

AGENDA

Planning Committee

Date: **Wednesday 2 November 2011**

Time: **10.00 am**

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

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

For any further information please contact:

Ricky Clarke, Democratic Services Officer

Tel: 01432 261885

Email: rclarke@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Planning Committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	Councillor BA Durkin
	Councillor PA Andrews
	Councillor AN Bridges
	Councillor PJ Edwards
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor J Hardwick
	Councillor JW Hope MBE
	Councillor RC Hunt
	Councillor Brig P Jones CBE
	Councillor JLV Kenyon
	Councillor JG Lester
	Councillor MD Lloyd-Hayes
	Councillor G Lucas
	Councillor RI Matthews
	Councillor FM Norman
	Councillor GR Swinford
	Councillor PJ Watts

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA

	Pages
<p>1. APOLOGIES FOR ABSENCE</p> <p style="padding-left: 20px;">To receive apologies for absence.</p>	
<p>2. NAMED SUBSTITUTES (IF ANY)</p> <p style="padding-left: 20px;">To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p>3. DECLARATIONS OF INTEREST</p> <p style="padding-left: 20px;">To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>4. MINUTES</p> <p style="padding-left: 20px;">To approve and sign the Minutes of the meeting held on 12 October 2011, and the corrected minutes of the meeting held on 14 September 2011.</p>	1 - 46
<p>5. CHAIRMAN'S ANNOUNCEMENTS</p> <p style="padding-left: 20px;">To receive any announcements from the Chairman.</p>	
<p>6. APPEALS</p> <p style="padding-left: 20px;">To be noted.</p>	47 - 48
<p>7. DMN/111554/F - LEDBURY WELDING & ENGINEERING LTD, NEW MILL INDUSTRIAL ESTATE, LEADON WAY, LEDBURY HR8 2SR</p> <p style="padding-left: 20px;">Demolition of existing buildings and erection of a Class A1 (Retail) store, car parking, landscaping and associated works.</p>	49 - 72
<p>Annex 1 - Plan of Ledbury - Scale 1:2500</p>	73 - 74
<p>Annex 2 - Appeal Decision</p>	75 - 78
<p>Annex 3 - Proposed Draft Heads of Terms</p>	79 - 80
<p>Annex 4 - Letter from Drivers Jonas Deloitte</p>	81 - 108
<p>Annex 5 - Location Plan - 1:10000</p>	109 - 110
<p>8. DMS/110387/O - LAND NORTH OF HAWTHORN RISE, PETERCHURCH, HEREFORD, HR2 0RQ</p> <p style="padding-left: 20px;">Erection of sixteen dwellings, construction of vehicular access and associated works.</p>	111 - 126
<p>9. DMS/112513/F - FOUR FOXES VINEYARD, LONGWORTH LANE, BARTESTREE, HEREFORD, HR1 4BX</p> <p style="padding-left: 20px;">Change of use of redundant rural building to one dwelling.</p>	127 - 132
<p>10. DATE OF NEXT MEETING</p> <p style="padding-left: 20px;">Date of next site inspection - 22 November 2011</p> <p style="padding-left: 20px;">Date of next meeting - 23 November 2011</p>	

The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

Public Transport Links

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

FIRE AND EMERGENCY EVACUATION PROCEDURE

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point **A** which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.



Where possible this agenda is printed on paper made from 100% Post-Consumer waste. De-inked without bleaching and free from optical brightening agents (OBA). Awarded the Nordic Swan for low emissions during production and the Blue Angel environmental label

HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 12 October 2011 at 10.00 am

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

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, RC Hunt, Brig P Jones CBE, JLV Kenyon, JG Lester, MD Lloyd-Hayes, G Lucas, FM Norman, GA Powell, GR Swinford and PJ Watts

In attendance: Councillors AM Atkinson, AJM Blackshaw, RB Hamilton, MAF Hubbard, JG Jarvis, SM Michael, C Nicholls, SJ Robertson and JD Woodward

64. APOLOGIES FOR ABSENCE

Apologies were received from Councillor RI Matthews.

65. NAMED SUBSTITUTES (IF ANY)

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

66. DECLARATIONS OF INTEREST

8. DMS/112097/F - Dadnor Court, Dadnor, Ross-on-Wye, HR9 6QL.
Councillor G Lucas, Personal, Friend of the applicant.

9. DMN/112240/FH - Glen Helen, 1 Elmsdale Road, Ledbury, Herefordshire, HR8 2EG.
Councillor PGH Cutter, Personal, Business interest in the solar industry.

67. MINUTES

The Democratic Services Officer advised the Committee that Councillor LO Barnett had requested a minor amendment to the minutes in respect of agenda item 7 (minute number 62). She requested that specific reference be made to the fact that her comments were taken from the emails that she had received; that she understood that the committee were only decided on the conditions and that she was well aware of national and local policies on renewable energy.

RESOLVED: That subject to the amendments detailed above, the Minutes of the meeting held on 12 October 2011 be approved as a correct record and signed by the Chairman.

[Note: The resolution in respect of minute number 62 was omitted from the minutes published in the agenda dated 12 October 2011. The resolution agreed was as set out in the officer's report and amended in the updates sheet circulated at the meeting. The amended minutes were resubmitted to the Committee for approval on 2 November 2011]

68. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised the Committee that agenda item 11 would be considered after the live stock market application as the mayor, who was the local ward member for the application, had a prior engagement.

69. APPEALS

The Planning Committee noted the report.

70. DMS/112085/RM - LIVE STOCK MARKET & ADJ LAND, EDGAR STREET, HEREFORD, HR4 9HX

The Principal Planning Officer advised the Committee that the application before them related solely to reserved matters as the outline application had come before them in March 2011. It was noted that at the outline application stage the following matters had been agreed:

- Principle
- Floorspace thresholds
- Siting and height parameters
- Vehicular access and general highway alterations
- Traffic impact, retail impact and environmental impact.

He went on to advise Members that although the Council had made a commitment to deliver the ESG link road, the application was not dependent on it. He also drew members' attention to an error in the report in respect of parking provision, he advised that the new provision was 617 spaces and not 517 as stated in paragraph 6.47 of the report.

In reference to questions raised at the Planning Committee Site Inspection, which had taken place on Tuesday 11 October, he commented that there was a perception of insufficient parking provision throughout the city, however this was not supported by the data collected by the Council. He also advised that there were new and proposed sustainable transport links and made reference to the recently approved Connect2 cycle way as well as the improved Holmer Road cycle ways. In response to a question regarding the re-use of materials on the site he commented that some of the building plaques were being re-used and that all of the hardcore arising from the demolition would also be crushed and re-used on site.

In response to a letter which had been received from Councillor MAF Hubbard, one of the local ward members, the Principal Planning Officer advised that legal advice had been sought in respect of a proposed condition regarding the restriction of the units around the entrance into the site from Widemarsh Street to retail use only. He confirmed that the advice given was that it would not be lawful to add such a condition at the reserved matters stage. He added that the committee had agreed to maximum floorspace restrictions for restaurant and café uses at outline stage and that as a result of this, it was likely that not all the units in this area could be food outlets in any event.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor MAF Hubbard, one of the local ward members, commented on a number of issues, including:

- Impressed with the general scale, appearance, landscaping and street layout of the proposed development.
- Also pleased to see the inclusion of the small wooden framed pavilion buildings.
- Concerned that the views from Edgar Street were not being enhanced.
- Concerned with the level of integration to the city centre as required by the Council's Unitary Development Plan.

- The issue of usage of some of the units was a matter of layout and could therefore be considered at the reserved matters stage.
- Therefore it was proposed that units 27-29 and all three pavilion buildings be restricted to retail use only.
- Pedestrian integration was a key factor of the development and the crossings on Newmarket Street needed to be reconsidered.
- The proposed pedestrian crossings were not 'shared space crossings' as agreed at the outline application stage.
- Traffic exited the roundabout at fairly high speed, the western crossing was too close to the roundabout.
- There were good examples of shared space crossings throughout the Country including a recently constructed one in Manchester.
- Request that the Committee adds two further conditions to the resolution to restrict the usage of the specified units and pavilions to retail and to reconsider the highway details in particular the pedestrian crossings.

Councillor PA Andrews, another of the local ward members, also addressed the Committee and commented on a number of issues, including:

- Support the principal of the application but have a couple of concerns.
- The design along Edgar Street needed to be reconsidered and improved.
- The design of the development into Newmarket Street also had to be more attractive to the public.
- The inclusion of 3 sets of traffic lights within 100 yards along Newmarket Street was also a concern.

Members were generally in support of the application with a number of the committee of the view that the proposed application was well overdue and would benefit the County as a whole. It was noted that the application had been discussed since 2001 and had taken several years to come to fruition.

Members did however have some concerns in respect of the application. The first issue to be discussed related to traffic. It was noted that the traffic lights along Newmarket Street could have a detrimental effect on the flow of traffic through the city. Some members of the Committee were also concerned that the application had come prior to the provision of the link road.

In response to comments regarding the link road, the Assistant Director - Economic, Environment & Cultural Services advised members that the application before them had to be determined on its merits. He added that work was ongoing to provide the link road but reminded members that they had granted outline permission for the retail site without the benefit of the link road and it would be unreasonable to condition it at this stage.

Another area of concern raised by the Committee was the Edgar Street facade including the department store frontage. A number of members raised concerns with the majority feeling the design could be improved and made more appealing to people accessing the site from Edgar Street. Concern was expressed in respect of the choice of materials for the Edgar Street facade with one of the members voicing concern with the choice of wooden cladding. Members suggested that the applicant may consider making more use of some of the existing elements of the site including historic signage with references to the cattle market.

Members also discussed the linkage between the proposed site and the existing city centre. Members felt that it was imperative that the two areas of the city be well integrated in order for the city centre to remain vibrant. The issue of a condition restricting the usage of specific units to retail only was discussed.

In response to a question regarding restrictions of usage of specific units, the Locum Lawyer advised that such a condition was fundamental to the application and should have been agreed at the outline application stage. He felt that it would be unlawful to add such a condition at the reserved matters stage.

In response to a question regarding the shop front design guide, the Principal Planning Officer advised that the agreement of this was a condition of the outline planning permission and therefore its approval was not required at the reserved matters stage.

The issue of CCTV was raised with one member of the Committee raising the point that the CCTV in the new development needed to be suitably integrated with the existing Council CCTV system.

In response to a question regarding delivery vehicles accessing the site, the Principal Planning Officer advised that vehicles would not be waiting to access the site on the carriageway as there were 2 waiting spaces for HGV's.

One of the Committee members noted the Principal Planning Officers advice but was still concerned that the delivery vehicles would be in the same area as buses on Newmarket Street.

Members continued to discuss the possibility of restricting the usage of specific units to retail only. The Locum Lawyer advised the Committee that it would not be correct to amend an essential part of the outline permission at the reserved matters stage and that therefore he had to reiterate his opinion that a restriction of usage condition would not be lawful.

In response to the comments from the Locum Lawyer, Councillor MAF Hubbard, one of the local ward members, replied that in his opinion the proposed condition addressed the issue of layout which the Committee was permitted to consider at the reserved matters stage. Therefore he felt the condition was reasonable and enforceable and requested that the Committee add it to any resolution made.

The Assistant Director - Economic, Environment & Cultural Services advised Members that he would not add anything further to the legal advice given but that in terms of planning it would be unreasonable to add the suggested condition at this stage. He went on to add that the layout of the units was an issue that could be determined at the reserved matters stage but that allocation of the usage could not.

Members also discussed renewable energy and requested clarification from the Principal Planning Officer as to the standard that the developer proposed for the site. One member also requested clarification regarding the ongoing preservation of the trees proposed on the site. It was also noted that there was an existing tree forum within the County and that it may be beneficial for the applicant to consult with them in order to gain their views on the matter.

In response to a number of questions raised during the debate, the Principal Planning Officer advised that three banks of covered cycle storage had been proposed as part of the application; that the applicants had agreed to develop the site in accordance with the BREEAM excellent standard, and that this had been added as a condition; that night time only deliveries could affect the commercial viability of the units; that a shared space concept had been achieved for the crossings on Newmarket Street whilst also including designated crossing for the disabled; that overall, these design features along with new active shop fronts would make Newmarket Street a more pedestrian orientated retail street; and that there was a condition regarding the management of the trees over the long term attached to the outline permission

Councillor MAF Hubbard and PA Andrews were given the opportunity to close the debate. Councillor Hubbard reiterated his opening remarks and made the following additional comment:

- Pleased that Members were voting on an approval including the proposed condition to restrict the usage of the units around the entrance into the site from the city centre

Councillor PA Andrews closed the debate with the following comments:

- The design of the Edgar Street façade needed to be revisited and it needed to be made more appealing to shoppers.

A motion to approve the application with an additional condition restricting the usage of the units around the entrance into the site from the city centre to retail use was lost and the resolution as set out below was agreed.

RESOLVED

That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers:

1. **Within twelve months of the commencement of development or in accordance with a timetable to be agreed in writing with the local planning authority, details to include scaled plans of the following shall be submitted for the approval in writing of the local planning authority:**
 - a) **The design, materials and finish for the gates serving the service yards on Edgar Street and Newmarket Street.**
 - b) **The material, finish and means of enclosing the retail kiosks.**
 - c) **Details of the planting beds for the areas of climbing plants.**
 - d) **The material, height, finish and means of enclosing the new garden associated with the Old Market Inn.**
 - e) **Details of any externally visible rainwater goods.**
 - f) **Plans, materials and finish for the trolley parks.**

Development shall be carried out in accordance with the agreed details and shall be completed prior to first occupation of any of the units hereby permitted.

Reason: To ensure a satisfactory design and appearance to the development and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

2. **The siting, design and external appearance of all plant and equipment, including renewable energy generation, and any associated supporting structures shall be submitted, approved and completed prior to the occupation of the relevant unit(s) which they service.**

Reason: To ensure a satisfactory design and appearance to the development and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

3. **C06: Development in accordance with the approved plans**

Informative:

1. **N09 – Approval of reserved matters**
2. **N15 – Reasons for the grant of planning permission**

[Councillor GR Swinford wished it to be noted that he abstained from voting in respect of this item]

71. DMS/111901/F & DMS/111902/C - FRIARS HOUSE, 9 FRIARS STREET, HEREFORD, HR4 0AS

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

In accordance with the criteria for public speaking Mrs Barnacle and Ms Minton, two residents of Red Lion Court, spoke in objection to the application and Mr Beacon, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JD Woodward, also representing her fellow ward member Councillor SM Michael, commented on a number of issues, including:

- There was heavy vehicular use along Friar Street which contained 136 residential dwellings as well as a primary school and social clubs.
- The current dwelling was set back from the road and was considerably smaller than the proposed building.
- The proposed dwelling was 0.6 metres closer to the rear boundary and was considerably higher than the existing building.
- The traffic manager raised concerns at paragraph 4.2 of the report.
- The lack of any parking provisions and a footpath in front of the proposed dwelling was a concern for the local residents.
- Concerns were expressed in terms of the height, density and mass of the proposed development as well as the highway issues.
- The proposed application did not enhance the conservation area.
- There was no disabled parking allocated as part of the development.
- The application was therefore contrary to Unitary Development Plan policies DR1, DR2, DR3, H13, H16 and HBA6.

Members discussed the application and shared the concerns of the local ward members. They expressed concerns at the close proximity of the proposed dwelling to the edge of the highway. They were also concerned that there was no parking provision included in the development and felt that this would have a detrimental effect to the amenity of the neighbouring residents on Friar Street. It was noted that there was no mention of renewable energy in the application and also that there was no communal open space.

Other Members, also speaking in objection to the application, had concerns in respect of the site with the general view being that the proposed application would result in an over intensification of the site. It was also felt that the proposed application did not enhance or preserve the conservation area.

Members were of the view that the application was contrary to Herefordshire Council's Unitary Development Plan policies DR1, DR2, DR3, H13, H16, and HBA6.

A further information report was not requested from the Assistant Director - Economic, Environment & Cultural Services or the Locum Lawyer, representing the Monitoring Officer, and therefore the Committee proceeded to the vote.

RESOLVED

That the applications be refused for the following reasons:

In respect of DMS/111901/F:

- 1. The proposed development by virtue of its siting, density, scale, mass, design and height would fail to promote or respect the character of the area and context of the site and would represent a cramped and over intensive form of development. As such the proposal is considered to be contrary to Policies DR1 and H13 of the Herefordshire Unitary Development Plan.**
- 2. The proposed development, by virtue of its siting, density, scale, mass, design and height would adversely impact on the amenities and living conditions of the adjoining residential properties and fail to provide sufficient amenity space for residents within the site contrary to the requirements of Policies DR1, DR2 and H13 of the Herefordshire Unitary Development Plan.**
- 3. The proposed development, by virtue of its siting, density, scale, mass, design and height would fail to preserve or enhance the character and appearance of the Conservation Area contrary to the requirements of Policy HBA6 of the Herefordshire Unitary Development Plan**

In respect of DMS/111902/C:

- 1. The demolition of the dwelling is considered to be unacceptable at this time as there is no redevelopment proposed that would preserve or enhance the character and appearance of the Conservation Area. The proposal therefore conflicts with the requirements of Policy HBA7 of the Herefordshire Unitary Development Plan.**

72. DMS/112097/F - DADNOR COURT, DADNOR, ROSS-ON-WYE, HR9 6QL

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The ménage shall be used for the training of the applicant's own horses and shall at no time be used for any commercial training or other equestrian enterprise.**

Reason: In order to safeguard the character and amenity of the area and to comply with Policy DR3 of Herefordshire Unitary Development Plan.

4. G02 Retention of trees and hedgerows

Informative:

1. N15 Reason(s) for the Grant of PP/LBC/CAC

73. DMN/112240/FH - GLEN HELEN, 1 ELMSDALE ROAD, LEDBURY, HEREFORDSHIRE, HR8 2EG

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. He advised that the word 'not' had been omitted in the last sentence of paragraph 6.3 of the report.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The external surface of the flue pipe, hereby approved, shall have a matt black finish unless otherwise first agreed in writing by the local planning authority.**

Reason: To ensure that the flue pipe is satisfactory in appearance and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

4. CE2 Solar panels or other external renewable energy installations

Informative:

1. N15 Reason(s) for the Grant of PP/LBC/CAC

74. DMS111656F - LAND OPPOSITE THE BELL INN, TILLINGTON, HEREFORDSHIRE, HR4 8LH

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

In accordance with the criteria for public speaking Mrs Reynolds, representing Burghill Parish Council and Mr Roberts, a neighbouring resident, spoke in objection to the application and Mr Ball, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor SJ Robertson, the local ward member, commented on a number of issues, including:

- The application came before committee in December 2010 and had caused the local residents some concern.
- Burghill Parish Council objected strongly to the application.
- The existing condition protected the amenity of the local residents and was in accordance with policy DR2 of the Herefordshire Council Unitary Development Plan.
- The translocation of the hedge had not been successful.

- The applicant was now requesting unlimited access to the site to feed goldfish and a cat, this seemed unreasonable.
- The speed of traffic along the road had increased and it was no longer safe for horse riding although it did not meet the criteria for a speed restriction.
- Applicant needed to work more closely with the local residents.

Members opened the debate by noting that the applicant needed to work more closely with the neighbouring residents. It was however considered that the proposed condition was reasonable and would address the concerns of the neighbouring residents.

However some members had concerns in respect of the enforcement of the existing conditions on the site and also raised the issue of highway safety as a concern. A number of members noted that they had visited the site in December 2010 and shared the concerns in respect of vehicular speeds along the highway.

The Development Manager advised the Committee that the enforcement issues referred to related to the applicant commencing work on the site prior to the discharge of conditions, he added that this was not uncommon. In response to other issues raised he advised that the hedge would have to be replanted and that although the application sought unrestricted access to the site the proposed condition kept some restrictions in place.

It was noted that the enforceability of the proposed condition regarding access to the site could be problematic and could cause issues between the applicant and the neighbouring residents. Some members were of the view that the proposed condition was not enforceable.

Another member of the Committee noted that the application was an agricultural usage and that there should be no restriction of access to the site. It was also noted that a farm on the site could result in more traffic movements than the existing use.

Councillor SJ Robertson was given the opportunity to close the debate. She reiterated her opening remarks and made the following additional comment:

- The original conditions were put in place to mitigate the concerns of the neighbouring residents.
- The removal of the original conditions would be contrary to policies DR1 and DR2 of the Unitary Development Plan.

A motion to approve the application in accordance with the case officer's recommendation failed and the resolution as set out below was agreed.

RESOLVED

That planning permission be refused for the following reasons:

- 1. The application is contrary to policies DR1 and DR2 of the Council's Unitary Development Plan**

75. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 1.30 pm

CHAIRMAN

PLANNING COMMITTEE

12 October 2011

Schedule of Committee Updates/Additional Representations

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

DMS/112085/RM - Application for approval of Reserved Matters following Outline application DMS/103136/O for the redevelopment of the Livestock Market and adjacent land at Live Stock Market & adj Land, Edgar Street, Hereford, HR4 9HX

For: Stanhope Plc per Savills Plc, Embassy House, Queens Avenue, Bristol, BS8 1SB

ADDITIONAL REPRESENTATIONS

Amended plans have been received relating to the Block B frontage on to Newmarket Street and the cinema materials. These change the material for the upper parts of this building to timber cladding and introduce additional relief in the first floor Newmarket Street elevation through the creation of recessed panels and obscure glazing. In addition, the alignment of the pedestrian crossing of Widemarsh Gate has been amended to more directly align with the pedestrian desire line and improve the flow of pedestrians.

A highway materials options report has been received

Two emails have been received from Cllr. Hubbard and Cllr. Chave.

Cllr. Hubbard requests that several of the units around the entrance into the site from Widemarsh Street to be restricted to retail use only to enhance the retail connectivity between the city centre and development.

Cllr. Chave's comments are as follows:

- Continued concerns regarding the connectivity of the development with the city centre and manner in which the buildings relate to the streets
- Question the need for the number of additional retail and restaurants proposed and usability of some of the cycle racks
- Concerned with the height of some of the buildings and the level of parking provision,
- Consider that some of the materials may appear dated very quickly
- Welcome the plans for the public realm, the new tree planting, the provision of PV panels, the variation in roof heights and the introduction of a 20mph zone

OFFICER COMMENTS

The site falls with Three Elms and Central Wards rather than Aylestone Ward.

The amended plans largely addresses the issues identified in the Committee report concerning Block B and the manner in which it addresses Newmarket Street.

Following legal advice, the imposition of a condition as requested by Cllr Hubbard would not meet the legal requirements of Circular 11/95 concerning the use of conditions. This is because the matters to be considered under this application are the layout, scale, appearance and landscaping of the development and therefore a condition that restricts the uses of parts of the development fall outside the scope of matters that can be considered under this application.

CHANGE TO RECOMMENDATION

In light of receipt of the acceptable amended plans, the application is now recommend for approval.

DMN/112240/FH - Proposed installation of solar thermal panels on roof of existing garage together with bio-mass flue at Glen Helen, 1 Elmsdale Road, Ledbury, Herefordshire, HR8 2EG

For: Mrs Harvey per Mr Ian Guest, 22 Upper Chase Road, Malvern, Worcestershire, WR14 4XG

ADDITIONAL REPRESENTATIONS

Ledbury Town Council recommends Approval

NO CHANGE TO RECOMMENDATION

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 14 September 2011 at 10.00 am

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

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, RB Hamilton, J Hardwick, JW Hope MBE, RC Hunt, JA Hyde, JLV Kenyon, MD Lloyd-Hayes, G Lucas, PJ McCaull, JW Millar, FM Norman, GJ Powell, GR Swinford and PJ Watts

In attendance: Councillor LO Barnett

56. APOLOGIES FOR ABSENCE

Apologies were received from Councillors BA Durkin, KS Guthrie, Brig. P Jones CBE, J Lester and RI Matthews.

57. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors RB Hamilton, JA Hyde, JW Millar, GJ Powell and PJ McCaull attended the meeting as substitute members for Councillors BA Durkin, KS Guthrie, Brig. P Jones CBE, J Lester and RI Matthews.

58. DECLARATIONS OF INTEREST

7. DCNW2008/1289/F - REEVES HILL, REEVES LANE, NEAR KNIGHTON, HEREFORDSHIRE.

Councillor PGH Cutter, Personal, Member of the Wye Valley Area of Outstanding Natural Beauty Partnership Board.

59. MINUTES

Councillor DW Greenow advised the Committee that he gave two reasons in declaring a personal interest on agenda item 8, he asked for it to be noted that he also rented a farm from Bloor Homes.

RESOLVED: That the Minutes of the meeting held on 31 August 2011 be approved as a correct record and signed by the Chairman.

60. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements made.

61. APPEALS

The Planning Committee noted the report.

62. DCNW2008/1289/F - REEVES HILL, REEVES LANE, NEAR KNIGHTON, HEREFORDSHIRE

The Chairman advised members that the case officer had produced a detailed list of updates which should be noted prior to the application being discussed. Members were therefore given suitable time to read the update sheet. In response to a question, the Development Manager advised that the updates could not be circulated 5 days before the meeting as the Council's constitution required any information received before 12 noon the day before the meeting to be reported to the Committee. The update sheet is attached as an appendix to these minutes.

The Development Manager gave a detailed presentation on the report. He advised Members of a number of details, including:

- The application had been submitted in 2008.
- In 2009 the Planning Committee had effectively granted planning permission subject to conditions.
- The Planning Committee had visited the site as well as visiting a working wind farm.
- The site was located in north-west Herefordshire and that the nearest settlements were Norton, Knighton and Presteigne.
- Some parts of the access would require planning permission from Powys County Council.
- The proposed turbines were 105m in height to the top of the blade tip, and 70m to the top of the hub.
- The secretary of state had not called in the 2009 decision however it had been bought back to Committee as some further clarification had been required following regulation 19 requests by the Council regarding wind shear and other noise data, the landscape enhancement fund, the methodology used in the visual impact assessment and hydrology/hydrogeology matters.
- Once the information had been received in 2010 it was decided that a further consultation exercise should be undertaken.
- There had been minor changes to national policies but there had been no changes to the Council's Unitary Development Plan in respect of wind turbines.
- Further advice needed to be given in respect of Shobdon Airfield.

In summing up the Development Manager advised the Committee that there were four recommendations in the report and that these had been subject to a minor amendment as detailed in the updates sheet. He also requested that if the Committee were minded to approve the application it would be beneficial to delegate the final wording of the conditions to Officers as some of the conditions may require minor amendments.

In accordance with the criteria for public speaking Mr Andrews, representing Knighton Town Council, and Mrs Bywater and Dr Hugh-Jones, representing the Stonewall Hill Conservation Group, spoke in objection to the application and Sir Gourlay and Mr Corker, on behalf of the applicants, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor LO Barnett, the local ward member, commented on a number of issues, including:

- The application was controversial and had divided the community.
- There had been 38 letters of objection since the re-consultation.
- As local ward member she had a duty to represent the people who had made representations; those who had written in previously; and the local residents who had not written in.
- Mrs Bywater, who was thanked for attending, had raised the concerns of the neighbouring residents in her submission.
- Stonewall Hill was a beautiful area of great landscape value.
- The concerns raised in the various letters and emails received included the following; the turbines were not energy efficient; the turbines would be a blot on

the landscape; there would be no local benefit; tourism would suffer; the detrimental impact on wildlife.

- The local residents and Dr Hugh-Jones and his wife had remained courteous and polite throughout the application process.
- She had not been put under any pressure from the applicants, officers, fellow councillors or any member of the community and that there had been no communication from the developers.
- There had been a considerable amount of detailed technical information circulated throughout the application process which she had attempted to digest and understand.
- That she cared deeply for the people she served from within her ward.
- *The local ward member wished it to be noted that her comments were taken from the emails that she had received. [note: amended at the meeting of Planning Committee on 12 October 2011]*
- *It was noted that the committee were only decided on conditions. [note: amended at the meeting of Planning Committee on 12 October 2011]*
- *She was well aware of national and local policies on renewable energy. [note: amended at the meeting of Planning Committee on 12 October 2011]*

The debate was opened with a member of the committee commenting that in the 15 years that he had been involved in planning the application being discussed had caused the most public interest. He added that the Committee had visited the site as well as a working wind farm in South Wales and that the members who also served on the previous Planning Committee had also visited a working wind farm in North Wales. It was noted that the key considerations appeared to be in respect of noise, visual impact, and the potential output of the turbines. The application was moved subject to the revised conditions detailed in the update sheet.

In response to a question, the Development Manager advised the Committee that the proposed Section 106 Agreement required the applicant to be in receipt of planning permission for the areas of the site that fell within the remit of Powys County Council prior to any development being commenced.

The local concerns in respect of the application were noted, however a member of the committee who had attended the recent site visit noted that the turbines produced very low levels of noise and that in her opinion the turbines would not have an adverse effect on tourism in the County.

Another Member of the committee had reservations in respect of the application. Concern was expressed in respect of the national guidance regarding wind farms. It was noted that the proposal would benefit from a substantial government subsidy and the question was asked as to whether the application would have been forthcoming without the subsidy. It was also noted that the applicants had requested a 25 year permission, the question was asked as to whether this was based on the government subsidy or as a result of the lifespan of the turbines.

In response to a question regarding the reason for a 25 year permission, the Senior Planning Officer advised that the period was as requested by the applicants. Additionally the Assistant Director - Economic, Environment & Cultural Services, advised that this was in keeping with national policies as well as being based on government subsidies. He added that the financial viability of the proposal was a matter of consideration for the operator and land owner and not a material planning consideration. It was also noted that there was a considerable capital investment being made by the applicant and that a 25 year permission reflected this. Finally he advised members that the conditions recommended would ensure that any landscape impact could be reversed.

In response to a question regarding overhead cables, the Senior Planning Officer advised members that this matter did not form part of the application but that the applicant had indicated that turbines would be linked to the national grid via underground cables.

In response to the comments made by the committee, the Assistant Director - Economic, Environment & Cultural Services, advised them that they were required to make a judgement in respect of the application based on all the key issues that had been raised. He drew their attention to PPS22 which gave advice in respect of material planning considerations, which included the landscape concerns and the technical findings. In summing up he advised members that the case officer was satisfied with the technical details and also that the committee could give weight to the landscape and noise issues in making a judgement.

The Committee noted the concerns of the local residents and felt that the issue of flicker needed to be addressed, they therefore requested further clarification from the case officer in respect of this issue.

Members continued to discuss the application and noted a number of issues. They noted that the environmental statement submitted with the application indicated that the magnitude of change in the landscape was judged to be high. Some members had concerns in respect of wind turbines but noted that the technology was available and ready for installation. They noted that other forms of renewable energy production may come forth in the future and felt that this was where a 25 year permission would be beneficial. The educational facility on the site was also welcomed.

In response to a number of questions raised by the committee, the Senior Planning Officer advised members of the following points:

- There were 15 dwellings within 1000 metres of the site. He added that the health issues were addressed on paragraph 6.1 of the report.
- The issue regarding the mitigation of shadow flicker had been addressed in the previous report at page 81.
- The depth of the base of the turbine was 2m, conditions required 1m to be removed if the turbines either became redundant or at the end of the 25 year permission.
- No bridleways or footpaths would be affected and the public rights of way officer had not objected to the application.

Councillor LO Barnett was given the opportunity to close the debate. She reiterated her opening remarks and made the following additional comments:

- The policy issues and the need for renewable energy were accepted but did not reflect the views of the local residents.
- That she was representing the views of those local residents who had contacted her in respect of the application.
- Members needed to consider the views of the local community before voting.

RESOLVED

THAT:

- A) It be recorded that the Environmental Statement, including the additional information received as a result of the Regulation 19 Notices, has been taken into account in making this decision**

- B) Subject to the completion of a Section 106 Agreement in accordance with the Heads of Terms (as attached and dated 29 January 2009, and**
- C) Subject to the applicant supplying a Unilateral Undertaking for the purposes as set out in the Environmental Statement for the creation of a Community Fund, that**
- D) Planning Permission is granted subject to the following conditions:**
- 1. The development shall be carried out strictly in accordance with the particulars of the development, plans, specifications constructed in accordance with the following plans:**

Reason: In the interests of the visual amenity of the surrounding area and to comply with Policies DR1 and DR4 of the Herefordshire Unitary Development Plan.
 - 2. The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
 - 3. The operational period of the turbines hereby permitted shall expire 25 years following the first generation of electricity to the local electricity supply. The Local Planning Authority will be informed by the developer/operator in writing within 28 days of the date of the first generation of electricity to the local electricity supply.**

Reason: In order to protect the amenity of the surrounding area and to comply with Policies DR4 and CF4 of the Herefordshire Unitary Development Plan.
 - 4. All the above ground elements of the development and the turbine bases to a depth of 1 metre below ground level shall be removed from the site within 6 months immediately following the expiry of the operational period of the turbines referred to in condition number 3 of these conditions. The land shall be reinstated in accordance with a scheme to be approved in writing by the local planning authority. The scheme for reinstatement shall be submitted for the approval of the local planning authority not later than 20 years from the date of the first generation of electricity to the local electricity supply.**

Reason: In order to protect the amenity of the surrounding area once the site has ceased producing electricity and to comply with policy LA2 of the Herefordshire Unitary Development Plan.
 - 5. Notice of the date of commencement of the development shall be given by the developer/operator in writing to the local planning authority before any works commence on the site.**

Reason: In order to comply with condition 3 and to comply with Policy CF4 & DR4 of the Herefordshire Unitary Development Plan.
 - 6. Before the development is commenced a scheme to secure the investigation and alleviation of any interference to any form of electromagnetic transmission which may be caused by the operation of the**

wind turbines shall be submitted by the developer/operator to the local planning authority and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the amenity of the surrounding area and to comply with Policy S11 of the Herefordshire Unitary Development Plan.

