

MEETING:	PLANNING COMMITTEE
DATE:	22 FEBRUARY 2012
TITLE OF REPORT:	<p>N113052/F - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A SUPERSTORE CLASS A1 PETROL FILLING STATION, CAR PARKING, BIOMASS BOILER, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS</p> <p>For: Sainsbury's Supermarkets Ltd per Turley Associates, 25 Saville Row, London, W1S 2ES</p>

Date Received: 31 October 2011 Ward: Ledbury Grid Ref: 370185,237883

Expiry Date: 7 March 2012

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

1. 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.

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 north of the loop road that is accessed off a roundabout upon Leadon Way, the A417, to the west. The site has an area of some 2.8 hectares comprising land actively used for industrial purposes by Galebreakers and an undeveloped parcel of land. It is understood that whilst the existing industrial building may provide some constraints to Galebreakers, the site does not. The site has significant changes in level, being some 6 metres from the highest point adjacent to Lyndon Business Park to the south-east to the lowest point being at the junction of Leadon Way and New Mills Way to the north-west.
- 1.5 Immediately outside the eastern boundary of the application site is an existing area of landscaping beyond which are the two-storey houses in Bronte Drive. Within the north-western boundary of the site is an existing area of landscaping. There is a stream close to the north-western boundary of the site. It should also be noted that on the south-eastern side of New Mills Way is a bus stop.

Proposal

- 1.6 The proposal involves demolishing the existing building on the site and erecting a retail store with a gross floorspace of 5,427.8 square metres. It is understood that the net sales area would be 2,787 square metres of which 2,090 square metres would be for the sale of convenience goods (i.e. everyday essential items, including food, drinks, newspapers/magazines and confectionary) and 697 square metres for the sale of comparison goods (i.e. items such as clothing, footwear, household and recreational goods). In addition, it is proposed to provide a petrol filling station (4 pumps) with a "kiosk" of 79.7 square metres.
- 1.7 The existing land levels would be remodelled to effectively create a level area with retaining walls. None of these walls would exceed 1.9 metres in height. The store would be located close to the north-eastern boundary of the site with the service yard provided adjacent to the northern flank elevation of the store. Within the service yard area adjacent to the north-western boundary a bio-mass boiler would be provided.
- 1.8 272 car parking spaces would be provided (246 standard spaces, 11 parent and child spaces and 15 disabled spaces). Provision would be made for 44 cycles to be parked. Nine trolley bays are proposed.
- 1.9 The vehicular means of access to the site off Leadon Way would be provided by way of the provision of a new roundabout at the point where the existing vehicular access to the 'Homebase' store currently exists.
- 1.10 The petrol filling station would be provided in the western apex of the site.
- 1.11 It is proposed to create a pedestrian connection from New Mills Way beside the existing bus stop into the car park of the store. It is also proposed to create a pedestrian connection from the south-east corner of the site to the footpath network across an existing area of public open space. This footpath would also extend along the southern boundary of the site to link to the industrial estate loop road.
- 1.12 The proposals with regard landscaping involve supplementing the planting along the eastern and north-western boundaries together with tree planting within the proposed car park. This matter is addressed in more detail later.
- 1.13 The predominant materials for the store would be shop front glazing and a cladding panel system. There would be a canopy to the store frontage extending around the southern flanks of the store.

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

- 1.14 Attached as **Annex 2** are the Draft Heads of Terms in relation to a Planning Obligation that the agent for the applicant has submitted. This offers a sum (to be agreed) to provide “sustainable transport infrastructure to serve the proposed development”. This includes enhancing pedestrian and cycle routes to the Town Centre and “improvements to “bus infrastructure provision in Ledbury”.

2. Policies

2.1 Central Government advice

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

2.2 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

TCR18 – Petrol Filling Station

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

2.3 Supplementary Planning Guidance

Planning Obligations SPD (April 2008)

3. Planning History

3.1 Whilst the site has planning history associated with it none is considered relevant to the proposal under consideration.

3.2 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 3**.

