 dwellings adjacent to the site in the event of a 1 in 100 plus 30% climate change flood event. A scheme is being developed by the applicant's consultant to provide for this and it would require the height of the bund to be raised. This falls beyond the application site and, if the application were to be approved, it would need to be secured as part of a Section 106 Agreement. It is work that is considered to be necessary to facilitate the re-development of the site and would provide wider public benefit by improving flood protection. The applicant's agent has confirmed that their client is content to meet the costs of these improvement works.

Highway Matters

- 6.43 The application as originally submitted was accompanied by a Transport Assessment (TA). Many of the objections originally made were critical of the fact that this relied on survey work undertaken in December and January, and that this was not a true representation of traffic conditions along Mill Street. The objectors expressed the view that traffic tends to tail back along Mill Street to the A49, particularly during the holiday season and during Bank Holidays, and that the TA did not reflect this.
- 6.44 Many objectors have also raised concerns about vehicles queuing back to the level crossing and the potential hazard that would result if they were to straddle the line as barriers were

closed. Network Rail also objected on this basis and expressed concerns that the TA did not take account of their intention to replace the barriers and increase the period that they will close from 45 seconds to 120 seconds.

- 6.45 Accordingly the applicant's transport consultant has reviewed the TA and has re-assessed on the basis of further traffic surveys undertaken during May and June (26th May until 2nd June), incorporating a Bank Holiday on 27th May. The applicant's agent has also met with representatives of Network Rail and the revised TA is based on the changes to the barrier system that are intended.
- 6.46 Notwithstanding the further survey work that has been undertaken, the principal change to the scheme has been to amend the junction layout, replacing the traffic lighted junction with a four arm roundabout that would serve B&Q as well as the proposed supermarket. The residential element of the scheme remains to be served through an extension of the existing road of Porters Mill Close. The scheme also includes a signalized pedestrian crossing on Mill Street to the west of the proposed roundabout.
- 6.47 The replacement of the traffic lighted junction with a roundabout, and the revised traffic survey have met with the approval of Network Rail who have raised no objection subject to a condition that the store and petrol filling station should not be opened until their planned improvement works are complete. They are otherwise content that the traffic modelling, based on the revised survey data, is accurate in its demonstration that a roundabout will not cause queues that would impede the safe operation of the level crossing.
- 6.48 However, the Transportation Manager's comments maintain an objection to the proposal on highway safety grounds. He has considered the traffic modelling data submitted by the applicant's transport consultant and has also visited the site himself on more than one occasion. He has advised that he has witnessed traffic queuing back along Mill Street first hand and his comments reflect the concern that, notwithstanding the installation of a roundabout which is intended to allow the free-flow of vehicles, traffic will continue to queue. In his view this will only be worsened by a development that will significantly intensify traffic movements in and out of the site.
- 6.49 In light of the differing views that have been expressed, a judgment must be made about the likely effects of the development. Although the modelling indicates that the introduction of a roundabout would not cause queuing, the first hand experience of your officers suggests otherwise and it is concluded that the proposal will result in an increase in traffic movements that are likely to increase the frequency of queuing traffic along Mill Street and to the detriment of highway safety, contrary to Policies S1, S2, S6, DR3 and T8 of the Herefordshire Unitary Development Plan.

Loss of Employment Land

- 6.50 The site has a long established employment use where Policy E5 of the Unitary Development Plan is applicable. It advises that proposals that result in the loss of employment land will only be permitted where there are substantial benefits to residential or other amenity in allowing other forms of development and that the site concerned is unsuitable for other employment purposes.
- 6.51 The current use of the site for steel fabrication has given rise to complaints about noise nuisance in the past from adjacent dwellings. The business has developed on an ad-hoc basis and is not ideally suited to its current location next to residential areas, and it is considered that its re-location would represent a benefit to residential amenity, one of the reasons outlined by Policy E5 of the Herefordshire Unitary Development Plan as justifying the loss of employment land. It is also considered that the potential improvements to the Leominster Flood Alleviation Scheme are material to this and also represent another

improvement to amenity that may further justify the loss of employment land in accordance with Policy E5.

- 6.52 The northernmost part of the site is allocated for residential use by Policy H2 of the UDP and, in isolation, the effect of this would be to introduce further housing in closer proximity to an existing industrial use where there has been a history of complaint.
- 6.53 The proposal does retain an element of employment use on the site, including a reduced element of manufacturing and the office building that fronts onto Mill Street. The retention of these elements ensures a continued employment use and the applicants have secured planning permission to re-locate their business to the Enterprise Park. On balance it is considered that the loss of employment land is justified and the proposal accords with Policy E5 of the Herefordshire Unitary Development Plan.

Other Environmental Impacts

- 6.54 Objections received also refer to the potential for nuisances to be created through an increase in road traffic noise, and noise associated with the operation of a supermarket from the site; and a reduction in air quality in the locality; primarily related to traffic. Some objections also refer to nuisance arising during construction if the development were to be permitted. Both matters are addressed by noise and air quality assessments submitted in support of the application. In each case the reports have been updated to reflect the traffic survey results of the most recent transport assessment.

Noise

- 6.55 The noise assessment has been completed in accordance with national legislation and guidance. The report identifies seven locations within the locality where the noise impacts of increased traffic movements will be most keenly felt, and models the likely increases in noise based on the projected traffic movements in the transport assessment. The report advises that for a change in road traffic noise to be audible, an increase or decrease of 3dB is typically required. The application of the modelling has not been brought into question and your officers have been given no reason to doubt its accuracy. It makes projections of noise levels from operational traffic based on anticipated traffic flows in 2018, both with and without the development. The impacts range between 0.0 and 0.6 and are deemed to be marginal.
- 6.56 With regard to stationary plant associated with the operation of the store and petrol filling station, the report advises that it should be compliant with BS4142 to ensure that its noise rating does not exceed background noise levels from residential receptors. Details of the equipment have not been submitted but it would be reasonable to address this through the imposition of conditions that require the submission of details of equipment prior to the commencement of development.

Air Quality

- 6.57 Like the noise assessment, the air quality assessment has been undertaken in accordance with national legislation and guidance and is based on the updated traffic survey. It concludes that impacts associated with development traffic are considered to be of a small to negligible magnitude.
- 6.58 The report also considers the impacts of the petrol filling station on nearby residential properties. It advises that, due to its size, it would fall under the scope of Environmental Permitting Regulations and as such emissions from the petrol station are subject to prescribed limits enforced by a permit issued by the local authority.

