

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

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,

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.

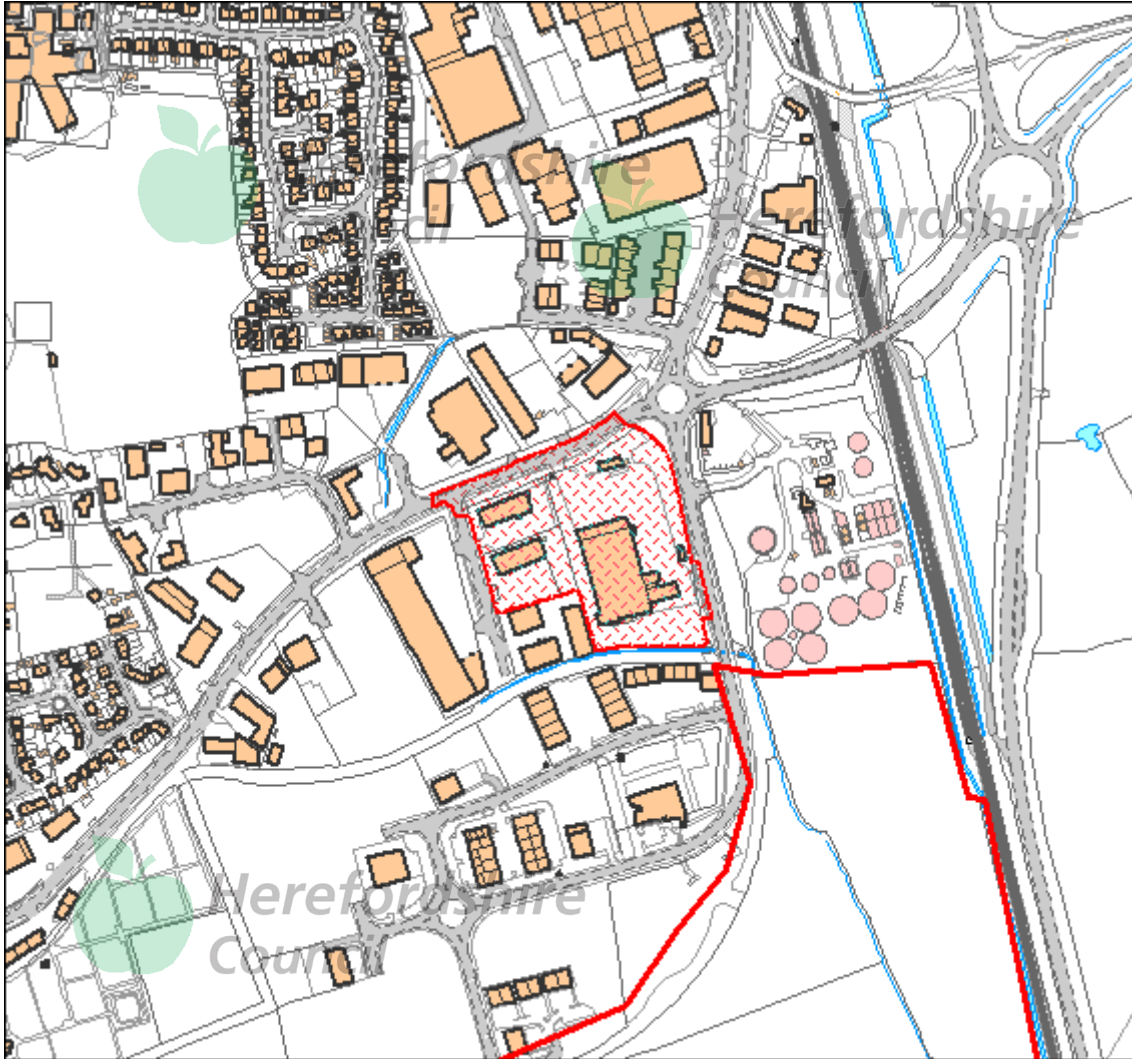
Decision:

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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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

