

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 14 September 2016 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, WLS Bowen, CR Butler, KS Guthrie, EPJ Harvey, EL Holton, JA Hyde, TM James, FM Norman, AJW Powers, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors RJ Phillips and A Warmington

47. APOLOGIES FOR ABSENCE

Apologies were received from Councillors PJ Edwards, DW Greenow, and A Seldon.

48. NAMED SUBSTITUTES

Councillor WLS Bowen substituted for Councillor PJ Edwards and Councillor EPJ Harvey for Councillor A Seldon..

49. DECLARATIONS OF INTEREST

Agenda item 10: 162016 – Stone Cottage, Common Hill, Fownhope, Hereford

Councillors PGH Cutter, J Hardwick and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

Councillor EL Holton declared a non-pecuniary interest because she knew Councillor Durkin.

50. MINUTES

RESOLVED: That the Minutes of the meeting held on 24 August 2016 be approved as a correct record and signed by the Chairman.

51. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded Members that a joint Nutrient Management Plan Seminar for members of Powys and Herefordshire Council had been arranged for Tuesday 20th September 2016 at the Baskerville Arms, Clyro.

52. APPEALS

The Planning Committee noted the report.

53. 160606 - LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS

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

He noted that there were two aspects to the application. The extension to the existing factory was a straightforward matter and the main issue to be considered was the proposed Aldi retail store.

In response to points raised at the site visit, he provided additional information on the distance from the rear of the store to the rear gardens of houses in Bronte Drive, the management of deliveries to the store, details of the fencing heights and bus stops in the vicinity.

In accordance with the criteria for public speaking, Mr C Cox of Pegasus Planning Group spoke in opposition to the scheme. At the Chairman's discretion an additional objector, Mrs J Simpson, a local resident, also spoke. Mr R Jones, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor A Warmington, spoke on the application.

He made the following principal comments:

- He outlined the history of previous applications for a larger supermarket on the site and on another site close by. Both these applications had generated considerable interest within the Town with large groups of supporters and objectors having been formed. The current application was much less controversial. The application was for a smaller supermarket, and was less transformational.
- He referred to paragraphs 26 and 27 of the National Planning Policy Framework noting that paragraph 27 stated that where a development would have a significant adverse impact on the Town Centre then it should be refused. The proposed supermarket was considerably smaller than previous proposals and had fewer types of goods. It would not be a destination store and would not contain a baker, butcher, or fishmonger. However, it would still be an out of town store that would draw business from the High Street. The question was whether that impact would be significantly adverse.
- He referred to and compared the findings of the retail impact assessments that had been produced. He observed that Aldi's assessment was that the proposal would have a 5.9% impact on the Town centre. The independent advice to the Council was that there would be an 8.8% impact.
- New housing was proposed in the Ledbury area. However, the forecasts indicated that this would reduce the impact on the town centre by only a small amount. He therefore did not consider this to be a key factor.
- He agreed with the findings of the sequential test that there was no viable alternative site.
- He did not consider that there would be many trips by foot from the development to the Town Centre.
- The financial contribution from the developer was modest in the context of the income the proposed store would generate and was not a significant consideration.
- In terms of public opinion the proposal had not generated the public controversy that previous applications for stores in the locality had done. The Town Council

supported the application. No high street traders had made representations. As a whole he believed the Town supported the proposal.

- On balance he considered that the application would meet a need without having a significant adverse impact on the town centre. The proposal was not perfect. However, it had his support.

Councillor EPJ Harvey also spoke on the application as adjoining ward member. She made the following principal comments:

- The site had been designated for employment for more than 20 years. It was in the middle of a trading estate. It was not sustainable for safeguarded employment land in the market towns to be released for other uses.
- She questioned the evidence presented in the retail impact assessment produced by the applicant's consultants, observing that it did not include reference to the 3 independent butchers in the town.
- The officer report stated that the Ledbury area's convenience spend – which included the core strategy's housing growth projections for the area, was predicted, using the council's own Core Strategy evidence base to increase to 2021 by less than £2m per annum. The report added that this was now considered to be an overestimation.
- The applicant's report predicted that the total turnover of convenience stores in the Ledbury area would rise from £31.9m in 2016 to £33.7m in 2021. This more than accounted for all of the council's adjusted projections for growth in convenience spending over the period.
- The projected turnover of the convenience lines in the Aldi store was projected to start at £8.66m in 2016 and increase, to only £8.84m in 2021 – less than £200k total growth, less than 0.5% per annum. She suggested that this was a significant understatement.
- The indication was that the retail spend at Aldi of almost £9m from the start of trading would be likely to come from the existing supermarkets and independent convenience stores in Ledbury's town centre.
- £9million represented nearly a third of these businesses' existing convenience turnover – not the 5% spoken of in the applicant's report.
- The council's own retail impact assessment was that the applicant's report underestimated the impact on small businesses.
- The Cooperative and Tesco both objected to the proposals.
- It seemed likely that the impact of this development would be much more than 'significant' to traders specialising in convenience goods than the officer report indicated.
- The impact of Aldi's short-term in-store offers on comparison goods would also have a bigger impact than predicted.
- In summary the proposal would have a considerable effect on the convenience shopping and to a lesser extent the comparison shopping in Ledbury's town centre.
- The proposed mitigation was a redesign of the town's largest long-stay visitor car park. She considered that this would deliver benefits to visitors, enhance the attractiveness of the town centre and increase people's access to the high street.
- In conclusion she stated that she considered the impact of the development upon the retail core of the town had been significantly understated by both the applicant's and the council's retail impact assessments and offered significant threats to the independent convenience retailers which were the anchor traders in the high street.

In the Committee's discussion of the application the following principal points were made:

- The sequential test confirmed that there was no suitable alternative site. The principal question was whether the proposal would have a significant adverse impact on the Town Centre. It was acknowledged that this was a difficult decision.
- Some Members considered that the impact would be significantly adverse. Small shops worked with and supported each other. The Conservation Manager (historic buildings) had stated that a reduced maintenance of listed buildings in the town centre as a consequence of reduced footfall in shops would put designated heritage assets at risk. The likelihood of linked shopping trips was minimal.
- Other Members did not agree that the impact would be significant. It was suggested that the proposed store would provide a distinctive offer of goods at a low price that would meet a demand in the area.
- There would be an impact on the town centre even if it was not significantly adverse. It was important to secure the mitigation offered through the S106 agreement.
- The loss of employment land was a concern. It should be borne in mind that the Council's efforts in promoting employment land were limited.
- The proposal would generate several jobs.
- Reference was made to the limited number of objections to the proposal. In response it was questioned whether the controversy generated by previous proposals had made people reluctant to oppose the latest application.

The local ward members were given the opportunity to close the debate.

Councillor Warmington commented that the smaller store being proposed had been far less controversial than previous proposals. If there had been strong opposition those who had mounted previous campaigns retained the capacity to do so again. The absence of a campaign suggested there wasn't a strong feeling against the proposal. A reasonable degree of support for it had been expressed.

He considered the impact on the Town centre would be larger than had been modelled by Aldi. As to whether this impact would be significant he considered that there was a need for additional retail space in Ledbury and this could not be provided from within the Town Centre. The site was suitable and the best option in the circumstances.

Councillor Harvey commented that in strategic terms the site had always been identified as employment land which Ledbury needed to support economic growth. She reiterated her view that the retail impact assessments were flawed and that the proposal would have a significantly greater adverse impact on the town centre than had been suggested.

RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 agreement in accordance with the draft Heads of Terms attached as Annex 1 to the report, officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other conditions considered appropriate:-

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission;**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990;

2. **The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use;**

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution, in accordance with policies SS6, SD3 and SD4 of the Herefordshire Local Plan Core strategy 2011-2031;

3. **No development shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:-**

- a) **a 'desk study' report including previous site and adjacent uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;**
- b) **If the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation shall be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;**
- c) **If the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants or gases when the site is developed shall be submitted in writing. The remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval;**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment, in accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

4. **The remediation scheme, as approved pursuant to condition 3) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters and to the wider environment, in accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

5. If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the method Statement detailing how this unsuspected contamination shall be dealt with;

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment;

6. Prior to commencement of the development hereby permitted full drainage details shall be submitted to the Local Planning Authority for their written approval. These details shall include:-