7. All the turbine blades shall rotate in the same direction.

Reason: In the interests of the visual amenity of the surrounding area and to comply with Policies DR1 and DR4 of the Herefordshire Unitary Development Plan.

8. The turbines shall be located in the positions shown on the approved plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the surrounding area and to comply with Policies DR1 and DR4 of the Herefordshire Unitary Development Plan.

9. If a wind turbine fails to produce electricity for supply to the grid for a continuous period of 12 months, all of its above ground elements and the turbine bases to a depth of 1 metre below ground level shall be removed at the request in writing of the local planning authority within a period of six months from the end of the 12 month period. Within the ensuing 12 months the land shall be reinstated in accordance with a scheme that has been submitted by the developer/operator to the local planning authority and approved in writing by the local planning authority. The scheme shall be submitted within two months of a request in writing by the local planning authority under this condition.

Reason: In order to protect the amenity of the surrounding areas and to comply with Policies DR4 and CF4 of the Herefordshire Unitary Development Plan.

10. There shall be no external lighting of the turbines hereby permitted. Before commencement of the development details of any other floodlighting/external lighting during the construction phase shall be submitted by the developer/operator to the Local Planning Authority for written approval. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To protect the amenity of the surrounding area and to comply with Policies DR4 of the Herefordshire Unitary Development Plan.

11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and

tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

- 12. All foul drainage shall be contained within a sealed and water tight cesspool, fitted with a level warning device to indicate when the tank needs emptying.**

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

- 13. Development shall not commence until a Private Water Supply Protection Plan has been submitted by the operator to the local planning authority and approved in writing by the local planning authority. The submitted details shall include the following:-**

- a. the identification of appropriate water features (including but not limited to springs, boreholes and wells) and location of water features to be monitored including the proposed observation boreholes adjacent to each turbine foundation, that are to be used for the monitoring of water flows and water quality;**
- b. the method and nature of monitoring with subsequent provision of baseline data to adequately characterize the flow regime and quality and quantity of water provided by any private water supply that might be affected by the development;**
- c. the mitigation measures for the protection of such water features;**
- d. the system to ensure that upon notification to the developer of a concern about a possible deterioration in water quality or quantity arising from the development, that immediate provision of alternative suitable and sufficient water supplies takes place (whether on a temporary or permanent basis) in the event of any interruption or adverse change caused by the development in the quantity or quality of water previously enjoyed;**
- e. the arrangements for undertaking sampling, measurement and analysis of private water supplies before, during and following construction, (a period of up to 6 months, or as otherwise agreed as part of the Private Water Supply Protection Plan).**

The above measures under the Private Water Supply Protection Plan, as approved, shall thereafter be implemented at the developers/operators own expense at all times whilst the development hereby approved remains operational.

Reason: In order to protect the water environment which includes natural water supplies and to comply with Policy DR6 of the Herefordshire Unitary Development Plan.

- 14. Before development is commenced a detailed plan for a surface water and ground water management plan to include details of associated drainage and sediment control shall be submitted by the developer/operator to the**

Local Planning Authority and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To prevent impact on the groundwater environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

- 15. An appropriately qualified and experienced ecological clerk of works will be appointed (or consultant engaged in that capacity) to oversee the ecological monitoring, mitigation and enhancement work.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 16. Before development is commenced, full working method statements and strategies for protected species (including bats, birds and great crested newts) based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Report (October 2008 & October 2010) shall be submitted by the developer/operator to the Local Planning Authority for written approval. These shall be implemented as approved.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 17. Before development is commenced, schemes for long-term monitoring of the impact of the wind turbines upon protected and/or notable species (including bats, birds and great crested newts) shall be submitted by the developer/operator to the Local Planning Authority for written approval. The monitoring schemes shall be implemented as approved and the results submitted annually to the Local Planning Authority.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the

Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007. To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 18. Before development is commenced, a full habitat enhancement and management scheme based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Reports (October 2008 & October 2010) shall be submitted by the developer/operator to the Local Planning Authority for written approval. This shall be implemented as approved and maintained thereafter.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 19. H03 - Visibility splays**

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

- 20. H05 - Access gates**

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

- 21. H06 - Vehicular access construction**

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

- 22. H13 - Access, turning area and parking**

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

- 23. H21 - Wheel washing**

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

- 24. H27 - Parking for site operatives**

Reason: To prevent indiscriminate parking in the interests of highway safety -and to conform to the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

25. H30 - Travel plans

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

26. Prior to the commencement of site works, full details of the turbines including their make, model, design, colour, finish, hub height, blade measurements and power rating shall be submitted to and approved by the Local Planning Authority.

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

27. Prior to the erection of the wind turbines or installation of the transformer units, any wind turbine generator not of the make, model and characteristics considered in the Noise Assessment Chapter of the Environment Statement for the development must first be agreed with the Local Planning Authority. The following information should be submitted:

- a) An acoustic emissions report for the selected wind turbine generator. The report shall be in accordance with BS En 61400-11, Wind Turbine Generator Systems Part 11: Acoustic noise measurement techniques and shall include the A weighted sound power levels, spectra and tonality at integer wind speeds from 6 to 10 m/s.**
- b) A Noise prediction report from a suitably qualified and competent acoustic consultant that demonstrates the sound levels from the wind farm will not exceed those conditions set out in Condition 33 below. This should include measurements or calculations that take into account wind shear. The modes of operations and the type of turbine must be specified.**

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

28. During the construction phase the hours during which working may take place shall be restricted to 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. There shall be no such working on Sundays, Bank or Public Holidays.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

29. Before development is commenced, a scheme to avoid the incidence of any shadow flicker at Folly Farm, The Gutters, Tipton Farm and Willey House or any other dwelling considered reasonable by the Local Planning Authority, shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of the sighting of the photocells and measures

to control or shut down the turbine. Unless otherwise agreed in writing, if shadow flicker during the operational period is being caused at a dwelling, the turbine shall be shut down and the blades remain stationary until the conditions causing such effects have passed. The above scheme shall be implemented as approved for the duration of the authorised use.

Reason: In the interest of the amenity of nearby properties and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

30. At the request of the Local Planning Authority, upon receipt of a complaint considered reasonable by the Local Planning Authority relating to noise from the turbines, the operator of the development shall, at its expense, employ an independent consultant approved by the Local Planning Authority to measure and assess the level of noise emissions from the wind turbines. The noise assessment must be undertaken whilst operational conditions are representative of those appertaining to the periods of operation giving rise to noise complaints. The noise assessment shall take place within 60 days of a written request by the Local Planning Authority and shall be undertaken following the procedures described in the Guidance Notes annexed to this decision. Findings shall be reported to the Local Planning Authority within 30 days of the completion of monitoring being undertaken.

Reason: In the interest of the residential amenity of the surrounding area and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

31. At the request of the Local Planning Authority the developer and/or site operator shall carry out measurements to determine whether the turbines exhibit any tonality. Tonality measurements shall take place within 30 days of a written request by the Local Planning Authority and shall be undertaken in accordance with procedures described in the Guidance Notes annexed to this decision.

Reason: In consideration of the amenity of the surrounding environment and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

32. The rating level of noise emissions from the combined effects of the wind turbines when measured and calculated in accordance with the Guidance Notes annexed to this decision shall not exceed the values set out in Tables 1 and 2 below. Where a property is not listed, the rating of noise emissions shall not exceed the lowest value shown for the relevant standardised wind speed.

Reason: In the interest of the amenity of surrounding dwellings and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

**Night Time Rating Values
23:00 – 07:00**

TABLE 1

	Standardised 10m agl wind speed (m/s)								
	4	5	6	7	8	9	10	11	12
Carter's Farm	38	38	38	38	38	39.8	44.2	48.1	48.1
Cook's House	38	38	38	38	38	39.7	43.8	43.8	43.8

Gutters / Folly Farm	38	38	38	38	38	38.6	38	39.1	39.1
Hill House Farm	38	38	38	38	38	38.3	42.1	45.7	45.7
Maryvale	38	38	38	38	40.4	42.7	43.9	44.2	44.2
The Colony	38	38	38	38	38	39.6	42.8	46	46
The Warren	38	38	38	38	39.9	42.9	45.2	46.5	46.5
Tipton Farmhouse	38	38	38	38	41.2	45.1	48.4	50.5	50.5
Willey House	38	38	38	38	38	38.6	41	42.7	42.7

**Day Time Rating Values
07:00 – 23:00**

TABLE 2

	Standardised 10m agl wind speed (m/s)								
	4	5	6	7	8	9	10	11	12
Carter's Farm	35	35	35	37.4	41	44.2	44.2	44.2	44.2
Cook's House	35	35	35	36	38.7	41.7	44.4	44.4	44.4
Gutters / Folly Farm	35	35	35	36.7	39.8	42.3	42.3	42.3	42.3
Hill House Farm	35	35	35	37.3	41.6	45.1	45.1	45.1	45.1
Maryvale	35	35.3	39.4	43.2	46.1	47.6	47.6	47.6	47.6
The Colony	35	35	35.7	38.5	41.1	43.3	43.3	43.3	43.3
The Warren	35	35	37.5	41	44.4	47.7	47.7	47.7	47.7
Tipton Farmhouse	35	35	37.5	41.3	45.4	48.7	48.7	48.7	48.7
Willey House	35	35	35	37.7	41.3	44.4	44.4	44.4	44.4

33. Upon notification in writing of an established breach of the noise limits as referred to in Condition 32 above, the development operator shall within 30 days submit a scheme for approval to the Local Planning to remedy the breach to prevent future occurrence.

Reason: In the interests of the amenity of the surrounding area and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

34. From the date of commencement of the operation of the wind farm the operator shall continuously log wind speed, wind direction and power generation data for each wind turbine. The data shall be continuously recorded throughout the period of operation of the wind farm and made available to the Local Planning Authority within 30 days of their written request. The wind data shall include the wind speed in metres per second (ms⁻¹) at 10 metres in height and the wind direction in degrees from north for each ten minute period. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear and with the associated methodology for this conversion also provided to the Local Planning Authority. The data shall be retained for a period of not less than 12 months.

Reason: In the interest of surrounding amenity and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

35. Prior to the commencement of operation of the wind turbines a scheme shall be submitted and approved by the Local Planning Authority for

monitoring noise levels at no fewer than 5 selected residential boundary locations during the 6 months following connection to the electricity grid and with the site fully operational. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels in a representative range of wind speeds and wind directions with all turbines operating. Monitoring sites shall be agreed with the Local Planning Authority and monitoring shall be carried out in accordance with the agreed scheme.

Reason: In the interests of residential amenity and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

36. A revised noise management scheme shall be submitted and agreed in writing with the Local Planning Authority prior to commencement of use of the turbines. The monitoring and management of low frequency noise, blade swish, amplitude modulation, mechanical defect noise, tonal noise, infrasound, vibration, day and night-time noise levels should be included in the scheme. The scheme shall be in use for 2 years from the date of agreement. A new scheme should be agreed every two years by the Local Planning Authority prior to the expiry of the previous scheme. A scheme shall remain in force for the duration of the authorised use.

Reason: In the interest of the amenity of the surrounding environment and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

37. Before development is commenced details of a nominated representative for the development to act as a point of contact for Local Authority Officers and local residents in relation to noise and nuisance issues shall have been submitted in writing for approval by the local planning authority. Information shall also be provided detailing the arrangements for notification of any change to the nominated representative. The nominated representative shall have responsibility for dealing with any noise complaints made during the construction, operation and decommissioning of the wind farm and liaison with the Local Planning Authority.

Reason: In consideration of the amenity of the surrounding environment and to comply with Policies DR4 and DR13 of the Herefordshire Unitary Development Plan.

38. The approved

Informatives

1. N15 – Reason(s) for the Grant of Planning Permission

The development.

The application proposes four turbines and associated access tracks, hard standing and sub-station building for a period of 25 years, covering an area of approx. 3.81 hectares on land at Reeves Hill, Reeves Lane, Nr. Knighton, (Known locally as Stonewall Hill).

The application proposes four three bladed turbines with a total tip height of 105 metres and the maximum length of the blades is 40 metres. Each turbine would have a generating capacity of up to 2.3 megawatts. The site would have the potential of generating up to 9.2 megawatts of electricity, which the Environmental Statement indicates would meet the potential energy requirements of approximately 5,144 homes.

Site location.

The site lies on the English/ Welsh border, and is typical of the surrounding area, being semi-improved agricultural land, mainly used for the grazing of livestock or corn growing. The site forms part of a ridge line running north-south and peaks at a height of just over 400 metres, encapsulating elements of two landscape character types, namely 'Enclosed Moors and Commons' and ' Principle Wooded Hills' , as referred to in the Council's Landscape Character Assessment, and does not form part of any specific landscape designations. There are approximately 16 dwellings within 1 km of the site.

The nearest landscape designations to the site are the Shropshire Hills Area of Outstanding Natural Beauty, located approximately 3.5 km to the north of the site, and Offa's Dyke National Trail, located approximately 3km to the west of the site. Also slightly further from the site in a westerly direction is another national trail known as Glyndwr's Way. Within 1 km of the application site is a dwelling, Tipton Farm House, which is a grade two Listed Building. There are no other listed buildings within close proximity to the application site.

Environmental Statement.

The application was accompanied by an Environmental Statement as the result of a Scoping Opinion request by the applicants under Environmental Impact Regulations 1999, to which the Scoping Opinion identified the development as EIA development under Schedule 2 - 3i DETR Circular 02/99 - Annex A (15). Further Supplementary Information was submitted in support of the application under Regulation 19 of the Town and Country Planning (Environmental Impacts etc) Regulations 1999 as a result of two separate requests from the Council dated 30th November 2009 and 5th August 2010.

Development Plan Policies.

The relevant development plan is Herefordshire Unitary Development Plan. The key policy is Policy CF4: Renewable Energy. This policy encourages development proposals for renewable energy provided that they do not adversely affect the integrity of sites of international importance for nature conservation and that the objectives of the designation of nationally important sites and areas such as Sites of Special Scientific Interest, National Nature Reserves, Areas of Outstanding Natural Beauty, Scheduled Ancient Monuments or sites of other national archaeological remains will not be compromised and any significant adverse effects on the qualities of the area are clearly outweighed by the environmental social and economic benefits. The Policy also emphasises that outside of nationally designated sites and areas there should be no significant detrimental effect upon the character of the particular landscape and no significant impact upon the amenity of neighbouring residents and that regard will also be given to the wider environmental, social and economic benefits to be gained from the use of renewable energy sources.

Other key Herefordshire Unitary Development Plan Policies are Policy LA2: Landscape areas and areas least resilient to change which indicates that proposals that would adversely affect either the overall character of the landscape and its key features will not be permitted and where appropriate developers will be encouraged to restore degraded or despoiled landscapes to their inherent character. Policy HBA4: Setting of Listed Buildings indicates that development proposals which would adversely affect the setting of a listed building will not be permitted. Policy ARCH3: Scheduled Ancient Monuments indicates that development proposals and works which may adversely affect the integrity, character or setting of Scheduled Ancient Monuments will not be permitted. Policy NC1: Biodiversity and Development indicates that in determining all development proposals, the effects upon biodiversity and features of geological interest will be taken fully into consideration. Policy DR13: Noise, states developments with the

potential for generating significant levels of noise or for exposing a noise sensitive use to an existing noise source will be required to include appropriate measures within the proposal to mitigate the noise impact to an acceptable level or otherwise the development will not be permitted. Policy DR2: Land Use and Activity, refers to sustainable forms of travel and protection to amenity of adjoining land and buildings with no prejudice on surrounding areas. Policy DR3: Movement, refers to a safe and acceptable means of public highway access into and out of the site with consideration to surrounding public highways. Policy S1: Sustainable Development: promotes development and land use change which in terms of its level, form and design contributes to the achievement of sustainable development.

The decision to grant planning permission also had regard to the provisions of National Planning Policy and in particular Planning Policy Statement 22: Renewable Energy; which promotes sustainable forms of renewable energy. Also of consideration, (although scheduled to be abolished), was Regional Government Advice in the form of the West Midland Regional Spatial Strategy; this encapsulates both the national and Local Plan policies. In addition, nationally it remains a Government objective to provide 15% of all energy consumption from renewable sources by 2020. The proposal is in accordance with National Policy Energy Statements, approved by Parliament in July 2011.

Landscape consideration.

In reaching the decision, the Council were mindful of the particular circumstances of the case, and in particular the key issues of impact of the proposed turbines on the surrounding visual and historic landscape, including Offa's Dyke and surrounding public rights of way as well as impact on amenity of the surrounding environment, which includes residential amenity and landscape characteristics, most notably the Shropshire Hills Area of Outstanding Natural Beauty. Public Highway access to the site was also given consideration.

Landscape impact was a significant issue as the proposed development is considered to have an impact on the surrounding landscape visually. The Environmental Statement indicates that any landscape impacts will be moderate, depending on the distance from the site and after the application's lifespan of 25 years any detrimental impacts will be reversed. The Council consider the impact is one of a temporary nature (Lifespan of the planning permission). The site itself is within no landscape designations and it is considered that the proposed development will not have any significant detrimental impact on surrounding landscape designations such as the Shropshire Hills Area of Outstanding Natural Beauty due to separation distance. Any impact on Offa's Dyke is considered very localised and there will be no significant detrimental impacts on surrounding historic parks, also in consideration of separation distance, the nearest being Stanage Park and Brampton Bryan Park neither will there be significant impacts on the Glyndwrs Way.

Biodiversity.

Impacts on biodiversity are considered to be of a low impact as the Environmental Statement indicates the application site has little significant natural cover or remaining habitat, the application site being mainly semi-improved grassland or land used for corn production. The Environment Statement indicates that fauna is diverse but low in number and that the proposed development will result in very little land take and loss of scrub, and therefore little loss in breeding or foraging habitat. Protected species are known to use the site such as Great Crested Newts and Bats. However survey work concluded that there will be very minimal impacts on low numbers of species present and that any impacts can be mitigated with enhancement. A landscape/biodiversity enhancement fund as offered by the applicants will help towards reducing impacts. The Council consider there are not likely to be significant impacts on biodiversity issues, and land take for the

proposed development is minimal with very little impact on vegetation, or loss of suitable scrub/tree vegetation. Impacts on protected species and nesting birds are considered very minimal. Any concerns as a result of the proposed development on ecological issues can be mitigated by means of appropriate conditions attached to any decision notice issued, as well as the said biodiversity fund.

Hydrology and Hydrogeology.

The Environmental Statement and additional information received acknowledges that water features on site provide water to livestock on the land as well as to surrounding dwellings to the application site. Whilst the additional information in support of the application reclassified the aquifer classification from a non aquifer to a secondary (A) aquifer, in the context of the ground water resource potential the Supplementary information as having a 'high importance' compared to a previously 'low importance', the degree of risk to the wider ground water system remains relatively minor, given the scale of the proposed development. Within the surrounding area are isolated dwellings that have private water supplies, which are fed from the surrounding land including the application site. Whilst it is acknowledged that any likely impacts on water features is minimal, the mitigation as put forward by the applicants is considered acceptable as no precise impacts on water supplies can be established prior to development on site. However the application indicates micro siting for the proposed turbines and with adequate conditions attached to any decision notice to ensure adequate on site monitoring and mitigation it is considered that water features will be adequately protected as advised by the Environment Agency and the Council's Environmental Health Manager in response to the application.

The Environmental Statement and additional information received indicate there will be little impact on surface water drainage. The Council concur with the findings of the information and consider that any issues of concern can be adequately addressed by means of appropriate conditions to any decision notice issued with regard to surface water drainage and on site pollution such as oil spills etc.

Noise.

The applicants by means of the Environmental Statement and additional information have indicated that the predicted noise from turbines on site will be to an acceptable level and fully complies with the industry's ETSU-R-97 guidance as well as that of advice as contained in an Acoustic Bulletin published in March/April 2009.

In support of the application the applicants as a result of a Regulation 19 request from the Council provided further background noise measurements from nine separate locations neighbouring the proposed wind farm and these locations were approved prior to the background noise testing by Environmental Health Officers of both Herefordshire and Powys County Councils. The conclusion drawn by both Herefordshire and Powys Council Council's, is that the additional noise information meets the criteria of ETSUR-97 and with appropriate conditions attached to any decision notice, noise issues are not considered a reason for refusing the application. In consideration of concerns as raised by the public and in particular the Stonewall Hill Conservation Group, the Council, (Herefordshire), sought the expert advice of noise specialists, (Enviros SKM), who also concluded that the noise data gathered was to an acceptable level, complying with the industry's guidelines and that the application could be supported with appropriate conditions attached to any decision notice in order to protect surrounding residential amenity.

Road and traffic issues.

The application was accompanied by a traffic impact assessment which in particular assessed the relationship to abnormal load vehicles, which will approach the site from a northerly direction travelling along the A49 from the north until the junction of the A4113, from where they will travel in a westerly direction to Knighton, (Powys) and then towards the site (along a proposed new stretch of roadway), onto Llanshay Lane towards the application site.

Highway issues have been subject to negotiation and discussions between the applicants, police and representative of Shropshire, Powys and Herefordshire Councils Transportation teams and all three councils concluded that transportation issues can be addressed in a satisfactory manner subject to a Section 106 agreement under the Town and Country Planning Act 1990, to which all three councils are party too, to which the applicants accept the proposals as put forward.

The last stretch of the access road to the site is along Llanshay Lane which is in the sole control of Powys County Council. The applicants have made a separate application to Powys County Council for Highway improvements in order to enable the development. A letter from Powys County Council confirms that this is an acceptable process and therefore the Section 106 agreement on transportation issues under the Town and Country Planning Act 1990 includes details restricting construction of the turbines on site until a satisfactory means of access to the site has been obtained in the form of a planning approval from Powys County Council.

Shadow Flicker.

The Environmental Statement considered the issue of Shadow Flicker and residential amenity. (Shadow Flicker occurs when the sun passes behind a moving blade and casts a shadow on the window of a neighbouring property). The Environmental Statement indicates that the type of turbine proposed on site will have built in capacity to shut down the relevant turbine when shadow flicker is to occur. The Council have concluded that the justification put forward by the applicants is acceptable and that an appropriate condition attached to any decision notice will give adequate protection in relation to shadow flicker.

Electromagnetic interference.

The Environmental Statement considers electromagnetic interference and in the safeguarding assessment, indicates the applicants are willing to undertake an evaluation of any possible effects to local transmitters and introduce suitable mitigation measures that may be required. The Council consider that a suitable condition attached to any decision notice, addresses this issue satisfactorily.

Icing.

The Environmental Statement indicates that modern wind turbines don't have an issue with regard to icing on turbines, (build up of ice on turbine blades). Turbines are fitted with vibration sensors which identify ice build up in order to close turbine operation and thus avoiding any potential incident in relation to ice thaw. The Council are satisfied with the applicant's consideration to this issue.

Tourism.

Many objections from members of the public were received in relation to impacts of the proposed development on tourism. Tourism is an important factor in relation to the local economy and in particular in relation to farm diversification. The Environmental Statement acknowledges tourism has a part to play in the local

economy. There is no substantial evidence to indicate that wind farms are detrimental to tourism and the Council consider that impacts on tourism are not a basis on which to consider refusal of the application.

Airfield.

The proposed wind farm is some 11km to the north west of Shobdon Airfield. Herefordshire Gliding Club is also based on this airfield. The proposed wind farm is not considered an obstacle to the operation of the airport which receives its license to operate from the Civil Aviation Authority and who along with all the other statutory consultees on flight safety raised no objections to the proposed development. (The manager of Shobdon Airport did object, in consideration of flight safety).

None of the published procedures in relation to the Shobdon Airfield illustrate any requirement for aircraft using the airfield to fly in close proximity to the site for the proposed turbines. The site itself is not on any flight path and furthermore the proposed turbines are under 150 metres high and therefore do not require aeronautical lighting as they do not infringe on any physical safeguarding criteria.

Within close proximity to the site is the Powys Spaceguard Centre (Observatory). No objections have been received from the Spaceguard Centre in relation to the proposal.

Consultation

The Council consulted all the necessary consultees in accordance with EIA regulation requirements and received responses from various consultees to the initial ES as well as the additional information received as a result of the Council's Regulation 19 request.

Natural England initially recommended refusal to the application but later withdrew their objection subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Act for a landscape/biodiversity fund for landscape biodiversity enhancement/mitigation in the surrounding area. The applicants offered this fund and a copy of the Draft Heads of Terms is attached to the report.

English Heritage, The Countryside Council for Wales, EON Central Networks, CAA, NATS, MOD OFCOM, The Joint Radio Company Limited, Atkins Windfarm Support, Highways Agency, Severn Trent Water, West Midlands Regional Assembly, Shropshire Hills Area of Outstanding Natural Beauty, RSPB, all responded raising no objections to the proposed development.

The Environment Agency also raise no objections, subject to appropriate consideration to either conditions and/or a legal agreement being attached to any decision notice issued, The Council concluded in conjunction with its Environmental Health and Land Drainage teams that satisfactory conditions could be attached to any decision notice issued.

Objections received from Statutory consultees included: The National Trust, Cadw, The British Horse Society, Hereford and Worcester Gardens Trust, The Georgian Group, The Garden History Society, The Welsh Historic Gardens Trust, The Ramblers Association, (incl Herefordshire Mortimer Group). Many of these objected to the proposed development in consideration of its impacts on the surrounding landscape in relation to its historic context, visual and amenity issues, rights of way etc. All objections were taken into consideration and the

Council concluded that concern raised could be addressed by either mitigation or were considered not to be substantial enough in order to recommend refusal to the application having regard to the relevant policy context on sustainable development and renewable energy and the fact that any perceived damage to the environment could be considered temporary and reversed after the life span of the development (25 years).

Internal council consultees who raised no objections included: The Environmental Health Manager, (subject to appropriate conditions attached to any approval notice). Economic Development, the Planning Ecologist, (also subject to appropriate conditions attached to any decision notice) The Conservation Manager, (Built Environment), Land Drainage Manager, The Forward Planning Manager, Public Rights of Way Manager, Building Control Manager, The Tourism Manager, Minerals and Waste Manager and Transportation Manager, (subject to satisfactory conditions and legal undertaking attached to any decision notice).

The County Archaeologist recommended refusal to the application in consideration of the negative impact the proposal would have on Offa's Dyke within the vicinity of the application site. The Council concluded that impacts of the proposal on the Dyke were well set out and carefully considered in the Environmental Statement and that any impacts were of a temporary nature and would not have any significant permanent unacceptable impact on the setting of the Dyke given its distance from the site for the turbine development.

Representations.

Representations were also received from surrounding Local Parish Council's both in England and Wales as well as from organisations such as Herefordshire Campaign to Protect Rural England, Herefordshire Wildlife Trust, South Shropshire Campaign for Protection of Rural England, 'Visit Herefordshire', Offa's Dyke Association, The Radnorshire Society, Radnorshire Branch of Campaign to Protect Rural England, West Midlands Friends of the Earth and Herefordshire Friends of the Earth. Also many letters from the public in support to the application as well as objections, which included: The Stonewall Hill Conservation Group, (a local group set up to oppose the proposed development).

Neighbouring Councils

Shropshire County Council raised no objections. Powys County Council responded objecting in consideration of concerns about the detrimental impact on the surrounding landscape from a visual, cultural and historic perspective. Concerns were also raised about lack of information on ecological issues, applicants' noise impact assessment and impacts in relation to hydrological issues. No response was received from Powys County Council with regards to Herefordshire Council's consultation in respect of the additional information received subject to the Regulation 19 request, other than a response from Powys County Council's Environmental Health, raising no objections on noise issues in respect of the Regulation 19 request specifically on noise issues.

All representations were carefully considered (as outlined in both committee reports) and the Council concluded that the proposed was considered acceptable with appropriate conditions attached to any decision notice issued and legal agreement between the applicants and the council when assessed against relevant local, regional and national planning policies in consideration of policy criteria on sustainable renewable energy, impacts on the major issues such as landscape, visual, historic, cultural, ecological, noise, residential amenity and

highway issues, and the fact that the proposal is temporary in nature and reversible in relationship to the turbine development after 25 years.

Conclusions

The application raised many issues and divided opinion both from the public and various consultees.

The Council consider the application is in accordance with the principles as set out in PPS 22, as well as development plan policy and in particular Policy CF2 on renewable energy, regional planning policy was also shown consideration.

The Council acknowledge the proposed turbines will have a degree of detrimental impact on the surrounding landscape from both a visual and historic context, the fact is that the application site is not in any landscape designation and impacts on the nearby Area of Outstanding Natural Beauty and Offa's Dyke were considered minimal and any adverse effects will be temporary and reversible, as the application is for a 25 year duration.

The proposal is for a source of renewable energy in accordance with Government advice on renewable energy and the application is accompanied by an Environmental Statement that sets out the scale and significance of the likely environmental impacts of the proposal if granted planning permission.

Note - The Community fund is a financial contribution offered by the applicants for the benefit of the local community. This is not a material planning consideration in respect of the application. However to ensure that it is delivered as promised, the applicants have agreed to a Unilateral Undertaking to ensure the financial benefits are delivered as set out in the Environmental Statement.

Relevant Policies considered in the Herefordshire Unitary Development Plan 2007:

- Policy S1 Sustainable development
- Policy S2 Development requirements
- Policy S7 Natural and historic heritage
- Policy DR1 Design
- Policy DR2 Land use and activity
- Policy DR3 Movement
- Policy DR4 Environment
- Policy DR5 Planning obligations
- Policy DR13 Noise
- Policy HBA4 Setting of listed buildings
- Policy LA2 Landscape character and areas least resilient to change
- Policy LA3 Setting of settlements
- Policy LA4 Protection of historic parks and gardens
- Policy NC1 Biodiversity and development
- Policy NC7 Compensation for loss of biodiversity
- Policy NC8 Habitat creation, restoration and enhancement
- Policy NC9 Management of features of the landscape important for fauna and flora
- Policy ARCH 1 Archaeological assessments and field evaluations
- Policy ARCH 3 Scheduled ancient monuments

· Policy CF4 Renewable energy

2. HN01 - Mud on highway
3. HN04 - Private apparatus within highway
4. HN05 - Works within the highway
5. HN07 - Section 278 Agreement
6. HN10 - No drainage to discharge to highway
7. HN24 - Drainage other than via highway system
8. HN25 - Travel plans
9. HN28 - Highways Design Guide and Specification
10. The applicants or successors in title are reminded to advise Defence Estates, DE Operators North, Safeguarding Wind Energy, Kingston Road, Sutton Coldfield, B75 7RL, tel: 0121 311 3714 of the date when construction starts in order for the turbines to be plotted on flying charts.
11. The applicants or successors in title are reminded that permission is required from Powys County Council with regards to the shared access from the adjacent public highway to turbine numbers 1 and 2 and the access from the public highway to turbine number 4 as indicated on the 'Proposed red line boundary map.

GUIDANCE NOTES

The following notes are based on the Supplementary Guidance Notes to the Planning Obligation contained in The Assessment and Rating of Noise from Wind Farms (ETSU-R-97) published by ETSU for the Department of Trade and Industry (DTI), page 99. It has been adapted in the light of experience of actual compliance measurements.

NOTE 1

Values of the LA90, 10-minute noise statistic should be measured at the affected property using a sound level meter of at least IEC 651 Type 1 quality. This should be fitted with a ½" diameter microphone and calibrated in accordance with the procedure specified in BS4142: 1990. The microphone should be mounted on a tripod at 1.2 – 1.5m above ground level, fitted with a two layer windshield or suitable equivalent, and placed in the vicinity of and external to the property. The intention is that as far as possible, the measurements should be made in 'free-field' conditions. To achieve this, the microphone should be placed at least 3.5m away from the building façade or any reflecting surface except the ground.

The LA90, 10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean average wind speed, power generation and operational data from the turbine control systems of the wind farm.

The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site meteorological mast unless otherwise agreed with the Local Planning Authority, to enable compliance with the conditions to be evaluated. The mean wind speed data shall be 'standardised' to a reference height

of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurement in the manner described in Note 2 below.

NOTE 2

The noise measurements should be made over a period of time sufficient to provide not less than 40 valid points. Measurements should also be made over a sufficient period to provide valid data points throughout the range of wind speeds considered by the Local Authority to be critical and during periods/times at which the noise is considered to be a problem by the complainant. Valid data points are those that remain after the following data has been excluded:

- All periods of rainfall
- All periods during which the wind direction is more than 45 degrees from every line from each of the turbines and the measurement position
- All periods during which turbine operation was not normal

A 'best fit' curve should be fitted to the data points. Measurements detailing the complete data set including invalid removed data points shall be retained and submitted to the Local Authority upon request.

NOTE 3

Where, in the opinion of the Local Authority, the noise emitted from the turbines contains a tonal component, the following rating procedure should be used. This is based on the repeated application of a tonal assessment methodology.