Nuisance during construction

- 6.59 It is acknowledged that development will sometimes give rise to nuisance during the construction phase. This can be mitigated through the imposition of conditions and the report recommends the completion of a construction method statement. This is considered to be a reasonable approach should the application be approved.
- 6.60 It is therefore concluded that matters of potential nuisance will either be within accepted tolerances, can be mitigated through the imposition of appropriately worded conditions, or would be controlled through separate environmental protection legislation. The proposal is considered to accord with Policies S1, S2, DR4, DR9 and DR13 of the Herefordshire Unitary Development Plan in this regard.

Conclusion

- 6.61 In summary, your officers are of the view that whilst there are some positive aspects to the scheme, namely the removal of an un-neighborly industrial use from a primarily residential area and the potential improvements to the Leominster Flood Alleviation Scheme that would reduce the risk of flood for existing properties adjacent to the site, these are out-weighted by the other material planning considerations that have been discussed throughout this report. By virtue of the size of the proposed retail store, the scheme will have an unacceptable impact on the vitality and viability of the town centre. The impacts on the town centre are likely to see an increase in vacant properties within the Conservation Area and your officers consider that the long-term effects of this will be to erode its character and appearance. In addition the Council's Transportation Manager objects due the potential for queuing traffic on Mill Street and the railway level crossing. Finally, the applicant has been unable to satisfy the concerns raised by the Environment Agency about the likely effect of the petrol filling station, and particularly its underground storage tanks, on the aquifer and groundwater source protection zone. The application is therefore recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. Given reason for refusal 1 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 3. The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to the guiding principles of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**
- 4. The site is located within a Secondary Aquifer and a groundwater Source Protection Zone 2 and the applicant has not demonstrated that there are overriding reasons to justify the siting of a petrol filling station in this location. Furthermore it has not been demonstrated that the proposed petrol filling station and its associated underground storage tanks can be accommodated on the site without detriment to water supplies and therefore the proposal is contrary to Policy DR4 of the Herefordshire Unitary Development Plan.**

- 5. The proposal is likely to result in traffic movements that increase the frequency of queuing traffic along Mill Street to the detriment of highway safety, contrary to Policies S1, S2, S6, DR3 and T8 of the Herefordshire Unitary Development Plan.

INFORMATIVES

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for refusal, approval has not been possible.

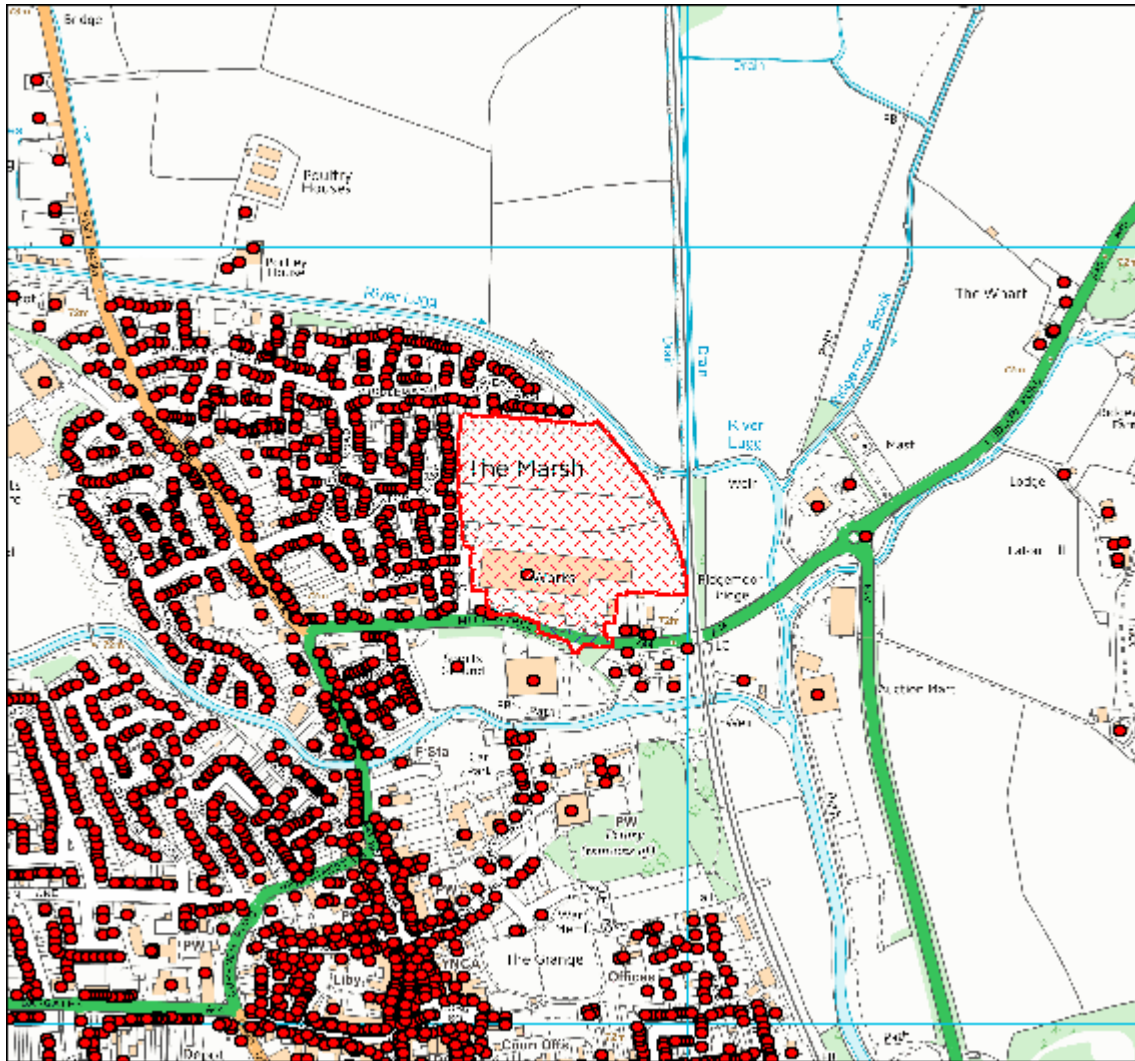
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 130616/F