- Evidence and further demonstration of mitigation measures proposed for the Galebreakers extension in order to protect against potential flooding from the river Leadon tributary;
- Calculations to support the Drainage strategy to demonstrate that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 event and allowing for the potential effects of climate change. This should include recalculation of greenfield run-off rates in utilising a more appropriate method;
- Evidence that the applicant/developer is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the applicant/developer has sought and agreed to discharge surface waters and allowable discharge rates for the disposal of surface water run-off from the site with the relevant authorities;
- If required, details of any proposed outfall structures;
- Provision of a Foul Water Drainage Strategy with supporting calculations and drawings;

No development shall commence until the written approval of the Local Planning Authority has been obtained. The development shall be carried out in full accordance with the approved detail and thereafter maintained to the satisfaction of the Local Planning Authority;

Reason: To ensure satisfactory drainage arrangements, in accordance with policies SS6, SD3 and SD4 of the Herefordshire Local Plan Core strategy 2011-2031;

7. Prior to commencement of the development hereby permitted a scheme of landscaping using indigenous species shall be submitted to the Local Planning Authority for their written approval. The scheme must include enhancement of the landscape buffer to the rear of the site including understorey planting. The landscaping scheme must detail the trees to be retained, the location of all new planting, their species, size and density of

planting. The development must not commence until the landscaping scheme has been approved in writing by the Local Planning Authority;

Reason: To ensure that the development is satisfactorily integrated into the environment and to assist in softening the impact from dwellinghouses in Bronte Drive, in accordance with policy LD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

8. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting season following completion of the development or the first use of either part of the development hereby permitted (whichever is the sooner). Any trees or plants which within a period of ten years of their planting die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure that the development is satisfactorily integrated into the environment and to assist in softening the impact from dwellinghouses in Bronte Drive, in accordance with policy LD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

9. The recommendations for mitigation measures and ecological enhancements together with the reptile mitigation strategy set out in Sections 6 and 7 of the Ecological Appraisal prepared by 'aspect ecology' dated February 2016 shall be followed and implemented unless otherwise agreed in writing by the Local Planning Authority and the scheme shall be carried out as approved. On completion of the mitigation and enhancement measures, confirmation shall be made to the Local Planning Authority in writing together with photographic evidence of the measures implemented;

Reasons:-

- a) To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;
- b) To comply with Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031; in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.
10. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work;

Reasons:-

- a) To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;
- b) To comply with Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031; in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

11. No more than 245 square metres sales area floorspace of the retail store hereby permitted shall be used for comparison goods retailing;

Reason: To safeguard the vitality and viability of Ledbury Town Centre in accordance with policy E5 of the Herefordshire Local Plan Core Strategy 2011-2031;

12. Prior to commencement of the development full details of all external lighting shall be submitted to the Local Planning Authority for their written approval. That detail shall include:-

- The height, design and colour finish of any supporting columns;
- The siting/location of all lighting;
- The luminaire/lamps type including full technical specification (e.g. colour temperature in degrees kelvin);
- The mounting height of all luminaires/lamps;
- The direction angle of all luminaires/lamps; and
- The tilt angle of all luminaire/lamps;

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved details and thereafter maintained as such. No other lighting shall be installed upon the site (including attached to any building without the express consent of the Local Planning Authority);

Reason: To ensure that there is not undue light pollution, to safeguard the occupiers of dwellinghouses in Bronte Drive and in the interests of bio-diversity/ecology, in accordance with polices SS6, SD1 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;

13. No part of the retail store building hereby permitted shall exceed a height of 57.585 above ordnance datum (AOD);

Reason:- To safeguard the amenities of the occupiers of dwellinghouses in Bronte Drive, in accordance with policies SS6 and SD1 of the Herefordshire Local plan Core Strategy 2011-2031;

14. No deliveries shall be taken at or despatched from the retail store upon the site outside the hours of 7am to 10pm on any day;

Reason: To ensure that the occupiers of dwellinghouses in Bronte Drive do not suffer undue night-time noise in accordance with accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

15. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full details of the external materials and finishes (including colour) to the retaining walls structures upon the site of the retail store hereby permitted;

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved detail and thereafter maintained as such;

Reason: To ensure a satisfactory appearance to the development, in accordance with policies SS6 and LD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

16. The retail store hereby permitted shall not be first used until the entirety of the footpath, cycle path links and cycle parking facilities shown upon the approved drawings have been fully implemented. Thereafter these links shall be maintained free of obstruction;

Reason: To facilitate accessibility to the retail store by modes of transport other than the private motor vehicle, in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;

