

AGENDA

Planning Committee

Date: **Wednesday 24 September 2014**

Time: **10.00 am**

Place: **The Shire Hall, Hereford HR1 2HX**

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

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Councillor PGH Cutter

Vice-Chairman

Councillor PA Andrews

Councillor AJM Blackshaw

Councillor AN Bridges

Councillor EMK Chave

Councillor BA Durkin

Councillor PJ Edwards

Councillor DW Greenow

Councillor KS Guthrie

Councillor J Hardwick

Councillor JW Hope MBE

Councillor MAF Hubbard

Councillor JG Lester

Councillor RI Matthews

Councillor RL Mayo

Councillor PJ McCaull

Councillor FM Norman

Councillor J Norris

Councillor TL Widdows

Councillor DB Wilcox

AGENDA

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| 1. | <p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p> | |
| 2. | <p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member 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>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p> | |
| 5. | <p>P140910/O LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8EF</p> <p>Outline application for the part demolition of existing buildings and structures and development of the site to provide a retail store (Use Class A1) and associated works and improvements including access. Amended Plans.</p> | 7 - 34 |
| 6. | <p>P141281/O LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF</p> <p>Site for Class A1 Foodstore with petrol filling station.</p> | 35 - 54 |
| 7. | <p>P141024/F LAND AT FLAG STATION, MANSELL LACY, HEREFORDSHIRE, HR4 7HN</p> <p>Proposed erection of 4 nos. poultry buildings, associated feed bins, hard-standings and access road.</p> | 55 - 70 |
| 8. | <p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 7 October 2014</p> <p>Date of next meeting – 8 October 2014</p> | |

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| MEETING: | PLANNING COMMITTEE |
| DATE: | 24 SEPTEMBER 2014 |
| TITLE OF REPORT: | P140910/O - OUTLINE APPLICATION FOR THE PART DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND DEVELOPMENT OF THE SITE TO PROVIDE A RETAIL STORE (USE CLASS A1) AND ASSOCIATED WORKS AND IMPROVEMENTS INCLUDING ACCESS. AMENDED PLANS AT LAND AND BUILDINGS AT MILL STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8EF For: Frank H Dale Ltd per 7 Soho Square, London, W1D 3QB |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140910&search=140910 |

Date Received: 25 March 2014

**Ward: Leominster
North**

Grid Ref: 349890,259579

Expiry Date: 24 June 2014

Local Members: Councillor Brig P Jones CBE, and Councillor F M 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 The site amounts to 2.75 hectares of flat land, part of which is given over to commercial use and contains two large factory buildings, a 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 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 is made in outline with all matters apart from access reserved for future consideration, and is for the partial demolition of the factory buildings and the erection of a food retail store and associated works.

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

- 1.5 Whilst the application is outline, the submission includes illustrative plans to show the layout of the site and the size of the store. These show a building with a gross floor area of 3,545 square metres with an associated car park providing 242 parking spaces. The proposal indicates that the retail floor space will be split 80/20 between convenience and comparison goods, and would also contain an ancillary customer café. Part of the factory 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.
- 1.6 Access to the site is to be established through the creation of a roundabout junction on Mill Street. This will also provide a revised access to B&Q opposite. A second roundabout is also proposed within the application site to disaggregate the movement of delivery vehicles from shoppers.
- 1.7 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)
 - Transport Assessment
 - Travel Plan
 - Flood Risk Assessment & Drainage Strategy
 - Ecological Assessment
 - Utility Statement
 - Assessment of Indirect Impacts on Listed Buildings
 - Contaminated Land Report
 - Desk-based Archaeology Assessment
 - Statement of Community Involvement
 - Draft Heads of Terms Agreement
- 1.8 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 – Emphasizes 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 (HUDP)

| | | |
|------|---|--|
| 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 |
| 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 |
| T6 | - | Walking |
| T8 | - | Road hierarchy |
| T11 | - | Parking provision |
| NC1 | - | Biodiversity and development |

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

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| 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 |
| HBA6 | - | Conservation Areas |

2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

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|-----|---|--|
| SS1 | - | Presumption in favour of sustainable development |
| SS4 | - | Movement and transportation |
| SS6 | - | Addressing climate change |
| LO1 | - | Development in Leominster |
| RA6 | - | Rural economy |
| 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 |
| 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 Herefordshire Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. **Planning History**

- 3.1 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.

The application was reported to Committee on 8 January 2014 and was 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 paragraph 26 of 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 paragraphs 128 to 133 of 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 paragraph 29 of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary

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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 its siting 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.

4. Consultation Summary

- 4.1 Highways Agency – Note that the application is effectively an amendment to the previous application submitted in April 2013. Their comments are as follows:

A review of the current Transport Assessment (TA) and application documents has indicated that the applicant now wishes to significantly reduce the development quantum, removing the Petrol Filling Station and residential element and significantly reducing the foodstore to reduce the subsequent traffic generation from the development.

It is noted that the analysis contained within the current TA now provides an assessment of the A49/Mill Street junction in 2024, which is in line with the Highway Agency guidance. The analysis shows that the junction will continue to operate well within capacity during the Saturday peak with the introduction of the significantly reduced development in 2024.

Based on the analysis contained in the current TA showing that the A49/Mill Street junction will operate well within capacity following the introduction of the proposed development in 2024, and following a significant reduction in the development proposals, it is considered that this proposal is unlikely to prove detrimental to the operation of the Strategic Road Network. Accordingly our response is one of no objection.

- 4.2 English Heritage – No objection

- 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. They also comment that the proposal may provide opportunities within its detailed design for biodiversity and landscape enhancement and that these should be considered in accordance with the National Planning Policy Framework.

- 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 – No objection subject to the imposition of conditions and comment as follows:

We note that Less Vulnerable development is now proposed for the site in the form of a retail unit. We have commented previously on this site when a larger development was proposed including residential development and a petrol filling station. As part of the previous application, the applicant was proposing to improve the standard of protection of the Lugg flood defences to a 1% plus climate change standard which would have benefitted both the site itself and existing adjacent residential areas which also appear in Flood Zone 3. These

flood defence improvements do not form part of this new application although developer contributions towards the maintenance of the current defence are being sought.

The applicants Flood Risk Assessment (FRA) confirms that the finished floor level of the store is now to be set at 70.99mAOD and the car park at 70.84mAOD. JBA have confirmed that the store would still flood to 500mm in a breach scenario, based on their latest modelling analysis, but it is a Less Vulnerable use so we would not object to this with the incorporation of appropriate flood resistant and resilient techniques.

Developer Contribution: We have had early discussions with the applicant's consultants regarding seeking a developer contribution to help maintain the existing flood defences which currently protect the site to a 1 in 50 year standard. In addition, we are investigating the potential to further increase the standard of the Lugg defences at this location which will benefit the proposed development along with the adjacent properties, the majority of which are also shown as being within Flood Zone 3 (High Probability) albeit in an area benefitting from defences. As the proposed Flood Management and Evacuation Plan will be informed by our flood warning service we would also seek a contribution toward this in addition to the presence and cost of maintaining the flood defences. Early discussions confirmed a figure of £20K and would seek agreement on the sum of the contribution in the form of a Section 106 agreement or unilateral understanding prior to planning permission being granted. We will be happy to provide some detailed maintenance/future scheme costings upon request.

- 4.6 Network Rail – No objection to the application subject to the imposition of a condition to the effect that the proposed development 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 – No objection subject to the imposition of conditions
- 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

(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.

(Archaeology) – No objection subject to the completion of a field evaluation report.

- 4.10 Emergency Planning Officer – Notes that the site is susceptible to flooding but on the basis of the Flood Evacuation Plan submitted as part of the application does not object to the proposal.
- 4.11 Land Drainage Engineer - There are no objections on flooding or drainage grounds, subject to the submission of a detailed drainage design, including pollution prevention measures and full drainage design calculations, prior to construction. It is also recommended that the applicant gives consideration to incorporating flood resilience measures into the design of the new building.

- 4.12 Public Rights of Way Manager – The plans have been amended in order that the public right of way, footpath ZC143, now falls outside the site boundary. On this basis no objection is raised to the proposal, but it is recommended that the footpath is clearly marked on the ground prior to commencement to avoid any confusion.

5. Representations

- 5.1 Leominster Town Council – Comment as follows:

This application had been deferred to this meeting awaiting the final statutory consultees comments, accordingly no evidence was taken from either the applicant or any objectors. The letters from The Highways Agency of 22 April, the email from Network Rail to Herefordshire Council dated 30 April and letter from the Environment Agency to Herefordshire Council dated 26 May 2014 were read and considered in detail.

There followed a debate by councillors first as to whether if the conditions from the consultees were applied then that should satisfy the planning process. Also debated was the local knowledge concerning flooding and traffic issues at the location and its immediate neighbourhood. Likewise the effect on town centre businesses and jobs was debated with regard to the potential jobs coming from the proposed development. It was debated whether the sequential test had been applied with regards to the site and the Core Strategy's suggested retail development site at the foot of Broad Street. Points of view were expressed both in favour and against the application. A resolution to object to the development was made and in the first instance was a balanced vote with the Chair then using her casting vote to object.

Resolved: That the Town Council objects to the application on the grounds of local knowledge concerning flooding, traffic and the impact upon jobs and businesses in the town.

- 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 – Note that an earlier application was rejected and express the view that there is little in the revised documentation that substantively changes this decision. Objects to the application on the following grounds:

- The proposal for a smaller superstore would still have a detrimental impact on the town centre. Any trade diversion could be critical to the viability of small businesses.
- The heart of Leominster, together with the character of the conservation area, will be damaged because less money is 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 Transport Assessment and suggests that the proposed traffic movements are an underestimation.
- Objections previously raised about traffic problems along Mill Street are based on resident's long term experiences rather than on a short traffic census.
- There appears to be a mismatch between parking provision to store size. Morrisons is marginally bigger and has twice the parking capacity. Inadequate parking provision is likely to cause traffic tail-backs.
- The need for a supermarket should be challenged. The submission is based on increased housing provision through the Core Strategy, but there is no indication at this stage that it will actually be adopted.

- 5.4 The Town Centre Action Group – Object to the application and note that, with the exception of the fourth reason for refusal relating to the petrol filling station and underground tanks, all of

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the reason given to refuse an earlier application still apply. The group's overriding concern is retail impact and it predicts a substantial trade draw from town centre shops. It considers that the claim that people will walk from Mill Street to the town centre is not credible.

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

- Although smaller than previously applied for, the proposal still represents a large retail development outside the designated town centre for Leominster and is contrary to policy.
- There is no evidence to suggest that customers would walk to town from Mill Street.
- There will be a loss of footfall to the town centre, the retail impact will be substantial and will lead to a loss of trade.
- The proposal will result in increased traffic congestion in Mill Street and immediate surroundings. The traffic assessment carried out does not fully take into account the levels of traffic on Mill Street at peak times such as Friday afternoons and holiday periods.
- The addition of a roundabout and the changes proposed for the level crossing will only exacerbate existing problems.

5.6 Forty eight 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. Thirty nine 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 Thirty 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.
- Independent shops do not have the resilience to withstand a further loss of business as 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.
- The proposal will detrimentally impact upon the town's tourist trade.
- The proposed retail store is still far too large for a market town the size of Leominster.

Impact on Heritage Assets

- 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) and SSSI. Increased run-off will add to phosphate levels in the watercourse.

Highway Matters

- Concerns about highway safety, particularly due to the proximity of the proposed junction to the level crossing and the possibility of traffic backing up.
- The more frequent closure of the level crossing combined with this proposal will cause further congestion and compromise highway safety.
- 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
- Will pollution be monitored?

Other Issues

- This application for a smaller store is simply a stepping stone to the larger scheme previously refused which included a petrol filling station. It would be very difficult for the Council to resist such a proposal if it approves this one.
- The transfer of the existing business on the site to the Enterprise Park should not be used to justify this proposal.
- What guarantee is there that Dales will expand and relocate?

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 assumption in the retail statement supporting the application that the Co-Operative is overtrading is incorrect.
- The role that the Co-Operative plays as a main food destination has been underestimated in the applicant's retail study.
- The majority of the respective stores' trade will consequently be drawn from the same catchment area and consequently there will be greater competition between the two than is suggested by the applicant's retail study.
- The Co-Operative is currently rolling out a programme of refurbishment across the country. If planning permission is granted for this proposal it may cause them to re-consider plans for their Leominster store.