4. Consultation Summary

4.1 External Consultees

4.2 English Heritage state:-

“The objectives in paragraph 7 of PPS5 include sustaining viable uses for historic assets and the integration of the historic environment into planning policies and place-shaping more generally. Furthermore the protection of the retail health of town centres is a planning policy objective whether the centre in question is regarded as historic or not. This issue has received some prominence recently in national news.

Ledbury is one of the West Midlands’ outstanding historic towns and the retail core of the town contains many listed buildings. Several of the Herefordshire market towns: Ross-on-Wye, Kington and Bromyard, are “Conservation Areas at Risk” and this is partly because of the

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health of the retail environment in their historic centres. Ledbury is not identified as at risk and, on the basis of a superficial inspection, its retail base appears to be healthy. As a consequence listed buildings in retail use in the historic centre of Ledbury appear to be generally well-maintained.

If the Council concluded from its own information and its assessment of the merits of this case that the proposal may harm the significance of Ledbury town centre by prejudicing the chance of maintaining economic uses for the historic buildings then that may be an effect contrary to the objectives in paragraph 7 of PPS5. Loss of economic uses for buildings in the town centre could in time lead to Ledbury's being identified as a Conservation Area at Risk.

English Heritage would urge the Council to make a careful assessment of the evidence available to it on the possible secondary effects of the proposal on Ledbury as a heritage asset and to frame its recommendation and decision accordingly should possible negative effects be identified".

4.3 The Environment Agency is not satisfied that the submission includes an appropriate assessment of flood risk. The submission does not include an assessment of flood risk associated with the watercourse that runs along the north-west boundary of the site. Nor does the submitted flood risk assessment include a blockage analysis of the culvert downstream. In all other respects (e.g. pollution) the Environment Agency do not raise any other concerns

4.4 Severn Trent Water has no objections.

4.5 Internal Consultees

4.6 The Traffic Manager makes a number of detailed comments. However, in summary he objects on the basis of:-

- 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 proposed 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.

4.7 The Environmental Health Manager does not raise objections. The issue of contaminated land could satisfactorily be dealt with by way of a planning condition. In addition, the issues of noise from plant and deliveries could satisfactorily be dealt with by way of a planning condition.

4.8 The Conservation Section state:-

"This application for a new superstore and fuel station on the Ledbury by-pass brings forward the same considerations, in terms of impact on the historic built environment, as the application recently considered for the same use on the other side of the road. Both applications relate to out-of-town shopping locations. As with that application there are fundamental concerns about the impact of the use on the historic environment particularly because of the remote location from the town centre of Ledbury.

As previously commented (but updated to reflect the 2011 Heritage at Risk Register):

English Heritage compiles an annual survey of the condition of England's key heritage assets (high grade listed buildings, scheduled monuments, registered parks, battlefield and wreck sites plus conservation areas) and the most recent 2011 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: they include the spaces between buildings and trees as well as buildings and structures and therefore involve many different owners. Looking after them is a responsibility shared by those of us who own homes and businesses in them and those of us whose job it is to manage the spaces between the buildings or 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. For more than 40 years conservation areas have proved a highly effective mechanism for managing change on an area-wide basis. There are currently some 9,300 conservation areas in England including town and city centres, suburbs, industrial areas, rural landscapes, cemeteries and residential areas. 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 (and update as appropriate) a survey of its conservation areas, highlighting current condition, threats and trends, identifying those that are deteriorating, or are in very bad or poor condition and are not expected to change significantly in the next three years, as being defined as at risk.

The methodology for assessing conservation areas at risk has been refined since the first survey in 2008/2009. The information collated provides a detailed assessment of each conservation area and an overall category for condition, vulnerability and trend is included for each conservation area on this Register. Conservation areas identified as at risk in 2009, but not reassessed since using the revised methodology, are included on the Register but with more limited information.

516 (6.6%) of the conservation areas for which English Heritage have information for are at risk, 66 (10.2%) of them in the West Midlands region.'

There are currently four (out of 64) conservation areas in Herefordshire included on the 2011 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.

This application site would encourage customers to not venture into the town centre but to stay on the by-pass, thereby potentially reducing trade within Ledbury town centre with the consequent reduction in footfall and consumer spend. This could further result in the many independent businesses in the centre of Ledbury, most of which occupy listed buildings, having no funds to invest in the proper maintenance of their properties.