SITE ADDRESS : LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE

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MEETING:	PLANNING COMMITTEE
DATE:	8 JANUARY 2014
TITLE OF REPORT:	<p>132192/F - CHANGE OF USE OF REDUNDANT FARM BUILDINGS INTO 3 RESIDENTIAL COTTAGES TO BE USED AS HOLIDAY LETS. ERECTION OF 5 DEMOUNTABLE GEO DOMES (OR SHEPHERDS HUTS). PURPOSE BUILT SHOWER/W.C. ADJACENT TO FARM BUILDINGS (TO REPLACE SOON TO BE DEMOLISHED NEW BUILD STABLE BLOCK). COMMUNAL LOUNGE/DINING AND KITCHEN FOR GEODOME GUESTS IN EXISTING BUILDINGS. AT LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG</p> <p>For: Mrs Smolas per Mrs Kesri Smolas, Llanerch Y Coed, Dorstone, Hereford, Herefordshire HR3 6AG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132192

Date Received: 8 August 2013

**Ward: Golden Valley
North**

Grid Ref: 327448,242597

Expiry Date: 29 November 2013

Local Member: Councillor PD Price

1. Site Description and Proposal

- 1.1 The site is an isolated farmstead in a remote and sensitive landscape. The site is some distance from the nearest designated settlement, Dorstone, which is 3.3 miles away to the east and accessed via a local road network of single width country lanes. Hay on Wye is 3.1 miles away to the west. The landscape character type is Ancient Timbered Farmlands and adjacent to High moors and Commons. Both of these are high quality and highly sensitive to change. The area contains some of the oldest field patterns in the county. This small scale, intimate landscape relies on the topography, hedgerows and tree cover.
- 1.2 The site comprises a farm holding which includes an agricultural field and a number of unlisted stone agricultural buildings which are arranged around a farm yard area comprising existing hardstanding area and feature the unlisted farmhouse adjoining that yard. Access is gained from an unclassified no through road which is also a bridleway. The access along with the site adjoins Ancient Woodland, common land and Little Mountain Local Nature Reserve. Protected species and a Site of Special Scientific Interest are also within the area.

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 1.3 The proposal is the change of use of redundant farm buildings to create three holiday let cottages, one bed and breakfast letting room and an events facility for corporate training events, the erection of five demountable geodomes within farm land for holiday and events letting, erection of a wc/shower building, communal facilities and a car park.
- 1.4 The training events facility will utilise the linked associated accommodation, this accommodation will be used as holiday lets when there are no training events. Accommodation through the conversions and geodomes allows 13 people to stay on site. The geodomes are for use between April – September. Outside of these dates they will be taken down and placed in storage with only the raised platform remaining. Outside those dates accommodation on site is limited to the converted agricultural buildings included in this proposal. A maximum number of 13 people will use and stay in the accommodation at any one time.

2. Policies

2.1 Draft Core Strategy:

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
RA3	-	Herefordshire Countryside
RA5	-	Re-use of Rural Buildings
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E4	-	Tourism
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable development
S2	-	Development requirements
S4	-	Employment
S6	-	Transport
S7	-	Natural and historic heritage
S8	-	Recreation, sport and tourism
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR13	-	Noise
DR14	-	Lighting
E11	-	Employment in the smaller settlements and open countryside
E12	-	Farm diversification
T6	-	Walking

T8	–	Road hierarchy
T13	–	Travel plans
LA2	–	Landscape character and areas least resilient to change
LA5	–	Protection of trees, woodlands and hedgerows
LA6	–	Landscaping schemes
NC1	–	Biodiversity and development
NC4	–	Sites of local importance
NC6	–	Biodiversity Action Plan priority habitats and species
NC7	–	Compensation for loss of biodiversity
NC8	–	Habitat creation, restoration and enhancement
NC9	–	Management of features of the landscape important for fauna and flora
HBA8	–	Locally important buildings
HBA12	–	Re-use of rural buildings
RST1	–	Recreation, sport and tourism development
RST6	–	Countryside access
RST12	–	Visitor accommodation
RST13	–	Rural and farm tourism development
RST14	–	Static caravans, chalets and touring caravan sites
CF2	–	Foul drainage
CF5	–	New community facilities

- 2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

- 3.1 130461/F - Change of use of farm buildings to create 3 letting holiday cottages, 1 B&B letting room and an events venue facility. Erection of 5 demountable geo domes for holiday/events letting use, with wc/shower facilities in a new building and communal facilities in one farm building – Refused 24 April 2013
- 3.2 S122922/F - Change of use of farm buildings to create 4 no. letting holiday cottages, 2 no. B&B letting rooms and an events venue for corporate staff training, weddings etc. Change of use of land for a mixed use of agricultural and temporary siting of 10 no. proprietary demountable geo domes. Erection of wcs/shower units, community building and communal car parking -Withdrawn.

4. Consultation Summary

Statutory Consultees

- 4.1 Natural England has provided detailed comments on the application and has no objection to the proposal having regard to relevant legislation as set out –
- The Conservation of Habitats and Species Regulations 2010 – No objection.
- The Wildlife and Countryside Act 1981 (as amended) – No objection - conditions requested.
- 4.2 The Forestry Commission has no objection to the proposal. Whilst noting the application is within 500m of ancient semi-natural woodland, the scale of the proposals is such that there will be no effect on the woodland.

- 4.3 The Environment Agency have previously commented that at the water abstraction rates proposed no permit or license is required by the applicants. Furthermore the Environment Agency has stated they have no reason to dispute the hydrological report provided.

Internal Consultees

- 4.4 The Council's Transportation Manager has no objection to the proposal providing a number of conditions are imposed and a Travel Plan is produced and enforced by a Section 106 agreement.
- 4.5 The Council's Conservation Manager (Landscape) who has been heavily involved in providing pre application advice and in assessing the previous applications and concludes that the application does demonstrate that the development will respect the landscape character and that the scale proposed will not override the key characteristics. A balance can be struck between the negative impact of new structures and associated activities in the rural landscape, with conservation objectives and sensitive site management. There is no landscape objection.
- 4.6 The Council's Conservation Manager (Ecology) has considered all submitted documents associated with the application, along with the detailed ecological objections received. It is noted significant appropriate studies have been carried out and various ecological enhancements and mitigation is proposed. No objection is made and conditions are recommended to protect and achieve the referenced ecological enhancement and mitigation.
- 4.7 The Council's Conservation Manager (Building Conservation) has no objection to the conversion of the historic agricultural buildings to the uses proposed. Conditions regarding details are recommended to safeguard the character and appearance of these buildings which are considered to be locally important, capable of and worthy of the conversion.