For each 10-minute interval for which LA90, 10-minute data has been obtained, a tonal assessment is performed on noise emission during 2 minutes of the 10 minute period. The 2 minute periods should be regularly spaced at 10 minute intervals provided that uninterrupted clean data has been obtained. Where clean data is not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be submitted. Any deviations from the standard procedure shall be reported.

For each of the 2 minute samples, the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} , is calculated by comparison with the criteria given in section 2.1 on page 104 of ETSU-R-97. The margin of audibility is plotted against wind speed for each of the 2 minute samples. For samples where the tones were inaudible or no tone was identified, substitute a value of zero audibility.

A Linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average will be used.

The tonal penalty is derived from the margin above audibility of the tone according to figure 17 on page 104 of ETSU-R-97.

The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

The rating level shall be determined for each wind speed. If the values lie below the maximum values of turbine noise indicated by the table in the conditions, then no further action is necessary.

NOTE 4

If the rating level is above the limit, a correction for the influence of background noise should be made. This may be achieved by repeating the steps in Note 2 with the wind farm switched off and determining the background noise at the assessed wind speed (Lb). The wind farm noise at this speed (Lw) is then calculated as follows where La is the measure level with turbines running but without the addition any tonal penalty:

$$Lw = 10 \log (10^{La/10} - 10^{Lb/10})$$

The rating level is then recalculated by adding the tonal penalty (if any) to the wind farm noise. If the rating level is below the values indicated in the table in the conditions then no further action is necessary.

If the rating level exceeds any of the turbine noise levels in the table, the development fails to comply with condition 32.

63. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES (Pages 1 - 10)

The meeting ended at 11.40 am

CHAIRMAN

PLANNING COMMITTEE

14 September 2011

Schedule of Committee Updates/Additional Representations

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

DCNW2008/1289/F - Proposed erection and operation of 4 Wind Turbines and associated access tracks, hardstanding and sub station building at Reeves Hill, Reeves Lane, Near Knighton, Herefordshire.

FOR: Mr Corker per Mr Michael Phillips, Unit 1 Dyfi Eco Park, Machynlleth, Powys, SY20 8AX

ADDITIONAL REPRESENTATIONS

A letter has been received from Richard Buxton Solicitors, on behalf of the Stonewall Hill Conservation Group stating in consideration of noise issues, in relationship to wind turbine development, consideration be given to the attachment of a condition with regards to 'amplitude modulation' (AM), to any approval notice issued.

Officer's sought advice with regards to whether the request for such a condition is reasonable, in consideration of the conditions as attached to the Committee report, should members be mindful to support the application.

Enviros, (commissioned by the Council), have responded to the concerns as raised by Mr. Buxton concluding that they consider that conditions as proposed by Officers are fit for purpose and covers issues of concern in relationship to AM and that there is no compelling need to add an additional condition that specifically attempts to set limits on excess AM.

The applicants' noise specialists Hayes McKenzie Partnership Ltd have also made comment in respect of concerns as raised by Mr. Buxton on AM, concluding that the planning condition as proposed by Mr. Buxton has no scientific basis. Their response states that the DEFRA report entitled 'Wind Farm Noise Statutory Nuisance Complaint Methodology' referred to by Mr. Buxton, is aimed at helping Local Planning Authorities deal with wind farm noise complaints, should they arise using statutory nuisance powers and that this guidance does not replace any planning guidance as suggested by Mr. Buxton.

The Council's Environmental Health Manager has responded stating in his view the DEFRA report referred to above, by Mr. Buxton, gives advice purely on how complaints might be investigated should they arise.

OFFICER COMMENTS

It is considered the issue with regards to AM is adequately addressed in the report to Committee. Condition number 36 attached to the report refers to a noise management plan, which represents an appropriate and reasonable control mechanism which allows for the management and monitoring of AM.

ADDITIONAL REPRESENTATIONS

A further letter has been received from Richard Buxton Solicitors on behalf of the Stonewall Hill Conservation Group raising concerns that a 'significant portion' of the development site is within Powys and therefore falls within the jurisdiction of Powys County Council and that this includes the adjacent public highway which requires significant widening for access purposes and therefore a planning application needs to be submitted to Powys County Council for planning determination, which would need to be subject to an Environmental Impact Assessment under EIA Regulations.

OFFICER COMMENTS

The application site in accordance with information submitted in support of the application is on land within Herefordshire Council's administrative area, and involves access into the site at two separate points from land directly within Powys County Council's administrative area. (The western boundary of the site being adjacent to a public highway situated within Powys).

The applicants as part of their application submitted a detailed construction traffic management plan which indicates necessary public highway improvements, which does not include detail for significant highway widening adjacent to the application site. Furthermore a letter dated 15th June 2011 from Mr. S. Packer, Specialist Services Manager, Powys County Council to the applicants indicates that the necessary highway improvements do not need to be subject to an Environmental Impact Assessment. Powys County Council Highways Authority Development Control Manager has indicated satisfaction with suggested public highway conditions to be attached to any approval notice issued. (See later in this update report).

ADDITIONAL REPRESENTATIONS

A letter dated 5th September 2011 has been received from Mr. Rod Greenough, (Noise expert), raising concerns and questions that background noise data as submitted by the applicants is wholly inadequate in consideration of surrounding residents to the application site. Concerns are also raised about Amplitude Modulated Noise, (AM), in that it cannot be 'simply ignored'.

OFFICER COMMENTS

Issues as raised by Mr. Greenough have been considered as part of the evaluation of noise issues in relationship to the proposed development. Appropriate conditions in relationship to noise issues are attached to the Committee report. Herefordshire Council's Environmental Health Manager considers issues as raised by Mr. Greenough have been adequately considered.

ADDITIONAL REPRESENTATIONS

A letter dated 12 August 2011 was received from Mr. S. Packer, on behalf of Powys County Council. The letter required clarification on land ownership issues in relationship to noise impacts on 'properties' within Powys.

Concerns were also raised about public highway access implications to the site and the letter stated that he has advised the applicants to withdraw their current application currently registered with Powys County Council for public highway improvements on land within Powys leading to the site in order to re-

submit a revised application to include the requirement for the two turbines access points into the site from the adjacent public highway.

The letter also makes comment that in his opinion it would be good practice if the wind farm application registered with Herefordshire Council and the access proposals subject to a separate application to Powys County Council were finally considered by the respective Planning Committees at the same time.

OFFICER COMMENTS

Officers' are not aware of any changes in land ownership in relationship to the proposed wind turbines or their supporting infrastructure. Noise monitoring results at the selected sites within Powys concluded that background noise met with the requirements of ETSU-R-97 (as recognised by PPS22), and the more recently published Institute of Acoustics Bulletin, both recognised guidelines on noise monitoring requirements, at all dwellings selected whether in the applicants control or not. Furthermore Powys Environmental Health have responded raising no objections on noise issues,

Matters with regards to access to the site, on land within Powys County Council's control are issues to be considered by Powys County Council. The principle of the proposed access details have been discussed between representatives of both Powys and Herefordshire Council's Transportation Sections, and it is considered that the issues with regards to public highway access can be processed by the respective Council's. Attached to the Committee report is a Heads of Terms in relationship to a Planning Obligation under Section 106 of the Town and Country Planning Act 1990. This gives consideration to public highway issues ensuring no development is commenced on site until the public highway issues have been fully resolved.

The application for the proposed wind farm development is on land within Herefordshire, and the proposed access improvements on land within Powys, and therefore although closely linked, they are two separate proposals on land in their respective sole Council's planning control and as such are not considered joint applications that require Committee consideration at the same time.

ADDITIONAL REPRESENTATIONS

A further letter dated 31st August 2011 was received from Mr. S. Packer, Powys County Council, raising concerns about noise issues at a property known as Black Bach and concerns about land ownership in respect of public highway access to the proposed development site.

OFFICER COMMENTS

Herefordshire Council and Powys County Council Environmental Health Officers' raise no objections in relationship to noise issues at the property known as Black Bach. (Property located on land within Powys County Council's administrative area).

The land ownership issue refers to two access points into the site from the adjacent public highway in Powys County Council's control. This issue has been discussed between representatives of both Powys and Herefordshire Council's Transportation/Highways teams and both have concluded that any issues that may arise can be resolved between the two separate Councils. Conditions recommended as attached to the report have been considered by Powys County Council's Transportation Officers' and are copied out in full below for Member consideration.

ADDITIONAL REPRESENTATIONS

In consideration of the close proximity of the application site to Powys and potential cross border issues in respect of public highway issues, with regards to suggested conditions as attached to the report on public highway issues in relationship to access points, off the adjacent public highway in Powys County

Council's control, further clarification has been sought from Powys County Council Highways in respect of suitable worded conditions that are acceptable to each Authority on highway issues.

Both Herefordshire and Powys Council's Transportation/Highway teams have confirmed that the conditions below are acceptable to each of their respective transportation specifications.

The conditions and informatives' as attached to the Committee report are printed out below in full for clarification purposes, with one additional condition with regards to implementation of suitable access into the site on completion of the development and cessation of abnormal load movements to the development site.

19. H03 Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 60 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

20 H05 Any new access gates/doors shall be set back 15 metres from the adjoining carriageway edge and shall be made to open inwards only, and the development hereby permitted shall not be brought into operational use until a scheme and specification has been submitted and approved in writing by the local planning authority for the alteration of the accesses serving the development site to minimise the width of access and set back the gate 5m from the edge of the adjoining carriageway.

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

21 The approved scheme and specification referred to in condition number 20 above shall be fully implemented to the written satisfaction of the local planning authority within one month from the first operational use of the wind farm.

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

22.H06 Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by Herefordshire and Powys County Councils as Local Planning Authorities, at a gradient not steeper than 1 in 12.

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

23. H13 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

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

24. H21 Development shall not begin until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved.

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

25 H27 Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

26. H30 Prior to the commencement of the development a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

Informatives:

2. HN01 It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

3. HN04 This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Amey Herefordshire (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 845900), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 845900.

4. HN05 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Amey Herefordshire (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 845900), shall be given at least 28 days' notice of the applicant's intention to commence any works

affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 845900.

5. HN07 No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

6. HN10 Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

7. HN24 It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.

8 HN25 In connection with Condition number 26 the applicant is advised that advice on its formulation and content can be obtained from the Sustainable Travel Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford HR4 0WZ

9. HN28 The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.

11 The applicants or successors in title are reminded that permission is required from Powys County Council with regards to the shared access from the adjacent public highway to turbine numbers 1 and 2 and the access from the public highway to turbine number 4 as indicated on the 'Proposed red line boundary map.

OFFICER COMMENTS

Clarification on suitably worded public highway conditions in respect of the separate Council's Highways/Transportation sections is welcome, as it confirms that in the event of development on site in relation to cross border issues, that both the respective Councils' agree to the wording of the recommended conditions from a public highway perspective.

ADDITIONAL REPRESENTATIONS

- Additional clarification from the Environment Agency was sought on publication of the Committee report, in consideration of the wording of condition number 13(e), attached to the Committee report. The advice given was that this section of the condition be revised to read as follows:

'the arrangements for undertaking sampling measurement and analysis of private water supplies, before, during and following construction (a period of up to 6 months, or as otherwise agreed as part of the Private Water Supply Protection Plan').

OFFICER COMMENTS

It is recommended that condition number 13(e) is reworded in accordance with the advice as given by the Environment Agency.

ADDITIONAL REPRESENTATIONS

An additional letter has been received from Herefordshire Branch of the Campaign to Protect Rural England. The letter raises concerns about the previous report to Committee on 12th February 2009, in that it did not give sufficient weight to the quality of the surrounding landscape. The letter makes comment that the site is within close proximity to the Shropshire Area of Outstanding Natural Beauty, (AONB), and that the site is in an area known as Mortimer Country and that this is a stunningly beautiful landscape, that is home to several historic parks of national importance. Comment is also made that weight be given to the energy benefits of wind farms now seems to be a lot less than in 2009.

OFFICER COMMENTS

Whilst it is acknowledged that the application site is situated within an area known as Mortimer Country, and this landscape is appreciated as a landscape of significant value, the fact is that this has no recognised landscape designation and Officers consider that the previous report to Committee did give sufficient consideration to the surrounding landscape in which the application site is situated in, in consideration of national and local designations.

ADDITIONAL REPRESENTATIONS

A letter has been received from Charlie Hopkins, Planning and Environmental Consultant acting on behalf of Stonewall Hill Conservation Group. The letter raises concerns about boundary issues in relationship to the application site, in relationship to public highway access issues. Concerns are also raised about the planning fee and area of land subject to the planning fee paid to the Council in respect of the application.

OFFICER COMMENTS

The public highway access to the site is proposed via a road within Powys County Council's administrative control from the A4113 public highway. Public highway issues are subject to a Section 106 agreement under the Town and Country Planning Act 1990 drawn up between representatives of Shropshire, Powys and Herefordshire Council, who will be signatories to this agreement with the applicants, who have confirmed agreement to its contents. (The key issues subject to the agreement form part of the Heads of Terms attached to the Committee report). Paragraph 3 of the Heads of Terms makes reference to suitable access to the site prior to any development on site to the satisfaction of Powys County Council. Powys County Council Highways Authority have confirmed that the suggested public highway conditions forming part of this update to Committee are acceptable.

It is understood that the applicants have an application registered with Powys County Council for public highway improvements, and the issue as to whether the current application is amended to include public highway access into the application site or whether it is withdrawn and a revised application submitted is a matter between the applicants and Powys County Council.

The Council has reviewed the concerns about the planning fee paid to the Council in relationship to the proposed development, which includes allowance for micro- siting and are satisfied with the planning fee paid and area of land in relationship to the proposed development, it refers to.

ADDITIONAL REPRESENTATIONS

A letter has been received from Geoffrey Sinclair, Environmental Information Services, on behalf of Stonewall Hill Conservation Group. The letter raises concerns that his submission on behalf of the Conservation Group is not referred to in the Committee report.

OFFICER COMMENTS

The report by Mr. Sinclair was submitted prior to the application being referred to Committee on 12th February 2009. It is acknowledged the report was submitted on behalf of the Action Group, and this Group are referred to in the report, being one of many representations received and therefore Officers are of the opinion that issues as raised by Mr. Sinclair were addressed. No response from Mr. Sinclair has been received in consideration of the public consultation to the additional information received subject to the Regulation 19 request under EIA Regulations.

ADDITIONAL REPRESENTATIONS

A letter has been received from Dr. Hugh-Jones on behalf of Stonewall Hill Conservation Group who acknowledges that members of the Group have read the report to Committee and that they seek clarification with regards to the separate planning application to Powys County Council for highway improvements.

The letter also makes comment with regards to visual radii with regards to their opinion that no assessment has been made in respect of individual properties and that their Solicitors (Richard Buxton), requested a condition with regards to amplitude modulation, (AM), in consideration of current best practice.

Comment is made about the wording of condition numbers 8, 13(e) and 32 as attached to the report.

Comment is also made in respect of the Draft Heads of Terms and who are the intended signatories and that there is no mention of the total height of the turbines indicating that even taller ones could be installed on site.

OFFICER COMMENTS

A planning application is presently registered with Powys County Council for highway improvements in consideration of the requirement for abnormal loads to be transported to the site.

The Construction Traffic Management Plan in support of the application details necessary highway improvements to the site such as a stretch of new road way on land within Powys County Council's administrative area as well as highway improvements to the existing public highway nearer to the application site.

It is a planning matter between the applicants and Powys County Council on how to resolve the public highway issues with regards to land within Powys County Council's administrative area, and whether the applicants withdraw the current application and re-submit a revised application to include access in to the site off the adjacent public highway or amend the existing application.

The visual impact of the proposal from residential dwellings was reported at paragraph 6.35 of the original Committee report as being significant. Consideration to the information originally provided in respect of Visual impact and visual radii and the additional information received as a result of the Regulation 19 request conclude that information on this issue as provided by the applicants is acceptable.

The issue with regards to AM has been addressed earlier in this update in respect of communication received from Richard Buxton, that condition number 36, noise management report adequately addressed issues in respect of AM.

The wording of condition number 8 is considered acceptable as allowances need to be made for micro-siting.

It is acknowledged that the wording of condition number 13 (e), is confusing and as indicated earlier not considered necessary and therefore recommended for re-phrasing.

Clarification is required in relationship to rating value as indicated in condition number 32; however this appears to be a typing error that can be easily rectified.

The intended signatories in respect of the Draft Heads of Terms and the Section 106 agreement are the persons who have interests in the land, as well as the relevant Councils.

The original report to Committee, (attached as appendix one), in paragraph 1.8 refers to the total height of the proposed turbines and condition number one attached to the report refers to plans that the proposed development refers to.

ADDITIONAL REPRESENTATIONS

75 additional letters of objections have been received from members of the public. Some of these letters are from the same households. Many are from dwellings in Wales as well as throughout England. Issues raised are various and cover concerns about the principle of the proposed development, as well as commenting upon the additional information received, as a result of the Council's EIA Regulation 19 request to the applicants.

Key concerns raised that are considered not to have been considered subject to the Committee report are as follows:

- Economics of wind power and the requirements for other sources of energy to back up power generated by wind energy.
- Concerns about the validity of the proposed Landscape Enhancement Fund.
- Consultations with Powys County Council.
- Procedure at the previous planning Committee in relationship to this application.

OFFICER COMMENTS

- It remains Government policy to encourage different forms of renewable energy and this includes wind energy. Planning Policy Statement 22 clearly states that small scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally and that Planning Authorities should not therefore reject planning applications simply because the level of output is small.
- The Landscape Enhancement Fund is proposed in consideration of advice as given by Natural England in consideration of landscape/biodiversity enhancement/mitigation as set out in the draft Heads of Terms attached to this report. The proposed landscape fund was not at the request of the Council but offered by the applicants in consideration of comments made by Natural England. The principle of the fund is considered reasonable, as it offers landscape/biodiversity enhancement/mitigation that is considered a planning consideration.
- The Council has engaged in consultation with Powys County Council as well as Shropshire County Council whose administrative boundary is also located near to the proposed development site. Many of these issues have been subject to the information received as a result of the Council's Regulation 19 request under EIA Regulations, to which Powys have not made comment, other than a response from their Environmental Health Section indicating no objections on noise issues.

- The Council considers the procedure at the previous Committee meeting on 12th February 2009 in respect of this application was in accordance with Council policy on presentation of applications to Committee, with consideration also given to the Article 14 Direction issued to the Council by the Secretary of State, who requested time to consider the application in-light of concerns raised by the public.

NO CHANGE TO RECOMMENDATION

However in consideration of potential cross border issues, it is recommended that the following condition is attached to any approval notice in respect of highway safety issues.

- **The approved scheme and specification referred to in condition number 20 above shall be fully implemented to the written satisfaction of the local planning authority within one month from the first operational use of the wind farm.**

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

- **Condition number 13 (e) is re-worded to state: *'the arrangements for undertaking sampling measurement and analysis of private water supplies, before, during and following construction (a period of up to 6 months, or as otherwise agreed as part of the Private Water Supply Protection Plan')*.**

MEETING:	PLANNING COMMITTEE
DATE:	2ND NOVEMBER 2011
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not a key decision

Recommendation

That the report be noted

APPEALS RECEIVED

Application No. DMS /110810/F

- The appeal was received on 10 October 2011
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr Harry Bramer
- The site is located at Land nr. Caradoc, Sellack, Herefordshire, HR9 6LS
- The development proposed is Carport to plot 1, and five garages to replace garden sheds.
- The appeal is to be heard by Written Representations

Case Officer: Mr E Thomas on 01432 260479

APPEALS DETERMINED

Application No. DMS/103011/F

- The appeal was received on 11 July 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mrs Mary Jones
- The site is located at Winnal Common Farm, Winnal, Allensmore, Herefordshire, HR2 9BS
- The application dated 10 November 2010 was refused on 12 January 2011
- The development proposed was Proposed variation of condition 2 of planning permission DMSW/101073/F

Further information on the subject of this report is available from the relevant case officer

- The main issue is whether the proposal would result in unacceptable light pollution and/or additional noise disturbance to nearby residential occupiers

Decision: The application was refused under Delegated Powers on 12 January 2011
The appeal was Dismissed on 4 October 2011

Case Officer: Mr A Prior on 01432 261932

Application No. DMS/102972/F

- The appeal was received on 29 June 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Carlos Felices
- The site is located at Castle Lodge Hotel, Green Court, Wilton, Ross on Wye, HR9 6AD
- The application dated 12 November 2010, was refused on 6 April 2011
- The development proposed was Removal of Conditions 13 and 16 of Planning Permission
- The main issues are:
 - i) Whether the conditions in dispute are necessary to safeguard highway safety on the strategic and local road networks, secure appropriate parking provision for the hotel and proposed restaurant, and protect the living conditions of neighbouring occupiers.
 - ii) Whether the disputed conditions which limit the restaurant within the barn to ancillary usage by the hotel are reasonable.

Decision: The application was refused at Planning Committee contrary to Officer Recommendation on 6 April 2011
The appeal was Dismissed on 6 October 2011
An application for the award of costs, made by the appellant against the Council, was Dismissed

Case Officer: Mr A Prior on 01432 261932

Application No. DMS/110101/F

- The appeal was received on 16 June 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr John White
- The site is located at Land Rear of Greytree Lodge, Second Avenue, Ross on Wye, Herefordshire, HR9 7HT
- The application dated 4th January 2011, was refused on 27 April 2011
- The development proposed was Proposed erection of bungalow and access drive.
- The main issues are:
 - i) The effect of the proposal on the living conditions of occupiers of nearby residential properties;
 - ii) Whether the proposal would provide adequate amenity space for future occupiers of the proposed bungalow
 - iii) The effect of the proposal on highway safety.

Decision: The application was refused by Committee, contrary to officer recommendation, on 27 April 2011
The appeal was Allowed on 10 October 2011
An application for the award of costs, made by the appellant against the Council, was allowed

Case Officer: Mr D Thomas on 01432 261974

If members wish to see the full text of decision letters copies can be provided.



MEETING:	PLANNING COMMITTEE
DATE:	2 NOVEMBER 2011
TITLE OF REPORT:	<p>DMN/111554/F - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A CLASS A1 (RETAIL) STORE, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS AT LEDBURY WELDING & ENGINEERING LTD, NEW MILL INDUSTRIAL ESTATE, LEADON WAY, LEDBURY HR8 2SR.</p> <p>For: Tesco Stores Ltd per Mr Gary Sutton, DPP, 14 Windsor Place, Cardiff, CF10 3BY.</p>

Date Received: 15 June 2011

Ward: Ledbury

Grid Ref: 370088,237745

Expiry Date: 16 November 2011

Local Members: Councillor PJ Watts, Councillor EPJ Harvey and Councillor PL Bettington

1. Introduction, Site Description and Proposal

Introduction

- 1.1 Ledbury is an historic Market Town set immediately to the west of the Malvern Hills Area of Outstanding Natural Beauty and bounded by the river Leadon to the west. It has a population of approximately 9,800 persons. Ledbury has a central north – south axis that comprises the High Street, The Homend and The Southend. The Ledbury Conservation Area is defined upon the Herefordshire Unitary Development Plan Proposals Map 2007. Its extent is shown on the plan attached as **Annex 1** to this report. Within this Conservation Area and also shown upon the Plan attached as **Annex 1** is the extent of the defined Town Centre.
- 1.2 The character of Ledbury Conservation Area consists of several factors. However, central to its character is its status as a market town with retail activity at its heart. It is worth noting that the first market charter was granted by King Stephen to Bishop Robert de Bethune in 1138. This confirmed the transition of Ledbury to a market economy (which is likely to have started earlier). The intrinsic nature of retail/commercial activity to the character of Ledbury as a market town is well documented in the books by Sylvia Pinches entitled 'Ledbury – people and parish before the Reformation' and 'A Market Town and its Tudor Heritage'. This has remained the case from the twelfth century to the current day.
- 1.3 Ledbury has two major transport nodes – the railway station and the bus terminus in the High Street in close proximity to the Ledbury Market Hall within the Town Centre. The plan attached as **Annex 1** marks the location of the railway station. At present Ledbury has two edge of centre (i.e. within 300 metres of the defined Town Centre) supermarkets. These are the existing Co-op store on the southern side of New Street and the existing Tesco store on the western side of the Homend accessed off Orchard Lane.

Further information on the subject of this report is available from Mr R Close on 01432 261803

Site Description

- 1.4 The application site is physically divorced from Ledbury Town Centre, being at the western periphery of Ledbury. The site lies upon the New Mills Industrial Estate immediately south of the loop road that is accessed off a roundabout upon Leadon Way, the A417, to the west. The site of approximately 1.8 hectares comprises land currently actively used for employment purposes by Ledbury Welding and Engineering and a triangular area of land to the east which comprises scrub and ruderal vegetation. The existing business is a general industrial (B2) use which manufactures tanks and storage vessels. The industrial process essentially involves guillotining/cutting of metal, fabrication, welding, testing and then shot blasting, painting, pipe work and fitting pumps together with ancillary equipment. It is understood that the business is successful and employs forty full-time local people. It is understood that the site is good in terms of location but there is constraint with regard to the existing buildings on-site (not the site itself) as the entire process cannot be carried out in a single building; as a consequence mid-way through the production process the tanks/vessels need to be lifted to another building which is a time consuming and hence costly process. This constraint is in many respects an accident of history. The buildings upon the site have increased in number on a piecemeal basis as the business has grown and the size of tanks/vessels being produced has increased.
- 1.5 The existing site is rather devoid of landscaping and the on-site buildings are functional in terms of their design. The existing site has 42 car parking spaces and a covered bike rack that can accommodate 8 bicycles.

Proposal

- 1.6 The proposal involves demolishing the existing buildings on-the site and erecting a retail shop with a gross floorspace of some 5,069 square metres. It is understood that the net sales area would be 3,084 square metres of which 2,315 square metres would be for the sale of convenience goods (i.e. everyday essential items, including food, drinks, newspapers/magazines and confectionary) and 568 square metres for the sale of comparison goods (i.e. items such as clothing, footwear, household and recreational goods). It is proposed that the applicant would permanently close their existing edge of centre store which has a gross floorspace of 2,162 square metres. It is understood that that store has a net sales area of 1,175 square metres of which 903 square metres is used for the sale of convenience goods and 174 square metres is used for the sale of comparison goods. Therefore the applicant is effectively seeking to increase their level of gross floorspace at Ledbury by 2,907 square metres. The net sales area would be increasing by 1,909 square metres with an increase in convenience goods floorspace of 1,412 and an increase in comparison goods floorspace of 394 square metres.
- 1.7 The proposed building would be sited to the south of the site with the vehicular means of access being in its current position albeit modified with a right hand turn facility being provided into the site. The front of the building would face north. The service yard would be located to the east of the proposed building. 291 car parking spaces would be provided of which 16 would be disabled spaces. Parent and child bays are to be provided together with cycle parking.
- 1.8 The building would have a width of some 82 metres at its frontage, a depth of some 55 metres and a height of some 8 metres. The plans detail a variety of materials. The frontage of the building would predominantly be framed glazing. There would be cladding to parts of the building including the use of horizontal larch panels.
- 1.9 Whilst it has been stated that proposals are being developed to redevelop the existing Tesco site at Orchard Lane for residential purposes, no pre-application discussions in relation to such a scheme have taken place and no application deposited. Similarly it has been stated that

proposals would be forthcoming with regard the relocation of Ledbury Welding and Engineering but again no specific proposals have been forthcoming.

- 1.10 Attached as **Annex 3** are the Draft Heads of Terms in relation to a Planning Obligation that the agent for the applicant has submitted. This offers, amongst other matters, a sum (to be agreed) to provide sustainable infrastructure to serve the proposed development and a sum (to be agreed) towards subsidising and/or improving the 600 bus service in Ledbury for a period not exceeding five years. As an alternative to subsidising and/or improving the existing bus service, Tesco offer to provide their own such service for a period of 5 years. However, in both cases they would want the service to be the subject of review at their own request to consider the route, frequency, timing and the continuation of the service with the overall intention of ensuring that the bus service is environmentally sustainable.

2. Planning History

- 2.1 Whilst the site has planning history associated with it none is considered relevant to the proposal under consideration.
- 2.2 There is, however, a recent appeal decision relating to the Homebase Car Park site immediately to the west that is considered to be of relevance. The proposal was for the siting of a catering unit. A copy of that decision is attached as **Annex 2**.

3. Policies

3.1 Central Government advice

Regional Planning Strategy for the West Midlands – January 2008
Planning Policy Statement 1 – ‘Delivering Sustainable Development’ and Planning Policy Statement: ‘Planning and Climate Change’ Supplement to Planning Policy Statement 1
Planning Policy Statement 4 – ‘Planning for Sustainable Economic Growth’
Planning Policy Statement 5 – ‘Planning for the Historic Environment’
Planning Policy Statement 9 – ‘Biodiversity and Geological Conservation’
Circular 06/2005 – ‘Bio-diversity and Geological Conservation – Statutory Obligations and their impact within the planning system’
Planning Policy Statement 12 – ‘Local Spatial Planning’
Planning Policy Guidance Note 13 – ‘Transport’
Planning Policy Statement 25 - ‘Development and Flood Risk’
Draft National Planning Policy Framework – July 2011
Circular 05/05 – Planning Obligations

3.2 Herefordshire Unitary Development Plan 2007

Part I

S1 – Sustainable Development
S2 – Development requirements
S4 – Employment
S5 – Town Centre and Retail
S6 – Transport
S7 – Natural and historic heritage

Part II

Development Requirements

DR1 – Design

DR2 – Land Use and Activity
DR3 – Movement
DR4 – Environment
DR5 – Planning Obligations
DR7 – Flood risk
DR10 – Contaminated Land
DR13 – Noise
DR14 – Lighting

Employment

E5 – Safeguarding employment land and buildings

Town Centres and Retail

TCR1 – Central shopping and commercial areas
TCR2 – Vitality and viability
TCR9 – Large scale retail and leisure development outside central shopping and commercial areas

Transport

T6 – Walking
T7 – Cycling
T8 – Road hierarchy
T11 – Parking provision
T16 – Access for all

Natural and Historic Heritage

LA6 – Landscaping Schemes
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

3.3 Supplementary Planning Guidance

Planning Obligations SPD (April 2008)

4. Consultation Summary

External Consultees

- 4.1 The Ramblers Association do not object to the proposal.
- 4.2 Welsh Water do not object to the proposal
- 4.3 The Environment Agency is not fully satisfied with the Flood Risk Assessment that has been submitted. They have considered the Flood Risk Assessment but require clarification regarding flood risk and surface water drainage.
- 4.4 English Heritage state:-

“English Heritage has considerable experience of new retail proposals in historic centres in the West Midlands and we have advised in favour of and against proposals in different circumstances. This is also the case in other regions in England. Normally our consideration is restricted to the local effects of proposals on identified historic assets. This is because of the nature of the tests in PPS5 but also, more pragmatically, because the organisation does not have the specialised expertise necessary for detailed retail analysis. However, we do sometimes seek to make a case on the basis of the location of a proposal in relation to an existing centre, the local retail environment or sequential test considerations. In our historic area grant scheme programmes, furthermore, we have been very concerned with the retail health of historic town centres and its consequences for management of historic buildings.

We note the objectives set out in paragraph 7 of the Introduction to PPS5 which include the sustaining of viable uses for historic assets and the integration of the historic environment into planning policies and place shaping more generally. Our understanding of the current Government's position is that they do not wish to see any weakening of the protection afforded to the historic environment by PPS5.

The protection of the retail health of town centres is a planning policy objective regardless of the historic nature of the centre. However, we note the letter to you of 6 October from Drivers Jonas Deloitte (DJD) and in particular paragraphs 114 and 115 of the letter. In paragraph 115 DJD submit that additional policy weight might be placed on a proposal that affects prospects for continuing and new uses for historic assets over and above the weight given to general retail planning considerations. This appears to us to be consistent with paragraph 7 of PPS5.

It follows that, if the Council, or your consultants, conclude on the basis of evidence that a proposal may harm prospects for the continuing or new viable economic use of historic assets then that would be a historic environment consideration that may fall to be assessed under the tests in PPS5 as well as a retail planning consideration under PPS4. I would have to say that in proposing this view I have not sought advice from the English Heritage legal team.

Ledbury is an important asset in itself as one of the West Midlands' outstanding historic towns and it contains many other assets particularly individual listed buildings. If there were a proposal that might harm its significance by prejudicing economic use of historic buildings that would be a concern for English Heritage and we would support the Council in thoroughly examining the evidence of the likely effects of the proposal and acting on the conclusions of that examination.”

Internal Consultees

- 4.5 The Traffic Manager makes a number of detailed comments. However, in summary they do object on the basis that:-
- The location of the site will increase reliance upon the use of the private motor vehicle;
 - The location of the site means that the propensity of linked trips to the town centre is likely to be low;
 - The location of the store remote from the railway station and bus terminus is such that trips to the store by certain public transport users further afield from Ledbury is likely to be low as their journeys would necessitate a change onto another bus;
- 4.6 The Environmental Health Manager does not raise objections. The issue of contaminated land could satisfactorily be dealt with by way of a planning condition.
- 4.7 The Area Rights of Way Officer has no objections to the development.
- 4.8 The Conservation Section state:-

Further information on the subject of this report is available from Mr R Close on 01432 261803

“English Heritage compiles an annual survey of the condition of England’s key heritage assets (high grade listed buildings, scheduled monuments, registered parks & conservation areas) and the most recent 2010 Heritage at Risk Register notes in relation to conservation areas:

‘The risks to conservation areas are difficult to address as they cover large areas of land and involve many different owners. Looking after them is thus a responsibility we all share – those of us who visit them to work or for enjoyment, those of us who own homes and businesses in them, those of us whose job it is to manage the spaces between the buildings and make decisions about their future.