In Paragraph 6.3 (page 10) of the Archaeology and Cultural Heritage Report it states that "The Conservation Area is sufficiently distant from the proposed development site that it will not be affected". For the reasons given above, this statement is disputed. Similarly the statements in paragraphs 10.1 and 12.1 concerning the settings of heritage assets are disputed. The setting of an asset can be considered from both near and far and given the topography around Ledbury, particularly when approaching from the west, the long view of the town is an important part of its character and appearance. An increase in large sheds around the town would have a detrimental effect on the character and appearance of the area and would tend to discourage people from visiting the town centre.

The design of the proposed superstore and its associated filling station is disappointingly bland with the store being just a simple flat-roofed shed. It is interesting that the design chooses to respond to the industrial/shed nature of the area to the south of the site rather than taking the opportunity to provide a more iconic building that reflects its retail use and domestic customer and draws people in. It is a missed opportunity that seems to have taken a “lowest common denominator” approach, to the detriment of the area”.

- 4.9 The Public Rights of Way Section has no objections.
- 4.10 The Council’s Land Drainage advisor states that “The findings of the flood risk assessment and drainage strategy are not clear – the flow rates vary considerably between different parts of the report. The principles are sound but the numbers are inconsistent. Clarification is therefore required.”
- 4.11 The Country Archaeologist has no objections.
- 4.12 The views of the Planning Ecologist and Senior Landscape Officer are reflected in the Officer’s Appraisal later in this report.

5. Representations

5.1 Ledbury Town Council OBJECT on the following grounds:-

- The application site is in the wrong place i.e. too far out of town;
- The building size is out of proportion, and would have a dire economic effect on the town;
- There is no justified need for the proposed 30,000 sq ft store;
- Loss of employment land;
- Impact on viability and vitality of the town centre;
- Potential loss of employment in the town and its hinterland;
- Increased traffic and access problems particularly from the town centre via Bye Street and Bridge Street, through to the trading estate. This would also conflict with the recommended route for HGV’s

The objection was taken with regard to Sections EC10, 13, 14, 15, 16 and 17 of PPS4 and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.

5.2 Wellington Heath Parish Council object to the planning application for the following summarised reasons:-

- Adverse impact upon the viability and vitality of the Town Centre;
- The out-of-town location would not be conducive to linked-trips to the Town Centre;
- There are numerous examples of declining town centres due to “out of town” supermarkets and other retail developments both locally (e.g. Ross-On-Wye and Malvern) and nationally;
- Notwithstanding the issue of location, the scale of the proposal is too large – in the opinion of the Parish Council a net sales area not exceeding 2,000 square metres would be more appropriate;
- The Parish Council are not opposed to the provision of more retail space in a more central location. The Parish Council are not satisfied that the applicant has given proper consideration to the “Lawnside site”;
- If the viability and vitality of the Town Centre is adversely affected the ability to upkeep the listed buildings in the town would be affected. This may also have an impact upon the tourism trade;
- The current food shops in the town centre tend to source produce locally whereas national retailers tend to source produce from a much wider area. Local produce has a much lower carbon footprint;

- Major supermarket retailers are producing more cheap pre-prepared meals and processed food than local independent shops with obvious consequences to human health;
- The profits from major retailers leave the locality whereas the profits from local independent shops tend to be ploughed back into the local economy;
- Loss of employment land. It is important that manufacturing is retained in the town to provide long-term stable full time employment; and
- Only 44 of the 220 jobs would be full-time.