5. Representations

- 5.1 Clifford Parish Council objects to the proposal on the following grounds
1. If this development goes ahead, a small farm will effectively become a hamlet of 6 houses. Not a single agricultural building will remain and Llanerch y coed will cease to be a working farm. A sad and irreversible loss.
 2. During our visit, the Parish Council analysed vehicle movements with Mr Smolas. So far from the maximum of 8 car movement as claimed (including existing traffic), it was shown that, if the development were fully occupied, there could easily be 14 vehicles plus additional service and staff vehicle movements. This potentially makes at least 17 vehicles (three came through the yard during our one hour visit). Only parking for ten is proposed and, in a busy fortnight such as Hay Festival, this number of vehicles present could easily translate into 60 plus movements per day. So much to-ing and fro-ing on single track roads without suitable passing places would be unacceptable.
 3. The meadow containing the geodomes will be the only ground on the farm mowed for silage/hay and this not until well into September. An old hay meadow in, for example, a hot and dry August could be an unacceptably dangerous fire risk to the occupants who have wood burning stoves, cigarettes etc. Emergency services could struggle to assist.
 4. Lighting in the yard is to remain unchanged but is, we are told, currently little used. When the existing lights are all on at once, they will almost certainly create a visible

glow in the night sky in this hill-top position. This is contrary to the wishes of the locals of this parish.

We are told that the previous application failed on ecological grounds. It is relevant therefore that an inspection of the existing swallow and martin population shows that all buildings currently used by swallows will be lost to development, and this year's martins (their nests having been knocked down) have not used any of the artificial nests provided. (They apparently rarely do). These two species would be lost to the site as would most of those bat species mentioned in the survey due to the light, noise and disturbance of such a large development. Tom Fairfield's reports on the status of the great crested newts, dormice, badgers and adders on the farm, its woodland and adjacent common should be taken into account and, where necessary, surveyed.

5.2 Cusop Parish Council comments awaited.

5.3 Dorstone Parish Council comments that they 'support the application subject to the following condition. The council still have concerns about the traffic level using the site, they note the traffic level indicated in the application, but are concerned about the amount of traffic the site will generate. Having read the traffic engineers report, that 8 vehicles would be acceptable, the council support a travel plan, as outlined in the engineer report of 28th October 2013, tied to a 106 agreement, for the life of the development and this plan should be actively managed'.

5.4 20 representations of support have been received. These comments are summarised as-

- Will provide a benefit to the local community
- Rural economy needs this type of development
- Will provide jobs
- Will have benefits to other existing rural businesses
- Will enhance the local rural economy
- Additional traffic is low level
- Many of the objections are overstated
- This application addresses previous concerns
- Similar roads in other near locations are far busier and cope with both traffic volume and tourist attractions
- Dairy farming creates a higher pollution risk than what is proposed
- The proposal is well designed
- This is a small scale proposal commensurate with the location
- The proposal complies with national and local planning policies
- Landscape impact is minimised and negligible

5.5 Lloyds Bank has also written to support the application, stating that they are to lend some substantial funds to help towards the various projects and in these difficult financial times, this request was assessed very carefully. The bank was provided with an excellent 5 year business plan to assist with the decision making and also taken into consideration was the applicant's current and previous business experience. The revised plan without weddings is supported as financially sound and the bank support the applicants in the long term plans and granted the required funding.

5.6 28 representations of objection have been received. These comments are summarised as –

- The proposal will cause a noise nuisance and undermine the tranquillity of the area
- No appropriate noise assessment has been included with the application
- The proposal will cause light pollution harming the night time landscape and adjacent designated dark sky reserve

- The local road network, due to its nature is unsuitable for and will not cope with the significant increase in traffic movements
- There will be a conflict between vehicles accessing or leaving the site with other road users, including farm traffic and machinery, walkers and horse riders
- The proposal is unsustainable development
- The hydrological assessment is flawed and inaccurate
- Dwellings and businesses in the area have experienced water shortages and supplies have run dry, the proposal will create significant extra demand on supplies derived from natural sources, which are relied on by people, farms and wildlife
- Significant detrimental impact upon common land, Local Nature Reserve, Ancient Woodland and the overall current isolated valued tranquil landscape hereabouts
- Impact on wildlife, including protected species and habitats
- The ecological surveying and assessment is insufficient
- The geodomes are out of character with the area and detrimental to its appearance
- The proposal will cause significant disruption to local residents and farming enterprises
- Concern over the use of the bio disc treatment plant and discharge entering the water course and supply, which is used for drinking water
- The proposal is of an unacceptable size and scale for its location
- The proposed uses are inappropriate and harmful to the location
- Impact on the occupiers of the dwelling accessed from the unclassified road
- Concern over public safety and access for emergency services
- The qualities of the area advanced as a reason to justify the proposal will be undermined and harmed
- Concern that individual's legal right of way and access will be affected
- Rainwater harvesting is not adequately set out or detailed

5.7 Visit Herefordshire supports the application, setting out a key part of Visit Herefordshire's strategy for improving and increasing the tourism revenue in the County has been to encourage the development and use of existing and currently redundant buildings to provide high quality, and where possible different or unique offerings to the increasingly discerning tourist. This is part of a strategy allowing more fully the substantial assets that the County possesses in its attractive countryside and walks but also to support the extensive offer in terms of our historic properties spread widely across the County and further afield to be exploited.

5.8 CPRE object stating their view remains unchanged from that regarding application 130461/F and still believe the proposed development is totally out of scale and inappropriate in this site. The application is considered to be not materially different from the previous refused application.

5.9 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 The application follows the withdrawn application 130461/F and the refused application 122922/F. This application has reduced the scale and range of uses previously proposed and attempts to address previous refusal reasons. The Wedding component has been removed from the proposal, which in turn scales back the traffic movements, visitors and overall scale

and impact of the proposal. Further ecological studies have been carried out and better consideration given to the sensitivity of development and new land uses in the isolated area.