- 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 amount of linked trips suggested in the retail study is unrealistic given the distance of the application site from 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 Council's 2012 Town Centre Study identifies limited capacity for convenience expenditure (up to 1,938 square metres at 2021). The proposal exceeds this and it is considered that there is insufficient capacity to support the application.
- 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.
- Additional food store development should be provided for at an in-centre location in accordance with local and national policy.
- 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.
- Wm Morrison is not overtrading to the extent suggested by the applicant's retail study.
- 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.
- The development is in an unsustainable location which is likely to increase reliance on the private car, and should be refused on highway safety grounds.

5.10 An objection has also been lodged by Morbaine Limited, the applicant for the site for a supermarket on Southern Avenue. In summary the points raised are as follows:

- The revised proposal simply removes the petrol filling station and residential elements and reduces the size of the store. It is a 'red herring' to improve the prospects of securing consent with a view to re-visiting the original proposal and re-introducing those elements that were previously considered to be unacceptable.
- The provision of 242 parking spaces, well in excess of the 163 that would be required by the Council's own design guide is a further indication of an intention to increase the size of the store at a future date.
- The removal of the petrol filling station directly impacts upon the commercial viability of the proposal. The scheme is unlikely to be delivered without a petrol filling station and the fact that Sainsburys are no longer indicated as an end user is further evidence of this.
- The distance of the site from the town centre, the physical barrier of the main road, indirect walking route and poor legibility lead to the conclusion that the site is not well connected to the town centre and that the proposal would not generate linked trips.
- There is no evidence to suggest that the proposal will generate significantly more linked trips than the proposal for Southern Avenue.
- The level crossing will be closed for nearly 17 minutes per hour once Network Rail have implemented their planned improvements in 2015.
- Any increase in traffic movements will worsen the problem of traffic queuing over the level crossing.

- 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.

5.11 Forty three letters of support have been received. In summary the points raised are as follows:

- The site is within walking distance of the town centre.
- 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.
- Failure of the town to attract custom is due to a lack of understanding of what customers want.
- Must allow Leominster to develop and grow, just as the re-development of the Old Market site in Hereford has. Concerns about the impact on Hereford town centre have not come to fruition and the same will be the case for Leominster.
- The scheme will meet extra demand likely to arise from further housing development.
- The scheme will bring new jobs to the area.
- The re-development of the Mill Street site will help Dales in their plans to re-locate and grow their business.
- A large number of people travel to supermarkets in Hereford. A new supermarket in Leominster will reduce this trend and would be more sustainable.

5.12 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 As outlined in the site history above, this proposal is a resubmission following the refusal of a hybrid application for a retail food store and petrol filling station, and outline proposals for residential development on 8 January 2014. The current scheme is significantly different, now simply being a proposal in outline for a food retail store. Although outline, the proposal indicates that the gross floor area would be 3,545 square metres, with a net retail floor area of 2,323 square metres. This represents a halving of the net retail floor area previously proposed. The petrol filling station is no longer included in the scheme. The outcome of this proposal will logically depend on whether the reasons previously given in the refusal of the first application are addressed by the changes made to the scheme.

6.2 For the sake of consistency, the Council has again commissioned Deloitte to provide independent advice in respect of the retail impact assessment submitted by the applicant. They have previously been engaged by the Council to complete the Town Centre Study Update which forms part of the evidence base for the Core Strategy. Their advice covers the following matters:

- The impact of the proposal on the vitality and viability of Leominster town centre;
- Whether there are sequentially preferable sites that could meet the identified need for additional retail floorspace within Leominster;
- The likelihood or otherwise of linked trips to the town centre;

- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.

The report will consider each of these matters in turn, as well as other matters that are material to the determination of the application.

Impact Upon the Vitality and Viability of the Existing Town Centre

- 6.3 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 |
| 2031 | +2,571 to +5,912 |

- 6.4 Although the application is made in outline, the submission gives a clear indication that the retail store would have a net floor area of 2,323 square metres, of which 1,858 square metres will be dedicated to the sale of convenience goods. This falls well within the capacity identified for the next 10 years and is considered to represent proportionate growth within the retail sector for Leominster when compared with projected population growth within the same catchment area.
- 6.5 Deloitte's advice to the Council accepts the methodology used by the applicant's retail consultant. There is agreement that Morrisons, Aldi and the Co-Op are all trading above company benchmarks and that Leominster town centre is in a good state of health. The key indicator for this is the fact that the town centre has a low vacancy rate below the national average.
- 6.6 The Town Centres Study update demonstrates that Leominster has capacity for additional convenience goods floor space and the report from Deloitte confirms this to be the case. The situation regarding the need for comparison goods floor space is less positive with a net reduction of 318 square metres perceived at 2016 and a modest increase of 252 square metres anticipated by 2021.
- 6.7 Deloitte's advice concludes that in the context of surplus expenditure capacity and the existing food stores trading well, the consequences of any trading impact from a new food store would be less than it would otherwise have been. They advise that the quantitative trade impact findings of the applicant's retail study must be treated with caution but, even allowing for some margins of error, it is clear that the trade diversions and impacts on town centre shops are likely to be relatively modest in quantitative terms.
- 6.8 It is therefore your officer's view that, in isolation, the town centre quantitative impacts need not necessarily be of major concern and that capacity for a new food store of the size proposed by this application is justified. The impacts are however, of a scale that requires consideration of related qualitative matters and these will be assessed in the following sections of this report.

Sequential Testing

- 6.9 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 and the Government's more recent Planning Practice Guidance, published earlier this year. Both maintain 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 HUDP 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.

- 6.10 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 three alternative sites and these are listed below:
- 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.
- 6.11 The sites are all, at least in part, within the ownership of the Council. The applicant's retail study comments 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 and previously accepted by officers.
- 6.12 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. However, the Council's Property Services Manager has confirmed that there is no intention to sell the land. Whilst a detailed feasibility study may well demonstrate that the site is capable of development and providing a store with a comparable retail floor area to the development proposed, it is clear that the site is not currently available. A further prohibitive factor to its development would be the need to relocate the fire station.
- 6.13 In the absence of sites that are either in or on the edge of the town centre a judgement must be made as to whether the application site is the 'next best' sequentially. The previous application did raise technical objections that ultimately led to the inclusion of specific reasons for refusal based on highway safety and potential impact of the petrol filling station on a Secondary Aquifer. In accordance with advice contained within Planning Practice Guidance the applicants have taken a flexible approach to the format and scale of the proposed development. It is now half the size and no longer includes a petrol filling station. If such technical objections can be met then the site may be sequentially preferable. These matters will be considered later in this report.

- 6.14 It is accepted that the Mill Street site is out-of-centre. However, further investigation has led officers to conclude that there are no other sites in closer proximity to the town centre that are available, or of a size that could feasibly accommodate further retail development of a similar scale to that proposed and it is therefore concluded that it is the most sequentially preferable site for a development of the scale proposed.

Linked Trips

- 6.15 Both the Town Centre Study update and Draft Herefordshire Local Plan refer to the possible opportunity for a new food store within Leominster town centre. The function of a town centre store would be to attract additional shopper footfall to the town centre and provide spin-off trade for some existing shops to offset the impact on others – the concept that shoppers would make one ‘linked’ trip to access a number of facilities.
- 6.16 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 to the diversity of the goods and services that it seeks to provide
- 6.17 The report from Deloitte questions the measurements given in terms of the distance of the proposal from the town centre, suggesting that it should be taken between the entrance to the store and the closest point of the Primary Shopping Frontage. They consider that the proposal is 530 metres walking distance from the Primary Shopping Frontage, and not the 350 metres quoted in the applicant’s retail study.
- 6.18 The advice from Deloitte goes on to refer to the definition given in the NPPF of an edge-of-centre site, which considers a location of up to 300 metres from the primary shopping frontage to be well connected. Deloitte’s view is that this is a distance that is considered to be a reasonable walking distance. They note that, based on their assessment, the site is well in excess of this.
- 6.19 The report does go on to acknowledge that shoppers diverted from Morrisons would be more likely to make a visit to the town centre than is currently the case whilst shopping at Morrisons, it is assumed because the site is significantly closer to the town centre. However, the report concludes that the number of shoppers at the proposed store and walking to the town centre would be limited.
- 6.20 The previous section of this report concluded that there are no sites that are either feasible or available within or on the edge of the town centre, and therefore any future food retail development is likely to be located out-of-centre. The applicant’s agent has confirmed that they are willing to enter into a Section 106 Agreement and make contributions towards the improvement of pedestrian links between the site and town centre. They also point out a willingness to provide a controlled pedestrian crossing on Mill Street through a Section 278 Agreement.
- 6.21 Officers are of the opinion that the site is sufficiently close to the town centre such that measures employed to improve its connectivity will have a meaningful effect and will serve to provide some mitigation of the impacts of the development on the town centre. A condition could also reasonably be imposed to restrict certain non-food retail activities such as the provision of a pharmacy, dry cleaning services or postal services. A condition of this nature was most recently imposed on the planning permission for Aldi in Ross on Wye, the reason being specifically related to the protection of the vitality and viability of the town centre in accordance with policies TR1 and TCR2 of the HUDP.

- 6.22 Pedestrian routes to the town centre are logical and, subject to improvements that can reasonably be secured through Section 106 contributions, would be desirable. Subject also to the condition referred to above, the proposal could positively provide the opportunity for linked trips to be made and thus mitigate the impact upon the viability and vitality of the town centre. On this basis it is considered that the proposal accords to the NPPF and Policies TCR1, TCR2 and TCR9 of the HUDP.

Impact Upon Heritage Assets

- 6.23 Leominster's town centre is designated as a Conservation Area and contains many listed buildings. Intrinsic to its character are the retail uses. If retail uses are unacceptably impacted as trade is drawn away from them by 'one stop' retail developments, there is likely to be a consequential impact on the maintenance of premises to their detriment and that of the conservation area. Concerns were previously raised that the earlier scheme would result in such impacts and this formed a specific reason for refusal. In light of the fact that officers are now satisfied that the impact of this much reduced proposal on the vitality and viability of the town centre can be mitigated by improving connectivity and limiting the services to be provided through the imposition of a restrictive condition, they are consequently satisfied that the previous reason for refusal is met, and that the proposal now accords with the NPPF and Policy S7 of the HUDP.
- 6.24 The Poplands is a Grade II listed building that sits next to the site. It is a timber framed building which fronts onto Mill Street and is particularly prominent when passing along Mill Street in a westerly direction. Its existing setting is seen in the context of the large industrial building and areas of hard standing. The proposal would see development moved further away and, subject to the detailed design of the food store, its setting would be improved. It should be noted that the previous substantial scheme with petrol filling station raised no objections from the Conservation Manager (Historic Buildings) with the comment that improvement to the setting could be achieved. English Heritage also raise no objections. The proposal therefore is considered to accord with Policy HBA4 & 6 of the HUDP.

Highway Safety and Sustainability

- 6.25 The potential for the development to have a detrimental impact upon highway safety is one of the key issues arising from public consultations; and particularly the perceived likelihood of traffic queuing back along Mill Street and obstructing the level crossing. This was one of the reasons for the refusal of the previous application.
- 6.26 The application is accompanied by a Transport Assessment which has been amended since the first application to take account of the fact that the proposed retail food store has been reduced in size by half, that the petrol filling station has been removed from the scheme and also that it no longer includes residential development of the land to the rear. It also takes full account of the fact that changes are proposed to the barrier system for the level crossing which will see the frequency and length of time that the barriers are closed increased – up to 8 times an hour for a period of up to 2 minutes.
- 6.27 The proposal includes detailed plans for a new junction to access the site. A four arm roundabout serving B&Q and the proposed development on Mill Street would be constructed with a controlled pedestrian crossing to the west of the roundabout.
- 6.28 Traffic modelling is based on comparative developments elsewhere across the country from the TRICS database. Survey data is available for each hour of the day, and for supermarket developments the peak hour is commonly used, to reflect the time when the development will have the greatest effect on the local highway network. The trip rates are commonly expressed in trips per 100 m², which can be factored to give the actual trips. This in turn is used to model the network and junctions to estimate the effect of the development on the network.

6.29 The conclusion of the Transport Assessment is that the increases in traffic movements can be safely accommodated within the road network. This factors in the junction modifications proposed and the increased periods for the closure of the level crossing. Both Network Rail and the Highways Agency have been consulted and neither has raised any objection. Network Rail have requested the imposition of a condition requiring that the food store should not be opened until such time as the new barrier system has been installed. This is to be implemented during 2015 and the applicant's agent has confirmed that they would be content with the imposition of such a condition.

6.30 Paragraph 32 of the NPPF is key to the highway impact debate where it states:

Plans and decisions should take account of whether improvements can be undertaken within the transport network that cost effectively mitigate the significant impacts of the development. Development should only be presented or refused on transport grounds where the residual cumulative impacts of the development are severe.