5.3 Bosbury Parish Council supports the proposal and makes the following summarised comments:-

- Concern that a new store would be detrimental to the town or could have the opposite effect of encouraging more people to come to Ledbury;
- Competition with existing stores could be beneficial for all;
- As the Ledbury population grows in the coming years the store could be needed;
- Another petrol filling station in the town would be very beneficial;
- The Parish Council questions how many jobs would be full-time and how many part-time; and
- Galebreakers would be helped to stay in Ledbury and with larger premises could employ more people

5.4 Putley Parish Council state that their Councillors were split with 4 opposing the proposed development and 3 favouring it. The points that were made are summarised as follows:-

Those against:-

- It will impact Ledbury town and its character.
- The creation of new jobs will simply displace existing jobs in the High Street, to little benefit in employment
- It will change the opportunity to buy local produce which will not be available at Sainsbury's, therefore being detrimental to local suppliers.
- In other towns, there is a history of smaller shops and local producers have closed as a result of a supermarket being built.
- Potential danger of loss of tourism in Ledbury if smaller shops close and character of this Market Town changes.
- A supermarket of this scale will doubtless sell everything, which will not just impact on local food producers.
- The scale of the retail specification seems to allow for future housing development and an increase in population. Is this also wanted in Ledbury?
- Location and size is objectionable

Those in favour: -

- This should not make much difference to the character of Ledbury
- There are more specialist shops in Ledbury, so the impact would be minimal
- It is not really out of town as it is easy accessible.
- It will not draw shoppers out of Ledbury as people already shop at Homebase and don't necessarily go into Ledbury from there
- The petrol station would give extra competition to the only other filling station in Ledbury
- There will naturally be creation of jobs
- Many people go to the bigger supermarkets in Malvern and Hereford for their main shopping. This will keep them in Ledbury

5.5 Aylton Parish Council support the proposal.

5.6 The Herefordshire and Worcestershire Chamber of Commerce consulted their Members in the Ledbury area, the majority of whom supported the Sainsbury's proposal (as opposed to Tesco's recently withdrawn proposal or neither proposal). They state that Sainsbury's proposal itself is a brand, working to keep investment and business in Ledbury, and avoid losing business investment to Malvern and further afield. They state that their Members feel that the presence of another fuel station in Ledbury would be a positive development, whilst feeling that the Sainsbury's plan will help Ledbury to become more diverse in bringing a different brand to the town, over Tesco, which already has a presence in the town. They state that many of their Members felt that it should be restricted to convenience shopping only to negate the impact upon the Town Centre. They express the view that further consultation would be needed in Ledbury regarding the scale. They also state that the proposal would assist the relocation and expansion of an existing local business.

5.7 The Council for the Protection of Rural England (CPRE) (Herefordshire) object to the proposed development on the following summarised grounds:-

- The store is out-of-centre
- The scale of the store is "huge" and would inevitably lead to a loss of trade in the town centre and the closure of retail shops
- There are unlikely to be linked trips with the Town Centre
- Because of the method of operation of superstores and economies of scale compared to smaller retail shops there is likely to be a net loss of jobs
- The closure of town centre shops would make jeopardise listed buildings and make Ledbury less attractive for residents and tourists
- The Sainsbury proposal would have an even more serious impact than the recently withdrawn Tesco proposal as the net increase in retail floorspace to Ledbury would be materially greater; and
- The proposal results in the loss of high quality employment land that is needed
- Ledbury is in the centre of a local food web. Ledbury retailers sell local products and this is important to the viability of local farming and horticultural businesses. Superstores source their goods from all over the country, adding significantly to food miles, and the profits from sales are largely lost to the local community.

5.8 Ledbury Civic Society object on the following summarised grounds:-

- The inappropriate out-of-centre location of the proposed development;
- Adverse impact upon the viability and vitality of the town centre (including small independent retailers);
- The site is in an unsustainable location dependant upon the car;
- The site would not encourage "linked-trips" to town centre shops as it is so distant;
- The proposal is likely to lead to deterioration in the condition of listed buildings in the town centre currently occupied by retailers. Such a deterioration would adversely affect the conservation area and the attractiveness of the town to tourists;
- Concern re: traffic travelling through the town from the east;
- Concern that the extra jobs claimed may not be maintained in the long-term;
- 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 within the local economy and has a significant multiplier effect;
- Ledbury Town Centre has been acclaimed as an environment of European importance (Civic Trust Regeneration Report on 'Ledbury a Visitor Strategy') and in Radio Four's Today programme survey came out of one of the top four high streets in the country.