Conservation areas are designated by local authorities and are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance...There are currently some 9,300 conservation areas in England...[and] they form the historic backcloth to national and local life and are a crucial component of local identity and community cohesion.

English Heritage has asked every local authority in England to complete a survey of its conservation areas, highlighting current condition, threats and trends, identifying those that are expected to deteriorate, or are in very bad or poor condition and are not expected to change significantly in the next three years, being defined as at risk.

549 (7.4%) of the conservation areas that English Heritage have information for are at risk, 51 (8.3%) of them in the West Midlands region.’

There are currently four (out of 64) conservation areas in Herefordshire included on the 2010 Heritage at Risk register, and it is significant that three – Kington, Bromyard & Ross-on-Wye – of the county’s five market towns are included. The assessment is made on the basis of the condition of the conservation areas’ physical environment but it also takes into account wider factors which impact on this, and it is clear that the common denominator is lack of investment. Ledbury is something of an exception to the rule as it has a generally well-maintained built environment, with low vacancy rates, few buildings in poor condition and healthy levels of new build and conversion activity. However as the other market towns illustrate, this situation is finely balanced and dependent upon maintaining the vitality of the town centre.”

5. Representations

5.1 The CPRE (Herefordshire) object on the following summarised planning grounds:-

- There is no need for the scale of development proposed;
- The proposal would adversely affect the viability and vitality of the Town Centre resulting in a loss of jobs;
- Concern with regard potential traffic congestion;
- The proposal would have an adverse impact upon the historic buildings within the Town Centre;
- The proposal is in an unsustainable location increasing reliance on the car;
- The proposal would have an adverse impact on the local food web;
- The existing Tesco store could be expanded and improved upon their existing site

5.2 The John Masefield Society object on the following summarised planning ground:-

- The proposal would adversely affect the viability and vitality of the Town Centre;

5.3 The Ledbury Civic Society, after surveying their membership found that 95% of their membership objects, on the following summarised grounds:-

Further information on the subject of this report is available from Mr R Close on 01432 261803

- The proposal would give rise to changes in Ledbury which are contrary to the Society's objectives of securing "the preservation, protection and improvement of features of historic, natural and public interest in Ledbury and the surrounding district";
- The proposal would adversely affect the viability and vitality of the Town Centre;
- The proposed location is not conducive to the use of modes of transport other than the private motor vehicle;
- The proposal would have a secondary affect of reducing the viability of town centre shops and hence the upkeep of listed building. This would lead to a deterioration to the appearance of the area adversely affecting the attractiveness of the town to visitors;
- The scale of the store appears to be so great that it appears to be designed to attract shoppers from outside the area. This would cause traffic congestion, particularly from shoppers coming from the east where traffic into Ledbury is particularly problematic;
- Supermarkets have national purchasing policies while local traders are much more likely to have local purchasing policies, especially in food retailing; where retailers purchase locally much of the money spent stays in the local economy and has a significant local multiplier effect. The economic benefits of large supermarkets tend to be dissipated outside the area. Local produce is one of the tourist attractions of the area;
- Ledbury Town Centre has been acclaimed in Radio Four's recent 'Today' programme survey came out as one of the top four favourite high streets in the country.

5.4 The Ledbury Town Council object to the application on the same grounds as the LOTS (Ledbury Opposes out of Town Superstores) Group do.

5.5 Putley Parish Council objects to the proposal. They state:-

"This application for a superstore is unanimously unapproved by Putley Parish Council for the following reasons:

- the anticipated impact on the existing Ledbury high street retail businesses and the wider community (e.g. small local produce growers).
- the size of the development is clearly disproportionate to the size of Ledbury.
- the existing Tesco store and status quo meets the current needs of the Ledbury and surrounding areas."

5.6 Wellington Heath Parish Council object on the following summarised grounds:-

- The proposed development would adversely affect the vitality and viability of the Town Centre;
- The proposed development is likely to have an adverse impact upon the conservation area, the listed buildings and tourism;
- The Parish Council would support proposals to increase the floorspace of upon the existing Tesco site which is closer to the Town Centre;
- Concerns as to the impact of the proposal upon the local economy;
- The loss of employment land.

5.7 Pixley and District Council state:

"The Parish Council believes that there is a need for a larger supermarket in Ledbury in principle but DO NOT SUPPORT this present application because of its adverse effect on the town centre (including the loss of the existing Tesco car parking facilities for town centre shoppers) and independent retailers which is a major attraction for visitors."

5.8 The Ledbury Fair-trade Town Steering Group expresses concerns as to the impact of the proposal upon the Town Centre.

- 5.9 The North Herefordshire Constituency Green Party object to the proposal and draw attention to the impact of the Morrison's store upon the viability and vitality of Leominster Town Centre.
- 5.10 The Ledbury Area Cycle Forum makes the following observations:-
- The planning application documentation state that staff accommodation in the store would include lockers and showers for those cycling longer distances but these do not appear on the plans
 - The customer cycle parking provision proposed and conflicts in the various documents;
 - The traffic generation upon the local highway network could cause danger to cyclists. A number of detailed points are made as to how the safety of cyclists could be improved.
- 5.11 The operators of the Amcor factory to the south are concerned as to the proximity of the store to their general industrial use. For example their processes result in dark spoor growth on the exterior of their buildings, predominantly on the north side. They regularly pressure wash this area and are concerned that a food handling store close to their boundary may lead to them having to change their regime. They also have concerns with regard security and traffic generation. In summary they always foresaw their location as being upon an industrial estate surrounded by other general industrial users without the conflict that may arise from the introduction of other uses.
- 5.12 Three hundred and forty seven letters from both local residents and others who reside further afield have been received expressing objections to the proposed development on the following summarised planning grounds:-
- The proposal would adversely affect the viability and vitality of the Town Centre;
 - The employment benefits stated to be accrued are not as great as advanced. There is the likelihood that jobs would be lost from existing retail businesses in the Town Centre;
 - Supermarkets have national purchasing policies while local traders are much more likely to have local purchasing policies, especially in food retailing; where retailers purchase locally much of the money spent stays in the local economy;
 - Customers would not walk from the proposed store into the Town Centre;
 - The proposal would have a secondary effect of reducing the viability of town centre shops and hence the upkeep of listed building. This would lead to a deterioration to the appearance of the area adversely affecting the attractiveness of the town to tourists and detrimentally affecting the local economy;
 - The local highway has inadequate capacity to cope with the amount of traffic that such a store would generate. There is particular concern with regard to traffic that may be generated from the east using the Worcester Road/High Cross and Knapp Lane;
 - The proposal is principally a "car led" proposal
 - It remains unclear as to whether Ledbury Welding would remain in the locality;
 - No estimate has been provided with regard job losses from existing retail establishments in the Town Centre;
 - The full time equivalent worker figure for Tesco's additional staff is not stated nor the proportion of skilled staff;
 - Concern that if approved the store would become a "one stop" experience (destination in its own right);
 - The proposed store is too far from the Town Centre unlike the existing Tesco store;
 - The access road is often of a restricted width and congested due to buses parked on the road from the neighbouring depot;
 - Regardless of distance the pedestrian walk to the proposed store would not be pleasant ;
 - The existing Tesco store is relatively accessible from the railway station;
 - Evidence suggests that the potential job losses in the local economy would vastly outweigh the number of full-time equivalent jobs being offered by Tesco;

- The amount of floorspace proposed is excessive and contrary to the Council's own assessment as to the residual capacity;
- The existing Tesco store could be enlarged;
- Research by the 'National Retail Planning Forum' found that on average there is a net loss of 276 full-time jobs within a 15km zone around a new superstore;
- The recent CPRE survey of Ledbury's Food Web estimates 260 jobs are created by the High Street shops which would be in jeopardy from this proposal;
- The CPRE 'From Fields to Fork' study of Ledbury estimates that the retailers and producers support around 680 jobs in the area directly;
- The location of the current Tesco supermarket with 3 hours free parking enables shoppers to walk into the High Street;
- Attention is drawn to the recent appeal decision relating to a genuinely small scale catering van that was proposed to be sited in the car park of Homebase;
- Ledbury was voted up there in the top four best High Streets in the country (Radio 4 Today programme);
- Many of the letters cite examples of Town Centres across the country that have in their opinion been adversely affected by such out-of-centre stores;
- The store is too far away for non-car owners. The promise of a free bus service is not an adequate alternative to walking and how long would the bus service last;
- Concern with regard food security;
- Concern with regard the carbon footprint – supermarkets transport food over larger distances, meaning more traffic, longer trips and greater CO2 emissions including from packaging;
- Loss or reduced rental income arising from premises in the Town Centre. Consequent issues of maintaining the large stock of listed buildings in Ledbury;
- Loss of safeguarded employment land;
- The proposal goes against the spirit of localism;
- Noise and light pollution;
- The proposed store is not only distant from the Town Centre but at a lower level such that it would be uphill to walk into the Town Centre;
- The proposal would result in less footfall in the town centre and shop closures;
- The proposed store would lead to the demise of local businesses that supply fresh local food to existing retail shops in the Town Centre;
- Particular attention is drawn to the impact of the Morrison's supermarket in Leominster upon the vitality and viability of that Town Centre;
- The sequential testing is inadequate;
- The proposal would not be easily accessible to the aged and disabled persons;
- The proposal is contrary to policy S5 of the UDP and PPS4 policies E16 and E17;
- Tesco only make mention of linked trips to adjacent residential areas and not to the town centre;
- If permission is given consideration should be given to closing the road at its southern end where it meets Lower Road; and
- The proposal would increase reliance on the private car and links trips would be unlikely

5.13 LOTS (Ledbury Opposes out of Town Superstores) Group object to the proposed development on the following summarised grounds:-

- the proposal would have an adverse impact upon the vitality and viability of the Town Centre;
- the proposal would harm the heritage asset that is the Ledbury Conservation Area and the listed buildings within the Town Centre;
- the precise full-time equivalent jobs being created by Tesco remains unclear;
- there remain no definitive proposals with regard the relocation of Ledbury Welding & Engineering;
- the proposal is likely to lead to a loss of existing jobs in the local economy;

Further information on the subject of this report is available from Mr R Close on 01432 261803

- concern as to traffic congestion and the capacity of local highway network;
- concern that the proposed subsidised bus service can be withdrawn at a future date

5.14 The LOTS submission includes a detailed retail impact assessment that they commissioned from Dalton Warner Davis. That report questions whether the Ledbury catchment has sufficient surplus expenditure to support the proposal and states that the location is unsustainable increasing reliance on the private motor vehicle.

5.15 A petition with 3,255 signatories has been received objecting to the proposed development on the following summarised grounds:-

- Ledbury currently has a highly unusual and greatly treasured High Street renowned for its interesting independent shops and its vibrant community life. Evidence shows that out of town superstores cause independent shops to shut and town centres to die.
- The jobs lost from shop closures, which will extend to suppliers' businesses in the local countryside, will far exceed the jobs created, which by definition are mainly part-time and low-paid. Ledbury's unique historic and architectural heritage will be threatened as shops close and buildings cannot be adequately maintained.
- There will be additional problems with increased traffic in narrow and already congested streets.

5.16 Four letters of support have been received on the following summarised grounds:-

- Ledbury requires a larger store with a wider range of groceries;
- We cannot see how the current store could be expanded;
- The proposal is unlikely to have a negative impact on the specialist town centre shops;
- Tourism will not suffer as visitors do not come to visit shops;
- It would increase customer choice;
- There would not be any traffic problems;
- It would create jobs;
- It would erase traffic congestion in the town centre;
- There is a need for value items (e.g. kids' clothes).

5.17 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

6.1 At the pre-application stage advice was supplied to the applicant that the proposal was contrary to both Central Government advice and Development Plan policy. Nevertheless, upon submission of the planning application independent advice was sought especially with regard the potential impact of the proposed development upon the viability and vitality of the Ledbury Town Centre. A full copy of the advice received is attached as **Annex 4**. This report will therefore provide a less technical and briefer summary of the retail impact issues and address the other relevant planning issues.

Sequential Testing

6.2 The Central Government advice currently contained within PPS4 and the relevant Development Plan policy basically adopt a "Town Centre first" approach as the Government is committed to promote the vitality and viability of town centres. 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 (i.e. up to 300 metres walking distance of the Town Centre);
and
- c) sites out-of centre.

6.3 In this case the application site is in an out-of-centre location. Policy EC14.3 of Planning Policy Statement 4 requires the applicant to submit sequential assessments in such cases. The agent for the applicant has submitted such a sequential assessment in this instance.

6.4 The agent has submitted a sequential assessment. Of those sites that the agent has identified, there are two sites that it is considered have not been assessed appropriately. The report deals with each site in turn.

The existing Tesco site at the corner of The Homend and Orchard Lane

6.5 This site is an edge-of-centre site. It is within easy walking distance of the Town Centre and Railway Station.

6.6 It is considered that the existing store was poorly planned at the time it was built. In essence it is an excavated big, flat bottomed hole with the store built at the lowest level set back from the Homend. A simple level site with parking to the front and the store built to the rear. The development makes no positive contribution to the townscape and historic fabric of Ledbury. The building fails to address The Homend. Furthermore it appears that even from an operational point of view the development was poorly designed. The service yard was located poorly vis-à-vis neighbouring properties, only one delivery bay was created and there is not adequate room for another lorry to wait without at least partially waiting upon the public highway. It is understood that the delivery bay is not a proper docking bay and as such goods need to be unloaded using metal cages.

6.7 It is considered that this site could be redeveloped by excavating the existing site by say a further 60cm, creating a parking area at that lower ground level including upon the site of the existing store and building a store, effectively on stilts, above that fronts the Homend such that it appears as a single storey store from the Homend. Vehicular entry to the store could be achieved from the existing vehicular access. The service yard, with two delivery docks, could then be moved back (north) further into the site away from Orchard Lane and shielded by the present high wall at the rear of the site.

6.8 Entry to the store from the car park would be by lift or travelator or stair or walking up the present ramping pavement of Orchard Lane to an entrance at the corner of the Homend. An entrance at this corner would allow people to see the High Street and Town Centre. The goods would reach the store by way of large lifts. There may even be the ability to create a further floor over part of the building at its south-eastern corner.

6.9 The agent submits that a larger store is not capable of being accommodated on this site for the following summarised reasons:-

- a) The site is not large enough to achieve the required parking for a standard 30,000 sq ft store, therefore, it would require two floors of parking;
- b) The servicing arrangement is already compromised on the existing site. The service yard of any re-development would also be compromised as it would more than likely be located at car parking level and require lifts to main sales floor. This is not normal for any food store operator;
- c) The circulation routes for pedestrians would also be compromised as the site is not wide enough to accommodate a full width atrium with travelators. The outcome would mean that instead of customers being able to move between the car park and the store on one travelator, they would have to use a half landing arrangement (i.e. two travelators). This would significantly compromise the circulation routes for customers and would do little to

solve the store circulation/queuing issues highlighted by the store manager and existing Tesco Ledbury customers;

- d) Ledbury has a wealth of cultural heritage and there are a number of listed buildings within close proximity to the Orchard Lane site. 1-2 Home Lawn, both Grade II Listed Buildings, abut the site to the north east and the site lies immediately adjacent to, Ledbury Conservation Area. We do not consider an 'on stilts' format, however sensitively designed, could respond positively to the context of the site or preserve or enhance the character and appearance of the Conservation Area.
- e) Taking the above into account, the redevelopment of the existing site to create a larger store would result in a building considerably taller than the Tesco store. This may result in significant amenity issues for the residential properties to the rear of the site.

6.10 It is considered that these requirements forwarded by the agent for the applicant are flawed and fail to take proper regard to the Central Government advice contained within policy EC15.1 (d) of Planning Policy Statement 4 which states that Local Planning Authorities should ensure that in considering sites in or on the edge of existing centres, developers and operators have ensured flexibility in terms of:-

- (i) scale: reducing the floorspace of their development – *in this regard the agent for the applicant only states that the existing site cannot accommodate the standard size store his client wishes to pursue and has failed to address what level of floorspace could satisfactorily be achieved upon the existing site. It is considered that it would certainly be physically possible to increase the net sales area from 1,175 square metres to a figure in excess of 2,075 square metres;*
- (ii) format: more appropriate site layouts and store configurations such as multi-storey developments with smaller footprints – *in this regard the agent for the applicant again fails to demonstrate flexibility and merely states that this is not normal practice. With regard goods reaching the sales floor from a lower delivery yard, it is understood that at Waitrose in Malvern, goods reach the sales area via two large lifts;*
- (iii) car parking provision: reduced or reconfigured car parking areas: *it is considered that a lower ground level one could create a car park with in excess of 200 car spaces thus allowing the provision of a store with a significantly greater level of floorspace than currently exists;*

6.11 Interestingly the agent does not claim that re-development of the existing Tesco store would be financially, as opposed to physically, unviable.

6.12 Furthermore one needs to recognise that this site is available to Tesco. Therefore the reasoning forwarded by the agent for the applicant in dismissing this site is not considered to be robust. In fact, the site is considered to represent an opportunity for the provision of additional retail provision within Ledbury on a site well linked to the Town Centre whilst providing Ledbury with a new development that would genuinely enhance the Townscape.

Car Park west of Lawnside Road, off Bye Street

6.13 This is another genuinely edge-of-centre site. The agent for the applicant describes the site as a car park only with an inadequate size to accommodate a store of the scale proposed. However, one could view the car park as part of a potentially much larger site which accommodates a number of uses (i.e. swimming pool, youth centre, ambulance station, fire station, community hall, BT exchange building, and a couple of commercial businesses). The current development upon this site is of a low density.

6.14 It is considered that this wider site could easily accommodate a two storey development. The landowners may not wish to sell the site and may wish to secure appropriate relocation of the existing uses (e.g. relocation of the swimming pool with associated fitness gym and meeting room to the John Masefield School site). This may take time and as such that the site may not

be capable of becoming genuinely available within a reasonable time period (say five years) but there is no evidence whatsoever that this possibility has been investigated. Whilst the site is not currently being marketed, this does not necessarily mean that it may not be available. For example there is no evidence that the application site itself (ie the Ledbury Welding site) was being actively marketed prior to the submission of this planning application.

6.15 The agent has argued that this site would not be acceptable as:-

- a) there would be serious concern as to the impact upon the residential flats to the east ;
- b) the proposal could have a serious impact upon listed buildings to the east;
- c) the proposal would result in a loss of parking;

6.16 In response to the above three points it is considered that:-

- a) a scheme could be designed that would not adversely affect the amenities of the occupiers of the flats to the east;
- b) a scheme could be developed that would not cause harm to the setting of the listed buildings to the east; and
- c) one would envisage any proposal for a retail store upon this site to include car parking provision that would enable persons using the store to park and have sufficient time to have a linked trip into the Town Centre. In fact, one could envisage the number of car parking spaces increasing.

6.17 Interestingly the agent for the applicant does not see any issues with regard the adequacy of the local highway network.

6.18 Therefore I do not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the Central Government advice contained within Policies EC15 and Policy E17 of Planning Policy Statement 4 and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.

Impact upon the vitality and viability of the existing town centre

6.19 The agent has submitted a Retail Assessment. This has been examined in detail and attention is drawn to the expert advice received by the Council at **Annex 4**. Therefore rather than repeat that analysis in this Committee Report, it is relied upon.

6.20 In essence Ledbury and its catchment have a certain expenditure capacity. It is considered that the retail assessment is not robust in respect of the expenditure capacity findings principally in respect of:-

- the assumed increase in the retention rate of expenditure attracted to Ledbury arising from implementation of the proposal, which appears to be over-optimistic. It makes no allowance for expanded and improved shopping facilities elsewhere. This is particularly relevant in Hereford City where the Edgar Street Grid/Livestock Market scheme will bring about major new convenience and comparison shopping facilities;
- the high proportion of existing store turnovers judged by the agent for the applicant to be drawn from outside the catchment area (inflow);

6.21 Both of these factors would reduce surplus expenditure to less than required to support the application proposal.

6.22 In addition, it is considered that the additional convenience turnover to which the agent estimates the proposed new store would give rise to is unrealistically low, and because of this it is considered that one cannot rely on their assessment of trade impact.

- 6.23 Therefore it is concluded that the proposed development would have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within policy EC17 Planning Policy Statement 4 and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.

“Linked –trips”

- 6.24 Whilst later in this report is a section entitled transportation, the issue of linked trips is so intrinsically linked to the issue of impact upon the viability and vitality of the Town Centre that it is addressed at this stage of the report.
- 6.25 The existing Tesco store is located less than 300 metres from the Town Centre boundary, approximately 500 metres from the railway station and approximately 550 metres from the Market House in the centre of the Town Centre. The route from the existing store to both the Town Centre and the railway station is not tortuous in any way.
- 6.26 This is in sharp contrast to the proposed site, which is a walking distance of approximately 900 metres from the Town Centre boundary, in excess of 1km from the Market Hall in the centre of the Town Centre and approximately 1.5km from the railway station. The route is also rather convoluted and not particularly safe in that pedestrians are likely to have personal security concerns.
- 6.27 It is considered that the walking distance is such that people are very unlikely to make linked trips with the Town Centre. Whilst a financial contribution may be made via a Planning Obligation under Section 106 of the Act that may make these routes more attractive, they could never bring the site closer to the Town Centre.
- 6.28 Therefore it is considered that the store would become a destination in its own right with shoppers unlikely to visit the Town Centre. If they were to visit the Town Centre it is considered that such a trip is likely to be a separate car trip which is in itself unsustainable. In this regard attention is drawn to paragraphs 5 and 6 of the appeal decision attached as **Annex 2**.

Impact upon Heritage Assets

- 6.29 As described earlier, the existing Town Centre lies within the heart of the Ledbury Conservation Area. 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 Ledbury Town Centre, it is submitted that there would be a secondary negative impact upon the character of the Ledbury Conservation Area. Clearly to retain retail uses within existing premises, many of which are listed (see plan attached as **Annex 5**), the businesses must remain viable. Given the limited expenditure capacity of the Ledbury catchment there is a prospect of existing retail businesses ceasing trading. This would lead to the vibrancy of Ledbury Town Centre declining. If one does not have viable uses for listed buildings they are likely to fall into disrepair. Whilst alternative uses may be found, these would be of a fundamentally different character. Clearly one would not wish the Ledbury Conservation Area to become a heritage asset which is at risk. It is considered that such erosion in the character of the Ledbury Conservation Area is likely to lessen its attractiveness to tourists.

Transportation

- 6.30 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.

- 6.31 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 such developments 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.
- 6.32 The proposed development is located in a position that is not readily accessible by modes of transport other than the private motor vehicle. Those persons living outside of Ledbury and arriving at the railway station or bus terminus would then have to take a separate bus trip to the proposed store. The mere need for a change is likely to deter many public transport users.
- 6.33 Other than from the New Mills residential estate to the north of the site, it is difficult to envisage residents living in the north-east of the Town, east of the Homend (e.g. Homend Crescent area) and the south-east of the Town (Deer Park residential estate) walking to the proposed store. It is considered that it is likely that people would use their car and travel around the town on the by-pass (A417). It is submitted that the existing store lies within easy walking distance of more residential properties than the proposed store and certainly is better linked to the Town Centre as outlined earlier.
- 6.34 With regard to a cycling perspective, the location of the proposed store is not considered to be readily accessible from the south-east of the town and again the likelihood of linked trips is low.
- 6.35 Attention is drawn to paragraph 4 of the appeal decision attached as **Annex 2**.
- 6.36 As a consequence it is considered that the location of the proposal is such that it would increase reliance upon the private motor vehicle contrary to the Central Government advice contained within Planning Policy Statement 1, Planning Policy Statement 4, Planning Policy Guidance Note 13 and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.
- 6.37 Detailed matters that are not fundamental to consideration of the application and could be overcome by way of negotiation are:-
- it would be preferable that the controlled crossings near the new store were toucans rather than puffins;
 - the existing cycle way should be extended from New Mills Roundabout to the roundabout and then to the proposed store; and
 - the submission appears to be contradictory in terms of the amount of cycle parking proposed.

Loss of employment land & other employment issues

- 6.38 The site is currently actively used for employment purposes. It has a good vehicular access and is divorced from residential properties to such a degree that a general industrial use can satisfactorily take place. It is well located in terms of access to the wider road network.
- 6.39 The existing on-site business employs some 35 full-time staff and it is understood that it remains successful. Whilst the buildings upon the site may be somewhat restrictive, the site itself is not. The company informs me that ideally they would wish to have a single building 38.5 metres wide and 110 metres long with vehicle manoeuvring at both ends of the building of 18.288 metres. It is considered that this could be achieved upon the site by erecting a new building along an east – west alignment parallel to the southern boundary of the site whilst avoiding the sewer easement.

- 6.40 Such a building would impinge on the southern end of the existing complex of buildings but I do think that with careful phasing of such a development it would be achievable whilst minimizing the disruption to the business.
- 6.41 It is understood that the existing Tesco store employs 125 staff of which 45 are full time and 80 are part time. The full time equivalent (FTE) number of existing staff is 95. It is anticipated that the proposed store would generate a further 75 jobs however the precise split of full time and part time staff can not be supplied at this stage because it would be dependent upon local demand. However given the appraisal above which concluded that the expenditure capacity of the catchment is less than that required to support the proposed store, it is logical to assume that there would be a degree of employment loss within the existing Town Centre and associated local suppliers.
- 6.42 Notwithstanding the issues surrounding the existing business, the land is safeguarded employment land by virtue of policy E5 of the Herefordshire Unitary Development Plan 2007. In addition, Policy S4 (2) seeks to ensure a suitable range of quality employment land. The proposed development would be contrary to this statement as it would represent a loss of good quality employment land that is immediately available. The real issue is to ensure that Ledbury has an adequate supply of employment land from both a quantitative and qualitative perspective.
- 6.43 Supporting documentation with the planning application states that there are 12.2ha of employment land available in Ledbury north of the viaduct. The Council's Employment Land Study (July 2010) does not concur with this finding stating that only 1.59ha is available in the short-term which is of moderate quality. The remaining 10.68ha is of moderate – poor quality and is only available as a long-term option.
- 6.44 As such the application is contrary to policy S4 (2) of the Herefordshire Unitary Development Plan 2007. Policy E5 Safeguarding employment land and buildings seeks to only permit loss of employment land where there would be substantial benefits to residential or other amenity in allowing alternative forms of development. The current use of the application site for general industrial purposes does not cause any harm. Notwithstanding the above, the agent for the applicant's statement states that approval of an alternative use would allow the relocation of the existing use. However, there is no certainty that this relocation would be delivered, resulting in loss of employment.
- 6.45 The Core Strategy is currently undergoing consultation on a revised preferred options policy. Specifically for Ledbury, there has been no change to the housing requirement and the current UDP employment land designation north of the viaduct site is identified for residential development. The viaduct employment allocation was identified in the previous two development plans covering Ledbury (Herefordshire Council UDP and Malvern Hill District Council Local Plan) but has not come forward due to difficulties for access by heavy goods vehicles. Accordingly the site has been classed as moderate – poor in its quality as employment land. The issue of access is unlikely to be overcome prior to the adoption of the Core Strategy (Spring 2013) and accordingly the figures quoted on available employment land in Ledbury within the King Sturge report do not represent the contents of the evidence base (Herefordshire Employment Land Study, July 2010).
- 6.46 Planning Policy Statement 4 – Planning for Sustainable Economic Growth, policy EC2 (d) seeks that Local Authorities take account of business requirements including the quality of land. As stated Herefordshire Council's evidence base identifies that the application site is good quality, of which there is a significant limitation in Ledbury (table 9.11 of Herefordshire Employment Land Study update July 2010). The loss of such land would be contrary to PPS4.

- 6.47 The Draft National Planning Policy Framework is capable of being a material consideration in the decision making process but the weighting of the document is a judgement to be made by the decision maker. Notwithstanding this the supporting documentation with the application refers to the principles of the NPPF including the default answer of “yes” to sustainable development.
- 6.48 From information contained within the King Sturge report, it appears that the development proposed would not constitute sustainable development. Firstly the King Sturge report identifies that “*Ledbury has a high level of economic activity amongst its population, although resident workers are more likely to commute to other areas of the region than those in any other town in the County*”. The loss of employment land to non-employment purposes would increase the need of outmigration for employment purposes, thus resulting in increases in use of private motorised transport and therefore contrary to the principles of sustainable development.
- 6.49 The NPPF states that Local Authorities should avoid the long term protection of employment land and alternative uses should be judged on their merits (para 75). However the NPPF notes that the planning system is plan led (para 62). The plan, in this case the UDP, does not support the loss of employment land as set out in chapter 2. Paragraph 78 states that applications for retail use should be assessed for their suitability. As the site is already identified as suitable for employment use and is currently in occupation for employment generating purposes then there are no planning barriers to investment (paragraph 73).
- 6.50 Core indicator E(3) of Herefordshire Council’s Annual Monitoring Report (AMR) 2009/2010 identifies the loss of employment land to alternative uses. The AMR 2009/2010 identifies that 0.18ha of employment land was lost to alternative uses. This primarily consisted of a number of small-scale planning applications for the conversion of above ground floor offices into residential units. The current application would represent a ten-fold increase on this figure. As noted in the AMR (paragraph 4.25) such significant loss of existing employment land would lead to increase pressures on greenfield land development.
- 6.51 Current work is ongoing to complete the AMR for the monitoring period 2010/2011. Despite this, early indications are that a significant decrease in employment land completions has taken place. This is not uncommon and represents the significant economic pressures being experienced at a broader level.
- 6.52 Furthermore a number of planning permissions, and therefore identified as commitments in previous AMRs, have subsequently lapsed. This leaves an approximate 3.43ha of employment land with planning permission in Ledbury.
- 6.53 The emerging Core Strategy is currently undergoing consultation on a revised preferred options policy. Specifically for Ledbury, there has been no change to the housing requirement and the current UDP employment land designation north of the viaduct site is identified for residential development. As stated earlier within this report, the viaduct employment allocation was identified in the previous two development plans covering Ledbury (Herefordshire Council UDP and Malvern Hill District Council Local Plan) but did not advance to application stage due to access difficulties for heavy goods vehicles. A replacement site of 12 ha is proposed off Little Marcle Road to the west of the bypass in the Revised Preferred Option exemplifying the need for employment land in this market town.
- 6.54 Therefore on the issue of employment, it is considered that the proposal represents the loss of high quality employment land contrary to the Central Government advice contained within Planning Policy Statement 4 and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.

Flooding

Further information on the subject of this report is available from Mr R Close on 01432 261803

- 6.55 The Environment Agency have raised concern that the submitted Flood Risk Assessment contains inadequate information to demonstrate to their satisfaction that there would not be an increase in flood risk and as such the proposal is considered to be contrary to the Central Government advice contained within Planning Policy Statement 25 and policy DR7 of the Herefordshire Unitary Development Plan 2007.

Design & Landscaping

- 6.56 Whilst the design of the building is functional, the planning of the development and specifically the landscaping is considered poor for the following reasons:-
- With regard the northern boundary, the existing narrow hedge is proposed for retention. Half of the boundary is to have a narrow strip of additional cover planting – this is considered to be a very weak contribution to green infrastructure and will do little to improve either the aesthetic or biodiversity of the site. The other half will include a native shrub mix and tree planting which is welcome.
 - South – no access point is defined onto the existing public footpath, which would aid pedestrian integration and access to the site.
 - East – the service yard would have a 4 metre high acoustic fence along half of this boundary with no landscaping proposed. Furthermore there does not appear to be any space available within the applicant's control to soften the visual impact of this fence with landscaping. It is considered that the siting and design of this acoustic fencing would be so visually intrusive that a ground of refusal is justified. The visual intrusion of this acoustic fencing arises from the inappropriate siting of the entire service/delivery yard. One would normally attempt to locate such a facility discreetly to the rear of the building so that it is not readily visible from the public realm. Any persons approaching the site from the south would be greeted by this acoustic fencing.
 - The submitted scheme provides no detail of internal planting. Landscaping within car parks is important to create a comfortable environment for pedestrians and should be designed as a legible external space. Planting also assists in reducing the negative visual impact of large expanses of car parking and contributes to green infrastructure. The planting and hard landscaping details should define this space and give a sense of human scale and shelter for pedestrians. It seems that vehicular requirements have driven the design, however providing more detail of the landscape framework would help to integrate it with the surrounding area and make the area more comfortable for all range of users.

- 6.57 As a consequence it is considered that the siting and height of the acoustic fence together with the unrelieved expanse of vehicle parking would represent a visual intrusion. The lack of landscaping proposed along the northern and eastern boundaries and the lack of landscaping within the site contributes to this negative impact. As such the proposal is considered to be contrary to policies S1, S2, S7, DR1 and LA6 of the Herefordshire Unitary Development Plan 2007.