17. The development hereby permitted shall be carried out in strict accordance with the following approved plans and documents, except were otherwise stipulated by conditions attached to this permission:-

- Drainage Layout – Drawing number 9944-0070 REV. A (Scale 1:250) received 6.7.2016;
- Drainage Layout – Drawing number 9944-0050 REV. D (Scale 1:200) received 6.7.2016;
- Retaining Wall Cross-Section for Cycle Path – Drawing number 140217 P(1)13 REV.A (Scales 1:50 & 1:100) received 26.5.2016;
- Proposed Site Plan – Drawing number 140217 P(1)10 Rev. F (Scale 1:200) received 26.5.2016;
- Proposed Site Plan – Drawing number 140217 P(1)03 Rev.G (Scale 1:500) received 26.5.2016;
- Proposed Cycle Route – Drawing number 140217 P(1)14 (Scale 1:200) received 26.5.2016;
- Proposed Site Sections – Drawing number 140217 P(1)09 Rev. A (Scale 1:200);
- Proposed Store Elevations – Drawing number 140217 P(0)06 (Scale 1:100);
- Proposed Roof Plan – Drawing number 140217 P(1)05 (Scale 1:100);
- Proposed Floor Plan – Drawing number 140217 P(1)04 (Scale 1:100);
- Site Location Plan – Drawing number 140217 P(1)01 Rev. B (scale 1:1250);
- Proposed Elevations (Galebreakers) – Drawing number A1150-B (Scales 1:200 & 1:250);
- Proposed Roof Plan (Galebrakers) – Drawing number A1012-A (Scale 1:200);

- **Proposed First Floor Plan (Galebreakers) – Drawing number A1011-A (Scale 1:200);**
- **Proposed Ground Floor Plan (Galebreakers) – Drawing number A1010-C (Scale 1:200);**
- **Proposed Site Plan (Galebreakers) – Drawing number A0950-D (Scale 1:500);**
- **Proposed Context Elevations – Drawing number 140217 P(1)07 (Scale 1:200);**
- **‘Noise Assessment’ prepared by entran environmental & transportation dated 22.06.2016; and**
- **‘Ecological Appraisal’ prepared by aspect ecology dated February 2016.**

and thereafter maintained as such to the satisfaction of the Local Planning Authority;

Reason: To avoid any doubt as to the scope of this permission;

- 18. The access vehicle parking and turning/manoeuvring areas shown upon the approved plans relating to the retail shop shown upon the approved plans shall be fully implemented in accordance with the approved plans prior to the first use of the retail shop hereby permitted. Thereafter these areas shall be kept permanently available for the parking and manoeuvring of motor vehicles in accordance with the approved detail and be maintained free from obstruction;**

Reason: To ensure satisfactory off-road parking provision, in the interests of highway safety and to accord with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;

- 19. The access parking and turning/manoeuvring areas shown upon the approved plans relating to the extension to the existing light industrial unit shown upon the approved plans shall be fully implemented in accordance with the approved plans prior to the first use of the extension hereby permitted. Thereafter these areas shall be kept permanently available for the parking and manoeuvring of motor vehicles in accordance with the approved detail and be maintained free from obstruction;**

Reason: To ensure satisfactory off-road parking provision, in the interests of highway safety and to accord with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;

- 20. The retail shop (Use Class A1) hereby permitted shall not be open to customers outside the following times:-**
- **08:00 – 22:00 hours on Mondays to Saturdays (inclusive and excluding Bank and Public Holidays)**
 - **10:00 – 16:00 hours on Sundays, Bank and Public Holidays**

without the express consent of the Local Planning Authority;

Reason: To ensure that the occupiers of dwellinghouses in Bronte Drive enjoy a satisfactory level of amenity, in accordance with accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

- 21. The retail store hereby permitted shall not be first used until the removable bollards on the vehicular entrance to the retail store site have been fully implemented. Thereafter the bollards shall be maintained;**

Reason: To ensure that the occupiers of dwellinghouses in Bronte Drive enjoy a satisfactory level of amenity, in accordance with accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

- 22. Prior to commencement of the extension to the light industrial premises hereby permitted the following detail shall be submitted to the Local Planning Authority for their written approval:-**