6.31 On the basis of the revised Transport Assessment and the changes to the junction layout the Council's Transportation Manager is now content that the proposal is acceptable on highway safety grounds. The impacts of the proposal can be mitigated and the cumulative impacts are not deemed to be severe. The proposal therefore accords with the NPPF and Policies DR3 and T8 of the UDP.

6.32 The site is well related to existing residential areas to the north and west. Their proximity offers a real opportunity for residents to have ready access to the site by foot. The indicative layout shows the provision of a pedestrian link through to Ridgemoor Road and, should planning permission be granted, it is recommended that it is required through the imposition of an appropriately worded condition. On this basis the proposal offers an opportunity for vehicle movements to and from the site to be reduced and, although an out-of-centre, is a sustainable location in other respects. The proposal therefore accords with the NPPF and Policies S1, S2 and S6 of the UDP.

Loss of Employment Land

6.33 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.

6.34 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.

6.35 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.

Flood Risk

- 6.36 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.
- 6.37 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.
- 6.38 Some objections have questioned whether the applicant has properly applied a sequential test in respect of flooding. There are comparisons to be drawn between the sequential test required as part of the retail assessment. The NPPF is clear that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
- 6.39 The site at Broad Street that is identified in the Town Centre Study update is similarly in Flood Zone 3 and, were it available, would be the most sequentially preferable in terms of retail assessment. The only other site that has been identified is that at Southern Avenue, but it has previously been considered to be unsustainably located and would result in the loss of employment land. Therefore it is considered that there are no other sites available and that the application site meets the sequential test.
- 6.40 The Environment Agency has not raised an objection to the application in respect of flood risk. The use is one that is considered 'less vulnerable' in flood risk terms and can be accommodated on sites in Zone 3a. However, they do note that the existing flood defences only provide a 1 in 50 year standard of protection, a point that is also acknowledged in the applicant's FRA. The site, and the surrounding residential area, would benefit from increased levels of protection and therefore the response from the Environment Agency recommends that a financial contribution of £20,000 is sought to be put towards a scheme for the improvement of flood defences. This is considered to be reasonable, necessary and relevant to the application and is considered to accord with the NPPF as it will offer an opportunity to reduce the causes and impact of flooding. As a result the proposal is also considered to be compliant with Policy DR7 of the HUDP.

Other Issues

- 6.41 Some concerns have been raised that the application is simply a stepping stone and that, should planning permission be granted, the local planning authority can expect a further application for a larger retail store that it will find difficult to resist. This is not material to the determination of this proposal. It must be judged on its own merits, as should any future applications, either for this site or others.
- 6.42 The applicant has confirmed their agreement to the Heads of Terms, a copy of which is appended to this report. In summary, this covers the improvement of sustainable transport infrastructure amounting to £798,081, a contribution of £100,000 for public realm

improvements, £25,000 for CCTV improvements within the locality of the site and £20,000 for flood defence improvements. A full copy of the Heads of Terms is appended to this report.

Conclusion

- 6.43 In summary, officers are contented that there is quantitative capacity for additional retail floor space of the scale proposed within Leominster. This is demonstrated through the surplus expenditure capacity within the catchment area and by virtue of the fact that existing retail stores are all performing in excess of their company benchmarks.
- 6.44 Officers are satisfied that the site is sequentially preferable in terms of retail impact and that no other sites are available or feasibly capable of development within or on the edge of the town centre. It is accepted that the site is in an out-of-centre location, but the application demonstrates that improvements can be made to increase the possibility for linked trips to be made. This will serve to mitigate the impact of the development upon the vitality and viability of the town centre and in turn will also help to ensure that the value of the conservation area and its listed buildings are not eroded. The application also demonstrates through the completion of a Transport Assessment that there is sufficient capacity within the highway network to accommodate the development and, whilst there will inevitably be some impacts through increased traffic movements, these can be mitigated through improvement works and are not considered to be so severe to warrant the refusal of the application in their own right. The proposal also demonstrates that it will not give rise to increased flood risk but offers an opportunity to improve local flood defences to the benefit of the site and wider residential area.
- 6.45 It is therefore concluded that the proposal accords with the guiding principles of the NPPF and the relevant policies of the Herefordshire UDP. It represents a sustainable form of development and subject to detailed design represents an enhancement on heritage assets. In addition its impacts can be mitigated through the imposition of appropriately worded conditions. Subject to the completion of a Section 106 Agreement in accordance with the Draft Heads of Terms appended to this report, the application is recommended for approval.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:

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. **The Class A1 food retail store shall be used for the retail sale of food within Class A1 of the Town and Country Planning (Use Classes) Order, 1987 only, except where the retail sale of non-food goods forms a minor and ancillary part of the operation of any of the retail activity but shall not include the following:**
 - i) **a pharmacy and sale of pharmaceutical goods**
 - iii) **reception of goods for dry cleaning**
 - iv) **a post office**

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

Reason: To define the terms of the permission and to protect the vitality and viability of the town centre in accordance with Policy TCR2 of the Herefordshire Unitary Development Plan 2007.

- 6. The loading and unloading of service and delivery vehicles, together with their arrival and departure from the site shall not take place outside the hours of 0700 to 2100 hours Mondays to Saturdays and 0900 to 1800 hours on Sundays, Bank and Public Holidays.**

Reason: To protect the amenities of neighbours, so as to comply with Policy DR13 of the Herefordshire Unitary Development Plan 2007.

- 7. H17 Junction improvement/off site works**

- 8. Prior to the commencement of the development hereby approved the applicant or any successor in title shall enter into an agreement under Section 278 of the Highways Act 1980 to determine the extent and precise details of highway improvement works required along the A40. The works as approved shall be completed in accordance with a timetable to be submitted to and agreed in writing by the local planning authority.**

Reason: In order to provide an appropriate means of access to the site and to comply with Policies H13 and T8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 9. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: To ensure that potential contamination of the site is satisfactorily assessed and to comply with Policy DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 10. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme**

including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: To ensure that potential contamination of the site is satisfactorily assessed and to comply with Policy DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved the precise route of public footpath ZC143 shall be agreed in writing with the Council's Public Rights of Way Manager to the written satisfaction of the local planning authority.

Reason: To ensure that the public right of way is not obstructed and to conform with the requirements of Policy T6 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

12. Finished floor levels shall be set at 70.99mAOD and the car parking area at 70.84mAOD as confirmed in JBA's Addendum to Mill Street FRA (Ref: 2013s7475 dated 6 May 2014) unless otherwise agreed in writing by the LPA.

Reason: To help protect the development from flooding during breaches of the flood defences and ensure flood risk elsewhere is not increased over the lifetime of the development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

13. Prior to the first occupation of the development hereby approved a Flood Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority in consultation with the Council's Emergency Planning Officer. The Plan shall include full details of proposed procedure for evacuation of persons and property (including vehicles). It shall also include a commitment to retain and update the Plan and include a timescale for revision of the Plan.

Reason

14. No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved, in writing, by the local planning authority:

1) A site investigation scheme, based on the submitted report (Ref: CC1189/SSII/REP07 Rev A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2) The site investigation results and the detailed risk assessment and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in risk assessment are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.

4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy. The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of

pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and to comply with Policy DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 15. If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.**

Reason: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and to comply with Policy DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework .

- 16. No development shall take place until a monitoring scheme is submitted to and approved in writing by the Local Planning Authority, in consultation with the Environment Agency, having regard to the reports listed above. The scheme shall include:**

**frequency and location of monitoring;
method and nature of sampling including analysis suite (determinands). Thereafter monitoring shall be carried out pre, during and post development and reviewed in accordance with the approved scheme.**

Reason: To prevent any deterioration of ground or surface waters ('controlled waters' as defined under the Water Resources Act 1991) and to comply with Policy DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 17. If the monitoring scheme approved under condition 16above shows any adverse risk of deterioration to water features (groundwater and surface water quality) proposals:**

- 1. to investigate the cause of deterioration**
- 2. to remediate any such risks**
- 3. to monitor and amend any failures of the remediation undertaken;**

shall be submitted to the Local Planning Authority for their approval in consultation with the Environment Agency.

Reason: To prevent any deterioration of ground or surface waters ('controlled waters' as defined under the Water Resources Act 1991) and to comply with Policy

DR10 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 18. The development hereby approved shall not be brought into use until the planned works by Network Rail to installed new barriers at the level crossing on Mill Street have been completed.**

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 19. No external lighting shall be installed upon the site (including upon the external elevations of the building) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.**

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 20. Prior to the commencement of development a scheme of noise attenuating measures shall be submitted to and be approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the first occupation of the development hereby approved and the measures shall be retained for the duration of the use. The scheme shall consider amongst other measures, the operation of any outdoor equipment or machinery, including extraction/ventilation systems, deliveries to site, opening hours and impact on customer traffic all at neighbouring properties.**

Reason: To safeguard the character and amenities of the area and to comply with Policy DR13 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 21. L01 Foul/surface water drainage**

- 22. L02 No surface water to connect to public system**

- 23. L03 No drainage run-off to public system**

- 24. The recommendations set out in Section 6 of the ecologist's report from Landscape Scientific dated March 2014 should be followed in relation to the identified protected species. Prior to commencement of the development, a full working method statement and habitat enhancement plan should 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 should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

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 and NC7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing this proposal against planning policy and other material considerations. 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. The Applicant/future occupiers should contact 08708 506506 to be set up on our flood warning system. In preparing the evacuation plan the applicant should have note to the FRA. Contact with the Environment Agency would enable the provision of the most up to date, best available, flood information.
3. Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 7 metres of the top of the bank of the River Lugg, designated a Main River or within this distance of a formal flood defence structure.
4. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

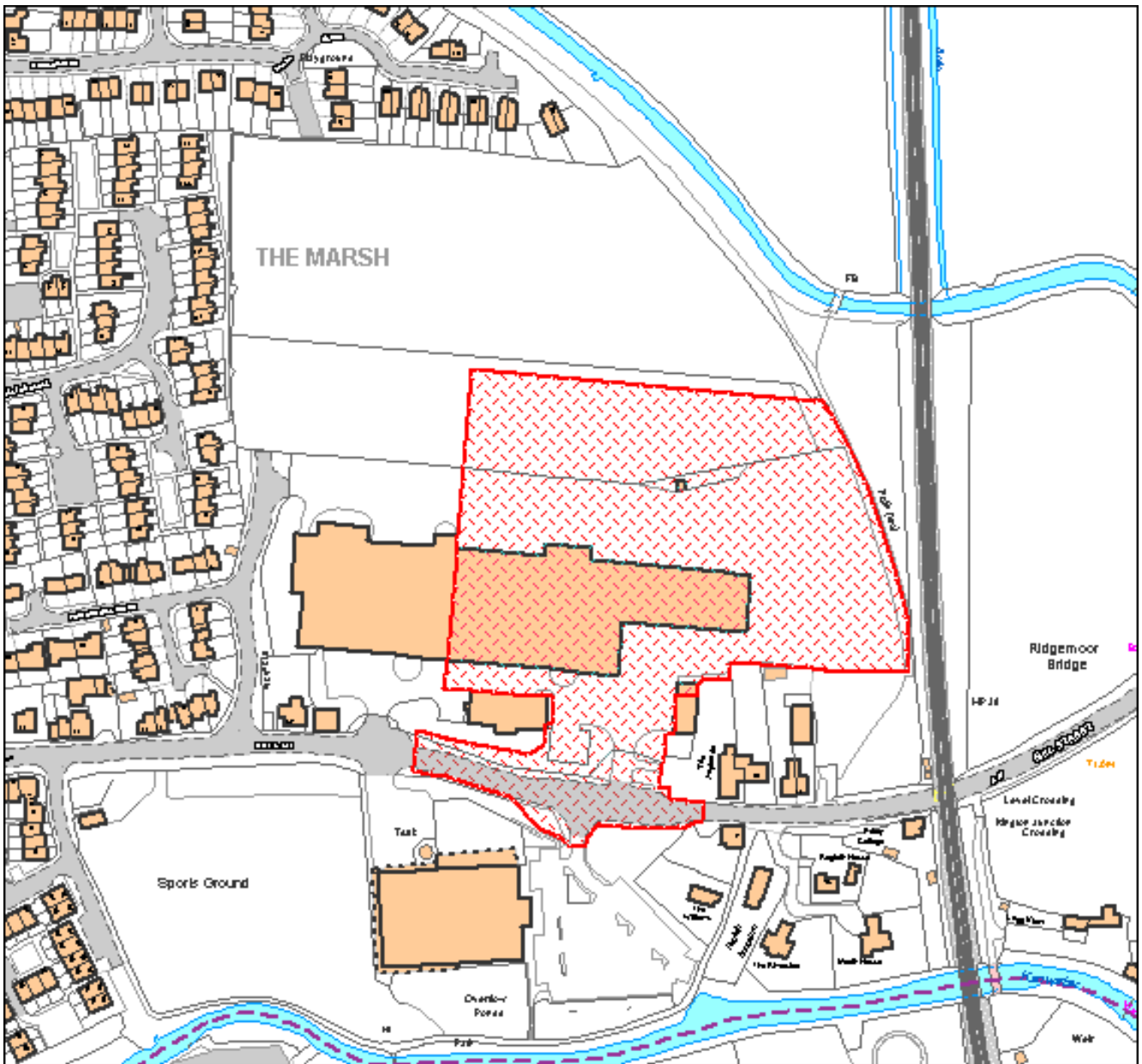
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 140910/O

SITE ADDRESS : LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8EF

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

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

This document has been prepared against the criteria set out in the Supplementary Planning Document on 'Planning Obligations' which was adopted in April 2008.