Ecology

- 6.58 The application includes an ecological assessment of the site. The following comments are made with regard to that submitted assessment.
- The assessment of the site was undertaken in May and June 2011 which is an appropriate time of year for this type of survey. The assessment of the habitats present on the site is broadly satisfactory, although there is no mention of the ditch along the southern boundary hedgerow.
 - The reptile survey showed that slow worms are present on the site. A mitigation strategy is proposed including supervised clearance of the eastern corner of the site and provision of refugia and grasslands for reptiles to use. The grasslands will need to be managed un-

intensively i.e. not mown weekly as amenity grassland; there is no indication on the landscaping plan where these grasslands or refugia will be provided and as such, there is a net loss of reptile habitat. If mitigation is proposed offsite, a Section 106 agreement will need to be secured to ensure that it is delivered.

- There is no evidence that bats are roosting in the building on the site and it would appear to be sub-optimal for roosting purposes. Nevertheless, the Ledbury area has a number of lesser horseshoe bat records, a nationally rare species, as well as populations of other bat species. The report recommends avoidance of light spillage into the mature vegetation to the west, but there is no indication of how this is to be achieved. The hedgerow along the Herefordshire Trail provides a foraging and commuting corridor for bats (as well as other species); the proposed building and car parking limit the provision of a buffer to this corridor.
- There is no specific evaluation section of the site for bats as there is for other fauna
- No other protected species were recorded on the site although it should be noted that the River Leadon and stream corridor to the west of the site could also be used by otter.
- The only area of habitat value on-site (the eastern corner) will be lost entirely and there is very limited enhancement of habitats elsewhere on site. The parking will be in close proximity to the vegetation along the western boundary of the site. The shrub and tree planting along the northern and eastern boundaries is minimal – there is none adjacent to the deliveries area.
- The proposed planting mixes are broadly acceptable, although one would question whether alder is suitable, apart from along the western boundary; field maple would be a good alternative. Use of the ground cover mix along the western boundary is not appropriate – native species such as ivy, honeysuckle and dog rose would be more appropriate or other species from the native shrub mix. The hedgerow mix is rather limited and could include a greater diversity.
- Nesting birds are present on the site; no compensation or enhancement measures are proposed and one would recommend provision of nesting boxes where possible. In tall structures such as this, there would also be opportunities for provision of swift boxes.
- It will be important to ensure that adjacent habitats are protected during and post-construction, in particular hedgerows, trees and watercourses. A Construction and Environmental Management Plan would need to be followed.
- The presence of Japanese knotweed and cotoneaster on the site is a concern. These will need to be eradicated from the site following an approved method statement.

- 6.59 There is currently insufficient information with this application regarding ecological mitigation, compensation and enhancement measures; in particular in relation to reptiles as well as including an appropriate management strategy As such the proposal is considered to be contrary to PPS9 and Herefordshire's UDP Policies NC6, NC7, NC8 and NC9.

Residential Amenity

- 6.60 The location of the site, physically divorced from residential properties is such that it is not considered that any occupiers of residential properties would suffer an undue loss of amenity.

Contaminated Land

- 6.61 The issue of contaminated land could satisfactorily be dealt with by way of a planning condition.

Draft Heads of Terms

- 6.62 The Draft Heads of Terms submitted by the agent for the applicant is attached as **Annex 3**. For information, *if* planning permission were to be granted the normal formula applied by this Authority would require the sum in clause 1 to be £810,749 (index linked).

- 6.63 However, given the recommendation is for refusal, a further reason for refusal is required on the ground that there is no completed legal agreement under Section 106 of the Town and Country Planning Act 1990 and as such the proposal is contrary to policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Local Planning Authority's adopted Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

Other Matters

- 6.64 With regard the views expressed by the adjoining industrial user (Amcor); it is the view of the Environmental Health Manager that it is Amcor's responsibility to ensure that any chemicals are safely stored, in a secure compound if appropriate.

Conclusion

- 6.65 In the light of the above appraisal it is considered that the proposal is contrary to both Central Government advice and Development Plan policy. The fundamental objections to the proposal as outlined in recommended grounds of refusal 1-5 (inclusive) cannot be overcome by way of an amendment to the submitted scheme or through negotiation.

RECOMMENDATION

THAT Planning Permission be REFUSED on the following grounds:-

- 1. The Local Planning Authority do not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the Central Government advice contained within Policies EC15 and E17 of Planning Policy Statement 4 and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The proposed development would have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within policy EC17 Planning Policy Statement 4 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 Ledbury Conservation Area contrary to the Central Government advice contained within Planning Policy Statement 5 and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposal would result in the loss of high quality employment land contrary to the Central Government advice contained within Policy EC2 of Planning Policy Statement 4 and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.**
- 5. The location of the proposal in an unsustainable location is such that it would increase reliance upon the private motor vehicle contrary to the Central Government advice contained within Planning Policy Statement 1, Planning Policy Statement 4, Planning Policy Guidance Note 13 and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**
- 6. The submitted Flood Risk Assessment contains inadequate information to demonstrate to their satisfaction that there would not be an increase in flood risk and as such the proposal is considered to be contrary to the Central Government advice contained within Planning Policy Statement 25 and policy DR7 of the Herefordshire Unitary Development Plan 2007.**

7. The siting and height of the acoustic fence together with the unrelieved expanse of vehicle parking would represent a visual intrusion. The lack of landscaping proposed along the northern and eastern boundaries and the lack of landscaping within the site contributes to this negative impact. As such the proposal is considered to be contrary to policies S1, S2, S7, DR1 and LA6 of the Herefordshire Unitary Development Plan 2007.
8. There is insufficient information with this application regarding ecological mitigation, compensation and enhancement measures, in particular in relation to reptiles as well as including an appropriate management strategy. As such the proposal is considered to be contrary to PPS9 and policies NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007.
9. The proposed development would necessitate a planning obligation (which complies with the criteria set out in the Supplementary Planning Document on 'Planning Obligations' which was adopted in April 2008) securing contributions towards sustainable transport infrastructure (including enhanced pedestrian and cycle links to the Ledbury Town Centre), to mitigate against the impact of the development together with the requisite legal costs in preparing such an Agreement and the requisite monitoring costs . A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

INFORMATIVES

For the avoidance of any doubt the documents to which this decision relates are:-

- Application Form received 15 June 2011;
- Location Plan – Drawing number 12125 CAR 05 (Scale 1:1250) received 1 June 2011;
- Existing Site Layout / Topographical Survey – Drawing number AP01-A (Scale 1:500) received 15 June 2011;
- Proposed Site Layout – Drawing number AP202-D (Scale 1:500) received 15 June 2011;
- Proposed Site Layout – Drawing number AP200-E (Scale 1:500) received 15 June 2011;
- Proposed Floor Plans – Drawing number AP203 (Scale 1:200) received 15 June 2011;
- Proposed Roof Plan & Typical Section – Drawing number AP204A (Scale 1:200) received 15 June 2011;
- Proposed Elevations – Drawing number AP210A (Scale 1:200) received 15 June 2011;
- Proposed Site Sections – Drawing number AP211A (Scale 1:500) received 15 June 2011;
- DPP Design & Access Statement received 15 June 2011;
- Indigo public affairs – Statement of Community Involvement received 15th June 2011;
- DPP Planning and Retail Assessment received 15 June 2011;
- King Sturge – Statement of loss of Industrial Land 31 May 2011 received 15th June 2011;
- Pinnacle – Flood Risk Assessment received 15 June 2011;
- ADL -Transport Assessment received 29 June 2011;
- DPP – Energy & Sustainability Statement received 15 June 2011;

Further information on the subject of this report is available from Mr R Close on 01432 261803

- **Aspect Ecology - Ecological Assessment received 20 June 2011;**
- **Aspect landscape planning – Landscaping Supporting Statement received 20 June 2011; and**
- **ADL – Framework Travel Plan received 29 June 2011.**

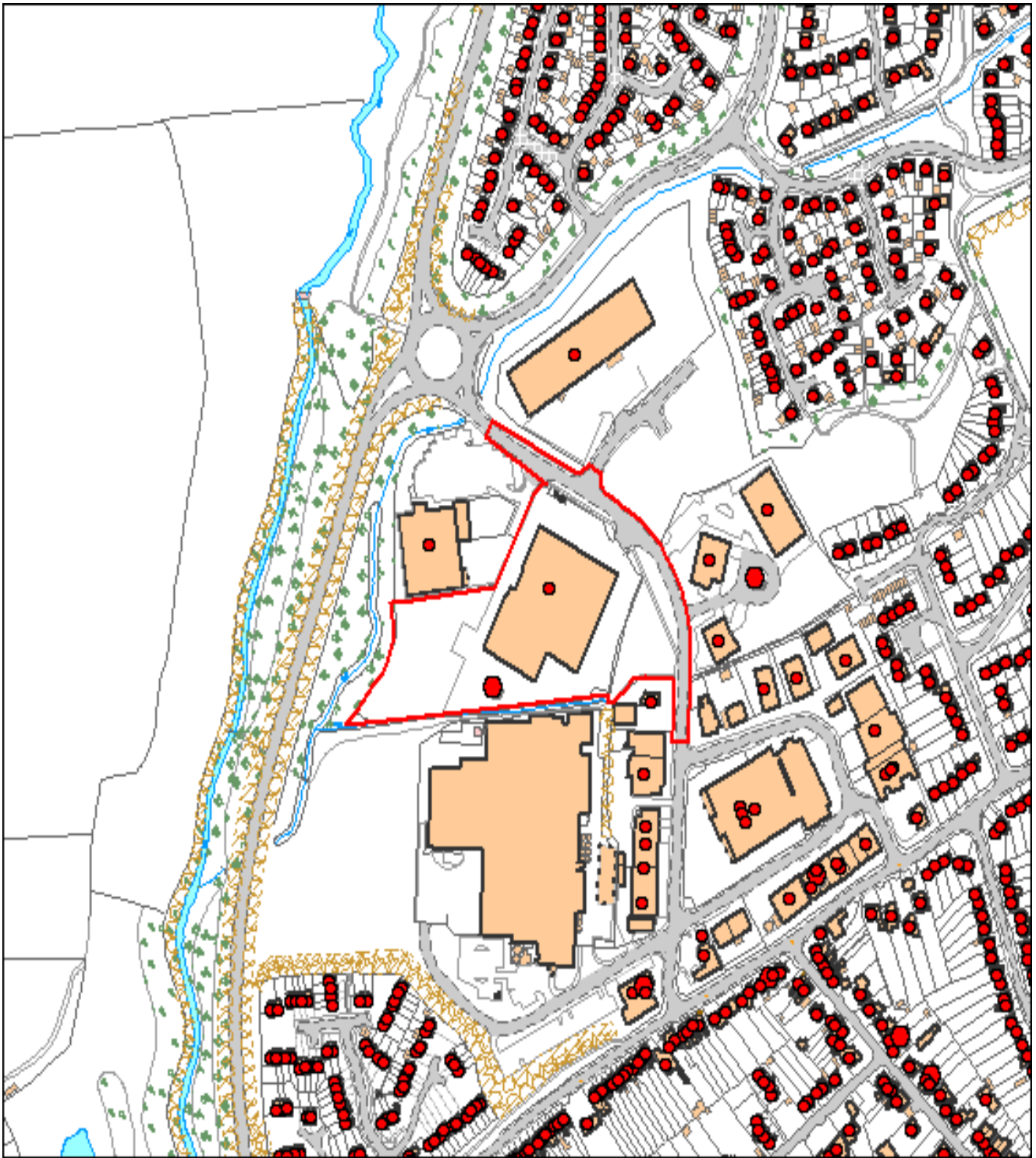
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



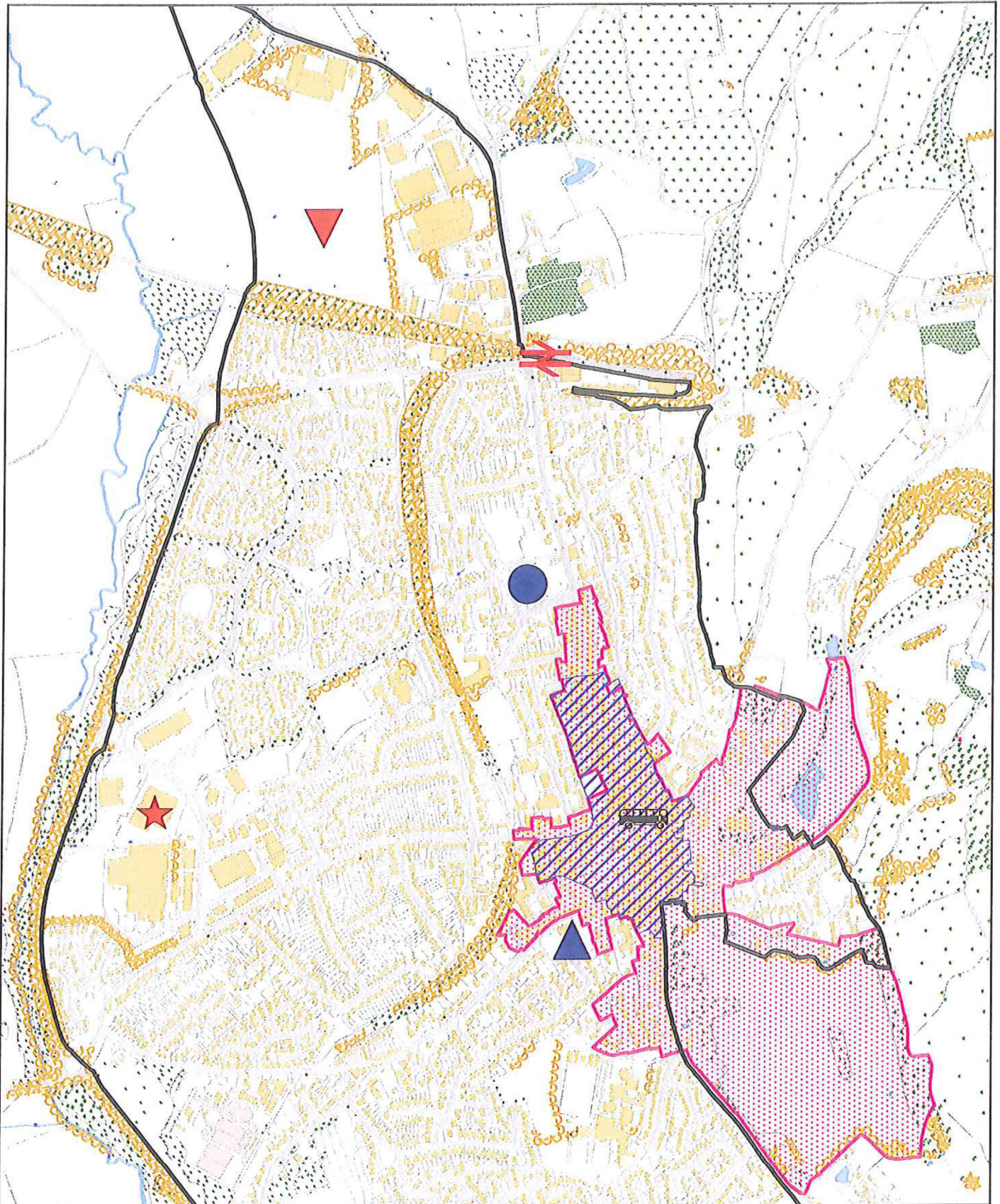
This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: DMN/111554/F




SITE ADDRESS : LEDBURY WELDING & ENGINEERING LTD, NEW MILL INDUSTRIAL ESTATE,
LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SR




Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr R Close on 01432 261803



KEY

-  Settlement Boundary - Ledbury
-  Ledbury Conservation Area
-  Ledbury Town Centre

-  Ledbury Train Station
-  Ledbury Bus Terminus
-  Existing Co-Operative Store

-  Proposed Tesco Store
-  Existing Tesco Store
-  Proposed new Housing (Preferred Option Paper) in Core Strategy



Proposed Tesco Development, Ledbury

Scale 1:10,000

© Crown copyright and database rights (2011) Ordnance Survey (100024168)
 © Environment Agency copyright and/or database right 2009. All rights reserved.
 © Crown Copyright and Landmark Information Group Ltd (2009)



Herefordshire Council Planning Services,
 PO Box 230
 Blueschool House, Hereford, HR1 2ZB
 Tel: 01432 260000
 Fax: 01432 261970



The Planning
Inspectorate

Appeal Decision

Site visit made on 6 January 2011.

by **R J Yuille MSc Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 January 2011

Appeal Ref: APP/W1850/A/10/2139518

New Mills Industrial Estate, New Mills Road, Leadon Way, Ledbury, HR8 2SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Esat Kurt against the decision of Herefordshire Council.
- The application Ref: DMN/101425/F, dated 08/06/10, was refused by notice dated 18/08/10.
- The development proposed is the use of part of the car park for the siting of a catering unit.

Decision

1. I dismiss the appeal.

Main Issues

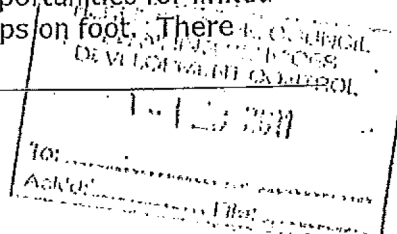
2. The main issues are the effect of the proposed development on; the vitality and viability of Ledbury Town Centre and the aim of locating development where it is accessible by a choice of means of transport; on the level of parking provision on the site and on highway safety; and on the appearance of the area.

Reasons

Vitality, viability and choice of transport

3. The proposed catering unit would be located in the car park of a large existing store on the edge of Ledbury and would thus divert expenditure away from the town centre. The fact that individually its effect on expenditure in the town centre would be relatively small is of little relevance. Such an argument could be made too often and, if successful, would cumulatively undermine the vitality and viability of the town centre.
4. The question of whether the site is accessible to a choice of means of transport is less straightforward. The site is relatively close to industrial and residential areas and a bus route runs near by - so in theory customers using the catering unit could walk or cycle or use public transport. However, in practice people are far less likely to do this than if the unit were in the town centre where there are a range of other attractions. It is likely that this site, which is after all located in a car park, would for the most part attract car borne users.
5. Moreover, a town centre location would offer greater opportunities for linked trips where people travel by car but then make other trips on foot. There

<http://www.planning-inspectorate.gov.uk>



would be little opportunity to do this at the appeal site other than for those people who combined a trip to the catering unit with a trip to the store in whose car park it would be located.

6. The appeal scheme would, therefore undermine the vitality and viability of Ledbury town centre and would be likely to attract car borne customers rather than being accessible by a range of means of transport. In these respects it would run counter to the aims of Policies S5, TCR1 and TCR2, S1, S6 and DR2 of the Herefordshire Unitary Development Plan (the UDP).

Parking Provision and Highway Safety

7. The proposed unit would be located at the end of a parking bay not on a parking space and it would not seriously impede access to more than one parking space. Assuming that two parking spaces would be needed to serve the catering unit this would mean that only 3 of the 95 or so spaces in the car park would be affected by the appeal scheme. While this car park is of an appropriate size for the store it serves there is evidence that it has spare capacity. The loss of three spaces would not, therefore, be likely to lead to a situation in which people parked on the carriageway or footway close to the site.
8. The access road to the car park is clearly apparent from the approach roads to the nearby roundabout. In such a situation it is unlikely that drivers, seeing the proposed catering unit, would make the snap decision to park on the highway. The appeal scheme would not, therefore, conflict with the aims of UDP Policies T11 and DR3 which seek to ensure that suitable parking is provided and highway safety maintained.

Appearance

9. The proposed catering unit, a box like structure adorned with advertisements, would be clearly visible from the approach roads leading to the nearby roundabout on the A417 by pass – particularly to traffic travelling south. While it would be set against the backdrop of the large modern store and seen in the context of parked cars, lighting columns and other street furniture, it would be in a prominent position close to the site frontage. The introduction of such a utilitarian structure in such a prominent position would create an unattractive and cluttered view when seen from nearby roads. It would thus detract unacceptably from the character and appearance of the area and conflict with the aims of UDP Policy DR1.
10. Reference is made by the Council and the appellant to the possibility of relocating the unit to a less prominent position in the car park but this does not form part of the appeal scheme.

Other Matters

11. Reference is made to various other catering units which have been granted planning permission elsewhere in the area. However, on the information available, there is nothing to suggest that these create a desirable precedent that should lead to the granting of planning permission in this instance.

Conclusions

12. While the appeal scheme would not have an adverse effect on the level of parking on the site nor undermine highway safety these considerations are

outweighed by the harmful effect it would have on the vitality and viability of Ledbury town centre, on the aim of securing sustainable development and on the character and appearance of the area. For these reasons, having taken into account all other matters raised, the appeal should be dismissed.

R. J. Yaville
Inspector

[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]

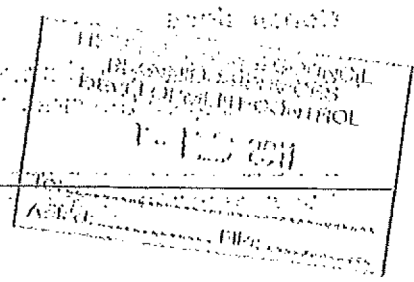
[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]



12125/FN0003/Ledbury



**Draft Heads of Terms
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990**

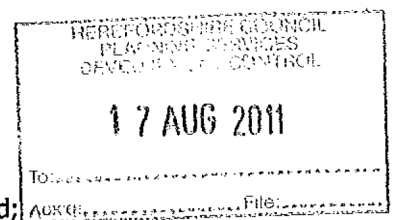
Description of Development

Application for demolition of existing buildings and erection of Class A1 retail store, car parking, landscaping and associated works at Ledbury Welding and Engineering Limited, New Mill Industrial Estate, Ledbury, Herefordshire, HR8 2SR.

Obligations

1. Tesco Stores Limited ("Tesco") covenants with Herefordshire Council to pay Herefordshire Council a sum (to be agreed) to provide a sustainable transport infrastructure to serve the proposed development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions, if appropriate (the "Transport Contribution"). The Transport Contribution shall be used by Herefordshire Council at its option for any or all of the following purposes for the benefit of the development, and shall be carried out by the Council prior to occupation of the development or such other time to be agreed with Tesco:

- Seal and light ZB2 path, upgrade to shared use from Leadon Road to Barnett Avenue;
- Upgrade Orchard Way footbridge to shared use standards;
- Introduction of cycle contra-flow in New Street at Top Cross end;
- Footway improvements including dropped kerbs and widening between the development and Lower Road, Bridge Street, Biddulph Way and Town Centre.



2. Tesco will provide:
- 2(a) Herefordshire Council with a sum [to be agreed] towards subsidising and/or improving the 600 service in Ledbury. The sum to be paid in advance in annual



instalments from opening of the store for a period not exceeding five years; or

- 2(b) Tesco to provide a bus service for 5 years from occupation of the development. In both cases the service will be subject to a review at the request of Tesco to consider the route, frequency, timing, and the continuation of the service with the overall intention of ensuring that the bus service is environmentally sustainable.
3. In the event that Herefordshire Council does not for any reason use the Transport Contribution for the purposes specified above within 5 years from the date of receipt of the Transport Contribution, (unless otherwise agreed in writing with the Council), the Council shall repay Tesco the said sum or part thereof which has not been used by Herefordshire Council.
4. Tesco shall submit to the Council a Travel Plan which shall be approved prior to the permitted store commencing trading.
5. Tesco covenants with Herefordshire Council not to commence trading of the permitted new store prior to the retail use ceasing at the existing food store site at Orchard Lane.
6. Tesco covenants with Herefordshire Council to pay Herefordshire Council an additional administrative charge of 2% of the total contributions detailed in this Head of Terms to be used toward the cost of monitoring and enforcing the Section 106 Agreement.
7. All of the financial contributions shall be Index Linked from the date of the Section 106 Agreement to the date of payment.
8. Tesco shall pay to the Council on or before the completion of the Agreement the reasonable legal costs to be incurred by Herefordshire Council in connection with the preparation, negotiation and completion of the Section 106 Agreement.

Drivers Jonas Deloitte.

Drivers Jonas Deloitte
66 Shoe Lane
London
EC4A 3BQ
Tel: +44 (0) 20 7007 9000
Fax: +44 (0) 20 7583 1198
www.djdeloitte.co.uk

Direct: +44 (0) 207 303 4154
Direct Fax:
jamewilliams@djdeloitte.co.uk

Mr Roland Close
Principal Planning Officer
Herefordshire Council
PO Box 230
Blueschool House
Blueschool Street
Hereford
HR1 2ZB

6 October 2011
Our Ref: JW/
Client Ref:

Dear Roland

Proposed New Tesco Store, Ledbury: Planning Application DMN/111554/F

This letter is in response to your letter of 23 August 2011 confirming Drivers Jonas Deloitte's instructions to advise the Council on the retail policy and impact issues arising from the above planning application. In response to the Council's Brief, we summarised the matters on which the Council required to be advised in our letter to you of 19 July. These were:

- (i) The impact of the proposal on the vitality and viability of Ledbury town centre;
- (ii) The likely impact of the proposal upon the historic and architectural heritage of Ledbury Town Centre / Conservation Area (e.g. retaining viable uses for the listed buildings within the Town Centre);
- (iii) Whether the proposal delivers a sustainable pattern of development reducing the need to travel, especially by car;
- (iv) The likelihood or otherwise of linked trips to the Town Centre;
- (v) Whether there are sequentially preferable sites that meet the identified need (redevelopment of the existing Tesco store, redevelopment of the Bye Street car park);
- (vi) A critical review of evidence put forward by the applicants on expenditure / floorspace capacity, the turnover of the proposed store, potential to clawback expenditure currently lost from the catchment area, etc;
- (vii) Compliance with Central Government advice and Development Plan policy.

This letter covers all the above matters, but in the interests of simplicity broadly follows the structure of the DPP Planning and Retail Assessment (PRA) dated June 2011, which accompanies the planning application.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom.

Drivers Jonas Deloitte is a trading name of Deloitte LLP, which is the United Kingdom member firm of Deloitte Touche Tohmatsu Limited ('DTTL'), a UK private company limited by guarantee, whose member firms are legally separate and independent entities. Please see www.deloitte.co.uk/about for a detailed description of the legal structure of DTTL and its member firms. Drivers Jonas Deloitte is regulated by RICS.

Drivers Jonas Deloitte.

The Proposal

1. The proposal is described in the application form as:

"Demolition of existing buildings and erection of a Class A1 (Retail) store, car parking, landscaping and associated works"

We understand that the gross floorspace of the store will be 5,069 sq m and the net sales area 3,084 sq m.

2. The application proposal is directly linked to closure of the existing Tesco store at The Homend and the use of the site for residential development and public car parking. We reproduce below the convenience and comparison goods floorspaces of the existing and proposed stores, derived from the PRA paragraph 3.3.

F'space sq m	Existing	Proposed	Change	Change**
Convenience	903	2,315	+1,412	+1,491
Comparison	174	568	394	+418
Checkouts	98	201	103	
Net Sales Area*	1,175	3,084	1,909	+1,909
Gross Area	2,162	5,069	2,907	2,907

* Net sales area excludes lobbies, atrium and toilets

** Checkouts pro rata'd

3. DPP says that the enlarged size of the proposed store will enhance the depth of its retail offer. Reference is made to an enhanced offer of health and beauty, small household goods, books, CDs/mobile phones, as well as limited lines of clothing together and homeware products. Additional tills will also be provided.
4. The application site is located within the New Mills Industrial Estate adjacent to the A417 Leadon Way on the western edge of the town. The site is currently occupied by Ledbury Welding and Engineering who would relocate to an alternative site.

Existing Store Issues

5. Justification for the application proposal is based upon resolution of operational problems arising from the limited size of the existing store site and its surroundings. These are described in Section 2 of the PRA and in a letter to DPP from the Store Manager dated 9 June 2011. We summarise below the problems identified by the Store Manager:
 - Narrow aisles and limited circulation space for customers and employees;
 - An insufficient number of checkouts and customer queuing at peak periods;
 - Shortages of bulk storage space and sales area shelf space, causing fast moving food items to become out of stock;
 - Inadequate space for the display of goods.

Drivers Jonas Deloitte.

6. Simon Zargar and I have visited the store on a number of occasions. We have found that the store appears to be trading well with a good range of food and drink products plus other convenience products (magazines, toiletries and health, small household products etc, but otherwise with a limited range of non-food goods. At the times of our visits we have not seen excessive queuing at tills, but we have not had the opportunity to visit the store on a Friday evening or Saturday, which we presume are the peak periods. In common with large foodstores elsewhere, we note that Tesco has recently implemented self-service tills, which take up less space and which we envisage will speed up shopper transactions.

National Planning Guidance

7. National planning guidance provides the policy framework against which the proposals should be judged. Because of its direct relevance to retail development (as well as other uses), we refer to PPS4 'Planning for Sustainable Economic Growth' guidance only.
8. The government's publication in July of its 'Draft National Planning Policy Framework' (NPPF) has introduced significant potential changes to national planning policy. We first describe current national planning policy guidance as set out in PPS4, and then comment on relevant parts of the Draft NPPF.

PPS4 Planning for Sustainable Economic Growth

9. PPS4 Planning for Sustainable Economic Growth was published on 29 December 2009 replacing earlier PPGs and PPSs, including PPS6, which were cancelled on the same date.

Government Objectives

10. Paragraph 9 states that "The Government's overarching objective is sustainable economic growth." Paragraph 10 goes on to identify the Government's objectives to help achieve sustainable economic growth. These include:
 - delivering more sustainable patterns of development, and reducing the need to travel, especially by car and respond to climate change;
 - promoting the vitality and viability of town and other centres as important places for communities. To do this, the Government wants:
 - *"new economic growth and development of main town centre uses to be focused in existing centres, with the aim offering a wide range of services to communities in an attractive and safe environment and remedying deficiencies in provision in areas with poor access to facilities*
 - *competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, which allow genuine choice to meet the needs of the entire community (particularly socially excluded groups)*
 - *....."*

Development Management Policies

11. This section of PPS4 contains the guidance of most relevance to consideration of planning applications.
12. Policy EC10 relates to all planning applications for economic development stating:

Drivers Jonas Deloitte.

"EC10.1 Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably."

Policy EC10.2 All planning applications for economic development should be assessed against the following impact considerations:

- (a) whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change*
- (b) the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured*
- (c) whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions*
- (d) the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives*
- (e) the impact on local employment*

13. Policies EC13, EC14, EC15, EC16, and EC17 are of relevance to retail proposals, with all but EC13 being of particular relevance to the proposals before the Council.

14. Policy EC14 describes the supporting evidence that is required for planning applications for main town centre uses. The requirements include:

EC14.3 A sequential assessment (under EC15) is required for planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up-to-date development plan.

EC14.5 In advance of development plans being revised to reflect this PPS, an assessment of impacts in policy EC16.1 is necessary for planning applications for retail and leisure developments below 2,500 square metres gross floorspace, which are not in an existing centre and not in accordance with an up-to-date development plan.

EC14.7 Assessments of impacts should focus in particular on the first 5 years after the implementation of a proposal and the level of detail and type of evidence and analysis required in impact assessments should be proportionate to the scale and nature of the proposal and its likely impact. Any assumptions should be transparent and clearly justified, realistic and internally consistent.

15. In order to interpret these requirements, it is relevant to note that the application site is an 'out-of-centre' location in retail planning policy terms.

16. Policy EC15 describes the sequential assessment requirements for planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan, which includes the application proposal.

"EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- (a) ensure that sites are assessed for their availability, suitability and viability.*
- (b) ensure that all in-centre options have been thoroughly assessed before less central sites are considered*

Drivers Jonas Deloitte.

- (c) *ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access*
- (d) *ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:*
 - i. scale: reducing the floorspace of their development;*
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;*
 - iii. car parking provision; reduced or reconfigured car parking areas; and*
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals*

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site,

Policy EC15 is of particular relevance in this case.

17. Policy EC16 describes the impact assessment requirements for planning applications that are not in a centre and not in accordance with an up-to-date development plan, which includes the application proposal.

"EC16.1 Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

- (a) *impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal*
- (b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*
- (c) *the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*
- (d) *in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*
- (e) *if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*
- (f) *any locally important impacts on centres under policy EC3.1.e."*

18. Policy EC17 indicates how planning authorities should respond to planning applications not in a centre and not in accordance with an up to date development plan. Such applications should be refused if:

- (a) *the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or*

Drivers Jonas Deloitte.

- (b) *there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments*
19. EC17.2 goes on to say:
Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:
- (a) *the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and*
- (b) *the likely cumulative effect of recent permissions, developments under construction and completed developments*
20. EC17.3 indicates that judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date), as well as information sources such as town centre or retail strategies and health assessments.

PPS4 Practice Guidance Note

21. PPS4 is accompanied by a document 'Planning for Town Centres - Practice guidance on need impact and the sequential approach', published on the same date 29 December 2009. This identifies more specific technical requirements when undertaking impact and sequential approach assessments.