- Precise written details as to the colour of all external materials/cladding**

No development shall commence until the written approval of the Local Planning Authority has been obtained. The development shall be carried out in full accordance with the approved detail and thereafter maintained to the satisfaction of the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development, in accordance with policies SS6, SD1 and LD1 of the Herefordshire Local Plan Core Strategy 2011 – 2031;

- 23. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**

- Full details of the design and external appearance of the 3 metre high noise barrier referred to in the ‘Noise Assessment’ prepared by entran environmental & transportation dated 22.06.2016**

The development shall not commence until the Local Planning Authority has given such written approval. The retail store shall not be first used until the noise barrier has been fully implemented. Thereafter that noise barrier shall remain in-situ and be maintained to the satisfaction of the Local Planning Authority;

Reason: To ensure that the occupiers of dwellinghouses in Bronte Drive do not suffer an undue level of noise, in accordance with policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;

INFORMATIVES

- 1) Statement of Positive & Proactive Working - The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the**

presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2) Severn Trent Water advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant / developer is advised to contact Severn Trent Water.
- 3) Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of the Building Regulations 2000 Part H4 Severn Trent can direct the building control officer to refuse building regulations approval.
- 4) The proposed development is in the vicinity of distribution water mains. Dwr Cymru / Welsh Water as Statutory Undertaker has statutory powers to access their apparatus at all times. The applicant's attention is drawn to Welsh Water's Conditions for Development near Water main(s). It may be possible for this water main to be diverted under section 185 of the Water industry Act 1991, the cost of which would be re-charged to the developer.
- 5) The LPA advise that the contaminated land assessment is required to be undertaken in accordance with good practice and needs to be carried out by a suitably competent person as defined within the National Planning policy Framework 2012.
- 6) The LPA require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this shall be included in any submission.

54. PENHROS COURT LYONSHALL KINGTON HEREFORDSHIRE HR5 3LH

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

He highlighted that there were six applications relating to Penhros Court for consideration together with the associated applications for listed building consent.

The report stated that whilst there would be a number of standard conditions which applied throughout, given the extent of the proposals and number of different plans to be referenced it was not conducive to committee time to list all 12 decision notices with conditions in this report. The conditions would relate to matters of use of buildings, details of works, including materials, highway matters, ecology and any others appropriate to the individual application.

In accordance with the criteria for public speaking, Mr P Avery, Chairman of Lyonshall Parish Council, spoke in support of the Scheme.

In accordance with the Council's Constitution, the local ward member, Councillor RJ Phillips, spoke on the application. He commented that the proposals would bring an impressive building back into use and make a useful contribution to tourism in the area.

Members noted the beneficial nature of the proposals.

The local ward member was given the opportunity to close the debate. He had no further comments.

RESOLVED: That Officers named in the Scheme of Delegation to Officers be authorised to grant planning permission and listed building consent subject to conditions for each proposal as appropriate.

55. 161565 - BLUESCHOOL HOUSE, 1 BLUESCHOOL STREET, HEREFORD, HEREFORDSHIRE, HR1 2LX

The Lead Development Manager gave a presentation on the application.

In accordance with the criteria for public speaking, Mr S Kerry, Clerk to Hereford City Council spoke in opposition to the Scheme. Mr J Bothamley of Hereford Civic Society also spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor PA Andrews, spoke on the application.

She noted that resources were not available to allow consideration to be given to proposals in the Edgar Street Grid Master Plan. The proposed colour of the cladding was intended to fit in with the brickwork of surrounding properties. The proposal was not perfect but was an improvement. It did not preclude a better development in the future.

In the Committee's discussion of the application the following principal points were made:

- There was a consensus that the current building was poor.
- Some members considered that the Council had a responsibility to set an example and produce a better scheme for a building in such a prominent location, opposite a scheduled monument, in the conservation area, of which the City could be proud. Regard should be also had to the aspirations for the area set out in the Edgar Street Grid Masterplan.
- Others considered that the scheme was an improvement, albeit from a very low baseline, and represented a satisfactory option in the circumstances, meeting an identified accommodation need and improving the existing poor working conditions and appearance.
- It was requested that further consideration should be given to the colour of the proposed cladding and other matters relating to appearance, such as the materials used, to seek to improve the proposal.

The Lead Development Manager commented that as the report stated the proposal was an interim position and did represent an enhancement. The development of the Hereford Area Plan would provide an opportunity to explore future options. He advised that the colouring of the proposed cladding would be reviewed as required by condition.