Application number: P140910/O

Proposal: Outline application for the part demolition of existing buildings and structures and development of the site to provide a retail store (Use Class A1) and associated works and improvements including access.

Site: Land at Mill Street Leominster Herefordshire HR6 8EF

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£798,081.00** to provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

Walking and cycling Infrastructure

- Improvements to pedestrian linkage routes 1, 2 and 3 identified in appendix C of the Cambria Constructive Thinking Highway Safety Report (CC1189/HSR/REP08/A) @ £40,000.00
- The provision of a cycle link from Mill Street to Broad Street car park with new bridge over the Kenwater (possibly between Paradise Court and Broad Street car park). This will provide a link via the Priory through to Pinsley Road and Leominster Station. This would also provide a contraflow route to Broad Street for the National Byway through the town @ £200,000.00 + footway links £15,000.00
- The extension of last section of the current shared use path on A49 from Kimbolton (A4112) through to Mill Street including crossings at the OK Diner roundabout @ Cost requested
- The provision of a cycle contraflow to Broad Street @ £35,000.00
- The provision of a shared use path along the line of the disused railway line (the site itself does include a section along the eastern boundary). This would link the level crossing with the residential area to the north (Upper Marsh) @ £500,000.00

Bus Infrastructure

- The provision of a dedicated bus service or a possible diversion of bus service 402 to serve the site @ £125,000.00 for 3 years
- The provision of new bus shelters and raised kerbs to be provided at Mill Street, Brook Hall and Ridgemoor @ £60,000.00

Note: The requirement for a pedestrian crossing on Mill Street and a pedestrian route to the Ridgemoor Estate will be a condition of any planning permission

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£100,000** to provide public realm improvements which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. The monies shall be used by Herefordshire Council for improvements to the public realm to include physical improvements to the town centre such as street furniture, resurfacing, signage, improved shop frontages and the promotion of the town centre as a shopping and tourist destination. The sum shall be paid on or before the commencement of the development and may be pooled with other contributions as appropriate. The money will be administered by Herefordshire Council and/or another appropriate agency such as Leominster Area Regeneration Company (LARC).
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£25,000.00** to be used for provision of CCTV coverage in the vicinity improvements which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£20,000.00** to maintain the existing flood defences which currently protect the site to a 1 in 50 year standard; increase the standard of the Lugg defences at this location which will benefit the proposed development; contribution towards the Environment Agency flood warning system. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to construct the development to BREEAM Retail Standard of Very Good that is applicable at the time of the commencement of construction. Independent certification shall be provided prior to the commencement of the development and prior to first use of the store confirming compliance with the required standard.
6. In the event that Herefordshire Council does not for any reason use the sum in paragraph 1, 2, 3 and 4 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
7. The sum referred to in paragraph 1, 2, 3 and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any 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 this 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 the commencement of the development.

9. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman – Planning Obligations Manager – 27 June 2014



| | |
|-------------------------|---|
| MEETING: | PLANNING COMMITTEE |
| DATE: | 24 SEPTEMBER 2014 |
| TITLE OF REPORT: | P141281/O - SITE FOR CLASS A1 FOODSTORE WITH PETROL FILLING STATION AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF For: Morbaine Limited, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141281&search=141281 |

Date Received: 30 April 2014

Ward: Leominster South

Grid Ref: 350133,258042

Expiry Date: 7 August 2014

Local Members: Councillors JM Bartlett and PJ McCaull

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 three sides by public highways; beyond which are a series of individual commercial units. Adjoining 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. These are currently used by a number of smaller local businesses.
- 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. Although in

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

outline the proposal is specific about the size of the store, amounting to a gross internal floor area of 3,294 m², with a net retail floor area of 2,323 m². 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 two refurbished industrial units will continue to be served by accesses onto Brierley Way.

1.6 The layout is indicative and shows the petrol filling station prominently located in the north eastern corner of the site, with a 195 space car park behind. The retail store is positioned towards the southern boundary with a service access off Enterprise Way. The submission includes indicative elevations of the proposed retail store and shows a contemporary design with a building finished in a combination of timber cladding and glazing in aluminium frames.

1.7 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

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

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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. Planning History

- 3.1 123317/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

The application was reported to Committee on 8 January 2014 and was 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.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water – No objection subject to the imposition of conditions to ensure that foul and surface water are drained separately from the site.
- 4.2 Environment Agency – No objection subject to the imposition of conditions.

Internal Council Advice

- 4.3 Transportation Manager – No objection subject to the imposition of conditions.
- 4.4 Conservation Manager (Ecology) – No objection subject to the imposition of conditions.

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

5. Representations

- 5.1 Leominster Town Council – The Town Clerk reported that advice had been received that the looked for consultees' reports had not been lodged but that the planning officers advised that the town council could still make comments. This was debated and the advice accepted.

No further evidence was taken from the applicants or the objectors and the matter was debated on the evidence received and the information available on the Planning Authority site. Considerable concern was expressed to the Planning Authority that not all the information was available in time. Chair reminded committee of the reasons why the first application had been refused planning permission. The site and development details and the issue of jobs were all debated then Resolved: by 6 to 3 that the application should be supported.

- 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 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.
- Consequent risk to Leominster's attraction as a tourist destination.
- Concern that the proposal would lead to a loss of existing employment from town centre shops.
- The proposal will result in the loss of high quality employment land.
- Unsustainable location
- The introduction of a further roundabout and additional traffic will impede traffic flows at peak times.
- The site has an acknowledged flood risk. Large volume of building proposed can concerned that new development in Leominster should not cause flooding further downstream.

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

- Although the proposal is smaller than previously submitted it is still a large retail development outside of the designated town centre and contrary to policy.
- The store is out-of-town. A considerable number of visits to a new store would be trips diverted from the town centre. There is no evidence to suggest that shoppers would walk or drive to use town centre shops.
- It is unlikely that much more than 10% of visits to the new store will be new trips from outside the Leominster area.
- A loss of footfall would cause town centre businesses to close, resulting in a loss of employment and revenue within the town.
- The effects of increased traffic associated with the proposed A44/A49 link road have not been properly considered.
- Concerns about the effects of increased run off from the site and the burden of an increase volume of waste water on the sewage treatment works.

- 5.5 Forty eight 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 two 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. Reduced footfall will cause businesses to close and employment to be lost.
- 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.
- Will damage community spirit.
- The proposal would have a positive impact as it would encourage more people to shop locally.

5.6 Twenty nine 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 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 provision of free parking represents an unfair trading advantage which shops in the town centre cannot offer.
- The retail impact will be greater than the applicant's assessment predicts.
- The retail impact assessment contains misleading information. The Co-Op car park is not pay and display and the number of check-outs in the store is incorrectly numbered.
- The site is zoned for industry and its loss would set a dangerous precedent.
- Businesses presently occupying the industrial buildings on the site that are proposed to be refurbished will be forced to relocate when it may no be financially viable for them to do so.

Impact on heritage assets

- Untenanted business premises would lead to buildings falling into disrepair.
- Lack of repair of listed buildings in the town centre will impact detrimentally upon its status as a conservation area.

Flood risk

- The proposal will impact upon flooding issues as a result of further surface water run-off.

Highway matters

- The scheme would increase traffic, causing congestion and impacting upon highway safety around local schools, the leisure centre and hospital.
- The proposal is unsustainable due to its out of town location and it would increase car dependency, contrary to the National Planning Policy Framework and the Herefordshire Unitary Development Plan.

Other issues

- This application for a smaller store is simply a stepping stone to the larger scheme previously refused. It would be very difficult for the Council to resist such a proposal if it approves this one.
- The application is an attempt to wear down opposition and there is little difference to the scheme previously refused.
- Approval of this scheme is likely to lead to increased pressure for further retail development along Southern Avenue.

5.7 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 retail assessment arbitrarily assumes that the store will trade at an 85% of average benchmark figures, intended to reflect local market conditions. This is a highly unusual approach and it is suggested that the Council should be cautious about accepting such an approach.
- Discounting sales density in this way is inconsistent with the evidence presented that existing food stores in Leominster are all over-trading. If this is the case why would a new store expect to be under-trading?
- It is considered that the retail assessment under-estimates the trade draw from Leominster town centre and that the proposed food store would compete to a greater degree with existing stores within Leominster.
- It is unrealistic to assume that less than 3% of the trade draw to the proposed store would be from Co-op when that store has a market share of 8% of turnover in Leominster.
- It is more realistic to expect the development to have an overall impact on the 2019 turnover of Leominster town centre of 12%, rather than the prediction in the retail assessment of 4%.
- 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 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.

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

- The application site is allocated in the adopted UDP under saved Policy E5 '*Safeguarding Employment Land and Buildings*' and the food store proposal is clearly contrary to development plan policy.
- The local planning authority should be completely satisfied that the applicant has fully assessed the sequentially preferable Broad Street Car Park site, and that the reasons given for the dismissal of the site are sound.
- The application site is out-of-centre with little prospect of encouraging linked trips to Leominster town centre.
- The development is likely to result in detrimental impact upon the performance of the existing food retail facilities in Leominster, many of which are located in the centre. This will lead to an adverse impact on the vitality and viability of the town centre as a whole, and on Barons Cross Local Centre.

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 Twenty two 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 As outlined in the site history above, this proposal is a resubmission following the refusal of a similar application for a retail food store and petrol filling station on 8 January 2014. The current scheme sees a reduction in floor area from the previously refused scheme from a gross area of 4,180 square metres to 3,294 square metres, with a net retail floor area reduced from 2,926 square metres to 2,323 square metres. The outcome of this proposal will logically depend on whether the reasons previously given in the refusal of the first application have been addressed.

6.2 For the sake of consistency, the Council has again commissioned Deloitte to provide independent advice in respect of the retail impact assessment submitted by the applicant. They have previously been engaged by the Council to complete the Town Centre Study Update which forms part of the evidence base for the Core Strategy. Their advice covers the following matters:

- The impact of the proposal on the vitality and viability of Leominster town centre;
- Whether there are sequentially preferable sites that could meet the identified need for additional retail floorspace within Leominster;
- The likelihood or otherwise of linked trips to the town centre;
- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.

The report will consider each of these matters in turn, as well as other matters that are material to the determination of the application.

Impact upon the vitality and viability of the existing town centre

- 6.3 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 |
| 2031 | +2,571 to +5,912 |

- 6.4 Although the application is made in outline, the submission gives a clear indication that the retail store would have a net floor area of 2,323 square metres, of which 1,858 square metres will be dedicated to the sale of convenience goods. This falls well within the capacity identified for the next 10 years and is considered to represent proportionate growth within the retail sector for Leominster when compared with projected population growth within the same catchment area.
- 6.5 Deloitte's advice to the Council accepts the methodology used by the applicant's retail consultant. However, they do query the extent of the trade diversion from Aldi; considering it to be somewhat high, and correspondingly view the trade diversion from the Co-Op to be low. Notwithstanding, the consensus is that both are trading above company benchmarks. The Deloitte report similarly concurs with the views expressed in the applicant's retail study that Morrisons is currently trading above its company benchmark and that Leominster town centre is in a good state of health. The key indicator for this is the fact that the town centre has a low vacancy rate below the national average.
- 6.6 The Town Centres Study update demonstrates that Leominster has capacity for additional convenience goods floor space and the report from Deloitte confirms this to be the case. The situation regarding the need for comparison goods floor space is less positive with a net reduction of 318 square metres perceived at 2016 and a modest increase of 252 square metres anticipated by 2021.
- 6.7 Deloitte's advice concludes that in the context of surplus expenditure capacity and the existing food stores trading well, the consequences of any trading impact from a new food store would be less than it would otherwise have been. They advise that the quantitative trade impact findings of the applicant's retail study must be treated with caution but, even allowing for some margins of error, it is clear that the trade diversions and impacts on town centre shops are likely to be relatively modest in quantitative terms.
- 6.8 It is therefore your officer's view that, in isolation, the town centre quantitative impacts need not necessarily be of major concern and that capacity for a new food store of the size proposed by this application is justified. The impacts are however, of a scale that requires consideration of related qualitative matters and these will be assessed in the following sections of this report.