Draft National Planning Policy Framework

22. Subsequent to submission of the planning application, the Government published in July its Draft National Planning Policy Framework (NPPF), which is to become an all-embracing statement of national planning policy replacing existing PPSs and PPGs, including the relatively recent PPS4.
23. Until the final NPPF is published limited weight can be attached to it, but a recent note from PINS to Inspectors states:
"Whilst it is a consultation document and, therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government's 'direction of travel' in planning policy. Therefore, the draft National Planning Policy Framework is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker's planning judgment in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled."
24. The NPPF states that the purpose of the planning system is the achievement of sustainable development (paragraph 9). The Guidance goes on to describe sustainable development as having three threads
- planning for prosperity (an economic role) – use of the planning system to build a strong, responsive and competitive economy;
 - Planning for people (a social role) – use the planning system to promote strong, vibrant and healthy communities: and
 - planning for places (an environmental role) – use the planning system to protect and enhance the natural, built and historic environment.
25. The emphasis placed on economic considerations is indicated in paragraph 13.

Drivers Jonas Deloitte.

"The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. A positive planning system is essential because, without growth, a sustainable future cannot be achieved."

26. The importance attached to the achievement of sustainable development is re-emphasised in paragraphs 14 and 53 (Development Management):

"At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking."

"The primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent development."

27. Core land-use planning principles are set out in paragraph 19, the first one of which is:

"planning should be genuinely plan-led, with succinct Local Plans setting out a positive long-term vision for an area. These plans should be kept up to date and should provide a practical framework within which decisions on planning applications can be made with a high degree of certainty and efficiency"

28. Paragraphs 76-80 deal with promotion of the vitality and viability of town centres. Paragraph 76 requires that planning policies should be positive, promoting competitive town centre environments and setting out policies for the management and growth of centres over the plan period. It goes on to describe actions that local authorities should take including:

- Recognising town centres as the heart of communities and pursuing policies to support the viability and vitality of town centres
- Defining a network and hierarchy of centres that is resilient to anticipated future economic changes

29. The 'sequential approach' is retained in respect of retail and leisure uses only. Paragraphs 77-78 broadly summarise PPS4 requirements (although the word 'prefer' is used).

"Local planning authorities should apply a sequential approach to planning applications for retail and leisure uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

Local planning authorities should prefer applications for retail and leisure uses to be located in town centres where practical, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In applying this sequential approach, local planning authorities should ensure that potential sites are assessed for their availability, suitability and viability and for their ability to meet the full extent of assessed quantitative and qualitative needs."

30. Similar to PPS4 requirements, impact assessments are required for retail and leisure developments outside town centres for schemes in excess of a locally defined floorspace threshold, which are not in accordance with an up-to-date Local Plan. If there is no locally set threshold, the default threshold is 2,500 sq m (paragraph 79).

31. Impact considerations for retail and leisure development should include:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

Drivers Jonas Deloitte.

- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to ten years from the time the application is made.
32. In our opinion the Draft NPPF Guidance that is of particular relevance to the application proposal is:
- The emphasis on the achievement of sustainable development;
 - The priority attached to economic growth;
 - The key role of the development plan;
 - The continued support for town centres and the definition of a hierarchy of centres;
 - Retention of the sequential approach and impact considerations in broadly the same form.

Local Planning Policy

Herefordshire UDP 2007

33. The Herefordshire Unitary Development Plan (UDP) was adopted in March 2007.

Proposals Map Allocation

34. On the Proposals Inset Map LED1 the site is allocated as 'Safeguarded Employment Land' under Policy E5. The policy resists proposals resulting in the loss of existing, permitted or proposed employment land and buildings to non-employment uses, except where there would be substantial benefits to residential or other amenity and the site can be shown to be unsuitable for other employment uses.
35. We make no further comment on employment policy issues, as this is outside our remit.

Town Centre and Retail Policies

36. Within the County retail hierarchy Ledbury is defined as a 'Market Town'.
37. **Policy S5** describes the strategic objectives for town centres and shopping within the County. It says:

"Town centres and retail

The range of shopping, employment, entertainment, social and other community services that are available in existing centres should continue to be available to all in locations accessible by a choice of means of transport. This will be achieved by:

- (i) *protecting and enhancing the vitality and viability of Hereford City Centre, market town centres and local, neighbourhood and village centres throughout the County, with particular reference to maintaining the County's retail hierarchy and the role of Hereford City Centre as a sub-regional shopping centre;*
- (ii) *supporting continued investment in existing centres, maintaining an attractive environment, and encouraging high quality design and mixed uses including housing, particularly above shops;*
- (iii) *locating key town centre uses that generate and attract many trips, including retail, entertainment and leisure, commercial and public offices, in or adjacent to existing centres where there is convenient access by a choice of means of transport; and*
- (iv) *in edge of centre or out of centre locations, applying first a test of need and then, if need can be demonstrated, a sequential approach to retail and other proposals that generate*

Drivers Jonas Deloitte.

and attract many trips. The likely impact of proposals on the Plan's strategy and on the vitality and viability of existing centres will also be considered, as will the accessibility of the site by a choice of means of transport, the likely effect of development on overall travel patterns and car use and the scope to encourage investment to regenerate deprived areas."

38. **Policy TCR1** describes the policy for Central Shopping and Commercial Areas (CSCAs):

"The central shopping and commercial areas of Hereford and the market towns will be retained and protected as the prime focus for retail, leisure and commercial activity in order to ensure the continued vitality and viability of these city and town centres."

39. **Policy TCR2** describes the means by which the vitality and viability of Hereford City Centre and the market towns will be maintained and enhanced. The first stated consideration is:

(i) *directing proposals for new shopping and commercial uses to the central shopping and commercial areas;*

40. **Policy TCR9** is particularly relevant to the application proposal as it describes tests that must be satisfied prior to any planning permission being granted for large scale retail and leisure development outside the central shopping and commercial areas of Hereford and the market towns. It requires that:

(i) *"it can be demonstrated that there is a need for the development in the location proposed, with a retail need for both comparison and convenience goods shown if both are proposed within the same development;*

(ii) *it can be demonstrated that a sequential approach has been taken to site selection, and that land and buildings in each of the following categories have been thoroughly assessed in turn and found to be not available before considering less central locations:*

- *within central shopping and commercial areas*
- *edge-of-centre locations*
- *out-of-centre locations which are well served by public transport;*

(iii) *the proposal is compatible with and does not undermine the Plan's central shopping and commercial area strategy or the overall Plan strategy;*

(iv) *the proposal will not seriously harm the vitality and viability of existing central shopping and commercial areas, either by itself or in conjunction with other recent and proposed retail development;*

(v) *the site is easily and safely accessible to customers and staff by a choice of modes of transport and will not lead to an increase in the use of the private car; and*

(vi) *the proposal is not sited within open countryside or on land allocated or safeguarded for another use."*

Herefordshire LDF

41. The Herefordshire LDF is currently in preparation. In respect of the Core Strategy, a Draft Revised Preferred Options Background Paper was published in July 2011. This identifies the preferred growth strategy for the County, and updates the preferred strategy upon which consultation took place in 2010. It indicates significant new housing in the market towns.

42. In respect of the market towns, a Draft Preferred Options Paper for the Market Towns and Rural Areas Plan (MTRAP) was published in July 2010. The preferred option for Ledbury is the provision of some 800 new homes in the period 2006-2026, of which 700 will be provided in a

Drivers Jonas Deloitte.

single strategic urban extension to the north of the railway viaduct in the northern part of the town. DPP does not rely directly in their assessment on this additional population to support their proposal (PRA paragraph 7.15).

43. In so far as new retail development is concerned, the emphasis on steering new large scale retail development to the CSCAs is likely to remain.

Driver Jonas Deloitte PPS4 Assessments

44. Drivers Jonas Deloitte (DJD) has undertaken an assessment of the potential for new retail development and other town centre uses within Hereford City and the market towns, as part of the evidence base for the LDF. The most recent updates were provided to the Council in September and November 2010. We draw on material from these studies in our comments on the DPP assessments.

General Policy Considerations

45. In this section of their report (Section 5) DPP assesses the performance of the application proposal in sustainability, access, design, regeneration and local employment terms against the relevant considerations set out in PPS4 Policy EC10.2 and various UDP Policies. As these considerations generally lie outside our remit, we make no comment on this section of the PRA.

Sequential Assessment

Approach

46. The purpose of the sequential approach is to ascertain whether the type of retail development for which a need has been identified (and is under consideration) could reasonably be accommodated on an alternative site in a location that is preferable in planning policy terms. We have described above the specific requirements of Policy EC15.1. DPP describes their approach in paragraphs 6.1-6.14, which we broadly accept. As required by criterion a) of the policy, DPP focuses on the availability, suitability, and viability of the alternative sites identified.
47. DPP considers the sites in terms of them being available within a period of five years, which we accept as being reasonable.
48. DPP's minimum site area sought is 1.8 hectares, which compares with the existing Orchard Lane site area of 0.8 hectares. They seek a store size of 5,069 sq m on one level with surface level parking and highway prominence.
49. Having regard to the requirement for applicants to demonstrate flexibility in their business model requirements, we are not fully convinced of the justification for one level car parking as a prerequisite. We refer to this below in considering the existing Orchard Lane site.
50. In terms of identifying a candidate list of sites, we accept that the need under consideration relates to Ledbury and that any alternative sites should therefore be in Ledbury.

Drivers Jonas Deloitte.

Town Centre

Vacant Units

51. DPP first considers vacant units within the town centre. We accept that there are no existing units in Ledbury town centre that could accommodate a large foodstore of the type proposed. DPP goes on to consider town centre sites of which they identify two.

Bye Street Car Park

52. DPP describes this site in paragraphs 6.19-6.27 of the PRA. It has a site area of 0.18 hectares and is currently in use as public car parking. Because of its existing use and small size, we accept that it is unlikely to meet the PPS4 tests of availability or suitability.

St Katherine's Car Park

53. DPP describes this site in paragraphs 6.28-6.36 of the PRA. It has a site area of 0.42 hectares and is currently in use as public car parking. It is of an irregular layout and overlooked by a prominent historic buildings. We accept that it is unlikely to meet the PPS4 tests of availability or suitability.

Edge-of-Centre Sites

Lawnside Road Car Park

54. DPP describes this site in paragraphs 6.41-6.43 of the PRA. They refer to the car park only, which is clearly of an inadequate size to accommodate the application proposal. We note, however, that the car park is part of a much larger area of what appear to be 'soft' uses that could relocate in the future. The site to which we refer extends from the rear of properties fronting Bye Street in the south to the northern boundary of the car park. The site includes a number of public uses, including a Youth Centre, swimming pool, Police buildings, ambulance Station and Fire Station.
55. Although this area appears to us to be locationally suitable for new retail development, we accept that the determining factor would be whether it could be made available within a reasonable period of time, say five years.

Existing Tesco Store Orchard Lane

56. In terms of the sequential approach tests of availability, suitability, and viability, the existing Orchard Lane site is plainly 'available'.
57. In terms of the site's 'suitability' to accommodate the proposed new store, DPP identifies the following deficiencies (PRA paragraph 2.7):
- *The site is not large enough to achieve the required car parking for a standard 30,000 sq ft store, therefore, it would require two floors of parking;*
 - *The servicing arrangement is already compromised on the existing site. The service yard of any re-development would also be compromised as it would more than likely be located at car parking level and require service lifts to the main sales floor. This is not normal for any food store operator;*
 - *The circulation routes for pedestrians would also be compromised as the site is not wide enough to accommodate a full width atrium with travelators. The outcome would mean that instead of customers being able to move between the car park and the store on one travelator, they would have to use a half landing arrangement (i.e. two travelators). This*

Drivers Jonas Deloitte.

would significantly compromise the circulation routes for customers and would do little to solve the store circulation/queuing issues highlighted by the store manager and existing Tesco Ledbury customers;

- *Ledbury has a wealth of cultural heritage and there are a number of listed buildings within close proximity to the Orchard Lane site. 1 -2 Home Lawn, both Grade II Listed Buildings, abut the site to the north east and the site lies immediately adjacent to, Ledbury Conservation Area. We do not consider an 'on stilts' format, however sensitively designed, could respond positively to the context of the site or preserve or enhance the character and appearance of the Conservation Area.*
 - *Taking the above into account, the redevelopment of the existing site to create a larger store would result in a building considerably taller than the Tesco store. This may result in significant amenity issues for the residential properties to the rear of the site.*
58. We are not aware of any more detailed investigatory work that may have been undertaken by the applicant's architects to test the feasibility of accommodating a larger store on the existing site. However, we make the following comments, based on an inspection of the site and its surroundings.
59. The design of the existing store is incongruous and unsympathetic to its historic surroundings on The Homend, which is one of the principal entry routes into the town centre. The character of the street is determined by historic buildings directly fronting the road. This traditional form of development is interrupted by the Tesco store being located at the back of the site with the open car parking area at the front. If redevelopment of the site enabled this situation to be remedied by bringing a new store building to the front of the site with car parking underneath and to the rear, it appears to us that this would bring about major townscape benefits.
60. In respect of the first point raised by DPP, we accept that to provide the size of store that is sought would be likely to require more than one level of car parking.
61. We have referred above to the possibility of putting some parking underneath a store relocated at the front of the site. Obviously there are other possible solutions for relocating the store and providing split-level car parking. Such arrangements could be facilitated by the slope of the site away from The Homend, and the considerable drop in level from The Homend to the existing car parking area.
62. Because the existing Orchard Road site is plainly available and suitable in principle for a large foodstore, we believe the feasibility of accommodating a larger foodstore on the site needs to be thoroughly investigated to satisfy the requirements of the sequential approach. From discussions with officers of the Council it does not appear to us that this has been done.

Retail Impact Assessment

63. DPP assesses the retail impact of the application proposal under the PPS4 Policy EC16 headings.

a) impact on existing, committed and planned public and private investment in a centre

64. There is plainly a considerable amount of existing public and private sector investment that has already been committed in Ledbury town centre. However, we are not aware of any major town centre investment proposals under consideration at the present time.

b) impact on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer

d) impact of the proposal on in-centre trade/turnover, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made

65. DPP considers these two impact headings together. For the purpose of informing their consideration of these criteria, DPP has undertaken a comprehensive health assessment of Ledbury, based upon PPS4 indicators. This is included within the PRA as Appendices A3 and A4. For the purpose of comparison, we have attached as an Appendix to this letter, DJD's findings in respect of Ledbury, as set out in Paper 2 of the DJD Herefordshire Town Centres PPS4 Assessments, September 2010.
66. We are broadly in agreement with DPP's findings, in particular the findings set out in paragraph 1.59 of Appendix A3.
- The Central Shopping and Commercial Area comprises predominantly smaller independent retail units;
 - The town centre is considered to be healthy and stable with very low vacancy rates comparing favourably against the most up-to-date national averages;
 - Despite the locational constraints of the Conservation Area and its historic environment, there is strong retailer demand for representation. This reflects the unique character and appeal of the town centre;
 - Ledbury town centre benefits from high aesthetic and environmental quality, which contributes to its overall attractiveness as a shopping destination.
67. We note also that Ledbury is highly valued by residents/shoppers. DPP's NEMS commissioned interview surveys indicated that the principal reason for visiting Ledbury was its attractive environment (38.68%), followed by the presence of independent stores (33.19%). In respect of any dislikes, 67.91% stated that they had none.
68. In paragraph 1.8 of Appendix A3, DPP describes Ledbury as being "*first and foremost, a non-food and service centre*". In our opinion this statement underestimates somewhat the importance of the convenience shops to the attractiveness of the town centre. Although constituting only 18% of total units, there is an unusually large range of independent shops which DPP has listed in paragraph 1.12 of Appendix A3 and which we reproduce below.
- Two convenience stores (One Stop, Spar);
 - Three CTN's (Confectionery, tobacco & news – Ledbury News, The Chocolate Box, The Velvet Bean);
 - One off licence (Hays Wine);
 - Three butchers (Gurneys, DT Waller, Llandinabo Farm Shop);
 - Two bakers (Abbeys Bread & Cakes, Greggs);
 - Two green grocers (MA & TA Jenkins, Gladwin & James);
 - Two healthfood shops (Wyedean Wholefoods, Handley Organics); and
 - Two delicatessens (Ceci Paolo, Four Oaks).

69. We believe that the particular character of Ledbury town centre and the quality of its retail offer are relevant considerations in this case.

Expenditure Capacity

70. DPP describes their methodology for assessing impact in paragraph 7.9 of the PRS, which we reproduce below:
- Definition of base and design year, price base and appropriate catchment area;
 - Assessment of population and expenditure (convenience and comparison) within the catchment area for both the base and design years;
 - Assessment of the "benchmark" turnover of existing and any committed retail floorspace within the catchment; and
 - Assessment of the capacity position within the catchment area.

71. The tables relating to the quantitative assessment are set out in Appendix A7.

Base and Design Years

72. We accept DPP's use of a base year of 2011 and design year of 2016. For the purpose of commenting on the DPP assessment, we are content to adopt these dates at this stage.

Catchment Area

73. DPP has defined a catchment area for Ledbury based on post-codes. They identify four zones that are shown in Plan form in Appendix A6. Zones 2 and 3 accord most closely with a primary catchment area for Ledbury. Zone 1 is the rural area immediately east of Hereford, from where very little trade is drawn to Ledbury (see NEMS survey below). Zone 4 is focussed on Newent.

Zone	Post Codes
1	HR1 4
2	HR8 1
3	HR8 2, HR18 2
4	GL18 1

74. The DPP Zones 2 and 3 accord closely with the Zone 5 Ledbury used by DJD in their PPS4 Town Centre Assessments for the Council (Paper 4 Retail and Leisure Need Assessment).

Population and Expenditure

75. Population and expenditure information has been obtained from Pitney Bowes/MapInfo. DPP notes that MapInfo produces trend based forecasts that will not have made direct allowance for an urban expansion on the northern side of Ledbury, currently being under consideration as part of the MTRAP Preferred Strategy, to which we have referred earlier in this letter.

76. The population of the Study Area is forecast to grow from 27,855 persons in 2011 to 28,748 persons in 2016. The figures for Zones 1 and 2 can be calculated as 15,730 and 16,364 persons at 2011 and 2016 (Table 1). The DJD Zone 5 Ledbury had a very similar population at 2011 of 15,848 persons.

Drivers Jonas Deloitte.

77. To allow for Non-store Retail Trade' (NSRT), DPP makes a deduction at 2011 of -1.3% for convenience goods and -7.4% for comparison goods based on Pitney Bowes/MapInfo information. These deductions are significantly lower than those forecast by Experian for Special Forms of Trading (SFT), which at 2011 are -8.1% for convenience goods and -12.6% for comparison goods.
78. Furthermore the Experian NSRT rates are forecast to grow over time to - 9.8% for convenience goods and -13.8% for comparison goods by 2018. Pitney Bowes/MapInfo does not provide growth estimates.
79. Allowance for NSRT/SFT is a complex area, with variations between the Research Company estimates. A significant part of the problem stems from definitional difficulties arising from different forms of internet trading. Some companies such as Amazon are pure internet, but a high proportion of retailers now mix store sales with internet sales. Pitney Bowes/MapInfo states that their information does not include internet based sales by companies whose main retail business is store based (and therefore included within a retailer's overall turnover figures).
80. For the purposes of retail assessments elsewhere we have preferred the higher Experian estimates, which we have considered to be more robust. Internet sales through traditional retail businesses are a major growth area, which is generally accepted as having implications for shopper footfall in the High Street. We have some concerns therefore that omission of these internet sales does not fully reflect the position on the ground and any diminution of retail floorspace requirements arising from use of the internet. Use of a lower NSRT/SFT deduction from overall retail expenditure results in a higher amount of retail expenditure to support shop floorspace.
81. For the purpose of forecasting retail expenditure over the forecast period, DPP has used Pitney Bowes/MapInfo expenditure growth rates of +0.4% per annum for convenience goods and +3.8% for comparison goods (there appears to be a discrepancy in paragraph 7.18 of the text of the PRA which refers to +3.7%). Because of the current recession, it is questionable whether these growth rates will be achieved certainly in the short term. However, for the purpose of commenting on the DPP assessment, we adopt these growth estimates at this stage.
82. Available convenience goods expenditure is expected to grow from £47.28m in 2011 to £49.78m in 2016 (Table 2A). The equivalent figures for Zones 2 and 3 are £26.71m and £28.34m. Available comparison goods expenditure is expected to grow from £75.86m in 2011 to £94.34m in 2016 (Table 2B). The equivalent figures for Zones 2 and 3 are £42.84m and £53.71m
83. DPP has used information from the NEMS household interview surveys to identify existing shopping patterns with the Study Area zones. From this they identify the proportions of residents' available convenience and comparison goods expenditure that is attracted to Ledbury (retention rates). The proportions are shown in paragraphs 7.20 and 7.21 Of the PRA. The strong retention of convenience goods in Zones 2 and 3 is evident – over 80% in both Zones. Even for comparison goods the rates are high, Zone 2, 52%; and Zone 3, 41.9%.
84. By way of comparison the expenditure retention rate assessed for the DJD Zone 5 Ledbury was 78.6% for convenience goods and 44% for comparison goods.
85. DPP then makes allowance for the retention rates to be increased as a result of the improved shopping offer brought about by the application proposal. The DPP assumptions are shown in paragraphs 7.20 and 7.21. By way of example, for Zones 2 and 3 the rates for convenience goods are increased to 90% from 85.5% and 82.7% respectively. We have concerns about the justification for these assumed increases in retention rates (based on the improved offer brought about by the application proposal), as it makes no allowance for expanded and improved shopping facilities elsewhere. This is particular relevant in Hereford City where the Livestock Market scheme will bring about major new convenience and comparison shopping facilities.
86. In the tables below we demonstrate for convenience and comparison goods the increase in expenditure that is brought about by the assumed increased retention rate. The first columns show 'DJD Genuinely Available Expenditure', which we have calculated on the basis of the

current market share retention rates shown in paragraph 7.20 of the PRA. The second columns show the 'Genuinely Available Expenditure' based on the assumed DPP increases also shown in paragraph 7.20 of the PRA and used in Tables Table 3A and 3B. It can be seen that the effect of increasing the expenditure retention rate is to provide an additional £3.09m convenience goods expenditure and £4.16m comparison goods expenditure.

Convenience Goods 2016

Zones	DJD Genuinely Avail Exp	DPP Genuinely Avail Exp	Difference		
1	6.4%	£0.71m	15%	£1.66m	
2	85.5%	£6.73m	90%	£7.08m	
3	82.7%	£16.93m	90%	£18.42m	
4	52.2%	£5.42m	55%	£5.71m	
Total		£29.78m		£32.87m	+£3.09m

Comparison Goods 2016

Zones	DJD Genuinely Avail Exp	DPP Genuinely Avail Exp	Difference		
1	2.6%	£0.54m	4.1%	£0.86m	
2	52.1%	£6.77m	57.3%	£8.53m	
3	41.9%	£16.26m	49.5%	£19.18m	
4	24%	£4.72m	24.9%	£4.88m	
Total		£29.29m		£33.45m	+£4.16m

Expenditure Capacity

87. For the purpose of measuring expenditure capacity, DPP compares available catchment area expenditure with the 'benchmark' turnovers of existing retail provision within the catchment area. Tables 4A and 4B set out the estimated 'benchmark' turnovers of existing convenience and comparison shops within the catchment area. Benchmark sales densities have been applied to the sales floorspace to arrive at benchmark turnover estimates shown in the penultimate column of the tables.
88. Our principal concern is with DPP's estimates of the 'Turnover Derived from the Study Area' shown in the fourth column of figures in the tables. From a comparison with the 'Total Turnover' shown in the third column of figures, it can be calculated that DPP has judged that 70% of the turnover of Ledbury convenience shops only will be derived from within the Study Area, and 30%

- from beyond it (inflow). For example the benchmark turnover of Tesco is £9.14m, of which only £6.4 is drawn from the catchment area (70%).
89. In paragraph 7.26 of the PRA DPP says that "*The turnover that each outlet will draw from outside the catchment area, i.e. inflow, is informed by confidential Tesco Clubcard information and other Ledbury studies and judgement*". We have already noted that DPP's defined catchment area is extensive, including the rural area to the edge of Hereford City in the west and the rural area surrounding Newent in the south. We accept that there are specialist comparison shops in Ledbury that may draw significant amounts of trade from beyond the catchment area (DPP has estimated that Ledbury town centre comparison shops draw 65% of their turnover from within the catchment area with 35% inflow). However, we are concerned as to whether an inflow of as much as 30% is realistic for Ledbury convenience shops.
90. The arithmetic consequence of a lower shop turnover derived from the Study Area, when compared with available expenditure is to increase surplus expenditure capacity.
91. DPP next examines the additional convenience and comparison goods turnover requirement that would be generated by the proposed new store. This is shown in the upper half of Table 5 (Part 1), which compares the convenience and comparison goods turnover increase requirements of the proposed store as compared with the existing store, based on benchmark sales densities. The turnover increase for convenience goods is £10.39m and for comparison goods £3.42m.
92. DPP goes on to assess convenience and comparison goods expenditure capacity in Tables 6A and 6B. They compare their figures of 'Genuinely Available Expenditure' with the additional convenience and comparison turnover requirement of the proposed store. They find that at 2016, having implemented the proposed store, there would be surplus convenience goods expenditure of £1.58m and surplus comparison goods expenditure of £2.9m.
93. We are concerned about the robustness of these findings principally in respect of the following matters, to which we have referred above:
- (i) DPP's assumed increase in the retention rate of expenditure attracted to Ledbury arising from implementation of the proposal appears to us to be over-optimistic, and not to have made allowance for new shopping developments committed and proposed elsewhere, which will act as counter attractions. In the absence of an increase in the retention rate, the convenience goods expenditure capacity would be reduced by £3.07m and the comparison goods expenditure capacity by £4.15m, both of which would reduce surplus expenditure to less than that required to support the application proposal;
 - (ii) We are concerned about the high proportion of existing store turnovers judged by DPP to be drawn from outside the Study Area (inflow). If higher proportions of existing shop turnovers are drawn from within the catchment area, this would also have the effect of increasing the existing expenditure surplus within the catchment area.

Qualitative Considerations

94. DPP describes the qualitative benefits of the proposed store in paragraphs 7.32-7.39 of the PRA. In so far as the points made relate to the benefits of an improved qualitative offer, this is not in dispute. The principal issues of concern are the locational relationship of the proposed new store to the town centre and consequent impact considerations implications.

Economic Effects

95. DPP's assessment of the impact of the application proposal is set out in paragraphs 7.40-7.63 of the PRA and Tables 7A and 7B.

Drivers Jonas Deloitte.

Convenience Goods

96. DPP's starting point for assessing impact is additional turnover that will be generated by the proposed store as compared with the existing store. For convenience goods DPP estimates an additional £4.02m turnover. The origin of this figure can be found in Table 5 Part 2 and is the difference between a proposed store convenience 'actual' turnover of £23.95m and existing store actual convenience turnover of £19.93m. There is no explanation in the PRA of how these figures of 'actual' turnover for both the existing and proposed stores has been assessed. This is unfortunate, because such a small turnover increase (approximately 20% only) seems barely credible in the context of a large increase in the gross and sales area of the store. The proposed store sales area is more 2.5 times that of the existing store.
97. We have also noted above in the context of assessing expenditure capacity that the increase in convenience goods benchmark turnover is significantly higher at £10.39m (Table 5 Part 1).
98. We have sought clarification from DPP on Table 5, but unfortunately because of staff changes and staff commitments elsewhere, we have been unable to obtain further information on this in advance of reporting to the Council.
99. The trade diversions arising from the application proposal are set out in Table 7A. DPP assumes that 50% of the turnover increase of £4.02m will be from clawback, plus 5% from inflow, i.e. 55% of the turnover increase would be from retail outlets other than in Ledbury and Newent. The largest Ledbury impact is on the Co-Op, from which DPP estimates that 40% of the additional turnover will be drawn. DPP estimates that the trade diversions from the Co-Op would give rise to a Co-Op turnover some 24% below benchmark company average.
100. DPP estimates that 2.5% only of the store turnover will be from other convenience units in the town centre, giving a low impact figure of some 3%.
101. In paragraph 7.45 DPP says that because the Co-Op is edge-of-centre, it is afforded no planning policy protection. We are not wholly in agreement with this statement. The Co-Op is located in New Street within approximately 90m of the CSCA boundary and within easy walking distance of the principal shopping and commercial area of High Street. In our view consideration of the extent to which the Co-Op is supportive of town centre and the degree to which this support might be undermined and damaging to the town centre is a material consideration.
102. We have identified earlier the range of specialist convenience shops in Ledbury. We accept that because of their specialist character, these shops should be more resilient than those selling more mainstream convenience products. However, even the more specialist convenience shops can be vulnerable, particularly in the current economic climate. We therefore consider that it would be unwise to place much reliance on an overall quantitative impact figure on these shops.
103. Our principal concern is respect of DPP's convenience impact assessment, as indicated above, is the low figure of additional convenience turnover that has been used to assess trade diversions and impact. This is a sensitive factor in arithmetic terms. Our position at present is that the additional convenience turnover figure of £4.02m appears to be unrealistically low, and therefore that DPP's impacts will have been underestimated, which is a cause for concern.

Comparison Goods

104. DPP's assessment of comparison goods impact uses the same methodology as for convenience goods, and the findings are set out in Table 7B. The need to obtain clarification from DPP on the assessment applies as for convenience goods.
105. As with the convenience goods assessment, the starting point is the additional turnover that would be generated by the proposed store as compared with the existing store. For comparison goods this is an additional £4.01m turnover. The origin of this figure can be found in Table 5 Part 2 and is the difference between a proposed store comparison 'actual' turnover of £6.66m and the existing store actual comparison turnover of £2.65m.

Drivers Jonas Deloitte.

106. The turnover figures for comparison goods are much smaller than for convenience goods, and the difference between 'benchmark' and 'actual' forecasts is much less. The increase in the convenience goods benchmark turnover is a slightly lower figure of £3.42m (Table 5 Part 1).
107. DPP estimates that 65% of the additional turnover generated by the proposed store would be from clawback and 5% from inflow, i.e. 70% of the turnover increase would be from retail outlets other than in Ledbury and Newent. They have allowed for 25% of the comparison goods turnover uplift to be attracted from comparison businesses within Ledbury town centre, which they believe would be a 'worst case' scenario (paragraph 7.56).
108. The reasons why DPP considers that the comparison goods impact of the proposal would be limited are set out in paragraphs 7.54 and 7.55 of the PRA. They include the following;
- Ledbury has a concentration of independent comparison goods stores;
 - There should be limited product overlap between comparison shops in the town centre and the offer at the proposed store;
 - Those shops in the town centre selling furniture, carpets, DIY related products, art and craft goods, jewellery, optical products, sportswear, shoes, cycles, bulky electrical items including TVs, prescription medicines and perfumery (the latter associated with town centre chemists) should be least affected;
 - In respect of clothing, the Tesco offer will be limited;
 - Some shoppers will continue to shop for non-food items within the town centre, because of the opportunity afforded by other services/non-retail uses within the centre to facilitate linked shopping trips.
109. DPP estimates that the trade diversion from town centre comparison shops would be about £1m which would represent an impact of some 3% of their turnover. Having regard to the growth of available expenditure DPP also consider that the residual (post impact) turnover at 2016 should be materially higher (some 20%) than at present.
110. As with convenience goods, our principal concern is the origin of figure of additional comparison goods turnover that has been used to assess trade diversions and impact. Because the comparison goods turnover of the proposed store would be much lower than for convenience goods, it is likely to be a less sensitive factor in arithmetic terms. However, it would preferable to have clarified the position on quantitative impact on town centre shops, before confirming our views on trade impact.

c) impact on allocated sites outside town centres being developed in accordance with the development plan

111. We accept that there are no allocated sites outside Ledbury town centre that would be prejudiced by the application proposal.

e) if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres

112. The application proposal is in an out-of-centre location and therefore this consideration is not directly applicable to it.

f) any locally important impacts on centres under policy EC3.1.e.

113. These are two additional impact issues, which we believe are relevant to the circumstances in Ledbury, but which are not directly covered by DPP. These are the historic character and status of the town centre, and 'linked shopping trips'.

Historic building / conservation area issues

114. The whole of the Ledbury town centre shopping area is a designated conservation area, within which there are a large number of listed buildings. Many of these listed buildings are in commercial / retail use. An important planning objective in Ledbury is protection and enhancement of the town centre conservation area in accordance with Policy S7 of the Adopted UDP.
115. One of the key ways in which the town centre conservation area can be protected and enhanced is through the maintenance of viable uses for buildings, particularly those that are listed. In our opinion this places greater weight on the identification of impacts that might undermine the viability of uses within buildings. Most of the buildings themselves are of value visually, and in many cases are likely to be more costly to maintain.

Linked Shopping Trips

116. In paragraph 7.54 of the PRA DPP refers to the some shoppers continuing to shop for non-food items within the town centre from the proposed store. The proposed store lies on the western edge of the town some 850 m from the primary shopping frontage of the town centre. In our opinion shoppers would not walk this distance and any linked trips (to which DPP refers) would be by car.
117. On the other hand the existing store is only some 250m from the CSCA boundary and approximately 330m from the primary shopping frontage, i.e. within comfortable walking distance of other shops and services. In this respect the existing store site is in planning policy terms a much superior location to the proposed store site.
118. The propensity of Ledbury residents to undertake linked shopping trips is evident from the NEMS interview findings (Appendix A5). In answer to question 11 'When you go main food shopping, is your trip linked with any other activity', 44.5% of respondents said 'yes'. Of these respondents 25.4% stated that the linked trip was for non-food items (question 12). Also of the 44.5% of respondents who said 'yes' to question 11, 42.1% were referring to linked trips to Ledbury town centre, and 22.1% to linked trips to Hereford City Centre.
119. In our opinion these survey findings indicate the importance of linked shopping trips, where the location of the main food shopping facility facilitates this. The location of the proposed store is too far from Ledbury town centre to facilitate linked trips from the store on foot. We believe that this is a major defect of the application site in planning policy terms.