Economic Development and the Rural Economy

- 6.2 The Unitary Development Plan policies E11, E12, RST1 and RST13 are in broad conformity with the National Planning Policy Framework, which sets out that planning authorities should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, paragraph 28 of the NPPF directs Local Planning Authorities as follows: –
- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings,
 - promote the development and diversification of agricultural and other land-based rural businesses,
 - support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres,
 - promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 6.3 The application seeks to establish a new rural business tapping into a sector where within the county as a whole, and in this area generally, there is a clear gap and potential demand for such facilities as reported and recognised by the comments of the Economic Development Manager and Visit Herefordshire. The business is taken to be a viable proposition given the investment to be made by the applicants. Conditions requiring the reinstatement of the field to its existing condition and removal of the geodome supporting infrastructure is required if the business ceases trading or closes.
- 6.4 The proposal also has potential spin off economic benefits to the locality and wider areas through employment and products and supplies sourced from local suppliers, craftsmen, businesses and labour. Cross business benefits also include visitors and users of the proposal using local pubs, accommodation, shops and other existing facilities. This potential economic benefit to the area is underlined by the number of supportive representations from local businesses. It should be noted however, planning cannot require the applicant's to use local employment or source or utilise local produce or businesses. The proposal in its own right can become a 'local service and facility' benefiting the area and communities.
- 6.5 The proposal clearly diversifies the activities and business base of an existing agricultural holding. The proposal includes the retention and conversion of existing non designated heritage assets with minimal new built development. The proposal would also involve controlled managed responsible countryside access, benefiting the environment itself and visitors alike. To minimise the impact of the proposal and to concentrate on this expanded economic use, an existing bed and breakfast use on the site will cease.
- 6.6 As such it is considered the proposal is considered to conform to the above aims and objectives of the NPPF and Herefordshire Unitary Development Plan regarding economic

growth in the rural areas. The acceptability of the proposal is therefore considered on the assessment of material considerations and the acceptable mitigation of any impacts.

Landscape Impact – Context and Policies

- 6.7 The site is an isolated farmstead in a remote and sensitive landscape. The landscape character type is Ancient Timbered Farmlands and adjacent to High moors and Commons. Both of these are high quality and highly sensitive to change. The area has one of the oldest field patterns in the county. This small scale, intimate landscape relies on the topography, hedgerows and tree cover. Any development should take great consideration of the wider landscape character, the possible impact that increased use and development of this site will have and in particular the visual impact. Notwithstanding this, it is noted the application site is within an undesignated landscape area and not subject to any special statutory protection.
- 6.8 The NPPF and UDP Policies E11, E12 RST1, RST12 and RST13 allow new development and land uses within such a landscape providing it is of an appropriate scale and impacts are mitigated appropriately. The NPPF states distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.
- 6.9 Whilst the application site is not within or adjoining such a protected landscape area and the proposal is in accordance with the NPPF's and UDP's aims and objectives of ensuring a prosperous diverse rural economy, this does not permit development at any cost. Policies require development should be appropriate to its location and of appropriate size and scale. The landscape and its intrinsic character and qualities should be conserved and enhanced and in particular areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason should be protected.
- 6.10 It is recognised NPPF policies promote mixed use developments, and encourage multiple benefits from the use of land in rural areas, recognising that land can perform many functions, such as for wildlife, recreation, tourism and economic development.

Landscape Impact – Assessment of the Development

- 6.11 One field, close to the main buildings, has been chosen to locate the geodomes, which restricts the spread of development. As per the Design and Access statement, Officers agree that the least sensitive locations have been selected for the geodomes. The proposed dark green colour is welcome and further helps mitigate impact, particularly from mid and long range views. Existing trees have been marked on the proposed site plan (6082-1-9c), and are also shown in the landscape management plan and described in detail in the preliminary ecological appraisal. The Design and Access statement confirms that the geodomes are demountable and a condition that the domes are removed when not in use (eg. Outside of tourist season) is recommended. This will reduce the visual impact during the winter months when there is less screening from surrounding vegetation. The timber deck, steps and handrail (as per dwg no. 6082-1-7a) represent permanent construction that adds to clutter and detracts from the sensitive, low key intentions of the geodome ethos.
- 6.12 No external lighting is proposed adjacent to the geodomes or in the field. The car park includes 4no. bollard style lights appropriate to a rural location. A condition is recommended requiring that a detailed specification for this lighting is to be agreed with the Council before installation.

- 6.13 The car park will result in loss of a small part of the field, and slightly extend the built development of the farm, however this is proportional to the size of the site. The coming and going of cars and minibus will reduce the tranquillity of the existing landscape. A sensitive design has been chosen, including new planting, use of existing ground levels and a permeable surface
- 6.14 In landscape terms the shower block as proposed will have limited visual impact as it is set behind the larger, existing buildings and is smaller in scale. The design with slate roof and timber weatherboarding (dwg no. 6082-1-8b) is suitable to the character of the site and it will read as an agricultural building. In landscape terms the conversion of the existing agricultural buildings is acceptable and secures their long term contribution to the character and appearance of the area. The planting layout to the existing courtyard is welcomed.
- 6.15 The traffic will have direct landscape impact on verges in the wider area where passing is required on the narrow lanes, which are characteristic of the area. There will be direct landscape impacts on the site if more traffic than planned arrives, resulting in parking, turning, pick up / drop off taking place outside of the designated car park. To safeguard against this the recommendation of the Transport Manager must be followed.
- 6.16 The Landscape Management Plan also includes landscape proposals. Proposed new native planting and strengthening of existing hedgerows around the geodome field is welcome. This will help to integrate the geodomies into the field. It also describes a minimal hard surfacing treatment to the area between the proposed venue and new communal block. The plan shows mown paths and kick-about area, with the remaining field area to be hay-meadow. The management prescriptions are clearly set out and suitable to the site.
- 6.17 There will be a visual impact where the geodomies / huts are visible from public viewpoints on the common land. The application does include one photomontage to demonstrate that this impact is minimal, although it is not clear whether this is one of many viewpoints or the only identified location where the field is visible. It is accepted that the existing trees and hedgerows provide a good background to help absorb the visual impact of the geodomies / huts. It is agreed that the carpark and new building will be hidden in this view owing to the low level of the existing farm and being behind the existing buildings.
- 6.18 This application will cause a change to the landscape character of the site and local surroundings, as a new use will be introduced. The question is whether this change is appropriate to the sensitive landscape and whether the change will have adverse impacts on the landscape character. Officers conclude that the application does demonstrate that the development will respect the landscape character and that the scale proposed will not override the key characteristics. A balance can be struck between the negative impact of new structures and associated activities in the rural landscape, with conservation objectives and sensitive site management. There is no landscape objection from the Council's Landscape Officer.