Sequential Testing

- 6.9 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 and the Government's more recent Planning Practice Guidance, published earlier this year. Both maintain 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,

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

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.

6.10 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:

- 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.

6.11 The first three sites are all, at least in part, within the ownership of the Council. The applicants 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.

6.12 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. Whilst a detailed feasibility study may well demonstrate that the site is capable of development and providing a store with a comparable retail floor area to the development proposed, it is clear that the site is not currently available. A further prohibitive factor to its development would be the need to relocate the fire station.

6.13 The site at Mill Street is, like the site that is the subject of this application, in an out of centre location. The Council has previously considered and refused an application for a retail food store and is again asked to determine an application for retail development on the site by a separate applicant in parallel with this application. Notwithstanding its out-of-centre location, the site has its own technical constraints, most notably that it is situated within a Flood Zone 3 and that it is located in relative proximity to a level crossing.

- 6.14 The applicant's retail study notes that the previous application for the Mill Street site was refused on highway safety grounds related to the capacity of Mill Street and its ability to absorb additional traffic associated with the proposed retail use. It also highlights the fact that the site is in Flood Zone 3, whilst the application site is in a lower risk Flood Zone 2, and that the Environment Agency objected to the application on Mill Street. The retail study also considers that the site at Mill Street lacks connectivity to the town centre and that its distance and unappealing quality of routes to it indicate that the Mill Street site cannot be considered as 'well connected' to the town centre as the NPPF envisages. It is concluded that in this regard there is little material difference between the two sites.
- 6.15 Your officers previously expressed the view that they considered the site at Mill Street to be sequentially preferable to the application site, and this remains their opinion. The comparison between this application and the scheme that was refused is not an appropriate one to make. The scheme refused for Mill Street was for a food store with a net retail floor area of 4,645 square metres. Advice contained within Planning Practice Guidance suggests that applicants look at the scope for flexibility in the format and/or scale of their proposals when considering other sites. It is not necessary to demonstrate that a potential alternative site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal. The inference of this is that the sequential test considers the development of alternative sites for a proposal of a similar or smaller size not; as the comparison is being drawn in this case, for a store that is twice as large and that included a petrol filling station.
- 6.16 As stated previously, it is accepted that the Mill Street site is out-of-centre. However, its connectivity to the town centre is more a matter of judgement. It is closer to the town centre than the application site and 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 implemented their planning 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.
- 6.17 The technical reasons for the refusal of the application; those relating to flooding and highway safety, are not properly assessed in the sequential test. A flexible approach might include the removal of a petrol filling station from the scheme. This would address one of the reasons previously given in the refusal of the application at Mill Street. Similarly the combined result of a smaller net retail floor area similar to that proposed (2,323 square metres), and the absence of a petrol filling station may lead to a different conclusion in terms of highway safety. The fact that this sequential test fails to assess this proposal in terms of its suitability at the Mill Street site leads your officers to conclude that it 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.
- 6.18 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. The technical matters of flood risk and highway safety are material to that application and will form an integral part of its determination. Deloitte have also been engaged to undertake an independent review of the retail assessment submitted.

Linked Trips

- 6.19 Both the Town Centre Study update and Draft Herefordshire Local Plan refer to the possible opportunity for a new food store within Leominster town centre. The function of a town centre store would be to attract additional shopper footfall to the town centre and provide spin-off trade for some existing shops to offset the impact on others – the concept that shoppers would make one 'linked' trip to access a number of facilities.

- 6.20 The paragraphs above demonstrate that there are no sites that are either feasible or available within or on the edge of the town centre, and therefore any future food retail development is likely to be located out-of-centre. On this basis the site should be considered in terms of the linked trips that it might generate and thus mitigate to an extent, the impact that its remote location from the town centre might have on its viability and vitality.
- 6.21 The application site is a walking distance of approximately 1.3 kilometres to the town centre boundary, 700 metres to the railway station and 450 metres to the closest residential area and the routes are generally flat. The proposed store would provide free parking for its customers and an appropriately worded condition could be imposed to ensure that an extended period of free parking; perhaps up to 2 hours, could be allowed to encourage linked trips to be made. However, it is your officers view that the walking distance involved 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.
- 6.22 The Leominster retail catchment area (zone 3) maintains a high retention rate with approximately 83% of the population's convenience expenditure retained within the catchment. It is therefore unlikely that significant expenditure claw back would be achieved by a new retail store. The applicant's retail study confirms that a significant proportion of the proposal's turnover would be diverted from the existing Morrisons store at Barons Cross and the location of the site is such that there is no reason to assume that shoppers would make additional linked visits to the town centre as it is no better related to it.
- 6.23 The proposal is out-of-centre and would be unlikely to generate material amounts of spin-off trade for the town centre. The advice from Deloitte concludes:
- The economic recession has had a major impact on retailing, particularly in the smaller centres. Despite its relative health, there can be no doubt that Leominster is vulnerable to the changes in retailing that are taking place and to which we have referred in the Herefordshire Town Centre Study. We therefore have concerns that introduction of a second large food store in Leominster outside the town centre in a location that is unlikely to generate significant linked trips to the town centre could significantly undermine the shopping role and function of the town centre.*
- 6.24 It is consequently concluded that the store would become a destination in its own right with shoppers unlikely to visit the town centre to make linked trips. The proposal is therefore likely to have a detrimental qualitative impact upon the vitality and viability of Leominster town centre, contrary to the NPPF and Policies S5, TCR1, TCR2 and TCR9 of the UDP.

Impact upon Heritage Assets

- 6.25 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 as it is unlikely to generate linked trips, it is considered 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. 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. It is therefore considered that the proposal is contrary to the NPPF and Policy S7 of the Herefordshire UDP.

Highway Safety and Sustainability

- 6.26 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.
- 6.27 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.
- 6.28 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.
- 6.29 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 sustainability of the NPPF and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

Loss of Employment Land & Other Employment Issues

- 6.30 The site 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 is divorced from residential properties to such a degree that a general industrial use can satisfactorily take place without any detriment to amenity and is well located in terms of access to the wider road network with direct access to the A49 (T).
- 6.31 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 137 full time equivalent new jobs in Leominster would be created. This figure is based on the net internal area of the store.
- 6.32 The Economic Statement goes on to consider the current availability of employment land and space in Leominster. It 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.
- 6.33 The statement also includes correspondence from a representative 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 letter advises that 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 outlines discussions that have taken place about their possible relocation to Leominster Enterprise Park, with plots 6 and 7 a to d identified. It is considered that this offers the ideal location and size of site required – between 4 and 5 acres (1.62 to 2 hectares), to accommodate a building of approximately 40,000 square feet (3,700 square metres).
- 6.34 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 letter referred to in

the previous paragraph 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.

- 6.35 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.
- 6.36 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.
- 6.37 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 and Flood Risk

- 6.38 The applicant has continued to work with the Environment Agency in order to address potential impacts of a petrol filling station upon a Secondary Aquifer and Groundwater Source Protection Zone, particularly the installation of storage tanks. The applicant's consultant has advised that the tanks will be constructed in accordance with the guidance presented in the Environment Agency Guidance Note PPG2. The tanks would be contained in a secondary containment system designed to accommodate 110% of the total tank capacity. The base of the tanks would not be lower than 67.7mAOD in order to ensure that they do not penetrate the standing Groundwater Table, which were recorded at a maximum of 67.4mAOD during monitoring in November 2013 by the applicant's consultant. Further details confirm that the transmission pipework can be located below-ground without penetrating the groundwater table. The Environment Agency has confirmed that, subject to the imposition of conditions, this approach is acceptable to them.
- 6.39 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.

Other Issues

- 6.40 Some concerns have been raised that the application is simply a stepping stone and that, should planning permission be granted, the local planning authority can expect a further application for a larger retail store that it will find difficult to resist. Others have suggested that an approval will lead to other applications for retail use along Southern Avenue. Neither of these are material to the determination of this proposal. It must be judged on its own merits, as should any future applications, either for this site or others.

- 6.41 The applicant has confirmed their agreement to the Heads of Terms, a copy of which is appended to this report. In summary, this covers the provision of a dedicated bus service for a five year period, amounting to £375,000, a contribution of £371,116 towards a specific scheme of highway improvements that relate to the proposal and a contribution of £195,000 for public realm improvements.

Conclusion

- 6.42 In summary, officers are content that there is quantitative capacity for additional retail floor space of the scale proposed within Leominster. This is demonstrated through the surplus expenditure capacity within the catchment area and by virtue of the fact that existing retail stores are all performing in excess of their company benchmarks.
- 6.43 However, the proposal is sited in an out-of-centre location and the applicant has failed to demonstrate that the site is sequentially preferable. It is remote from the town centre and consequently there remains a concern that development here would not promote linked trips. The proposal is likely to be a single destination for shoppers and, although the low vacancy rate within the town centre shows it to be healthy, it will be vulnerable to change and as such the proposal will be detrimental to its vitality and viability. Accordingly 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. The site's distance from the town centre and consequent reliance on private forms of transport, also leads officers to conclude that the site is unsustainably located for the use proposed. Finally its redevelopment for retail purposes will result in the loss of employment land identified as being good quality without sufficient justification. The application is therefore recommended for refusal.

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 application site is remote from the town centre and the proposed food retail store would become a destination in its own right with shoppers unlikely to visit the town centre to make linked trips. The proposal is therefore likely to have a detrimental qualitative impact upon the vitality and viability 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 reasons for the refusal, approval has not been possible.

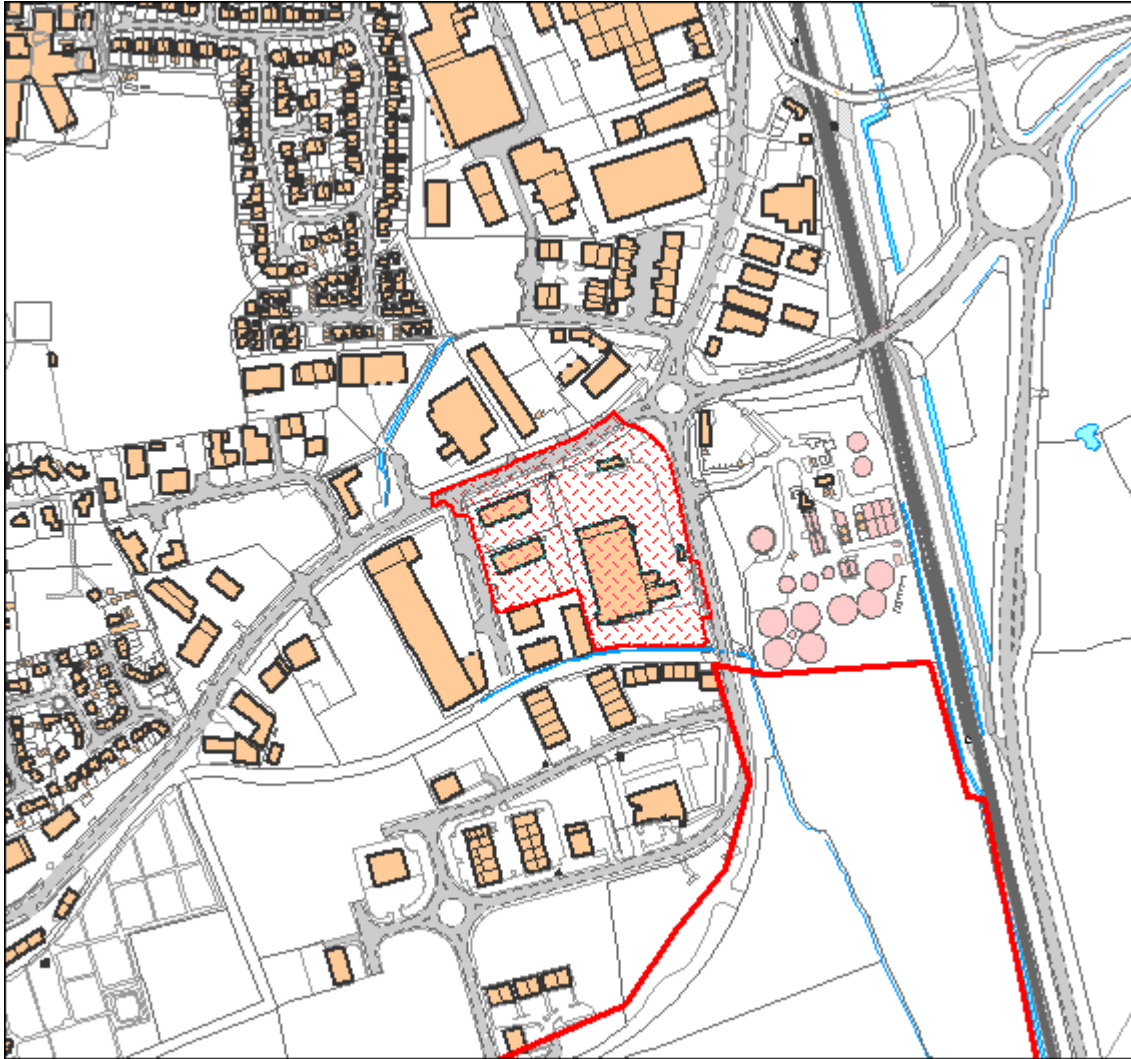
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141281/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

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

This document has been prepared against the criteria set out in the Supplementary Planning Document on 'Planning Obligations' which was adopted in April 2008.