Our Conclusions

120. The application proposal is for a new retail foodstore to be occupied by Tesco at Leadon Way (A417) within the New Mills Industrial Estate, which is an out-of-centre location in retail planning policy terms. A gross retail floorspace of 5,069 sq m is proposed with a net sales area 3,084 sq m.
121. The application proposal is directly linked to closure of the existing Tesco store at The Homend and the use of the site for residential development and public car parking.
122. The principal town centre / retail planning guidance and planning policies against which the proposal should be assessed is that contained within PPS4 Planning for Sustainable Growth, and

the Adopted Herefordshire UDP 2007. In addition the Draft National Planning Policy Framework July 2011 and documents from the emerging Herefordshire LDF are relevant.

123. The key planning tests against which the application proposal is required to be tested are:
- Compliance with sequential approach requirements as set out in Policy EC15 of PPS4 and Policy TCR9 of the Herefordshire UDP;
 - Impact criteria as set out in Policy EC16 of PPS4 and Policy TCR9 of the Herefordshire UDP;
 - Compliance with the retail spatial strategy for the area as set out in Policy S5 of the Herefordshire UDP;
 - The achievement of a sustainable form of development as required by PPS4 and the Herefordshire UDP.

Sequential Approach

124. The existing Tesco store site at Orchard Lane is a superior location for new retail development in planning policy terms. This site is plainly available to accommodate a new foodstore. We are currently not satisfied that it has been adequately demonstrated that the site is neither suitable nor viable for a new store of the scale sought.

Economic Impact

125. We have expressed concerns about the robustness of DPP's expenditure capacity findings principally in respect of:
- the assumed increase in the retention rate of expenditure attracted to Ledbury arising from implementation of the proposal, which appears to us to be over-optimistic; and
 - the high proportion of existing store turnovers judged by DPP to be drawn from outside the catchment area (inflow).

Both of these factors would reduce surplus expenditure to less than that required to support the application proposal.

126. We accept that because of the specialist nature of many of the independent shops in Ledbury they may be more resilient to the trading impact of a large foodstore than would otherwise be the case. However, the historic character and conservation area status of much of the town centre places greater weight on consideration of the implications of impact than would otherwise be the case.
127. We are concerned that the additional convenience turnover to which DPP estimate the proposed new store would give rise is unrealistically low, and because of this we feel unable to rely on their assessment of trade impact.

Linked trips

128. The NEMS Interview Survey findings indicate the importance of linked shopping trips, in association with a main shopping trips. The location of the proposed is too far from Ledbury town centre to facilitate linked trips from the store on foot. We believe that this is a major defect of the application site in planning policy terms.

Retail Spatial Strategy

129. *Prima facie* the application proposal is inconsistent with the retail spatial strategy for the area as set out in Policy S5 of the Adopted UDP, which is:
- to protect the vitality and viability of the market towns;

Drivers Jonas Deloitte.

- support continued investment in existing centres; and
- locate key town centre uses (which includes the application proposal) in or adjacent to existing centres.

Sustainable Development

130. Because the application proposal is on the edge of the town, some 850 metres from the principal shopping area of the town centre, we do not believe it to be a sustainable location for new shopping development. Although the proposed store may claw back some retail expenditure currently lost from Ledbury, we do not consider that this would be of a scale to offset the above sustainability disadvantage of the site location.

Please contact me if there are any matters that you would like to discuss arising from this letter.

Yours sincerely

James Williams
for Deloitte LLP (trading as Drivers Jonas Deloitte)

Appendix

Extract from DJD Herefordshire Town Centres PPS4 Assessments

Paper 2: Town Centre Health Checks

Ledbury

Town Overview

- 1.1 The adopted UDP classifies Ledbury as a Market Town under the County's retail hierarchy. The retail area of the town centre is largely centred along The Homend / High Street with secondary provision located on intersecting streets.
- 1.2 Shops within Ledbury town centre are mainly accommodated in ground floor units. There are a large number of historic buildings, some of which because of their location and configuration can limit ease of access for wheelchair users or the mobility impaired.
- 1.3 The town centre can be easily accessed by a number of modes of transport, including cycling, train and bus.

Town Centre Health Indicators

The Quantity and Quality of Retailing and Other Commercial Uses

- 1.4 Ledbury accommodates a range of retail facilities that are discussed below. In addition to retailing the centre is also a popular destination for tourists with several buildings offering tourist attractions including the Council run Ledbury Heritage Centre.
- 1.5 The overall mix of uses within Ledbury town centre at 2007 is summarised in the table below, based on data from GOAD and a Drivers Jonas site visit in October 2007

Sector	No. of Units	% of Units	National Average %
Convenience	16	10.7	9.2
Comparison	66	44.3	45.5
Service	60	40.3	33.2
Other	2	1.3	1.3
Vacant	5	3.4	10.8
Total	149	100	100

Source/notes:

(1) The categories are based on the classification provided by GOAD, relate to ground floor uses only. Data on UK averages has been provided by GOAD (October 2007).

(2) Service uses include restaurants, coffee bars, fast food and take-away, hairdressers, beauty parlours and health centres, laundries and dry cleaners, travel agents, banks and financial services, building societies, estate agents and valuers.

(3) Pubs, night-clubs and other leisure uses are excluded by GOAD from the national analysis, therefore for the purpose

*of comparison, these have been excluded from our analysis.
(4) 'Other' category includes employment agencies, tourism offices and main and sub-post offices.*

- 1.6 This table demonstrates that the dominant uses within Ledbury were comparison shops and services. Service uses comprised 40.3% of the total units within the centre, which was significantly higher than the national average of 33.2%. Figures for convenience and comparison retailing were broadly consistent with national averages.

Representation by retailers and other commercial operators

- 1.7 There are limited national multiple retailers located within Ledbury. The age and inflexibility of some of the historic buildings make them difficult to meet the needs of modern retailing. One such example is the Boots store on High Street, the interior of which seems tight and constrained by the limited floorspace of one of Ledbury's most prominent historic buildings.
- 1.8 As with the other major market towns, the most noticeable change to retail provision in Ledbury since the initial study has been the closure of the Woolworths store. This unit represented a sizeable vacant space relative to other units in Ledbury with circa 255 sq m sales floorspace and a further circa 213 sq m of stock/ancillary space. Although the store was the smaller Woolworths Local format, its loss did raise some concern over the implications for the range of goods on sale in Ledbury. However, by the time of the July 2010 survey 'Wellworth It' had opened in the former Woolworths unit, selling a broad range of household goods, Wellworth It has used the additional ancillary space at the rear of the store to increase the sales floorspace. Ledbury's ability to attract new operators into former national chain units is further emphasised by the occupation of the former Wine Rack unit on High Street by Hay Wines.
- 1.9 In terms of retailer representation, there has been a small but noticeable increase in the range of convenience goods retailers operating in the town. Although the Wyedean Wholefoods unit (100 sq.m. gross) has since become vacant, a number of small deli/grocers have opened in the town, including Hadley Organics (30 sq m gross) and Cameron & Swan's Deli (150 sq m gross), the latter of which replaced The Orangery gift store.
- 1.10 The MHE Index (2008) classifies Ledbury as a Minor District Centre with a rank of 1,175. This places Ledbury behind the other major Market Towns of Leominster (ranked 914) and Ross-on-Wye (ranked 731). A detailed comparison of MHE performance across the region is provided in the Health Check of Hereford provided in Section 4.
- 1.11 Whilst the lack of national multiple retailers causes Ledbury to perform poorly in comparison rankings such as MHE, this deficiency should not be considered only as a disadvantage. Much of Ledbury's character comes from its thriving independent retail provision, which is a counter-attraction for local residents and visitors as compared with the widespread provision of multiple shops found in larger centres.

Demand for Representation by Retailers and Other Commercial Operators

- 1.12 As there is no Focus Retail Report published for Ledbury, information on retail requirements in previous years is not available. At September 2007 there were 7 reported requirements for Ledbury, of which The Original Factory Shop had the largest requirement with a unit of between 565 sq m and 1,859 sq m gross.
- 1.13 According to Focus (July 2010), there are currently six retail requirements in Ledbury. Of these, two are charity shops and another is for Neat and Cheap Discount Stores. Interestingly, however, Austin Reed features in the list, which is unusual for a centre of this size and is therefore indicative of Ledbury's particular character and appeal.
- 1.14 It should be noted that the Focus database generally covers national retailers' requirements, and given Ledbury's strength of independent traders, there is likely to be a stronger but unrecorded demand from independent retailers.

Shopping Rents and Yields

- 1.15 Information regarding shopping centre yields from the Valuation Office (July 2008) for the period from April 2002 to July 2008 is shown below.

Date	04/02	10/02	04/03	01/04	07/04	01/05	07/05	01/06	07/06	01/07	07/07	01/08	07/08
Ledbury	9	9	9	9	9	9	9	9	9	9	9	9	9

- 1.16 The rental yields within the centre have remained consistent at 9% since 2001. Whilst a 9% yield is higher than the yields identified for higher order centres, it is not surprising for a smaller centre such as Ledbury. The consistency of this level since 2001 suggests a stable centre.

Primary and Secondary Retail Frontages

- 1.17 The primary and secondary shopping frontage is identified on the UDP Proposals Map. Primary frontage is shown at The Homend and the market side of High Street. It is in this area that the majority of national retailers and larger units are found including Boots (440 sq m gross) and Spar (300 sq m gross).
- 1.18 The secondary frontage encompasses the remaining areas of The Homend up to the former Ledbury College Hospital, the opposite side of High Street as well as side streets such as Bye Street and New Street. New Street reflects its secondary frontage status, providing a mix of service and retail uses, with several Estate Agents located in close proximity but interspersed with independent retail provision.
- 1.19 Generally the limited size and linear nature of the centre restricts the forming of distinct concentration of uses in different areas of the centre. Public houses, cafes and restaurants are evenly spread across the centre. However, the corner of High Street and New Street is of note with Black Pepper Restaurant (100 sq m gross) and The Feathers Public House and Hotel (830 sq m gross) in close proximity to a number of other food and drink outlets.

Vacant Street-level Property

- 1.20 A clear indicator of the health of Ledbury during the 2007 initial study was the low vacancy rate. Based on the site visit by Drivers Jonas in October 2007 it was noted that there were five vacant units within the town centre. Of these, three were located along The Homend, one was on New Street and the smallest of the vacant units was located in a small mews off High Street.
- 1.21 This low number of vacant units in Ledbury representing 3.4% of units compared to the national average of 10.8% showed the strength of the centre in attracting and retaining business. However, this low level of vacant units suggested that limited opportunities exist for new retailers to establish themselves in the centre, which could potentially affect further development of the centre.
- 1.22 Since the initial survey, work has also been completed on a prominent vacant unit on The Homend. The former Abbays Bakery on The Homend was identified previously with a floorspace of 1,710 sq m (gross). However, this unit has now been completely refurbished and converted into Tudor Mews, a small retail courtyard incorporating two new units, J.T Interiors and Just for Kids clothing. The reuse of this prominent building enhances the street scene and, with the exception of the small former Merlins Household Goods unit, there are no vacancies fronting Homend/High Street from this point south.
- 1.23 The 2009 field survey revealed that the number of vacant units in Ledbury had risen by two to seven. However by the time of the July 2010 survey this figure had risen further to 10 units, although two were actively under refurbishment. It should be noted that only one of these units is within the prime Homend/High Street pitch, with vacant units primarily concentrated on the fringes of the shopping area, such as at the junction of Market Street/New Street, or Church Street.

Pedestrian Flows

- 1.24 There is no data available from Pedestrian Market Research Services (PMRS) for Ledbury. Therefore our assessment of pedestrian flows is based on information obtained during site visits and provides indicators of the areas in which pedestrian footfall was highest.
- 1.25 The busiest area observed during the site visits was High Street in the area surrounding the historic Market Hall. As expected pedestrian numbers decreased with distance from this area, reflecting the linear nature of the shopping street. Pedestrian footfall was considerably lower on the streets intersecting with High Street / The Homend.

Accessibility

- 1.26 Ledbury is well served by public transport. There are regular rail services to Hereford and Birmingham, whilst a number of regional bus routes include the centre.
- 1.27 There are a number of car parks in Ledbury including four that are publicly owned and operated by Herefordshire County Council at Bridge Street, Bye Street, Lawnside Road and St Katherines. These car parks charge from 30p for one hour, although the Bridge Street car park is free of charge.

Drivers Jonas Deloitte.

- 1.28 Cycle provision in Ledbury is good, with Herefordshire Council publishing specific guides to cycling within the town and its surroundings. There are several cycle racks provided at sites off the main shopping streets.
- 1.29 As mentioned previously, the prevalence of historic buildings does mean that those with limited mobility may find access to some units difficult. However it should be noted that Ledbury does contain a Shopmobility Centre and a local Community Voluntary Action group exists which has successfully campaigned for improvements in the pavements of Ledbury and the increase in automatic doors.

Perception of Safety and Occurrence of Crime

- 1.30 There are few signs of crime or graffiti within Ledbury. From Drivers Jonas Deloitte site visits, the centre did not appear intimidating.
- 1.31 According to the CCTV Annual Report 2009/10, cameras recorded 173 incidents during the monitoring period. Although cameras are visible throughout the centre, CCTV coverage had previously been noted as an issue. The Homend for instance was at the time of the initial survey, covered by only one camera and local police had called for a second camera as the under-provision was an identified weakness in the town.

Centre Environmental Quality

- 1.32 The town centre falls within a Conservation Area and consequently contains high numbers of historic buildings incorporating many different historic periods.
- 1.33 Although the historic streetscapes help create an aesthetically pleasing environment, traffic is a concern in parts of the centre, especially on High Street. Many of the retailers receive deliveries through their frontage and this can lead to traffic hold-ups caused by large lorries attempting to manoeuvre through the street.
- 1.34 In addition to the major retail thoroughfare of The Homend / High Street, there are numerous small mews and side streets that form attractive shopping areas which are largely free of traffic. The pedestrianised Church Lane is one such street offering a scenic vista to the nearby church. Elsewhere Homend Mews can be accessed through two small passages off The Homend and provides a courtyard setting for several retailers, enhanced by benches and planting.

Development Plan Allocations, Proposals & Commitments

- 1.35 The adopted UDP contains no development site allocations within Ledbury town centre and there are no extant planning permissions for significant levels of new floorspace (over circa 500 sq m).

Soft Areas and Potential Development Sites

- 1.36 Ledbury town centre has a linear form along the main street of High Street and the Homend. In addition there are small yards and lanes off the main street, where existing buildings have been converted to accommodate further retail units.

Drivers Jonas Deloitte.

- 1.37 From our appraisal of the centre, an area of possible development potential lies along Bye Street, where the most retail development has taken place. The former car park on Bye Street / Market Street has already been redeveloped for mixed uses. There is further car parking off Bye Street and this may offer scope for further development, although our initial view is that this is likely to be limited.

Town Centre Health Check Summary

- 1.38 Despite the changes to the national retail market and the loss of Woolworths (one of the few national multiple retailers in the town), the town has adapted to such changes well and the July 2010 survey suggests that Ledbury remains a vibrant and strong centre.
- 1.39 Ledbury benefits from its historic environment, with many of the narrow pedestrianised streets providing accommodation for small independent boutiques and art galleries which cater for both residents and the tourists who visit the centre.
- 1.40 However, the historic layout of the town, although creating an attractive shopping environment, also places constraints on the centre. Streets are narrow and congestion is made worse, as most units do not have loading bays, which means that delivery lorries must navigate and park outside store entrances. Also the Conservation Area status of the town centre makes development opportunities for stores which meet modern requirements hard to find.

Out-of-centre Retail and Leisure Uses

Tesco – Orchard Lane

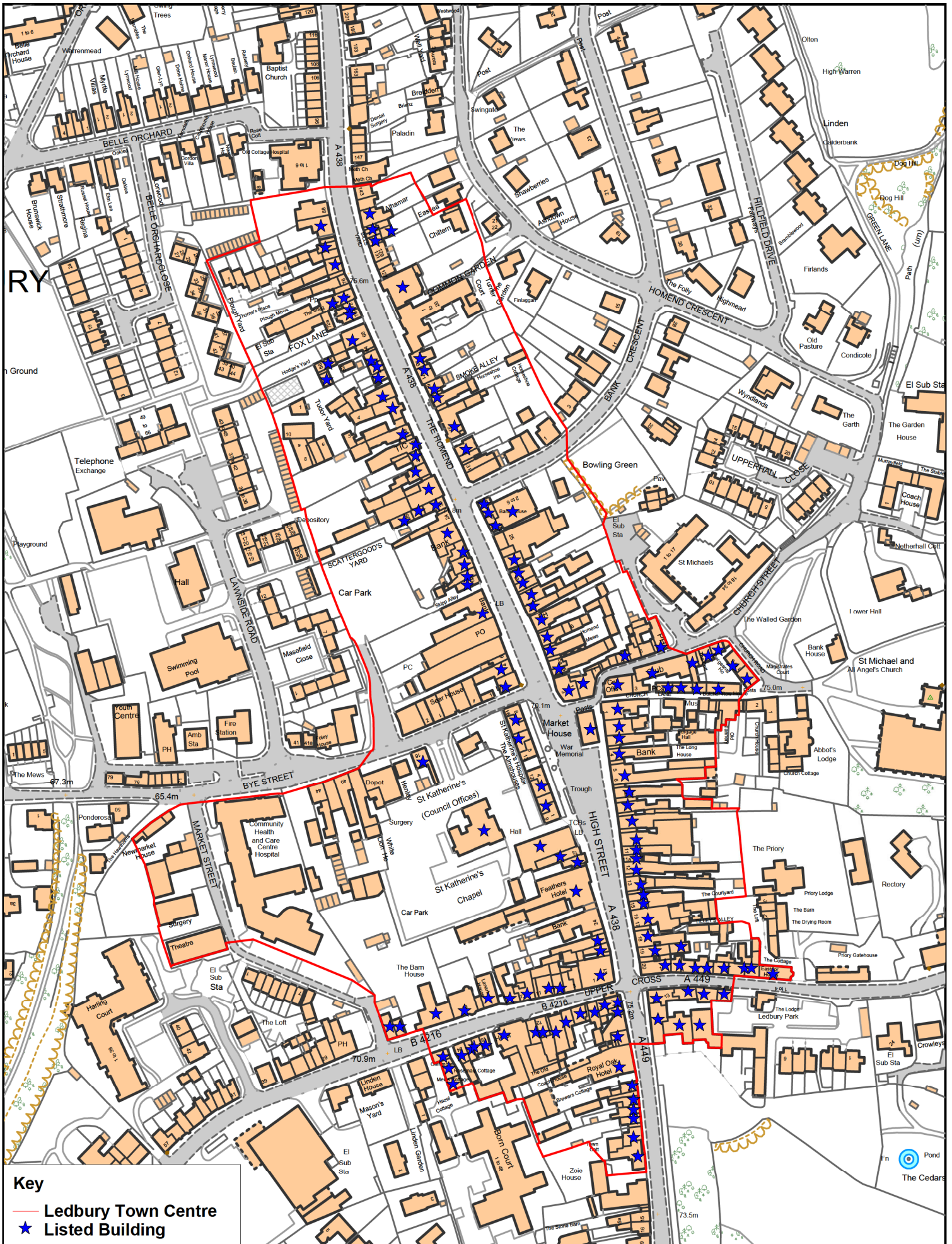
- 1.41 A Tesco store opened in 1997 is located approximately 250m walk from the CSCA boundary. The store has a gross sales area of approximately 2,137 sq m with a sales area of around 1,365 sq m. There are approximately 170 car parking spaces provided and 14 checkouts available.
- 1.42 Although the store does contain a café and photo processing facilities, it does not offer the wide range of goods offered by larger Tesco stores. The provision of goods is predominantly limited to convenience goods and the store does not contain significant ranges of clothing or household and bulky goods.

Homebase – Leadon Way

- 1.43 A Homebase store is located south west of the town centre. The store is circa 2,540 sq m (gross) with circa 50% cover mezzanine and has 102 parking spaces.

Countrywide Farmers Country Store – Hazel Park

- 1.44 This store is located south west of the town centre. This is a substantial sized store which sells a wide variety of goods serving the rural community. This includes a wide range of clothing and household goods. In addition to agricultural supplies, the store also contains a garden centre and Autogas key site.



Key
 — Ledbury Town Centre
 ★ Listed Building



Listed Buildings within Ledbury Town Centre

Scale 1:2500
 © Crown copyright and database rights (2011) Ordnance Survey (100024168)
 © Environment Agency copyright and/or database right 2009. All rights reserved.
 © Crown Copyright and Landmark Information Group Ltd (2009)



Herefordshire Council Planning Services,
 PO Box 230
 Blueschool House, Hereford, HR1 2ZB
 Tel: 01432 260000
 Fax: 01432 261970



MEETING:	PLANNING COMMITTEE
DATE:	2 NOVEMBER 2011
TITLE OF REPORT:	<p>DMS/110387/O - ERECTION OF SIXTEEN DWELLINGS, CONSTRUCTION OF VEHICULAR ACCESS AND ASSOCIATED WORKS AT LAND NORTH OF HAWTHORN RISE, PETERCHURCH, HEREFORD, HR2 0RQ.</p> <p>For: Mr Smith per Mr Paul Smith, 12 Castle Street, Hereford, Herefordshire, HR1 2NL.</p>

Date Received: 16 February 2011 **Ward: Golden Valley** **Grid Ref: 334818,238442**
North

Expiry Date: 18 May 2011

Local Member: Councillor PD Price

1. Site Description and Proposal

- 1.1 The application site comprises a rectangular field extending to 0.8 hectares located towards the eastern end of Peterchurch, a main village as defined in the Herefordshire Unitary Development Plan (HUDP). To the south west is a modern residential cul-de-sac (Hawthorn Rise), the boundary with which is defined by a fence marking the rear gardens of a line of bungalows. To the east is Crossways, a larger residential estate, the boundary of which is defined by low level vegetation and some trees of note and a grass track. To the north and beyond a mature hedgerow is agricultural land which rises steadily in a north easterly direction to Blakemere Hill, Stockley Hill and Barratt's Hill. The northern boundary is open and the land here is safeguarded in the HUDP for recreational use. Beyond this is the Peterchurch Primary School and associated playing fields.
- 1.2 Public footpath PR8 is some 100 metres away to the north east and PR9 runs through Bazeley Lane some 230 metres to the north west. Overhead electricity cables run diagonally across the site running in a west-east direction.
- 1.3 The site lies wholly within the settlement boundary of Peterchurch and slopes steadily down from the north to the boundary with Hawthorn Rise.
- 1.4 This is an outline application with only the proposed means of access included for detailed consideration at this stage. The scheme has been revised since the initial submission and now includes a total of 16 dwellings (including 5 affordable units- Plots 7-11 inclusive). There would be 3 no. 2 bed units (Plots 8, 9 and 11); 8 no. 3 bed units (Plots 2, 3, 5, 6, 7, 10, 13 and 15) and 5 no. 4 bed units. The indicative layout incorporates a mix of detached and semi-detached properties with one small terraced block. The layout, scale, appearance and landscaping of these dwellings are reserved matters but the revised Design and Access Statement refers to the provision of predominantly two storey dwellings with eaves heights varying between 4.4

Further information on the subject of this report is available from Mr A Prior on 01432 261932

metres and 4.8 metres and ridge heights between 6.9 metres and 7.7 metres. Plots 5 and 6 would be slightly lower, being one and a half storey height.

- 1.5 The site currently has no means of vehicular access and this is proposed to be created by extending the existing estate road serving Hawthorn Rise, which is served directly off the B4348 to the south-west. It is proposed to provide a 4.5 metres wide carriageway with a 1.8 metre footway in-between 2 existing properties (11 and 13 Hawthorn Rise) which would then form an L-shaped cul-de-sac around which the proposed dwellings would be arranged.
- 1.6 The application is submitted with a revised Design and Access Statement and a draft Heads of Terms for a proposed S106 Agreement, the details of which are set out in the Appendix to this report.

2. Policies

2.1 Government Guidance

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS13	-	Transport

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR7	-	Flood Risk
H4	-	Main Villages: Settlement Boundaries
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
LA3	-	Setting of settlements
LA5	-	Protection of Trees, Woodlands & Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and development
NC7	-	Compensation for loss of biodiversity
NC8	-	Habitat creation, restoration and enhancement
NC9	-	Management of features of the landscape important for flora and fauna
RST4	-	Safeguarding Existing Recreational Open Space
W11	-	Development - Waste Implications
CF2	-	Foul Drainage

3. Planning History

- 3.1 There is no relevant planning history relating specifically to the application site but set out below is the history relating to the development of Hawthorn Rise.
- 3.2 SW2007/2404/F – Erection of six dwellings. Approved 7 November 2007.
- 3.3 SW2007/1398/F – New bungalow. Approved 29 September 2007.

- 3.4 SW2005/3418/F – Re-design and siting of Plots 14 & 15 – Approved 1 December 2005.
- 3.5 SW2005/0429/F – Re-siting and design of Plot 12 – Approved 29 March 2005.
- 3.6 SW2004/2852/F – Omission of detached garage and construction of detached garage to Plot 11 and re-design of siting of plot 12. Approved 29 September 2004.
- 3.7 SW2004/1966/F – Omission of detached garage and construction of detached garage to Plot 11 and re-design of siting of plot 12 - Refused 21 July 2004.
- 3.8 SH890760PM - Proposed development of 22 new residential dwellings. Approved 28 July 1989.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water – No objection subject to standard conditions

Internal Council Advice

- 4.2 Traffic Manager – the revised scheme layout is an improvement and subject to minor revisions to the layout no objection is raised. Conditions relating to the detailed design and construction of the new roadway, private drives and parking areas, provision of secure cycle parking and the parking of construction traffic are recommended.
- 4.3 Conservation Manager (Landscapes)

Landscape Character

Hawthorn Rise is a collection of modern bungalows, accessed from the main road through the village (B4348). Peterchurch is essentially a linear village, with a historic core close to the church and post office and more recent pockets of residential development along the main road. The residential development of Crossways has been established at right angles to this, along the minor road (C1195). The site itself is to the rear of Hawthorn Rise and Crossways, not directly fronting the highway network. The landscape character type is Principal Settled Farmlands. The site itself is sloping, rising to the north east. It currently appears to be pasture, with building materials and rubble being stored on. There are impoverished hedgerows to the north east and south east boundaries. The site was visited in March 2011.

Application Documents

The planning application does not include a landscape and visual impact assessment, a tree survey or a landscape strategy, although these would normally be expected for a development of this type and scale which has the potential for a significant impact on the landscape. It is accepted that the Design and Access Statement (DAS) provides an Area Analysis and Design Response to the built environment, with some indicative planting proposals shown on the proposed layout. The DAS acknowledges that there is a 2m level change across the site, however no sections have been provided and there is no evidence of the proposed relationship between the existing bungalows and the proposed dwellings.

Landscape Impact

In landscape terms the concessions of reduced building heights and the intended variation of eaves and ridge heights will assist in breaking up an otherwise “mono-design” and will fit in better with the residential character of the surroundings. The introduction of one and a half storey scale development is important and will help the development merge with the existing single storey areas. I welcome the exclusion of the layout from this application so that this can be given further consideration at a later stages. The position of Plot 1 should be reconsidered, as it is in direct conflict with one of the few mature trees on site.

Conditions

If the application is to be approved then I request that the following conditions are attached.

- G04 – protection of trees / hedgerows that are to be retained. This is in accordance with UDP Policy LA5 and to safeguard the amenity of the area.
- G10 – hard and soft landscaping scheme. This is in accordance with UDP Policy LA6 to ensure that the development is appropriately integrated with the surroundings.

Conclusion

The development of this site is contrary to the character of the village, however if the above issues are addressed then the overall impact will be moderately negative, rather than significant enough to warrant an objection. The indicative layout is not particularly creative; however it is of a similar standard to other recent developments in the village. As the layout, scale, appearance and landscaping issues will be considered later as reserved matters; there will be a chance to negotiate a suitable height to the buildings and substantial planting proposals that should improve the green infrastructure of the site. Development of the land further north would have a far greater impact on the landscape, given the steeper gradient, higher topography and further removed from the linear character of the village.

- 4.4 Conservation Manager (Ecology) – There is an opportunity for habitat enhancement to be incorporated into the development and a condition requiring the design of such a scheme is recommended.
- 4.5 Land Drainage Engineer – I have been informed that existing properties in Hawthorn Rise suffer from surface water run-off from sloping ground to the north-east. This, together with the limited vegetation, suggests that the site is susceptible to short duration, high intensity storms. Following my accompanied site visit on 18 October 2011 I am satisfied that the drainage concerns associated with the development can be covered by condition.
- 4.6 Parks, Countryside and Leisure Development Manager – In consultation with the Chairman of the Parish Council, it has been agreed that the provision of an equipped children’s play area in this development would not be appropriate or sustainable based upon the local aspiration to deliver the allocated recreational open space immediately adjacent to the site, or alternatively land with potential at Lewis Way or the existing site next to the Church. In the context of this locally expressed view, it is considered that an appropriate off-site contribution with the necessary flexibility to enable monies to be used in connection with the preferred option would be more beneficial in terms of addressing local priorities.
- 4.7 Housing Needs and Development Manager – The Housing Needs Survey for Peterchurch was undertaken in June 2008 and identified a need for 8 units. To date none of this need has been met and accordingly, the provision of 5 affordable units with a mix of 2 and 3 bedrooms is supported. It is advised that the preferred tenure would be social rented as opposed to other intermediate housing (shared ownership, low cost market) in order to best meet the identified need.

5. Representations

5.1 The comments of the Peterchurch Parish Council in respect of the revised proposal are as follows:

- 1) The incomplete existing development through which all construction traffic would have to access the new site.

Temporary access could be made to the new site through a field (currently owned by the developer) to the west of the site. Thus alleviating the need to widen the current access road which has only just been completed.

The latest proposal no longer calls for the widening of the access road but makes no mention of how the construction traffic will access the site.

The current and still ongoing development's access road causes serious difficulties for delivery vehicles as they have to park and unload on the road thus blocking the road during this period and have to reverse to a turning point to exit the site.

The latest revision has not taken into account proper access to the proposed site which should be from the existing spur road (presumably originally constructed to access the land to the west of the site) at the entrance to Hawthorn Rise and on through the land to the western side of the site, which is owned by the developer, thus entering the site on the proposed road between plots 11 & 12.

Clearly what future development proposals for the land to the West and North West of the site are extremely relevant and the Parish Council ask that the developer declares what his plans are for this land.

The construction of the western access road would of course be necessary for future development, therefore if constructed as part of this scheme it would alleviate the need for construction traffic to pass over the existing road and enter the site through a space which earlier plans show as being a double garage space.

In fact the construction of this western access route could allow for the already constructed bungalows to remain in a cul-de-sac which is how they were marketed to the existing residents.

- 2) The apparently inadequate land drainage, in which photographic evidence was provided at the Parish Council Meeting, clearly shows standing water in and around both the existing and the proposed developments.

The revision totally ignores the major issue of the poor drainage now, which can only be exacerbated by further development.

- 3) The Outline Planning shows a number of houses which would be a change from the current ethos of an all bungalow development also that any houses which were to be constructed would overlook the existing development as well as properties in Crossways to the east of the development.

Once again the proposed development changes the ethos of a "bungalow development" with houses being proposed on ground which already has a raised elevation overlooking bungalows.

- 4) Some considerable concern was also raised that the submitted plans did not show all of the existing dwellings.

The plans made available to the Parish Council do not cover the area referred to in number 4.

- 5) The residents also requested that the Parish Council asked that the Planning Department have a site meeting with the residents, could you please advise if this will be possible.

The Parish Council have not received any acknowledgment of this request and are not aware of any such meeting taking place.

(Note: officers met with the Hawthorn Rise Residents Association on 15 September 2011)

- 6) Clearly a development of this size is of considerable concern to the Parish Council and residents of Peterchurch, in so much as local requirements must be taken into consideration as well as the counties needs. The Parish Council would therefore request that should the above concerns be satisfactorily address and Outline Permission granted the Parish Council and residents should be consulted on the property type and location of the new site.

The majority of residents accept and in fact very few object to further housing in the village as clearly an influx of families would further strengthen the rural community, however all agree that this new development must be constructed in a manner which all concerned can be proud of.

- 7) With all these concerns the Parish Council & Ward Councillor respectfully request that this application must go to committee for consideration.

The Parish Council therefore RESOLVE UNANIMOUSLY that this application in its present form must not be approved and insist that this application be put before the Herefordshire Council's Planning Committee for consideration.

- 5.2 A total of 20 objections were received to the original submission and a further 26 were received following consultation on the revised proposal for 16 dwellings. In addition a petition signed by 19 members of the Hawthorn Rise Residents Association was received.