The local ward member was given the opportunity to close the debate. She agreed that the current building was dreadful. The proposal represented an improvement on a short term basis.

RESOLVED: That planning permission be granted subject to the following conditions and any other conditions considered necessary by Officers:

- 1. A01 Time limit for commencement (full permission)**
- 2. C08 Amended plans**

3. **C13 Samples of external materials and windows**
4. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
 - **A noise management plan including a scheme for the monitoring of construction noise.**
 - **Details of working hours and hours for deliveries**
 - **A scheme for the control of dust arising from building and site works**
 - **A scheme for the management of all waste arising from the site**
 - **A travel plan for employees**

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. **CB2**
6. **CAZ**
7. **If during the course of the development unexpected contamination not previously identified is found to be present at the site then the work shall be stopped and no further development shall be carried out unless or until the developer has submitted a written method statement to be approved in writing by the local planning authority. The method statement shall include details about how the unexpected contamination shall be dealt with. Thereafter the development of the site will be carried out in accordance with the appropriate method statement.**

Reason: To ensure that potential contamination is removed or contained to the satisfaction of the local planning authority and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy.

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **I05**
3. **I45**

56. 162016 - STONE COTTAGE, COMMON HILL, FOWNHOPE, HEREFORD, HR1 4PZ

The Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor J Hardwick, spoke on the application.

He identified some shortcomings in relation to the original application which did not refer to the removal of part of the existing garden hedge and an ash tree. The plans also did not show an existing store shed part of which would also have to be removed. An application in the Wye Valley AONB needed to be treated with extra care and transparency. The Conservation Manager (Landscape) recommended the protection of existing green infrastructure and the provision of appropriate new green infrastructure. He acknowledged new planting would more than compensate for what it was proposed to remove. He suggested that consideration be given to removing permitted development rights and that a detailed submission be required of proposed new planting prior to the scheme proceeding.

In the Committee's discussion of the application the removal of permitted development rights was supported. A request was also made that some elements of the derelict orchard, which was a wildlife resource, be retained to enhance the setting.

The Lead Development Manager commented that given the number of alterations that had been made to the property in recent years it would be appropriate to remove permitted development rights for further additions and for outbuildings within the curtilage within the property.

The local ward member was given the opportunity to close the debate. He had no further comments.

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

- 1. C01 Time limit for commencement (full permission)**
- 2. C07 Development in accordance with approved plans and materials**
- 3. C01 Samples of external materials**
- 4. No development shall commence on site until a plan has been submitted to and approved in writing by the Local Planning Authority. The Existing and Proposed Plan, Drawing No 641-PL01, Rev A, with a new revision can be used for this information. The details submitted should include:**
 - a) Information on a proposed oak tree *Quercus robur* at whip size to be planted in the applicant's garden. This oak tree is to provide enhancement to the Wye Valley AONB and to support the Green Infrastructure of this setting.**
 - b) A written specification clearly describing the proposed tree, its size and giving details of cultivation and other operations associated with the trees establishment. Maintenance of the proposed oak tree should be for a minimum of five years. And**
 - c) If affected by the development proposals existing tree root zones are to be protected in accordance with BS3998:2010 – Tree Work – Recommendations.**
- 5. C65 Removal of permitted development rights s**

INFORMATIVES:

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

57. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 12.58 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 14 September 2016

Schedule of Committee Updates/Additional Representations

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

SCHEDULE OF COMMITTEE UPDATES

160606 - PROPOSED EXTENSION TO EXISTING FACTORY BUILDING AND ERECTION OF A LIMITED ASSORTMENT DISCOUNT FOODSTORE (CLASS A1), CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS

For: Galebreaker Group Limited and ALDI Stores Limited per Mr Huw Jones, 18 Windsor Place, Cardiff, CF10 3BY

OFFICER CLARIFICATION RE: APPRAISAL (UPDATE WRITTEN ON 08/09/2016):-

I believe it would be helpful to clarify my position with regard to the impact upon the Town Centre and the financial contribution towards the public realm of the Town Centre. To recap the Council's engaged expert retail consultant estimates a trade impact on Ledbury Town Centre convenience shops of some -8.8%. Paragraph 27 of the NPPF is clearly a restrictive policy which states that where a development would have a *significant* adverse impact upon the Town Centre then it should be refused. Whilst a trade impact of -8.8% is inescapably an adverse one in the context of the aims for town centre vitality outlined at paragraph 23 of the NPPF it is officer's opinion that the magnitude of the impact is *not significant*. As such, the application is not required to be refused by virtue of the NPPF (*significant* adverse impact). Paragraph 27 does not direct as to what action / decision are required when an adverse impact is less than *significant*, but the National Planning Practice Guidance states:-

"Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development."