Application number: P141281/O

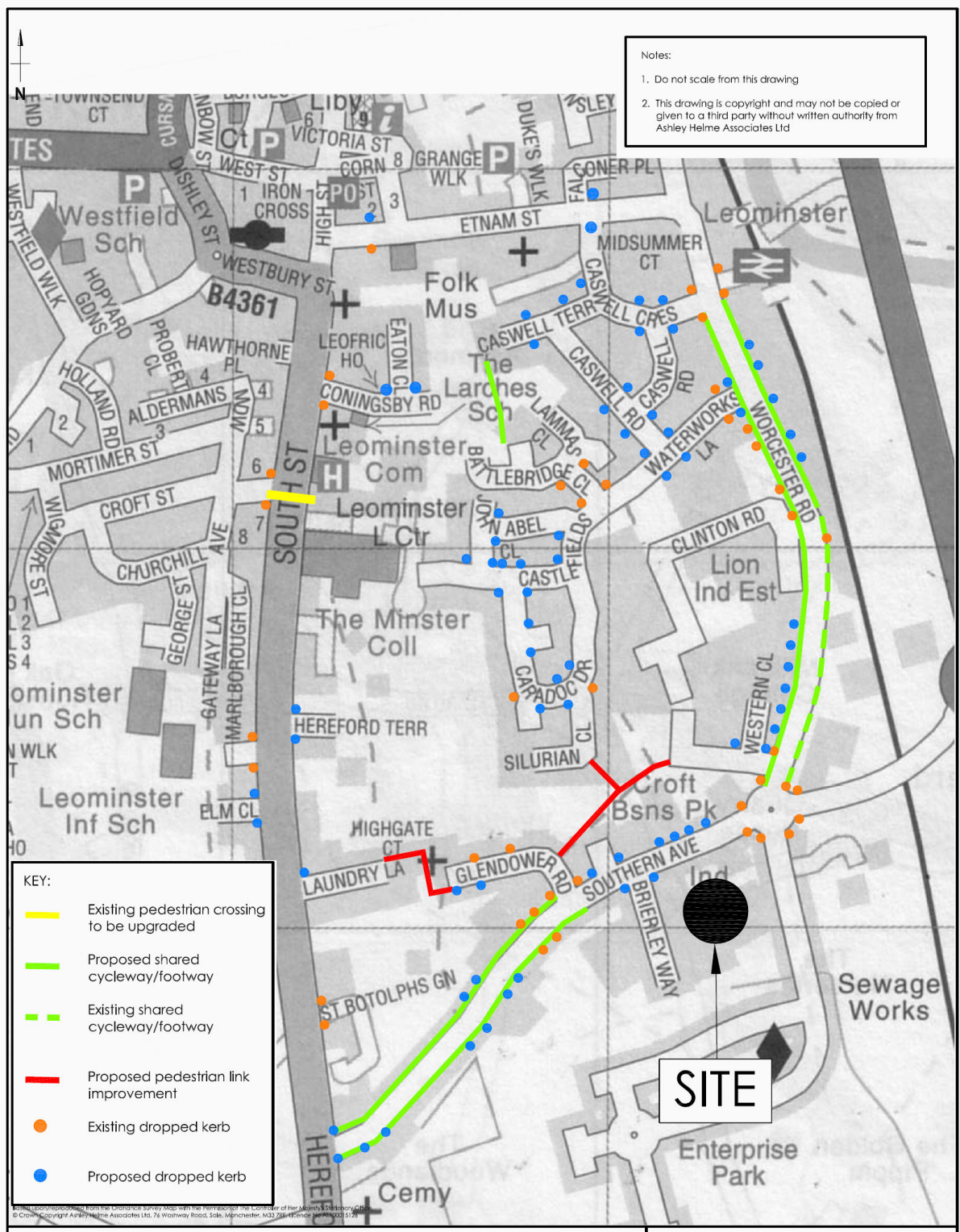
Proposal: Outline application for class A1 foodstore with petrol filling station on land at Southern Avenue, Leominster, Herefordshire, HR6 0QF

Site: Land at Southern Avenue, Leominster, Herefordshire, HR6 0QF

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£746,116.00** to provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

- 2.2km of shared footway/cycleway circa £1.375k
- 0.25km of footpath upgrade from Silurian Close to Glendower Road circa £150,000.00
- 69 New dropped kerbs @ £4,000.00 per kerb = £316,000.00
- Dedicated bus service @ £75,000.00 per annum for 5 years = £375,000.00



PROPOSED PEDESTRIAN/CYCLE IMPROVEMENTS

FIGURE 1305/JULY/11

ashleyhelme
 associates
 76 washway road, sale, manchester, m33 7re
 e: aha@ashleyhelme.co.uk t: 0161 972 0552 f: 0161 972 0553

1305

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£195,000** to provide public realm improvements which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. The monies shall be used by Herefordshire Council for improvements to the public realm to include physical improvements to the town centre such as street furniture, resurfacing, signage, improved shop frontages and the promotion of the town centre as a shopping and tourist destination. The sum shall be paid on or before the commencement of the development and may be pooled with other contributions as appropriate. The money will be administrated by Herefordshire Council and/or another appropriate agency such as Leominster Area Regeneration Company (LARC).
3. Any monies not spent on the items in paragraph 3 shall be pooled with the £746,116.00 payment referred to in paragraph 1.
4. The developer covenants with Herefordshire Council to construct the development to BREEAM Retail Standard of Very Good that is applicable at the time of the commencement of construction. Independent certification shall be provided prior to the commencement of the development and prior to first use of the store confirming compliance with the required standard.
5. The developer covenants with Herefordshire Council to not commence construction of the development until the new industrial unit has been constructed in Leominster and is available for occupation by Thomas Panels Ltd.
6. In the event that Herefordshire Council does not for any reason use the sum in paragraph 1 and 2 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
7. The sum referred to in paragraph 1 and 2 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any 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 this 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 the commencement of the development.
9. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



| | |
|-------------------------|---|
| MEETING: | PLANNING COMMITTEE |
| DATE: | 24 SEPTEMBER 2014 |
| TITLE OF REPORT: | P141024/F - PROPOSED ERECTION OF 4 NOS. POULTRY BUILDINGS, ASSOCIATED FEED BINS, HARD-STANDINGS AND ACCESS ROAD AT LAND AT FLAG STATION, MANSELL LACY, HEREFORD, HR4 7HN For: Mr Davenport per Mr Ian Pick, Llewellyn House, Middle Street, Kilham, Driffield, YO25 4RL |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141024&search=141024 |

Date Received: 7 April 2014

Ward: Wormsley Ridge

Grid Ref: 341135,245364

Expiry Date: 7 July 2014

Local Member: Councillor AJM Blackshaw

1. Site Description and Proposal

- 1.1 Located in open countryside, the application site forms part of an arable field bounded on three sides by a mature tree-lined hedge, acting as a natural visual screen to the site. Immediately adjacent to the north west of the site is a dwelling known as Flag Station, this grade II listed building is a former railway station situated alongside the site of a former railway line, (dismantled), which runs along the north eastern side of the site. Access to the site is via a farm track which leads directly onto the A480 also to the North-West.
- 1.2 The application proposes the construction of four broiler units, housing a total up to 180,000 birds, each building measuring 94.48 metres x 24.38 metres, with a ridge height of 6.144m. In addition twelve number feed bins, a hard standing area, improvements to the access track and a drainage attenuation pond are proposed.
- 1.3 The proposal operates on a 35 day growing cycle with 7 days thereafter for cleaning out and preparation for the arrival of day-old chicks. There would be 8 flocks per annum.
- 1.4 Traffic movements in total are stated to be 78 visits per flock, so a total of 156 movements, with 624 and 1248 respectively per annum.
- 1.5 A screening opinion carried out in accordance with Environmental Impact Assessment Regulations 2011 in relationship to the application, for the erection of four broiler buildings, twelve number feed bins, hard standing, access improvements and drainage attenuation pond for housing of up to 180,000 broilers dated 23 April 2014 established the development as EIA Schedule 1 development, therefore an Environmental Statement in support of the application is mandatory.

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 1.6 The application is accompanied by an Environmental Statement(ES).The adequacy of the statement has been assessed with particular regard to the requirements of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations.2011.
- 1.7 An e-mail from the applicant dated 1st July 2014 confirms that woodland screening outside of the application site, (on land in the applicant's control), is to remain.
- 1.8 This application is presented to the Committee following the quashing of the previous decision to approve, by the High Court on 4th September 2014. The Order was made by consent in relation to procedural error. A copy of this can be viewed on the Council's planning website via the following link.

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141024&search=141024>

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction - Achieving Sustainable Development
 Section 3 - Supporting a Prosperous Rural Economy
 Section 7 - Requiring Good Design
 Section 11 - Conserving and Enhancing the Natural Environment
 Section 12 - Conserving and Enhancing the Historic Environment

2.2 Herefordshire Unitary Development Plan (HUDP)

S1 - Sustainable Development
 S2 - Development Requirements
 S6- Transport
 S7 - Natural and Historic Environment
 S10 - Waste
 DR1 - Design
 DR2 - Land Use and Activity
 DR3 - Movement
 DR4 - Environment
 DR7 - Flood Risk
 DR9 - Air Quality
 DR13 - Noise
 DR14 – Lighting
 E13 - Agricultural and Forestry Development
 E16 - Intensive Livestock Units
 T8 - Road Hierarchy
 T11 - Parking Provision
 NC1 - Biodiversity and Development
 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
 LA2 - Landscape Character and Areas Least Resilient to Change
 LA4- Protection of historic parks and gardens
 LA5 - Protection of Trees Woodlands and Hedgerows
 LA6 - Landscaping Schemes
 CF2 - Foul Drainage
 HBA4 - Setting of listed buildings.

2.3 Herefordshire Local Plan Core Strategy

SS1 - Presumption in Favour of Sustainable Development
SS4 - Movement and Transportation
SS5 - Employment Provision
SS6 - Addressing Climate Change
RA6 - Rural Economy
MT1 - Traffic Management, Highway Safety and Promoting Active Travel
E1 - Employment Provision
LD1 - Local Distinctiveness
LD3 - Biodiversity and Geo-diversity
LD5 - 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
ID1 - Infrastructure Delivery

2.4 Other Material Considerations Landscape Character Assessment

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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. Planning History

3.1 None identified.

4. Consultation Summary

Statutory Consultees

4.1 Natural England raises no objections having referred to Habitat Regulations, Wildlife and Countryside Act SSSI, protected species and biodiversity enhancements.

4.2 The Environment Agency raises no objections, making reference to particular elements of the proposal and that the site will fall within Environmental Permitting (England and Wales) Regulations. The Environmental Permit (EP) will control day-to-day general management and issues such as emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation. Comment on each element is summarised below.

- Ammonia - no modelling required.
- Odour –without prejudice, on the basis of the information provided, likely to be in position to grant EP.
- Noise – low probability of complaints.
- Dust - Provided 'Best Available Techniques' are employed then would not anticipate a nuisance to residents living nearby.
- Flood Risk - refer to lead local flood authority in this case Balfour Beatty as council's consultant.
- Water management - to be reviewed with EP application.
- Manure management – required to submit manure management plan.
- Pollution Prevention - measures to be incorporated in EP to protect ground and surface water.