5.9 The Ledbury Area Cycle Forum considers that:-

- Insufficient cycle parking provision is proposed
- Lockers should be provided for staff; and
- Increase in traffic along the bypass would prejudice the safety of pedestrians and cyclists

5.10 At the expiry of the publicity period inviting representations (i.e. 3rd February 2012) the Local Planning Authority had received 2,409 written expressions (i.e. letters, e-mail and completed printed cards) of OBJECTION. The planning grounds of objection are summarised as follows:

- Loss of employment land;
- Failure to comply with local and national policy for the consideration of large format out of town stores, including the requirements of the sequential assessment;
- Detrimental to the vitality and viability of Ledbury's Town Centre;
- Detrimental impact on existing shops, businesses and independent retailers in Ledbury's Town Centre and the surrounding area by reducing 'linked shopping trips' and creating a 'one stop' shopping experience;
- Failure to demonstrate need or demand given the town already has two supermarkets;
- Scale of development disproportionate to the size of Ledbury Town,
- Detrimental impact on the character, attractiveness and quality of Ledbury's High Street;
- Risk to Tourism economy if Ledbury loses its identity and charm
- Risk to existing jobs in the wider economy with misleading prospect for new employment;
- Detrimental effect on the historic buildings and fabric of Ledbury's Town Centre;
- Additional traffic could lead to congestion at peak times and noise and pollution throughout the town and surrounding areas;
- Detrimental impact on amenities of adjoining neighbouring residential properties, particularly Bronte Drive, through noise of deliveries and general activity from within the store, increased traffic and lighting;
- Development will reduce the sense of belonging, well being and social cohesion within Ledbury;
- Unsustainable locations which will be heavily reliant on car usage;
- Harmful to the environment and climate change;
- Scale and design of the proposed building detrimental to the character and appearance of the area and will be visually obtrusive.
- The development will affect the slow worms present on the site and provides habitats for bats and owls.
- Contrary to Central Government advice and UDP policies.

5.11 Ledbury Opposes Out of Centre Town Superstores (LOTS) object to the proposed development on the following summarised grounds:-

- The scale / size of the store is unjustified and will inevitably have an adverse impact upon the vitality and viability of the Town Centre;
- The submitted sequential assessment is inadequate and fails to address whether a more appropriately scaled smaller store could be accommodated closer to the Town Centre;
- The proposal would have an adverse impact upon the High Street;
- The development is in an unsustainable location that would not encourage linked-trips. It would become a one stop shop – destination in its own right;
- The argument that the store will draw shoppers from further afield to the town centre is flawed;
- A loss of trade in the High Street leading to vacancies or introducing low rent uses; and
- A consequence of vacant and low rent premises would be a deterioration of the fabric of buildings in the High Street deterring both residents and visitors.

5.12 LOTS make the point that in relation to a similar proposal for an out-of-centre superstore (5,069 sq metres) that was recently withdrawn, a public petition of 3,255 signatories was received by the Council objecting 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.

That site is directly opposite the land the subject of this application. LOTS specifically state:

"When we collected these signatures our clear intention was not to object to Tesco as a company but to the proposed disproportionately large out of town centre retail development which we and our signatories believed would have an intensely negative impact on Ledbury.

We would submit that our petition is as relevant a statement of objection to the identically sized and located Sainsbury's development which has now superseded the Tesco proposal.

We did nor could not have feasibly repeated a petition against the Sainsbury's plan so soon after collecting signatures against the rival Tesco plan. We very much hope therefore that you will accept the spirit of our objection encapsulated in our campaign group title of which everyone is aware: Ledbury Opposes Out of Town Superstores."