Ecological Issues

- 6.19 Officers have read all the ecological reports carried out by the Badger Consultancy in relation to this application including the rebuttals and counter-rebuttals from the various objectors and have assessed ecological impact and protected species and habitats as follows –

The site is adjacent to a Local Wildlife Site (Little Mountain Common) which is also designated as a Local Nature Reserve and has areas of Ancient Woodland. The common has valuable habitats and supports ground-nesting birds. The access road to the site passes through another area of common land that is also a Local Wildlife Site (Alt Common and Cot Wood) and Ancient Woodland. The following are the wildlife site descriptions for each site:

SO24/15 Little Mountain and Newhouse Wood SWS

The register states: "Newhouse Wood is an ancient woodland which, although inter-planted in parts, still has a good variety of trees, shrubs and ground flora. Species include mountain ash, holly and wood-sorrel. Little Mountain has a rich variety of plants, including pillwort, an international rarity. The site supports many species of insects and birds." Date 1990

SO24/12 Alt Common and Cot Wood SWS

The register states: "Alt Common has a good number of trees, and dense scrub in places. Species present include oak, crab apple, holly and gorse, with harebell and bluebell in the ground flora. Cot Wood is an ancient semi-natural wood mostly ash with coppiced hazel and bluebell."

Date 1990

- 6.20 The farm buildings include features that could support roosting bats and nesting birds. The proposed geodome field is currently improved pasture and is surrounded by species-rich, mature hedgerows.
- 6.21 UDP policies NC1, NC4, NC6 and NC7 set out how habitats and protected species are to be protected and biodiversity enhanced. These policies are in conformity with Section 11 of the NPPF which sets out planning aims and objectives regarding conserving and enhancing the natural environment. Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm from a development cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused
 - development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
 - planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland unless the need for, and benefits of, the development in that location clearly outweigh the loss
- 6.22 This application provides opportunities to incorporate features into the design which are beneficial to wildlife and are biodiversity enhancements. This includes the incorporation of roosting opportunities for bats or the installation of bird nest boxes. This is in accordance with the advice and request of Natural England and Paragraph 118 of the NPPF. Additionally, Section 40 of the Natural Environment and Rural Communities Act (2006) states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.
- 6.23 There has been an effort by the applicant over the last number of years to comply with the requests of the Council's officers and to engage with the necessary ecological survey work required. Whilst further surveys could always be done on this site, there is enough conclusive evidence gathered since 2010 to derive sufficient conclusions with respect to impacts upon protected species. There is a clear requirement to apply for a development licence from Natural England with regard to bats, the details for compensation measures for which are substantial and inclusive for all bat species utilising the site. The ecological reports propose appropriate and well considered biodiversity enhancement and mitigation measures. This should ensure that the site's development has a minimal ecological impact on existing habitat and species with the promise of significant biodiversity gains.

6.24 The evidence from the surveys indicates that the ecological conditions for most species on the site are sub-optimal at best for the species of fauna recorded. It would appear that there is more conducive habitat for breeding and hibernation in the surrounding areas of woodland and common than on the farm itself. This is in keeping with the nature of agricultural land use across the landscape except where sites are bounded by important habitat as is the context here. Specific comments on the ecology are as follows:

Mammals –

- 6.25 The site is unsurprisingly an active foraging area for badgers with occasional sett excavation on the periphery. These are of a temporary nature which, of course could change in future. This species resides more permanently within the woodland area. As indicated in the report, the nearest 'dome' will be constructed some 10 metres from the active sett which I would concur should not adversely affect the animals. Foraging disturbance may well occur as a result of the intensification of use of the site.
- 6.26 The bat species recorded for the site are surprisingly diverse and, perhaps, reflects the connectivity between surrounding habitat for some flight line dependent species such as lesser horseshoe. Foraging potential is clearly important here given the number of species recorded within the barn complex. Whilst, feeding and temporary night roosting could be disrupted by the development, the compensation provisions for bats together with biodiversity enhancements of hedges/margins should ensure that this continues. The provision of improved bat roost potential over that which already exists may well enable establishment of maternity colonies of some species.
- 6.27 Otter and water vole have not been recorded. The occurrence of water vole in the absence of even marginal habitat conditions is most unlikely. Otter may well range across the site as an occasional transient between water sheds but minimal riparian habitat is not present to support an established population.
- 6.28 Dormice have a predilection for layered woodland conditions but have also been found in hedgerows and in minimally supportive conditions of patches of bramble feeding on alternative food sources. The conditions for dormice on the site periphery provide for some connectivity of habitat and it would be unusual for them not to be utilising the hedgerows especially if vegetation structural changes in their prime habitat becomes unsupportive. Their movement across a landscape is known to be slow (70 metres in their lifetime) and so their presence in hedges is not likely to be transient. The planting, preservation and less intensive management of hedgerows proposed in the application should improve connective habitat for dormice. Disturbance by noise and lighting is less well known but given that both are to be reduced from the original proposal, the impact upon dormice should be regarded as minimal.
- 6.29 In summary, the impacts of this development upon mammal species are not likely to be direct. Any disturbance impacts arising should be minimal and would not appear to significantly threaten the breeding place or reproductive cycle of any mammal species.

Birds –

- 6.30 The biodiversity enhancement measures for this application are likely to result in improved conditions for breeding and foraging for most species. The significant number of swallow breeding sites affected by barn works is to be compensated for by considered placement of artificial nesting. It is regarded that the most significant disruption to breeding will be through adjacent work after erection of replacement nest sites. The returning birds should be given opportunity to explore and take up the alternative sites without disturbance. Informatives in relation to nesting birds, reckless disturbance regimes and the CROW Act 2000 are added to the recommendation.

- 6.31 Improvements in hedgerow structure and boundary maintenance on the margins should be seen as an enhancement for farmland birds as well as more common garden bird species. Foraging species such as barn owl should also benefit from these changes.

Reptiles –

- 6.32 The proximity of Little Mountain Common and a range of conditions for reptile activity does dictate caution where results for surveys are negative for an adjacent site. It is possible a small population can remain undetected given that reptiles are often found mainly in their resting or breeding phases. Slow worm should be more easily found but were not revealed in the surveys whilst grass-snake might well occur across the site. The conditions for common lizard and adder are not optimal but the occurrence of adder should not be ruled out considering the presence of breeding population on the adjacent common. They may well be confined to the common during part of the winter and the spring breeding congregations but will disperse quite widely after that period. The informatives with respect to protected species apply.