Internal Council advice

- 4.3 Environmental Health Manager, (Land Contamination) - raises no objections.
- 4.4 Environmental Health Manager, (Amenity and Pollution) - raises no objections, advising that the site will be subject to an EP and that given the distances involved he does not expect any nuisance from light, dust, noise or odour (providing best practice is observed as per EP). A condition on manure transportation is recommended.
- 4.5 Transportation Manager - raises no objections.
- 4.6 Conservation Manager (Building Conservation) - raises no objections, advising:

'Pre-application discussions were held with the agent on the site in December 2013 and various suggestions for mitigation were made.

The site lies to the south of Flag Station, a former railway station on the disused Midland Railway branch line to Hereford, Hay and Brecon. The Station and the adjacent platform are grade II listed, dating from 1863, and are located some distance off the A480. Flag Station is used as a dwelling in the ownership of the applicant and there are modern farm buildings forming an agricultural yard to the east of the listed building.

The proposal for 4 nos. poultry units is situated in the field to the south of Flag Station on the other side of the line of the disused railway. Given the proximity of the proposal to the grade II listed Flag Station and its platform it is necessary to ensure that there is compliance with Policy HBA4, Setting of Listed Buildings.

It is proposed to keep the poultry units to the southern end of the application field in order to reduce their impact on the setting of the listed buildings. This is in line with our site discussions. There are already modern farm buildings to the east of the listed structures which affect the setting of the listed buildings. It is not considered that the current proposal would significantly affect the setting of Flag Station, not least due to the level of mature trees and general landscaping between the listed building and the proposal site.

In addition to the location of the proposal within the field the colours proposed for the metal cladding are considered appropriate for the rural surroundings. The dark green will tend to allow the buildings to recede visually rather than being prominent to view.

To the north of the proposed units a new hedge is proposed. This is to act as a further visual barrier between the listed building and poultry units, though a further improvement would be to have a tree belt in addition to the hedge. Given the existing tree cover around the field it would seem appropriate to reinforce that character.

Overall the proposal should have no detrimental impact on the setting of the listed building, Flag Station, given the mitigation measures proposed.'

In respect of other historic assets the advice is as follows

Keepers Lodge is situated further up the former railway line from the application site and there are a number of mature trees which almost completely block any intervisibility between the proposed buildings and the listed building. It is not considered that the impact on the listed building is either significant or detrimental.

The registered parkland at Foxley is situated a considerable distance from the application site and at a much higher ground level. The parkland as perceived from the main road is dense woodland with a strong boundary onto a series of cultivated fields. The proposed landscaping

works on the application site would augment the existing mature trees on the boundary of the site. When this is combined with the distance and existing landscape between the site and Foxley it is considered that there would be no adverse impact on the setting of the registered garden.

Westmoor walled garden is a considerable distance from the application site and at a higher ground level. Between the walled garden and the application site are four properties in a cluster called Westmoor. The landscaping associated with these properties would effectively block any intervisibility between the listed structure and the application site and the setting is not considered to be affected by the proposal.

Due to their distance from the site and the lack of intervisibility between the site and the heritage assets, it was not originally considered necessary to make specific comment on the effect or otherwise on the setting, despite having been given consideration.

As noted in my previous response, the landscaping belt to the north of the proposed units is of great importance in mitigating the impact of the site on Flag Station. Certainly if the existing landscape had not already included mature and tall trees the setting of the heritage asset would have been severely compromised and a scheme would not have been supported. The scheme is now only supported provided that the landscaping belt is enacted and is of sufficient density to mask the buildings behind.

4.7 Conservation Manager (Landscape) main points are summarised below:

- The site functions as a small but important element in the natural and historic landscape.
- The landscape is of good quality and high sensitivity.
- The site is likely to be of limited ecological value with the exception of boundary and watercourse.
- The visual envelope of the site is limited due to surrounding hills and mature vegetation.
- The landscape has capacity to accept appropriately sited and designed agricultural built development
- Adverse effects on heritage are possible and without screening could be significant however, mature and good quality screening is noted.
- The proposal introduces both benefits and adverse effects in term of natural landscape and biodiversity.
- The site has a limited visual envelope and a few publicly accessible viewpoints. Visual effects are unlikely to be significant, subject to screening.
-

It concludes:

I do not object to the proposals in principle but effective and appropriate mitigation is required in order to avoid adverse effects in the longer term, and to safeguard the amenity of residents at Flag Station and Shetton Barns to the south west. Without it, the development could be contrary to planning policy including UDP Policy LA2 Landscape character. If permission is granted for this development, the following conditions should be attached:

- G02 – Retention of trees and hedgerows
- G04 – Protection of trees/hedgerows that are to be retained
- G10 – Landscaping scheme
- G11 – Landscaping scheme – implementation
- G14 – Landscape management plan.

4.8 Conservation Manager (Ecology) raises no objections subject to conditions in order to ensure development is carried out in accordance with recommendations as set out in the ecological reports submitted in support of the application.

4.9 Conservation Manager (Archaeology) raises no objections.

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

4.10 The Land Drainage Manager recommends conditions to be attached to any approval notice issued with regard to surface water outfall to the receiving water course and on-site attenuation structure.

5. Representations

5.1 Foxley Group Parish Council raises no objections.

5.2 Bishopstone Parish Council has responded to the application indicating:

‘At their meeting yesterday Bishopstone Group Parish Council voted to oppose the above application and made the following comments regarding its impact on residents at Shetton.

1. The site is not appropriate for this type or size of development,
2. The application is not accurate as it lists only three dwellings that will be affected and ignores at least 9 other dwellings at Shetton, situated within 300-400 metres of the proposed site,
3. There is a high risk of flooding and of pollution caused either by flooding or when cleaning out,
4. There will be high levels of pollution by dust, noise, odour and emissions but assessments of these have only been carried out towards the A480 and not towards the dwellings at Shetton,
5. The screening mentioned in the application consists of mature trees. If the application is granted it should be subject to a condition for sectional felling and replanting of this woodland in such a way as to maintain an adequate permanent screen, and
6. A full Environmental Impact Assessment should be carried out before the application is considered.’

5.3 The National Farmers Union, (West Midlands Branch), has responded in support of the application indicating that the Council should support a strong farming industry within the County in order to feed the global population and that the proposed development represents an acceptable sustainable form of development in the local community that will benefit rural businesses.

5.4 Herefordshire Campaign for the Protection of Rural England objects to the application indicating that there is a failure:

- to regard material considerations,
- to consider impacts on the residential amenity of 11 dwellings,
- to consider impact on tourism and
- to consider adequately the effects on the quality of local watercourses.

5.5 Letters of objection have been received from

- David and Sophie Palmer, (several), The Stables Mansel Lacy,
- Lawrence and Suzanne Jevson-Hughston, Cork and Bottle Cottage, Shetton, Mansel Lacy,
- Caroline Worle, The Brewery, 3, Shetton Barns, Mansel Lacy, (several),
- Roger and Patricia Stokes, Shetton Cottage, Mansel Lacy,
- Pamela Powell, Shetton Farm, Mansel Lacy, (several via email),
- D.I & P.E. Powell, Shetton Farm, Mansel Lacy,
- Daniel. Powell, Shetton Farm, (via email), Mansel Lacy
- Josh Powell, Shetton Farm, (via email), Mansel Lacy
- Chloe Powell, Shetton Farm, (via email), Mansel Lacy
- Lyn Burwood, Beaumont, Bishopstone,

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- Mr. & Mrs. M. Davey, Greentrees, Bishon Lane, Bishopstone,
- Mr. & Mrs. J. Fisk, Stone Cottage, Bishon Lane, Bishopstone,
- Roger Stokes, Shetton Cottage, Mansel Lacy,
- Sue Hubbard, 2, Glebe Cottages, Byford,
- Jacqueline and Michael Jones, Westlands, Mansel Lacy,
- Mr. M. Hillary and Family, Cork and Bottle Barn, Mansel Lacy,
- Mr. D. Bedford, c/o Crop spraying services, Spond, Hereford,
- M/s Nancy Malins, 1 Nelson Cottages, Bridge Sollers,
- Dorothy Lloyd, 2 Croft Road, Clehonger, Hereford.

Issues raised can be summarised as follows:

- Visual impact on the surrounding landscape, which includes reference to nearby development, historic assets and public rights of way's and walks. Concerns about whether existing vegetation will be retained to screen the development.
- Noise, dust, pests (flies) and odour issues in relationship to residential amenity.
- Drainage/flooding issues and concerns about climate change, and in particular concerns in relationship to Yazor Brook.
- Site selection in relationship to other sites in the control of the applicant.
- Comments about alleged inaccuracies in the Environmental Statement submitted in support of the application, such as distances to dwellings outside the applicants control and not referred to in the Environmental Statement.
- Impact on surrounding businesses, and tourism interests. (Holiday and wedding venue and Yoga business).

5.6 A letter has been received from the applicant's agent in response to a letter of objection received to the application dated 8th May 2014 from D.I. & P.E Powell. It can be summarised as follows:

- The shelter belt on the southern side of the development provides an effective screen from Shetton Farm. The applicants have no objections to a condition requiring that this shelter belt has to remain in place with appropriate replanting to maintain the screen in its present form and height.
- In terms of the odour and noise assessments, which do not specifically reference Shetton Farm and the 7 barn conversions by name, it is confirmed that they have all been taken into account in the assessments. Within the noise assessment, they are referred to as receptor A, and within the Odour Assessment, receptor 3.
- Drainage from the proposed development has been designed in accordance with the SuDS requirements. The development includes capacity on site for volume storage of a 1 in 100 rainfall event with 20% for climate change added. The surface water from the development will only be released into the brook at a greenfield runoff rate. The way in which the drainage has been designed complies with the legislative requirements and will maintain the status quo with no additional loadings on the brook. The design has been accepted by the Council's drainage team.
- The siting of the development was chosen due to its planning merits. The site has a direct access to the A480 which complies with national standards in terms of visibility splays. The site is also located adjacent to an existing range of modern farm building, and has the benefit of an existing dwelling for occupation by a farm manager. In terms of landscape impact, the siting is exceptional, and the site is effectively hidden within the landscape. The site is also sufficiently separated from existing private dwellings to comply with the requirements of the Environmental Protection Regulations, as demonstrated by the odour

and noise modelling, and the response of no objections from the Environment Agency who is the monitoring authority for this development.

- 5.7 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

- 6.1 The application proposes construction of four separate broiler units each measuring 94.48 metres x 24.38 metres with a ridge height of 6.144 metres for the housing of up to 180,000 birds along with control rooms and storage space attached to each building, also proposed are twelve feed bins, hard standing area, access improvements and a drainage attenuation pond.

- 6.2 This application has been subject to an Environmental Statement, which accompanied the application together with associated documents. The Environmental Statement has been considered together with the accompanying planning application and supporting information and all other representations/consultation responses.

- 6.3 Regard must be had to the adopted development plan for the purposes of determination and determination must be made in accordance with the plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004). Saved policies remain in force and carry weight, where they accord with the NPPF.

- 6.4 The National Planning Policy Framework (NPPF) is a key material consideration at this time. It is to be regarded in its entirety, and sets out a presumption in favour of 'sustainable development' and details three strands of sustainability (economic, social and environmental).

- 6.5 The key issues relate to

Alternative sites
Economic, Business and Tourism
Landscape and heritage assets
Residential amenity
Transport/ Highway safety
Drainage/Flooding
Ecological issues

Alternative Sites

- 6.6 The development is a farming enterprise proposal between a landlord and a farming business tenant and family, and proposes to locate the development on a site close to a dwelling in the applicant's control, which can be used as a dwelling for a site Manager. To the rear of this dwelling are farm buildings used in connection to the farming enterprise concerned.

- 6.7 Other sites adjacent to the main farmstead of the farming business operated by the tenant have been assessed, and considered unacceptable owing to impacts on setting of a listed building, landscape impact, (sites are more visual and in particular from the A480 public highway), and proximity to dwellings in occupation outside the control of the farming enterprise concerned. The consideration of alternative sites is therefore considered acceptable

Economic, Business and Tourism Issues.

- 6.8 Whilst intensive poultry development is often controversial, the economic benefits of such development have to be considered. In this instance the broiler production is in relation to the 'Cargill' chicken processing plant based in Hereford, where major expansion is necessary to remain competitive in the industry.
- 6.9 In terms of economic impact it is further noted that tourism in the area is an important factor for consideration. To the west of the application site, is a group of converted barns known as Shetton Barns, from part of which a holiday business is operated, contributing to the local economy. These dwellings, as well as other dwellings within their vicinity, (including Shetton Cottage, Cork and Bottle Barn and Cork and Bottle Cottage from where it appears a 'Yoga' business is located, and other isolated farmhouse and private dwellings, as well as farming businesses), have been taken into account when considering these issues. Having regard to distances involved and the existing vegetation which acts as a screen to the site, (which also includes some evergreen), the control available via the Environmental Permit and additional landscape mitigation, on balance, are considered to provide sufficient mitigation so as not to be so harmful to business as to justify refusal of planning permission.
- 6.10 Consequently the proposed development is considered acceptable on this subject in respect to key policy E13 as well as other relevant HUDP policies and that of the NPPF particularly Section 3, Supporting a prosperous rural economy.