5.13 At the expiry of the publicity period inviting representations (i.e. 3rd February 2012) the Local Planning Authority had received 992 written expressions (i.e. letters, e-mail and completed printed cards) of SUPPORT. The planning grounds of support are summarised as follows:-

- More product choice
- More affordable products
- Employment creation
- The provision of a petrol station (more competition and cheaper prices)
- Plenty of car parking which the Town Centre lacks
- Assisting local companys to expand
- The provision of such a superstore would redirect people who currently travel out of Ledbury to shop to stay within the Town thus 'reducing carbon footprints'

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

- The proposal would relieve High Street of traffic within walking distance of many private houses on town circular bus route.
- The proposal would help the local economy to grow
- As a growing town there is a need for a new supermarket as the current two are insufficient in scale and often struggle to meet the consumer demands.
- The proposed store is close enough to the Town Centre for people to walk
- The store would provide a valuable range of comparison goods (e.g. clothes., CD's. books)
- Jobs would be created by the construction phase;
- The enhanced pedestrian & cycle routes to town would be acceptable
- The proposal would enable the relocation and expansion of the Galebreakers business which intends to expand and create at least 10 skilled jobs;
- There are not any sequentially preferable sites in Ledbury
- The proposed store would open longer hours than the existing Town Centre stores;
- The proposal would not adversely affect Town Centre premises and even if shops become unviable, alternative uses would be found (e.g. residential)

5.14 A petition with 2,517 signatories has been received urging Herefordshire Council to consider and view this planning application favourably. They consider the proposed development to be much needed.

5.15 The professional agent acting on behalf of the Co-Op have submitted a detailed objection which concludes that:-

“Policy EC17.1 of PPS4 recommends that planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan should be refused where:

- The applicant has not demonstrated compliance with the requirements of the sequential approach; or
- There is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in EC10.2 and EC16.1 of PPS4, taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.

In this instance, it is clear that the Sainsbury's application has failed both limbs of Policy EC17.1 and should be refused. In particular, the applicant has failed to offer a robust assessment of the proposed development in the context of the sequential approach under Policy EC15 of PPS4 and development plan policies. In addition, there are significant adverse impacts associated with at least two of the criteria in EC16.1 of PPS4, including the financial impact of the proposed development and its overall adverse effect on the vitality and viability of Ledbury town centre.

Beyond these core policy criteria, there are also concerns over the conformity of the proposed development in the context of its accessibility (EC10.2 of PPS4) and the loss of employment land.

In light of the above, the Co-op invites Council officers to show consistency with their recommendation in relation to the Tesco proposal and also recommend the Sainsbury's application for refusal, and we hope that in due course the Council's Planning Committee will refuse this application.”

5.16 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.

6.2 Sequential Testing

6.3 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.

6.4 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.

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

6.6 The existing retail store (Tesco) site at the corner of The Homend and Orchard Lane (Approximate Site Area = 0.8 hectares)

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

6.8 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.

6.9 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 fronting 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.

- 6.10 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 and be “invited” into the Town Centre which would be downhill. There may even be the ability to create a further floor over part of the building at its south-eastern corner and along The Homend frontage. It is considered that it would be possible in design terms to create a store in the region of 4,830 sq metres (gross) with a net sales area in the region of 2,400 square metres. This is not an acceptance that Ledbury has sufficient residual capacity to support such a store but a case that there is a sequentially preferable site.
- 6.11 The agent for the applicant submits that a larger store is not capable of being accommodated on this site as:-
- Tesco do not consider it to be feasible or viable to either extend their existing store, or to develop a new store on the site;
 - Such a development would raise a series of design challenges; and
 - The cost of closing the store to allow for redevelopment would be unviable.
- 6.12 It is considered that as described above, with a degree of creative design it would be possible to design a scheme that enhances the townscape. It is also considered that notwithstanding, the cost of closing the store to allow for redevelopment, such a development would be viable. It is understood that a reasonable “rule of thumb” would be that to justify a twelve month closure (although a full twelve-month closure may not be necessary) and redevelopment one would normally need to double the floorspace of the store being demolished. Given that the existing store has gross floorspace of some 2,162 square metres with a net sales area of 1,175 square metres and the redevelopment concept outlined above would have a gross floorspace of 4,830 square metres with a net sales area of some 2,400 sq metres, the size of the resultant store would be more than double. As a consequence and without a full financial viability study to the contrary it is considered that the redevelopment of the existing Tesco site remains an option.
- 6.13 Interestingly given that a redevelopment would partially replace existing floorspace to be lost such a scheme would only add some 2,568 square metres (gross) and 1,225 square metres net sales to the existing retail floorspace of Ledbury as opposed to the Sainsbury’s proposal under consideration that would add 5,427.8 square metres (gross) and 2,787 square metres net sales .
- 6.14 Therefore the reasoning forwarded by the agent for the applicant in dismissing this site in providing additional retail floorspace within Ledbury 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.
- 6.15 Car Park west of Lawnside Road, off Bye Street (Approximate Site Area = 1.12 hectares)
- 6.16 This is another genuinely edge-of-centre site. The site comprises a car park, 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.
- 6.17 It is considered that this wider site could easily accommodate a two storey development with short-term parking beneath a store. The surrounding area includes buildings of varying heights including three storey flatted blocks on the eastern side of ‘Lawnside’ and three storeys to the ‘Ledbury Community Health and Care Centre Hospital’ complex. The landowners may or may not wish to sell their land and may wish to secure appropriate replacement provision within a comprehensive redevelopment or 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). They may not even wish to retain their facility at all.