Amphibians –

- 6.33 The breeding populations of smooth newt will not be affected by the development and, in consideration of the amended ecological report, Officers are happy that great crested newt are not present as a breeding population. The pond appears in relatively poor condition with substantial impact from the resident duck population. It is possible that hibernating newts from an unknown local population may find hibernaculae on the site but in my view this is not borne out by the evidence. The quick removal of rubble from the site should ensure that inadvertent populations of all newts are not attracted to the development area of the site.

Conclusion –

- 6.34 The Council is satisfied and happy that the ecological survey information provided from the appropriate surveys is adequate to assess potential impacts upon protected species.
- 6.35 Mitigation proposals are substantial enough to give some overall benefit to biodiversity on the site and this is secured through the appropriate conditions listed in the recommendation section of this report.

Traffic and Highways

- 6.36 The trips generated by the proposed development utilise the u75236 no through road which serves one other property as well as the existing used bridleway. The C1208 has 12 properties on the route though there are other accesses along the road serving agricultural land. Overall it is proposed that the development will be managed via conditions of booking in users, contracts and through the facility utilising a shuttle bus service, to maintain a controlled, low level of flow on the unclassified and C Class road.
- 6.37 The information provided in the application states that only 8 vehicles will visit the site over the entire week. The Council does not consider this would be the case, and at best it would be 8 vehicle movements per day for the development including minibuses. It is considered this amount of movement would be minimal and would be equivalent to 1 additional property. The local road network is narrow with minimal passing places, the u75236 is single track and passes through a common and Ancient Woodland which gives little possibility for improvements.
- 6.38 Officers have calculated various worse case scenarios if there was a reliance on conditions to restrict and manage the traffic movements. The applicants have set out their business plan

based on very limited, controlled vehicle movements and maximum numbers of guests. This is intended to be controlled by conditions of booking and use, however there is concern such conditions would be unenforceable or not monitorable and, if the business was struggling, hard to defend against appeal or variation. A delegate turning up in their own vehicle is hardly likely to be turned away. It is also recognised these are hard times for businesses, let alone start ups.

- 6.39 The Council has calculated a scenario based on the accommodation as follows – the 5 geodomes accommodate 10 people. This equates to 10 vehicles. The Wainhouse could accommodate 4-6 people. This equates to up to 2 vehicles. The stables can accommodate 4 people and equates up to 2 vehicles. The livestock building can accommodate 5-6 people. This equates to 2 vehicles. This equates to 26 people using 11 vehicles.
- 6.40 At peak time and the proposal being used as holiday accommodation only, taking the ‘cross over’ between check out and check in into account, this could result in, if not managed and controlled by a Travel Plan, 44 vehicle movements on one day not including any servicing or the accommodation. The training use could have even more impact if people arrived using their own vehicles and numbers were increased by other users staying locally and participating or visiting the development.
- 6.41 Taking the best case scenario, the traffic impact of 8 vehicles per day would be acceptable, however it is recognised that without management the impact has the potential to escalate, as shown above, therefore the only way this proposal would be acceptable in highway terms would be for a Travel Plan to be tied to any permission for the life of the development. If the traffic generated resulted in additional traffic over and above the agreed, a set of measures would be required to stop or mitigate the development and use. The Transport Manager suggests this would be the introduction of passing places and reinforcing those that exist in the public highway as a proportion are susceptible to weather.
- 6.42 The full travel plan, as per Department for Transport guidance, would need to be conditioned and in place prior to commencement of selling holidays or corporate events as this will need to influence and control how people travel. It is noted the Transport Manager requests this is imposed and controlled through a S106 agreement to ensure it is robustly enforced and monitored. If numbers exceed the 8 vehicle movements per day that are considered acceptable, this would trigger the applicants financing highway improvements hereabouts.
- 6.43 It is noted that an existing bed and breakfast use on the site, contributing 4 vehicle movements per day, will cease and thus offset some of the additional vehicle movements outlined. To further ensure vehicle movements generated from Llanerch Y Coed are appropriate and restricted to minimise conflict on the local road network and to also protect the character and amenity of the area, permitted development rights relating to land uses and activities are removed by condition. Officers also note the conversion of the agricultural buildings to residential use, if they were so appropriate, would generate more traffic than this proposal.

Hydrological Issues

- 6.44 Despite the Council’s consideration on hydrology as set out in Planning Committee Report 24 April 2013 concerning the refused application 130461/F, concern is still expressed by local residents regarding water resources. Dwellings, businesses and indeed the wildlife and valued common land, Ancient Woodland, and Local Nature Reserve are dependent on natural private water supplies. There is no mains water or sewerage. Water is supplied from boreholes, springs or streams. It is on record that resources have ‘run dry’ leaving people without water.
- 6.45 The Council’s position as previously set out and established through consultation with the Environment Agency remains the same. It is noted the amount of water the applicants intend extracting from a borehole, no permit is required. Whilst acknowledging the local concern on

this issue, given the Environment Agency's position and relevant legislation regarding water extraction, there are no grounds for this application to be refused for hydrological reasons. In the event of the applicant's extracting higher quantities of water or there being a local issue, the Environment Agency would have to act accordingly. Furthermore, with a better hydrological assessment and the full time use of various mitigation measures the applicants could adequately address this issue through utilising grey water harvesting full time and extracting water at their permitted quantity to holding tanks and storing water for future use.

Dark Skies, Light Pollution

- 6.46 The Brecon Beacons National Park is now a 'Dark Sky Reserve', one of only five globally, and so afforded this designation due to it being so unaffected from light pollution and allows the enjoyment of clear unobstructed night skies. The application is located in relative proximity to this designated area. Light pollution is a transfrontier issue that does not recognise or is unrestricted by national or authority borders. The impact on this designated area and light pollution generally is therefore considered a material planning consideration.
- 6.47 The NPPF has specific regard to light pollution and the value of dark landscapes as a finite limited resource. The NPPF requires decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Equally, local plan policies S1, DR2 and DR14 all require development to have appropriate regard to and not have a detrimental impact upon adjoining land uses. This includes amenity, environmental and landscape character. Policy DR14 specifically sets out development requirements regarding lighting and seeks to minimise light spillage. It also requires that lighting should be necessary and appropriate to the development and its location.
- 6.48 The previous concern regarding the unacceptable impact of this development has been addressed through the reduced scale and use of the site, including reduced traffic movements and associated on site activities, and through the lighting proposals and mitigation included in the application. It is considered these measures and recommended conditions detailed actually will reduce light pollution from Llanerch Y Coed where it is noted there is currently no restriction on external lighting.