Landscape and Historic Heritage

- 6.11 This is a major development in open countryside, however, with appropriate mitigation through the imposition of conditions it is considered that concerns about impact on the character of the landscape can be addressed sufficiently to satisfy key policies LA2, LA5 and LA6 and the aims set out in Section 11, Conserving and enhancing the natural environment in the NPPF. This includes management of the adjoining woodland as well as additional planting on site. The external colour of the main buildings is considered acceptable, however, the external colour of the feed bins is not specified and therefore it is recommended that a condition is imposed to address this issue.
- 6.12 Flag Station, a grade II listed building, lies adjacent to the site. The setting of which will be affected as a result of the proposed development. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 imposes a duty on local authorities to have special regard to the desirability of preserving the building or its setting, when determining applications.
- 6.13 In addition the impact upon the following assets has also been considered: Keepers Lodge – grade II listed building, Foxley, grade II* registered park and garden and Westmoor gardens – also grade II.
- 6.14 The Conservation Manager (Historic Buildings) has considered the impact of the proposal upon these historic assets and concludes that with mitigation, including retention of the woodland, the proposal is considered to meet the requirements of key policies HBA4 and LA4 of the HUDP and Section 12 Conserving and enhancing the historic environment (NPPF)

Environmental Health / Residential Amenity Issues.

- 6.15 Information submitted in support of the application indicates that manure generated on site is to be used as a fertiliser on arable ground in the control of the applicant and a neighbouring farm. This is considered a sustainable use and it is recommended that a condition is imposed with regards to a manure management plan which would include movement in covered trailers

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 6.16 The Environmental Health Officer raises no objections, referring to the requirement for the site to have an Environmental Permit, (EP), issued by the Environment Agency. Contact has been made with the Environment Agency, by the applicants, who report that the Environment Agency raise no objections to the issuing of a permit for development as indicated. (They raised no objections to this application and neither do they request any conditions to be attached to any decision notice). The permit covers ecological and amenity issues such as noise, odour and dust etc. If these issues could not be addressed in a satisfactory manner in accordance with the thresholds for the issuing of a site permit then the EA would not issue a permit and the site would be unable to lawfully operate.
- 6.17 Whilst the commentary prior to policy E16 states 'units should be sites at least 400m from non-agricultural dwellings or buildings; planning applications for units within 400m of a protected building will be carefully assessed'. This careful assessment includes consideration of the control exerted by an Environmental Permit and in the light of para 122 of the NPPF.
- 6.18 The nearest non-protected buildings are in the order of 320m from the proposed buildings. When taken together with mitigation through conditions the impact on the properties in the locality is not considered to be so harmful as to warrant refusal.
- 6.19 With consideration to the above-mentioned development, in terms of environmental health and residential amenity issues, the application is considered acceptable and in accordance with policies of the HUDP, in particular key policies S1, DR2, DR4, DR9, DR13, DR14, E13 and E16 as well as the NPPF.

Public Highway Access and Transportation Issues.

- 6.20 The use of the A480 public highway in relation to this application and cumulative impact with other road users is considered acceptable. The Transportation Manager raises no objection.
- 6.21 The Environmental Statement makes reference to vehicle movements in relationship to the proposed development and this issue is considered to be addressed satisfactorily.
- 6.22 Therefore public highway issues are considered to have been addressed satisfactorily, (the site will have direct access from the applicant's land onto the A480 public highway). The Transportation Manager recommends a condition with regards to access turning and parking.
- 6.23 Therefore on public highway and transportation matters the application is considered acceptable and in accordance with policies S1, S6, DR3 T8 and other relevant HUDP policies as well as the NPPF.

Drainage and Flooding Issues.

- 6.24 Many of the letters of objection received raise issues in relation to flooding, with regards to the nearby Yazor Brook and capacity concerns, surface water run off and issues in relation to drainage and development on site.
- 6.25 The Environment Agency raises no objection on this matter and the Land Drainage Manager also raises no objection, recommending conditions with regards to surface water outfall and attenuation structure.
- 6.26 Whilst concerns as raised by the objectors on this matter are noted, the development has to be considered on the merits of the application and potential for flooding/drainage issues in relation to the development. The application proposes an attenuation pond in order to manage drainage on site and as such none of the statutory or internal consultees raise objection on this matter. Therefore it is considered that this matter is addressed satisfactorily and it is

recommended that conditions with regards to surface water outfall and on-site attenuation as recommended by the Land Drainage Manager are imposed.

- 6.27 Therefore on flooding and drainage matters the application is considered acceptable and in accordance with policies S1, DR4, DR7 and other relevant HUDP policies and the NPPF.

Ecology

- 6.28 Ecological issues are considered to be addressed satisfactorily and it is recommended that a condition is imposed in order to ensure that the recommendations as set out in the ecology report submitted in support of the application are adhered to.
- 6.29 Natural England has been consulted on the application raising no objection.
- 6.30 On ecological issues the application is considered satisfactory and in accordance with policies NC1, NC3, NC6, NC7 NC8 and other relevant HUDP policies and Section 11 of the NPPF.

Conclusions.

- 6.31 There have been a number of competing elements to consider, not least of which have been the economic and amenity issues, landscape and historic heritage issues. The preceding sections of this report set out these and other issues and how they have been addressed through the application submission and/or the imposition of conditions.
- 6.32 The application is large in scale however, it is considered that the development can be integrated in to the environment in a satisfactory manner. The application represents sustainable development and the site is considered to be a suitable location for such farming practices. Sufficient mitigation measures are introduced to minimise any visual intrusion and adequately mitigate harm.
- 6.33 It is also important to note that a number of issues which regularly arise in such applications are dealt with through the Environmental Permitting Regulations, administered by the Environment Agency. A balancing exercise is required to address such competing material considerations. Paragraph 122 of the NPPF provides that local planning authorities should focus on whether the development itself is an acceptable use of land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.
- 6.34 Having taken into account all representations and the environmental information and assessing in relation to the Herefordshire Unitary Development Plan policies and the National Planning Policy Framework it is considered that the proposal complies with the relevant policies contained therein and consequently the balance lies in favour of granting planning permission subject to the conditions set out below.

RECOMMENDATION

That officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. Notwithstanding the approved plans all the external colouring of the feed**

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silos hereby approved shall be to colour code 'Juniper Green' BS12B29).

Reason: With consideration to the impact on the surrounding landscape and to comply with Policies DR1 and LA2 of the Herefordshire Unitary Development Plan.

4. H13 Access, turning area and parking
5. Prior to the commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the buildings) shall be submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site (including upon the external elevations of the buildings) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan.

6. I55 Site Waste Management
7. L04 Comprehensive & Integrated draining of site
8. All manure moved off site will be so in covered and sealed trailers.

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan (and the National Planning Policy Framework).

9. G02 Retention of trees and hedgerows
10. G04 Protection of trees/hedgerows that are to be retained
11. G10 Landscaping scheme
12. G11 Landscaping scheme - implementation
13. G14 landscape management plan
14. On commencement of the development, the mitigation as proposed must be carried out in accordance with Recommendations 1 to 4 set out in the ecologist's badger report submitted in support of the application from Betts Ecology dated March 2014. An appropriately qualified and experienced ecological clerk of works should 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 Statement and the NERC Act 2006.

15. The recommendations set out in section 7.4 the ecologist's report from

Bretts Ecology dated September 2013 must be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and be approved in writing by the local planning authority, and the scheme 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, NC8 and NC9 of 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.

- 16. No development will take place until the developer has provided detailed construction drawings of the proposed surface water outfall to the receiving watercourse to be submitted to and approved in writing by the Local Planning Authority.**

Reason: To ensure the integrity of the receiving watercourse and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 17. No development will take place until the developer has provided detailed construction drawings of the proposed attenuation structure to be submitted to and approved in writing by the Local Planning Authority. The details submitted must include information pertaining to the depth, levels and dimensions of the structure.**

Reason: To ensure that the development has sufficient capacity to attenuate surface water runoff up to and including the 1% annual probability event (including climate change allowance) to ensure no increased flood risk to people of property elsewhere and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy Environmental Information 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. HN05 Works within the highway**
- 3. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**

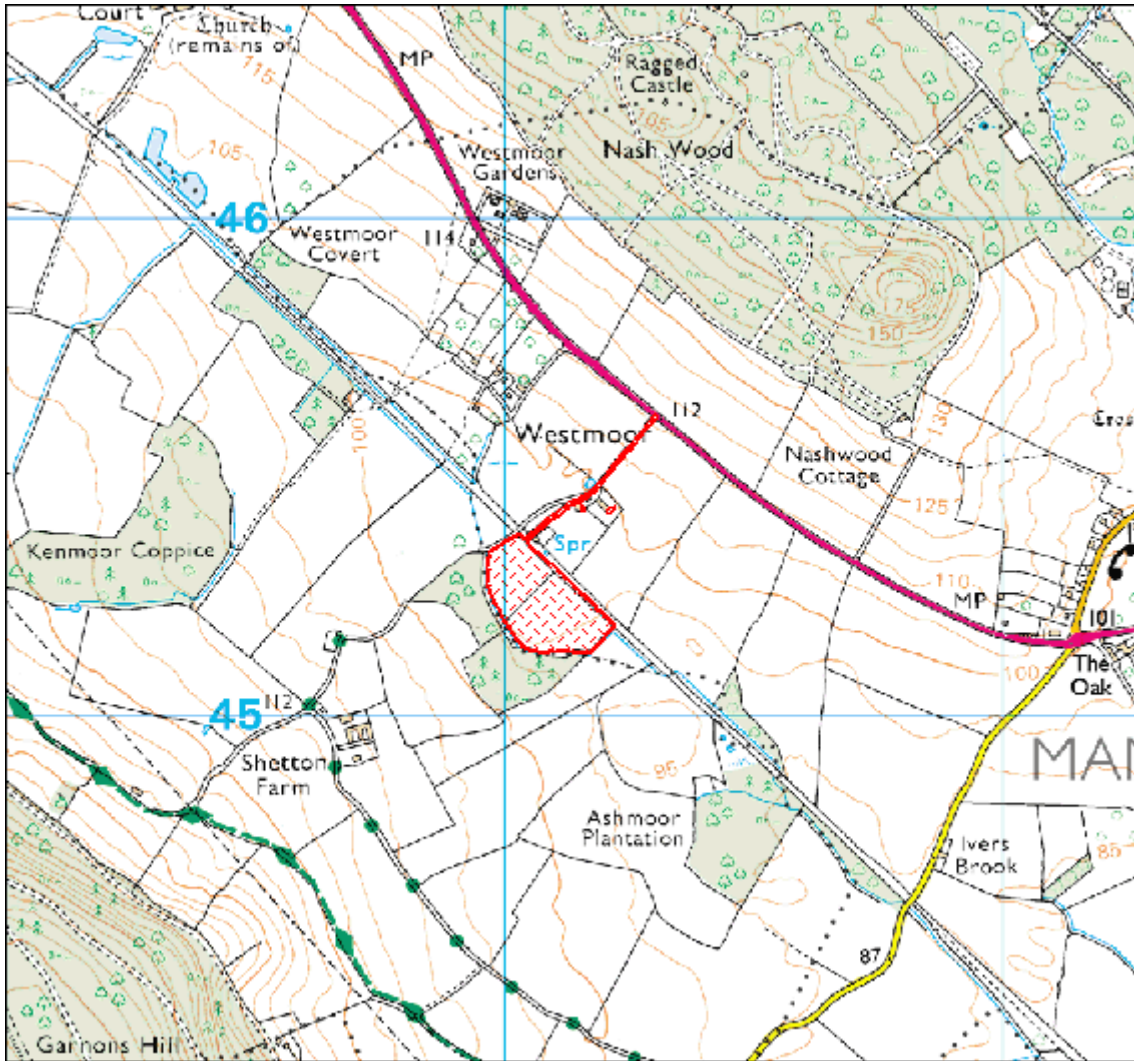
Decision:

Notes:

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141024/F

SITE ADDRESS : LAND AT FLAG STATION, MANSELL LACY, HEREFORD, HR4 7HN

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