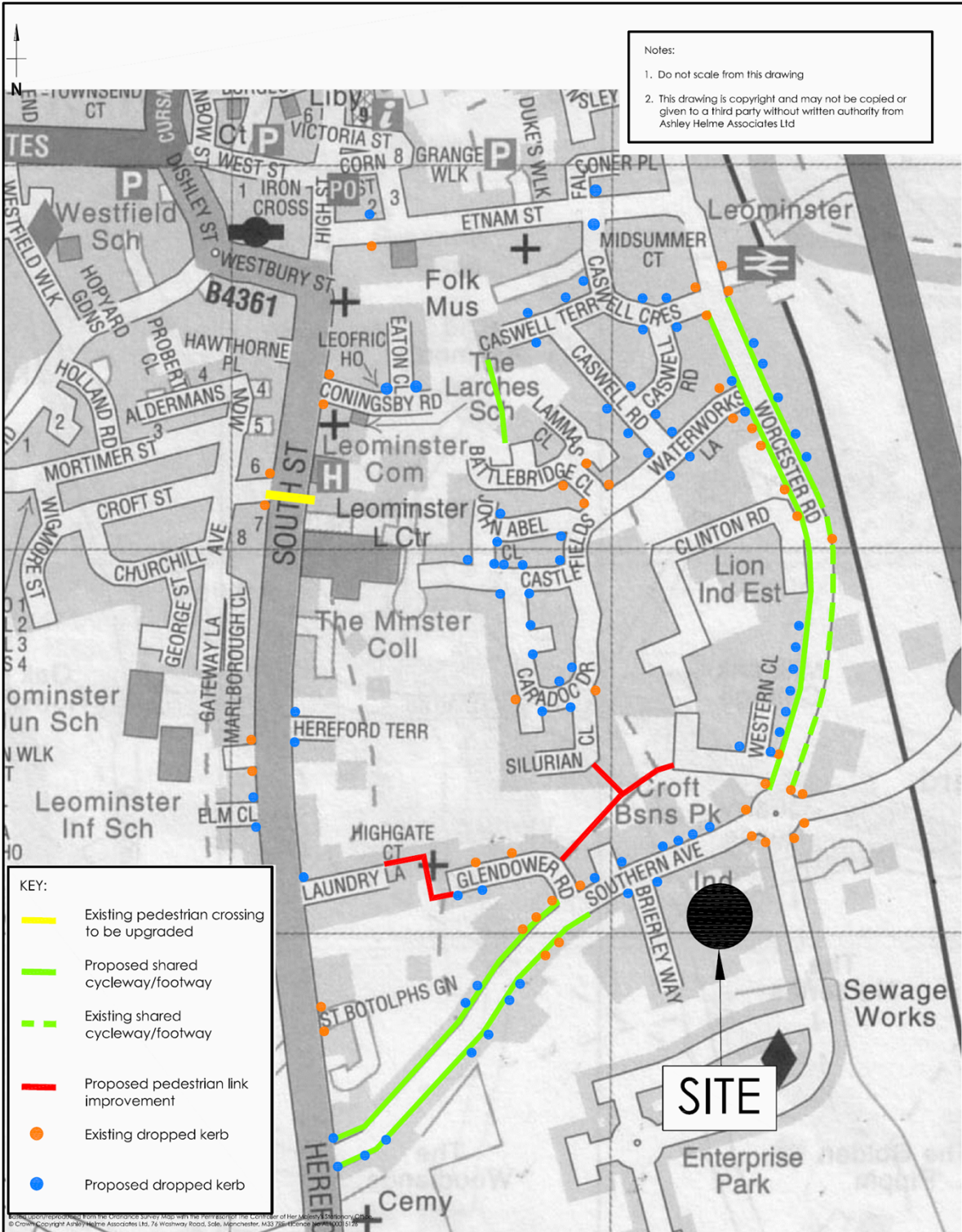
Proposal: Outline application for class A1 foodstore with petrol filling station on land at Southern Avenue, Leominster, Herefordshire, HR6 0QF

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



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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 0554 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.