Furthermore, the NPPF, at paragraph 6, advises that the document should be read as a whole (as does the Council's Core Strategy) and at paragraph 8 that each individual role of sustainable development should not be considered in isolation. On that basis, the adverse impact to trade in the Ledbury Town Centre should not be disregarded because of its less than significant magnitude, but should be entered into the planning balance required by paragraph 14 of the NPPF and Policy SS1 of the Core Strategy where the dis-benefits and benefits of a development are weighed against each other. With regard to the adverse impact identified, albeit not *significant*, I am also aware of the fact that Ledbury Town Centre lies within a designated Conservation Area and that there are numerous listed buildings. As a consequence the adverse impact identified would be both economic and potentially environmental.

It is fundamentally good planning practice to mitigate adverse impacts. In this case, the adverse impact upon the Town Centre, albeit not significant, can to a degree be mitigated by enhancing the public realm and making the Town Centre and Historic Environment a more attractive destination as advocated by paragraphs 9, 23, 57, 69, 70 and 131 of the National Planning Policy Framework (NPPF) and policies E5 (para. 5.2.24), SS6, LD1 and LD4 of the Herefordshire Local Plan Core Strategy 2011-2031. The financial contribution towards the landscaping of the Grade 2* Masters House at the heart of the Town Centre would help mitigate the adverse impact on the vitality and viability of the Town Centre by facilitating an enhancement to the historic physical environment / public realm thereby encouraging a

greater footfall. In turn, the magnitude of the adverse impact of the town centre would be mitigated, reducing its weight in the planning balance.

Officers are satisfied that the Section 106 Agreement advanced would comply with the requisite legal tests for when you can use a s106 agreement as set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The requisite tests are:-

- a) being necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development

In this case, it is Officer's view that:-

- a) The obligation is necessary to make the development acceptable in planning terms to mitigate the adverse impacts upon the Town Centre;
- b) Is directly related to the development since public realm improvements will assist in that an enhanced setting to the 'Master's House' should assist in attracting more footfall in the Town Centre, which would assist in off-setting some of the loss of footfall arising from the proposed store in an out-of-centre location; and
- c) Is fairly and reasonably related in scale and kind to the development. The PRS (Appendix 1, Table 8) estimates that that by 2021 the proposed store would be abstracting £440,000 annually from Ledbury Town Centre. This is based upon a trade impact of 5.9%, which Officers consider to be an underestimate. The trade impact of 8.8% the Council's expert retail consultant has identified would equate to an abstraction of £660,000 annually from Ledbury Town Centre. Whichever figure is preferred a one-off payment of £120,000 is considered to be *'fairly and reasonably related in scale and kind to the development'*.

ADDITIONAL REPRESENTATIONS

A letter dated 9th September 2016 was received from Solicitors acting for the Co-op Group (copied to Members) essentially expressing the view that the financial contribution securing monies towards the landscaping of the Masters House would not comply with the CIL tests.

Officer Comment (Written on 12.09.2016):-

- a) Officers remain of the view that the Section 106 Planning Obligation would be CIL compliant for the reasons outlined above;
- b) In addition, there is evidence that since the opening of the award winning Masters House restoration

<https://www.architecture.com/Awards/Awards2016/RegionalAwards/WestMidlands/TheMastersHouse.aspx>

that visitor numbers have increased to this location which sits at the heart of the Town Centre. It is understood that there were in excess of 100,000 visitors just over a year after opening. The Masters House incorporates the library amongst other facilities / services. On 1st December 2015 it was reported that:-

"The library in Ledbury has seen a substantial increase in visitors since the Master's House opened in March 2015. Over 80,000 people have visited since its opening, with nearly 32, 000 visitors in the last three months alone, and an incredible increase

of 164% from the same period last year. The Master's House has also seen over 600 new members joining the library since March.'