- 5.3 The concerns raised can be summarised as follows:-

- concern relating to localised surface water flooding of properties in Hawthorn Rise
- concern regarding foul drainage capacity
- loss of privacy
- development should be restricted to bungalows (Plots 11-16 in particular)
- increased use of estate road a concern in terms of highway safety and residential amenity
- not in keeping with award winning Crossways development
- loss of outlook towards open countryside and Church spire
- access between existing houses inappropriate
- alternative means of access across open space must be examined
- detrimental impact on setting of Wellbrook Manor
- serious concerns about time to implement permission and associated noise and disturbance
- control over handling waste from site must be imposed
- further piecemeal, sporadic development out of keeping with locality
- noise and disturbance from construction traffic
- must be a time limit upon completion of development
- affordable housing is inappropriate and will place additional burden on limited local policing
- affordable housing should be relocated
- additional housing without local employment and public transport is not sustainable
- loss of semi-natural habitat (bats and protected birds seen in locality)
- concerns about adoption of road (provision of street lighting).

5.4 Two letters of support have been received:-

- new residential development needed to support local businesses
- other locations in Peterchurch at greater risk of flooding
- site is within settlement boundary
- affordable housing is necessary
- have not personally experienced the surface water flooding referred to
- noise associated with building works not as significant a concern as suggested.

5.5 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

6.1 The key issues for consideration in the determination of this outline application are as follows:-

- (a) the principle of residential development;
- (b) the impact of the development upon the character of the locality;
- (c) the impact upon residential amenity;
- (d) highway safety and the proposed means of access;
- (e) surface water drainage;
- (f) biodiversity and;
- (g) Section 106 requirements

Principle of Residential Development

6.2 The application site lies wholly within the defined settlement boundary for the village of Peterchurch, which is defined as a main village in the HUDP. Policy H4 of the HUDP confirms that residential development on windfall and allocated sites will be permitted where they accord with other policies of the plan. Accordingly the broad principle of the development of the site, which is well related in visual terms to other relatively modern residential development is supported.

Impact on Character and Appearance

6.3 The visual context of the application site, when viewed from the nearby public footpaths is principally established by the existing predominantly single storey development associated with Hawthorn Rise and Crossways and in this respect it is considered that in general terms, the expansion of residential development represents a relatively natural extension of these existing residential areas at the eastern edge of the village. It is acknowledged that both these estates comprise bungalows with some exceptions within the Crossways development. However, in the wider locality, Peterchurch displays a wide variety of older and modern development of single and two storey scale and as such, the introduction of 2 storey development into this relatively discrete parcel of land together with the retention and bolstering of existing boundaries is such that, subject to further detailed consideration of the layout, scale (in particular levels and ridge heights) and appearance (materials) of the development, it could be satisfactorily integrated into this edge of settlement location. In particular the comments received from the Conservation Manager in respect of the need to maintain careful control over the scale and height of the development is noted and this would be a matter for detailed consideration at the reserved matters stage. The indicative layout seeks to reduce the density of development along the boundaries with the open space/agricultural land to the north and west, with the plots in these more sensitive locations being set within larger gardens. Whilst this approach is noted, it may be the case that there are alternatives that better relate to the edge of the settlement (and indeed address some of the concerns regarding overlooking set out below)

- 6.4 Having consideration for the general layout of Hawthorn Rise and Crossways these are in many respects at odds with the generally linear form of Peterchurch and in this respect the continuation of the “cul-de-sac” form is not considered to be an inappropriate response to residential development in the immediate vicinity.
- 6.5 It is noted that there is a strong local view that the development should be entirely single storey, but for the reasons set out above, together with the guidance set out in PPS3 which promotes the delivery of a mix of housing types and sizes, it is considered that the development can be satisfactorily accommodated without detriment to the locality and that ultimately this is a matter that would be addressed at the reserved matters stage, a process that would be subject to the same level of consultation as the current outline application. The more recent commitment to reducing and varying ridge and eaves heights set out in the revised Design and Access Statement is welcomed in this respect and affords the opportunity of maintaining control over the overall height of any future detailed proposals.
- 6.6 Landscaping is also a reserved matter, but it would be required that the established hedgerows and trees forming the boundaries of the site should be retained and enhanced and conditions requiring the protection of trees and hedgerows are recommended.
- 6.7 Accordingly, and subject to the need to approve the layout, design of the units and landscaping at the reserved matters stage, the proposal is considered to satisfy the requirements of Policies DR1 and the aims of PPS3 in terms of providing for a wider variety of housing types in the locality.

Impact on Residential Amenity

- 6.8 The site has common boundaries with Hawthorn Rise and Crossways and therefore it is important that appropriate levels of privacy are maintained. In this respect, careful consideration has been given to the impact of Plots 5-11 on the properties in Hawthorn Rise and Plots 1-4 with rear elevation facing towards Crossways.
- 6.9 With regard to the impact on Hawthorn Rise, the rear elevations of the proposed new dwellings would be between 20 and 23 metres from the rear elevations of the bungalows in Hawthorn Rise and Plots 5 and 6, which have the closest relationship, would be of one and a half storey scale so as to reduce their impact. These separation distances even allowing for the slightly elevated levels are regarded as acceptable in terms of modern housing layouts and whilst the outlook from the bungalows in Hawthorn Rise will inevitably change it is not considered that there would be a sustainable ground for refusal in terms of privacy or overbearing impact. Additional landscaping is also proposed to assist with the softening of the impact of the new dwellings.
- 6.10 The properties in Crossways are at a slightly greater distance from Plots 1-4, with the closest window to window relationship being 26 metres, and similarly therefore, the relationship is considered to be acceptable.
- 6.11 Notwithstanding the above, the layout is now a reserved matter and as such there would be opportunities to increase the separation distances and the design of rear elevations so as to further reduce the impacts on neighbouring dwellings.
- 6.12 The proposed new road providing access to the application site would be located close to the flank walls of 11 and 13 Hawthorn Rise and this will inevitably affect the outlook that occupiers have become accustomed to, albeit the affected elevations do not contain any doors or windows. It is considered that this is not significantly different to the relationship that other properties have to the estate road serving Hawthorn Rise at present and it is clear that the layout of the existing dwellings is such that provision was made for a potential access beyond.

11 Hawthorn Rise would gain a garage and extended rear garden area albeit at the expense of part of the existing side garden. The boundary treatments would be such that the side and rear gardens would be prevented from any undue overlooking by pedestrians, cyclists and car users. The alternative to this would require significantly more road building to the west of the site across land that is allocated for recreational use and as such is not considered to be necessary or appropriate.

- 6.13 It is clear from local objections that the extended period of time over which the Hawthorn Rise development occurred together with the associated noise, disturbance and storage of construction material is a significant cause for concern.
- 6.14 Officers have given attention to the former issue of development implementation but ultimately have concluded that this in itself is beyond the scope of planning control and as such should permission be granted. It is hoped that these local concerns are recognised and acted upon by the developer. This said, it is intended that there should be controls within the proposed S106 Agreement regarding the delivery of the affordable housing which would incentivise the completion of the development in a timely manner. In relation to the other impacts, it is considered that restrictions on the hours of construction, the parking of site operatives vehicles and the provision of a Site Waste Management Plan are all reasonable and necessary in recognition of the concerns that have been raised.
- 6.15 Having regard to the above, it is considered that the proposed development whilst inevitably having an impact upon the environment in the immediate vicinity of existing residents will not be at a level that would warrant the refusal of planning permission and that is capable of being mitigated by conditions and careful attention to the layout and scale of development as well as the internal layouts of dwellings with common boundaries with existing properties at the reserved matters stage.

Highway Safety and Means of Access

- 6.14 The proposed means of access into the site is a matter for formal consideration at this stage and has been the subject of detailed input and revision following the original submission. The existing estate road, which benefits from an established junction with good visibility onto the B4348 would be extended between 11 and 13 Hawthorn Rise. In so doing the existing unsatisfactory parking arrangements for 11 would be improved by the provision of garaging and a parking space to the rear.
- 6.15 The new road would be 4.5 metres wide with a single 1.8 metre wide footway at the pinch point between the two existing properties extending to 1.8 metre footways on either side of the carriageway once into the proposed site. The new cul-de-sac would be L-shaped with ample off road parking provided for each new dwelling (2 spaces for the 2 bed dwellings and 3 spaces for the 3 and 4 bed dwellings)
- 6.16 The Traffic Manager is satisfied with the revised access arrangements in terms of the highway safety implications and the level of parking provision within the site.
- 6.17 The local concerns in respect of the additional traffic entering and leaving the site are noted but in view of the presence of safe pedestrian access through the site to the B4348 and the generous provision of parking within the new site, it is not considered that there will be any adverse impact upon the existing arrangements serving Hawthorn Rise.
- 6.18 In recognition of the concerns regarding access during the construction phase, officers have negotiated the provision of an alternative temporary access through the adjoining field (which is owned by the applicant) so as to reduce the potential conflict between existing occupiers and construction traffic. This will be secured by condition. It is noted that local residents advocate a new permanent alternative access to the proposed development through the

adjoining field but it is not considered that this is necessary or desirable and would conflict directly with Policy RST4, which safeguards the land for recreational use.

- 6.19 The local concerns regarding the increase in vehicular activity are acknowledged and understood but the proposed access arrangements are considered to represent the most appropriate response in terms of highway safety, environmental impact and scheme viability.

Surface Water Drainage

- 6.20 It is clear from many of the objections received that there are existing surface water drainage problems associated with the original development. Photographic evidence shows that the existing access road and gardens are susceptible to localised flooding. This is clearly undesirable and is a matter that needs to be addressed formally. In this context, it is considered that the granting of a permission would, through the imposition of a condition, provide an opportunity to require a detailed surface water attenuation scheme to be designed and implemented that would cater for the proposed new development and address the existing problems that have been identified by residents living in Hawthorn Rise.
- 6.21 The applicant owns the land to the north and west of the site together with a ditch that runs along the eastern edge of the field and between Hawthorn Rise and Crossways. Accordingly, and in conjunction with the advice provided by the Land Drainage Engineer, it is considered that he controls sufficient land to enable an appropriate attenuation system to be designed and this will be secured by way of a pre-commencement condition.
- 6.22 Welsh Water raises no objection to the proposal subject to conditions regarding the appropriate disposal of surface water arising from the development.

Biodiversity

- 6.23 The field and rather sparse hedgerow/tree boundaries offer little significant biodiversity value and as such the Conservation Manager raises no objection to the proposed development of the site. Recommendations are made in relation to the retention and enhancement of boundary treatments and trees on site and this would be secured through a condition designed to enhance and maximize the biodiversity value of the site.

Section 106 Matters

- 6.24 The application is submitted with a draft Heads of Terms proposing a range of contributions to mitigate the impacts of the development upon local infrastructure. The details of the Agreement, which includes proportionate contributions towards the Peterchurch Primary School, enhancement of child care provision and improvements to youth service facilities in the South Hereford City area; delivering improved pedestrian links to Fairfield High School and to the west of the village (schemes have been designed for these projects); enhanced play provision within the village, either through assisting with the delivery of the allocated site adjoining Hawthorn Rise or other suitable locations dependant upon local support and deliverability; assisting with library provision and a waste and recycling contribution.
- 6.25 The affordable housing numbers, mix, tenure and cascading mechanism are also set out in detail within the draft Heads of Terms. It is suggested that the affordable housing should be completed and transferred to the Registered Social Landlord upon completion of the 6th open market house. This type of control would indirectly promote the completion of all or a significant proportion of the development in a more comprehensive manner rather than the piecemeal fashion that has caused concern locally in respect of the existing development at Hawthorn Rise.

Conclusion

Further information on the subject of this report is available from Mr A Prior on 01432 261932

6.26 The proposed development has attracted a significant level of local opposition with concerns focused primarily on the scale of the development in a predominantly single storey environment, loss of privacy, highway safety and existing deficiencies in surface water management. In recognition of these concerns, the nature of the application has been amended such that the

RECOMMENDATION

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. B07 Section 106 Agreement**
- 4. A04 Approval of reserved matters (layout, scale, appearance and landscaping)**
- 5. A05 Plans and particulars of reserved matters (layout, scale, appearance and landscaping)**
- 6. F08 No conversion of garage to habitable accommodation**
- 7. F16 No new windows in specified elevation**
- 8. G02 Retention of trees and hedgerows**
- 9. G04 Protection of trees/hedgerows that are to be retained**
- 10. G11 Landscaping scheme – implementation**
- 11. H09 Driveway gradient**
- 12. H13 Access, turning area and parking**
- 13. H20 Road completion in 2 years**
- 14. H21 Wheel washing**
- 15. H27 Parking for site operatives (to include alternative access arrangements through adjacent land)**
- 16. H29 Secure covered cycle parking provision**
- 17. H18 On site roads - submission of details**
- 18. I16 Restriction of hours during construction**
- 19. I20 Scheme of surface water drainage**
- 20. I32 Site Waste Management**
- 20. I51 Details of slab levels**
- 21. L01 Foul/surface water drainage**

Further information on the subject of this report is available from Mr A Prior on 01432 261932

- 22. L02 No surface water to connect to public system
- 23. L03 No drainage run-off to public system

Informatives:

- 1. HN01 Mud on highway
- 2. HN04 Private apparatus within highway
- 3. HN05 Works within the highway
- 4. HN08 Section 38 Agreement & Drainage details
- 5. HN10 No drainage to discharge to highway
- 6. HN28 Highways Design Guide and Specification
- 7. N02 Section 106 Obligation
- 8. N11A Wildlife and Countryside Act 1981 (as amended) – Birds
- 9. N20 Site Waste Management
- 10. N15 Reason(s) for the Grant of PP/LBC/CAC

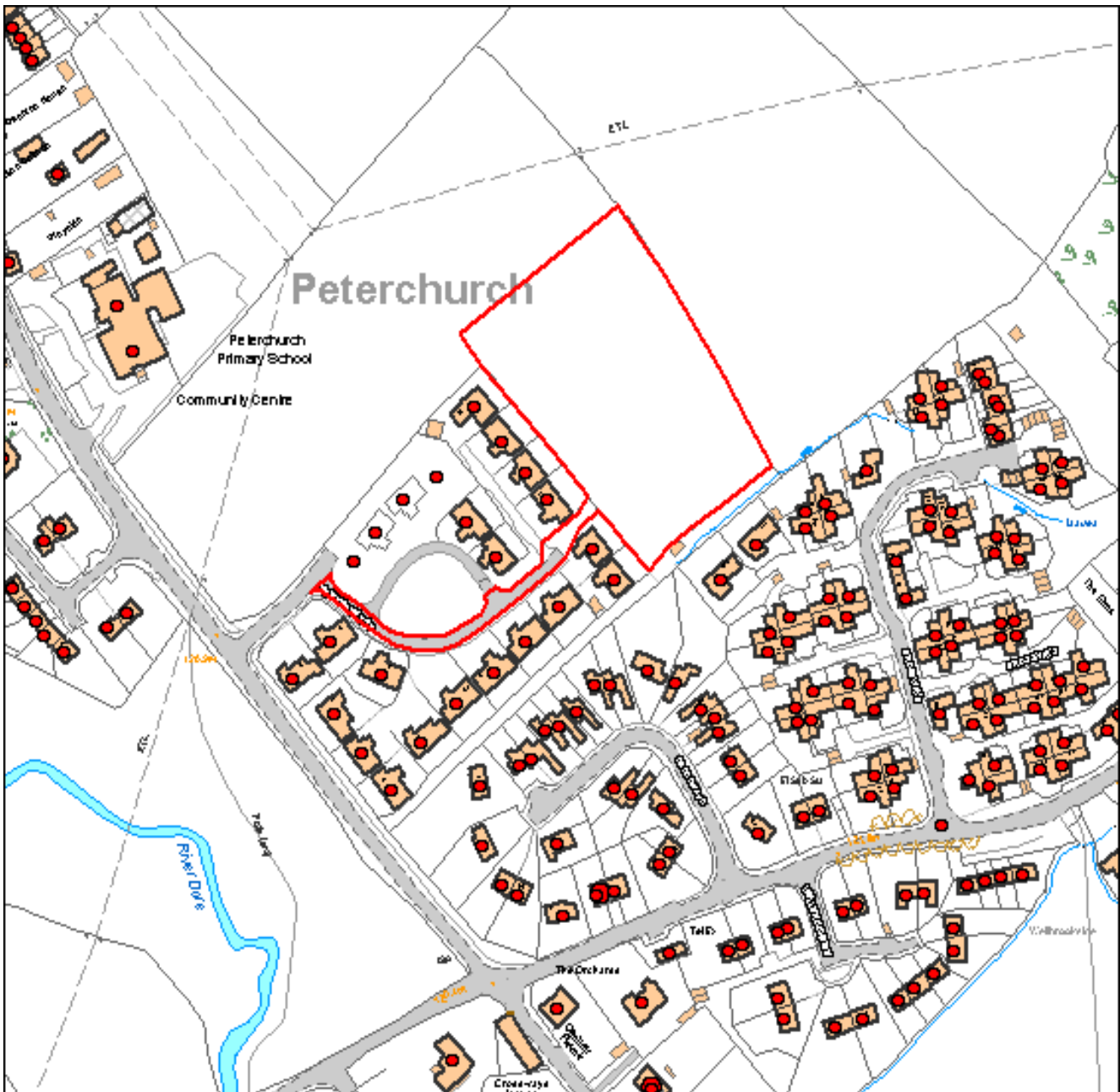
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: DMS/110387/O

SITE ADDRESS : LAND NORTH OF HAWTHORN RISE, PETERCHURCH, HEREFORD, HR2 0RQ

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr A Prior on 01432 261932

HEADS OF TERMS PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

Planning Application: DMS/110387/O

Proposal: Erection of 16 dwellings (11 open market and 5 affordable)

Site: Land north of Hawthorn Rise, Peterchurch, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£42,471** to provide enhanced educational infrastructure at South Hereford City Early Years, Peterchurch Primary School, South Wye Youth and 1% towards Special Educational Needs provision. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£46,691** to provide a 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 to improve connectivity and access within Peterchurch at its option for any or all of the following purposes:

- B4348 Peterchurch footway scheme which includes a footway from the development to Fairfield High School
 - Safer Routes to School
 - Improvements to visibility at the junction of the B4348/U75404 (church, play area west of Peterchurch)
 - Dropped crossings within Peterchurch
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£3,446** to provide enhanced formal or informal recreational or public open space in the locality of the development. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
 4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£7,304** to provide sports facilities. This is in response to the pressure the additional population will bring to the existing sports and leisure facilities in Hereford City. The contribution would be used in accordance with the priorities in the Indoor Facilities Strategy and the draft playing pitch strategy. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
 5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2,393** towards the provision of enhanced Library facilities in Peterchurch. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£1,320** towards the provision of waste reduction and recycling facilities in Hereford City. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council that five (5) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. The Affordable Housing units shall be made available for social rent.
9. All the affordable housing units shall be completed on completion of the sixth (6th) open market dwelling and made available for occupation prior to the occupation of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
 - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 9.2 satisfy the requirements of paragraphs 10 & 11 of this schedule
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
 - 10.1 a local connection with the parish of Peterchurch; or
 - 10.2 In the event of there being no person having a local connection to the parish of Peterchurch a person with a local connection to one of the following parishes: Dorstone, Michaelchurch Escley, St Margarets, Vowchurch, Moccas, Blakemere and Tyberton; or
 - 10.3 in the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 or 10.2 above.
11. For the purposes of sub-paragraph 10.1 or 10.2 of this schedule ‘local connection’ means having a connection to one of the parishes specified above because that person:

Further information on the subject of this report is available from Mr A Prior on 01432 261932

11.1 is or in the past was normally resident there; or

11.2 is employed there; or

11.3 has a family association there; or

11.4 a proven need to give support to or receive support from family members; or

11.5 because of special circumstances

12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 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.
15. The sums referred to in paragraphs 1, 2, 3, 4 and 5 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.
16. 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.
17. 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
19 October 2011



MEETING:	PLANNING COMMITTEE
DATE:	2 NOVEMBER 2011
TITLE OF REPORT:	<p>DMS/112513/F - CHANGE OF USE OF REDUNDANT RURAL BUILDING TO ONE DWELLING. AT FOUR FOXES VINEYARD, LONGWORTH LANE, BARTESTREE, HEREFORD, HR1 4BX</p> <p>For: Mr Crilley per Mr Paul Smith, 12 Castle Street, Hereford, Herefordshire, HR1 2NL</p>

Date Received: 9 September 2011

Ward: Hagley

Grid Ref: 356250,240851

Expiry Date: 14 November 2011

Local Member: Councillor D W Greenow

1. Site Description and Proposal

- 1.1 The site lies to the west of Longworth Lane, Bartestree outside of the main village settlement boundary as defined in the Herefordshire Unitary Development Plan. The site is part of the Four Foxes Vineyard. It is accessed via an unmade track, some 310 metres in length. To the south the land slopes downwardly and the land is used as an orchard.
- 1.2 At present there is a building on the site, which was granted planning permission in 1993 (SH92/1505/PF) for use as a retail wine shop in connection with the adjacent vineyard. Permission was subsequently granted to permit the sale of other specified goods and a coffee shop. The building is 11 metres in length (north-south orientation), 5.1 metres in width (east-west orientation) and has a roof ridge height of 4.3 metres. The slate roof is hipped and the elevations have a brick plinth with white painted render above. The fenestration is timber and the rainwater goods are black uPVC. There is a wooden verandah along the eastern elevation that wraps around the southern elevation. There is an area of hardstanding to the front (east) of the building and a hedgerow to the rear (west).
- 1.3 It is proposed to change the use of the building from a mixed retail and coffee shop use to a dwelling. Only minimal changes are proposed to the building to accommodate the new use. The property would provide two bedrooms, a bathroom, a kitchen and living room with French doors and front door accessing the verandah. The curtilage would predominantly lie to the south and southwest on an existing area of hardstanding and the base of an approved wine cellar, which has not been completed.

2. Policies

- 2.1 National Planning Guidance:

Further information on the subject of this report is available from C L Atkins (Mrs) on 01432 260536

- PPS1 - Delivering Sustainable Development
- PPS3 - Housing
- PPS7 - Sustainable Development in Rural Areas

2.2 Herefordshire Unitary Development Plan:

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
- H7 - Housing in the Countryside Outside Settlements
- H16 - Car Parking
- LA2 - Landscaped Character and Areas Least Resilient to Change
- HBA12 - Re-use of Traditional Rural Buildings
- HBA13 - Re-use of Traditional Rural Buildings for Residential Purposes

2.3 Supplementary Planning Guidance - Re-use and Adaptation of Rural Buildings

3. Planning History

- 3.1 SH92/1505/PF - Proposed retail wine shop. Approved 22 March 1993.
- 3.2 SH96/0012/PF - Proposed wine cellar. Approved 14 February 1996.
- 3.3 CE2002/0713/F - Change of use of existing wine shop to incorporate coffee shop and snacks, sale of local crafts and cottage garden plants, all alongside existing wines and associated products. Approved 25 April 2002.
- 3.4 CE2002/3711/F - Extended wine shop, kitchen and toilets linked to private living accommodation built off existing cellar slab. Refused January 2003, appeal withdrawn 12 August 2008.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: A private treatment works is proposed, the applicant is advised to contact the Environment Agency.

Internal Council Advice

- 4.2 Traffic Manager: No objection. Visibility to the south of the access would benefit from improvement by cutting back the existing hedge.
- 4.3 Conservation Manager: Objection. It is the cornerstone of both local and national policy that where rural buildings are considered for residential re-use, there should be 'acknowledged historical (and) architectural benefits of retaining the building, as Policy HBA13 put it, this justifies the exception of a general planning policy. A 1993 farm shop of utilitarian design does not fulfil these criteria. No landscape objection. With regards ecology there is potential for bats to be present, but proposal would not affect the roof. Informative note is recommended.

5. Representations

5.1 Lugwardine Parish Council: Support.

5.2 A Planning, Design and Access Statement were submitted with the application. In summary this states:

- The building was used for its permitted use until December 2006, when it closed due to a series of unprofitable years. The building has remained closed, although the vineyard continues to grow grapes.
- The building has been market tested, but no offers were made for the building. This is not surprising given its size and that an increase in size to expand the retail use was previously considered unacceptable.
- National and local policies support the proposal.
- The proposal complies with Policy HBA13, because whilst in open countryside, it is not beyond reasonable access to a main village, and as such there is no requirement to comply with one of the four specified criteria justifying conversion for residential use.
- Draft National Planning Policy Framework carried little weight at present, but it includes the Government's policy of a presumption in favour of sustainable development.
- The proposal would comprise previously developed land and it is close to a settlement with facilities. Residential use would cause no harm to the host environment.
- The continued non-use of the building serves no useful planning purpose and constitutes the waste of a valuable resource.

5.3 The consultation period expires on 26 October 2011, after the deadline for preparation of this report. Any comments received before the Committee Meeting will be reported in the Update sheet.

5.4 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

6.1 The main considerations in the determination of this application are the principles of the development, highway safety and landscape impact.

6.2 The site lies in open countryside, outside of the settlement boundary for Bartestree. As such Policy H7 of the Herefordshire Unitary Development Plan applies. This policy sets a presumption against new residential development in the open countryside, unless the proposal complies with one of the specified exceptions. Of these exceptions Number 3 is applicable, as the proposal comprises the re-use of a rural building. The exception requires the re-use to accord with Policies HBA12 and HBA13 of the Herefordshire Unitary Development Plan.

6.3 Policy HBA12 of the Herefordshire Unitary Development Plan provides the criteria for the re-use of rural buildings. The preamble to this policy, and HBA13, states that the re-use of rural buildings has an important role to play in meeting the needs of rural areas for commercial, agricultural diversification, industrial development, tourism, sport and recreation. Continuing it states that in defined settlements it can also contribute towards new housing (paragraph 9.6.39). It stresses that the Plan does not seek to encourage residential development in the open countryside (9.6.43). This preamble sets the context for the policies and the outline for their purpose.

6.4 The building subject to the proposal, being relatively modern, is capable of re-use without the need for reconstruction. In addition there is no need for extension or significant alteration to accommodate the proposed use. The proposal is small in scale, being for a single, modest dwelling. The adjacent orchard use is considered to be compatible with a dwelling on the site.

As such the proposal accords with the requirements of Policy HBA12 of the Herefordshire Unitary Development Plan.

- 6.5 Turning to Policy HBA13 , which sets out the criteria for residential re-use of rural buildings, it is required that for sites in the open countryside and beyond reasonable access of urban areas, main villages and smaller settlements that residential proposals will only be supported where they comply with one of four specified criteria. In summary these are that there are acknowledged historical, architectural, local landscape or amenity benefits of retaining the building, that the accommodation is required to meet a demonstrated local housing need, that it is a necessary accompaniment to a new business or the growth of an existing and established rural business or its is the subordinate part of a wider scheme for a business use.
- 6.6 The applicant has asserted that whilst the site is in open countryside it is not beyond reasonable access of the main village of Bartestree and as such it is unnecessary for the proposal to comply with any of the four listed criteria of the policy. It is considered that this interpretation of the policy is incorrect. As set out in Section 6.3 of this report the preamble to the policies outlines the thrust and objectives. The policies seek to re-use rural building for beneficial purposes and not to encourage residential development in the open countryside. Whilst it is accepted that the site is not an excessive distance from facilities, it is not just the distance that needs to be considered, but also the context and conditions. The site is accessed via an unlit, unmade length of track some 310 metres in length. Furthermore, a section of Longworth Lane has no street lighting or footpath. These conditions are not conducive to walking or cycling. Occupiers would be likely to be reliant on the use of a car.
- 6.7 It is considered that reference in Policy HBA13 to ‘beyond reasonable access’ is to confirm that even where the site is in an unsustainable location in open countryside it may be permitted so long as it complies with one of the specified criteria. Considering the Development Plan as a whole document and its aims and objectives it would be perverse to allow the residential conversion of the building subject to this application without compliance with one of the four criteria, simply because it is within reasonable access of a main village as asserted by the applicant, particularly when considering the policy presumption to refuse new open market housing immediately adjacent to a settlement boundary.
- 6.8 Assessing the building against the four listed criteria, it is considered that the building is of no historic or architectural merit, it being of modern construction and utilitarian in appearance. Moreover, it does not contribute to the landscape and there are no amenity benefits in its retention. The re-use is not for a demonstrated local housing need or in connection with a new or existing business use. The Conservation Manager has objected to the proposal. For the reasons set out above the proposal fails to comply with the requirements of Policy HBA13 and consequently Policy H7 of the Herefordshire Unitary Development Plan.
- 6.9 With regards the impact of the proposal on highway safety it is considered that there would be no adverse impact, subject to improvements to the visibility to the south from the access.
- 6.10 Turning to the landscape impact it should be noted that there is an existing building to be re-used. It is considered that its conversion and the creation of a residential curtilage would not adversely impact upon the landscape.
- 6.11 In conclusion, the proposal is considered to be contrary to local planning policies and there are no material planning considerations that would outweigh this.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. **The building subject to this proposal is of modern construction and lies in open countryside. It has not been clearly demonstrated that the building is of acknowledged architectural, historical, local landscape or amenity value, or that it would satisfy a demonstrated local housing need or be a necessary accompaniment to a new business or the growth of an existing, or be subordinate to a wider scheme for a business use. Therefore, the proposal is contrary to the requirements of Policies S1, H7 and HBA13 of the Herefordshire Unitary Development Plan.**

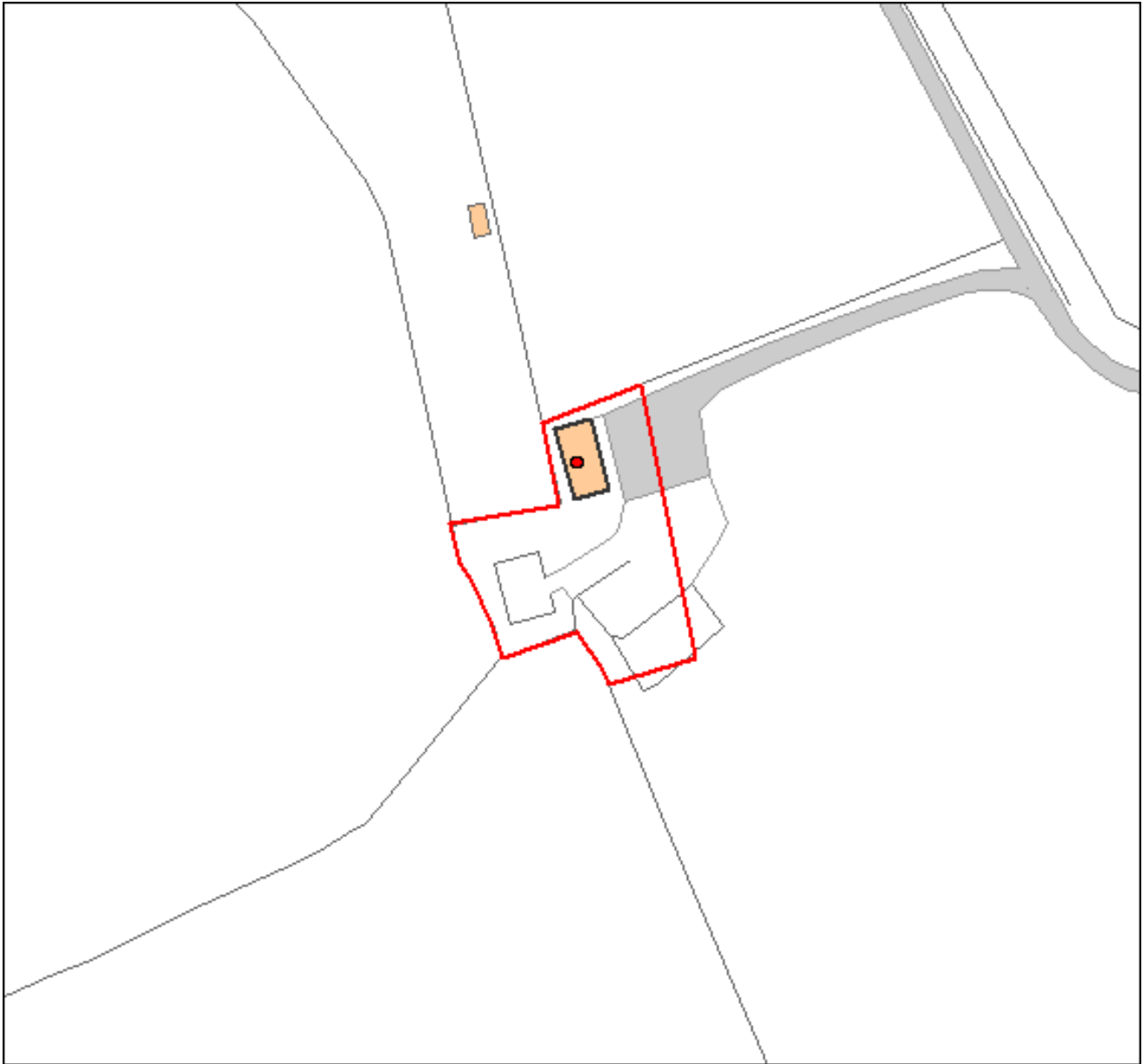
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: DMS/112513/F

SITE ADDRESS : FOUR FOXES VINEYARD, LONGWORTH LANE, BARTESTREE, HEREFORD, HR1 4BX

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from C L Atkins (Mrs) on 01432 260536