Summary

- 6.49 On the basis of all of the above, and assessed against relevant local and national planning policies, the proposal is considered acceptable subject to the conditions set out. The proposal balances economic development with heritage and ecological conservation aims and objectives and furthermore other material considerations regarding highways and amenity have been addressed. Approval is recommended subject to the completion of a Section 106 agreement regarding the implementation, monitoring and mitigation of a Travel Plan.

RECOMMENDATION

That subject to the completion of a S106 agreement, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions and any further conditions considered necessary by officers

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F06 Restriction on Use**
- 4. I03 Restriction on specified activities**

5. **F14 Removal of permitted development rights**
6. **F13 Restriction on separate sale**
7. **F30 Use as holiday accommodation**
8. **H28 Public rights of way**
9. **Section 106 Agreement and Travel Plan**
10. **G11 Landscaping scheme - implementation**
11. **G16 Landscape monitoring**
12. **I33 External lighting**
13. **I18 Scheme of foul drainage disposal**
14. **K4 Nature Conservation - Implementation**
15. **D04 Details of window sections, eaves, verges and barge boards**
16. **D05 Details of external joinery finishes**
17. **D06 External finish of flues**
18. **D10 Specification of guttering and downpipes**
19. **D11 Repairs to match existing**
20. **F16 No new windows in specified elevation**
21. **Reinstatement of land**
22. **Details and formation of car park**

INFORMATIVES:

1. **N01 Access for all**

Your attention is drawn to the requirements of Part M of the Building Regulations 1991 in respect of the need to provide access and facilities for the disabled.
2. **HN25 Travel Plans**
3. **N03 Adjoining property rights**
4. **N04 Rights of way**
5. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
6. **N11B Wildlife & Countryside Act 1981 (amended) Cons hab/spec 2010 Bats**
7. **N11C General**

8. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

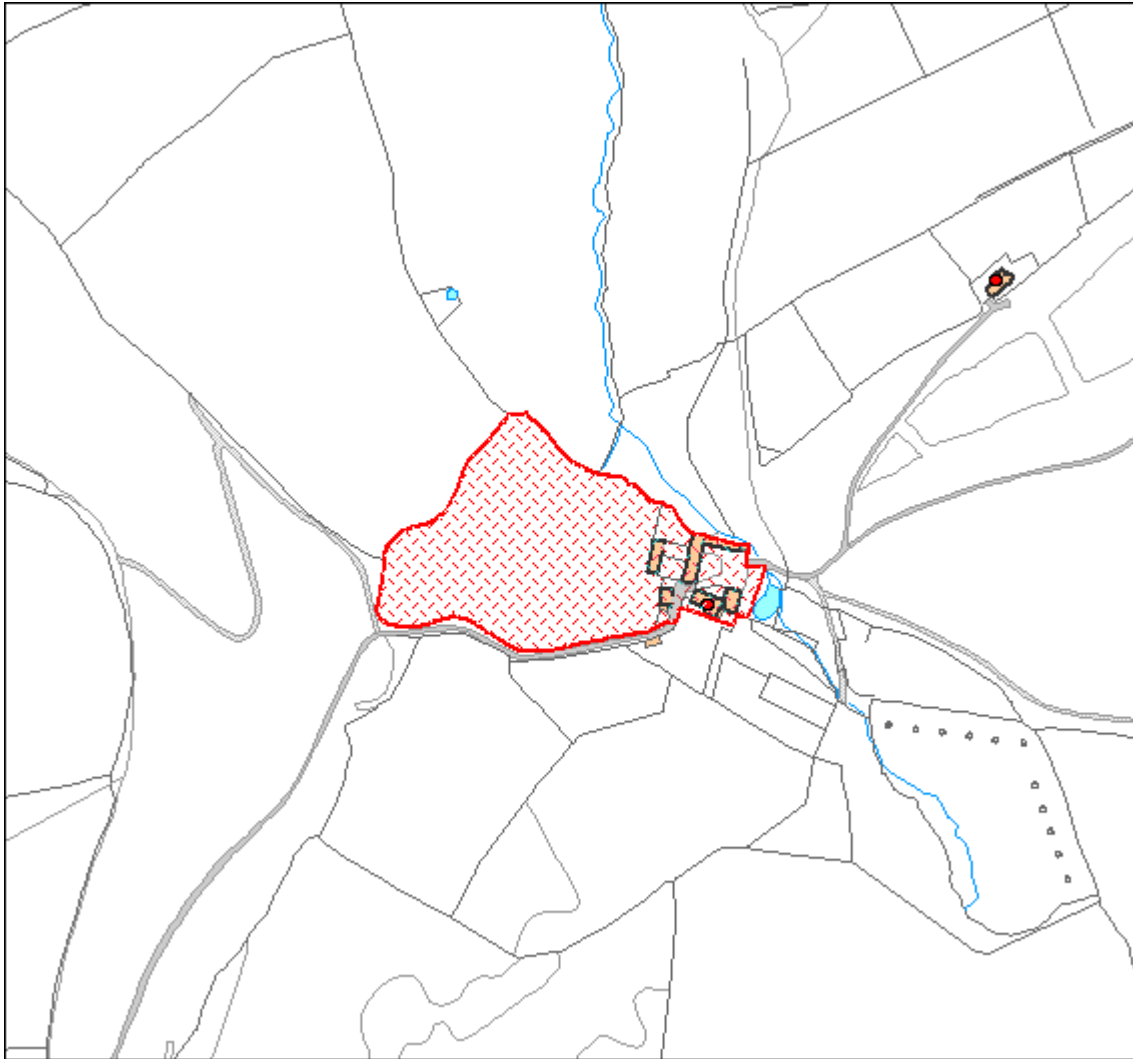
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 132192/F

SITE ADDRESS : LLANERCH Y COED, DORSTONE, HEREFORD, HEREFORDSHIRE, HR3 6AG

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Further information on the subject of this report is available from Mr C Brace on 01432 261947