It is understood that in 2014/15 visits to the "old library" (also located in the Town Centre) amounted to 48,308 whilst in 2015/16 visits to the new library within the restored Masters House amounted to 110,450. In terms of visits per hour in 2014/15 the old library (which had lesser opening hours) amounted to 37 visits per hour whilst in 2015/16 visits to the new library were 65 visits per hour.

Of course the Masters House is used for a number of further additional purposes including Customer Services, Ledbury Library, AgeUK, Ledbury Poetry Festival, exhibitions, Adult Social Care, MAO, cultural, community and heritage events throughout the year, KS1, 2 and 3 Education Days, private and public tours and a very popular gift shop.

It appears to me that any reasonable person would accept that it is a rational and reasonable assumption to make that a proportion of the increased visitors / users are new visitors to the Town Centre or existing users of the Town Centre that now visit more frequently and that they are likely to increase footfall in the retail frontage areas of the Town Centre. In other words the restoration of the Masters House (Heritage Asset) has had a positive impact upon the vitality and viability of the Town Centre. It is also reasonable to assume landscaping enhancing the setting of the listed building would accrue similar benefits.

It must also be recognised that creating a vibrant and prosperous Town Centre both economically and socially is not limited to retail uses. Other uses such as assembly and leisure uses (e.g. cinemas, gyms) and non-residential institutions (public libraries and museums) contribute to vibrant Town Centres, as can physical enhancements to the public realm (e.g. pedestrian schemes, public squares, landscaping).

Officer's view is that landscaping of the Master's House would assist in maintaining and enhancing Ledbury Town Centre as an attractive destination to visit thus benefiting the existing Town Centre retailers and any edge of Town Centre retailers that benefit from linked-trips by Town Centre users / visitors.

- c) Whilst the "claw-back" clause for the developer would be ten years there is no reason to believe that the Council could not plan and implement a landscaping scheme within a significantly shorter timeframe. Indeed it has been long-planned and there remains an undetermined planning application (150041) for a landscaping scheme. In essence, it appears that the only genuine barrier to enhanced landscaping of the Masters House has been a lack of funding.

NO CHANGE TO RECOMMENDATION

161495 & 161496 - ENGINEERING WORKS INCLUDING INSTALLATION OF GROUND SOURCE HEAT PUMPS AND SOLAR PANELS AT PENRHOS COURT, LYONSHALL, KINGTON, HR5 3LH

161497 & 161498 – CHANGE OF USE OF LONG BARN FOR 8 NO. SELF-CONTAINED HOLIDAY LETS WITH ASSOCIATED PARKING, SIGNAGE AND LIGHTING.

161499 & 161500 – CHANGE OF USE OF THE REAR WING OF THE COURT TO SWIMMING POOL, SAUNA, and LAUNDRY ETC.

161501 & 161502 – CHANGE OF USE OF THE COURT TO A SINGLE DWELLING HOUSE, INCLUDING NEW KITCHEN AND BATHROOM AND PRIVATE DRIVEWAY TO CONNECT TO EXISTING GATED ACCESS TO HIGHWAY; IMPROVEMENTS TO PART OF THE CARTSHED FOR USE AS A SECURE PRIVATE STORE AND CREATION OF PRIVATE GARDEN. CONSTRUCTION OF DETACHED GARAGE PREVIOUSLY APPROVED.

161503 & 161504 – CHANGE OF USE OF THE BARN AND PART OF THE CARTSHED TO CREATE A SHOP AND CAFÉ IN THE BARN AND SITTING AREA IN THE CARTSHED, TOGETHER WITH CAR PARKING, SIGNAGE AND LIGHTING

161505 & 161506 – CHANGE FO USE OF LAND FOR THE KEEPING OF RECREATION HORSES, WITH DEMOLITION OF EXISTING BUILDING AND REPLACEMENT WITH NEW STABLING AND SECURE STORES AND IMPROVEMENTS TO BOUNDARY TREATMENTS OF THE SITE, INCLUDING INTERNAL FENCING.

For: Mr Bentham and Miss Laura Lane per Ms Andrea Burton, Nick Joyce Architects Ltd, 5 Barbourne Road, Worcester, WR1 1RS

ADDITIONAL REPRESENTATIONS

Transportation Manager- no objection subject to surface treatment of access/ drive.

OFFICER COMMENTS

The report already refers to the need for highway conditions.

NO CHANGE TO RECOMMENDATION