6.18 Such land assembly and a comprehensive redevelopment may take time and, as such, 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 by the agent for the applicant. Whilst the entirety of 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 (i.e. the Galebreakers site) was being actively marketed prior to the submission of this planning application. Interestingly, at the time of writing this report the ambulance station land is currently on the market. The agent for the applicant has not provided any written documentary evidence to demonstrate that genuine enquiries have been made to the landowners of this site and the landowner's responses.

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

- a) there would be concerns about the bulk, massing and scale of development, especially given the close proximity to the conservation area and listed buildings;
- b) there is not sufficient space to provide the necessary car parking, which would also need to provide for the loss of current spaces; and
- c) Bye Street would not be able to accommodate the vehicular movements generated by a foodstore.

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

- a) a scheme could be designed that would not adversely affect the area and the setting of the listed buildings and the Conservation Area. Only the ambulance station is in the Conservation Area and only the adjoining public house is listed. It is considered that a comprehensive two storey redevelopment of the site would afford the opportunity of enhancing the townscape;
- b) 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; and
- c) the agent for the applicant fails to state whether the problems he foresees with regard Bye Street are matters of the design of the highway or ones of highway capacity. No professional Transport Assessment has been submitted addressing this matter. Clearly traffic volumes would depend upon the size of store proposed.

6.21 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.

6.22 Impact upon the vitality and viability of the existing town centre

6.23 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.

6.24 However, in summary, the independent professional planning consultants (Drivers Jonas Deloitte) have expressed concerns about the robustness of both the agent's for Sainsbury's (Turley's) expenditure capacity and impact assessments.

- 6.25 Drivers Jonas Deloitte are of the opinion that Turley's assessment of expenditure capacity is unrealistic, principally because it assumes redirection from centres elsewhere to Ledbury of all residents' expenditure from the catchment area, despite the eastern part of the catchment extending into areas relatively close to and with a strong allegiance to Great Malvern.
- 6.26 Drivers Jonas Deloitte believe that Turley's assessment of impact on Ledbury shops is incomplete, because the impact on Ledbury shops has been calculated based on the proposed store turnover from the catchment only, and has ignored trade diversions from expenditure from beyond the catchment. This is a major omission which will have underestimated the impact on Ledbury convenience stores in particular.
- 6.27 Drivers Jonas Deloitte accepts 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, it should not be assumed that the specialist convenience shops in Ledbury will be immune from the commercial pressures of substantial additional large foodstore provision.
- 6.28 In addition, Drivers Jonas Deloitte considers that 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.
- 6.29 Therefore it is considered that the expenditure capacity and impact assessments forming part of the planning application are not robust and fail to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within Policy EC15 of Planning Policy Statement 4 and Policies S5, TCR1, TCR2 and TCR 9 of the Herefordshire Unitary Development Plan 2007.
- 6.30 "Linked –trips"
- 6.31 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.
- 6.32 The application site is a walking distance of approximately 830 metres to 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 routes are uphill, rather convoluted and not particularly safe in that pedestrians are likely to have personal security concerns. Whilst these routes could be enhanced (e.g. by provision of lighting) parts do not have passive surveillance (are not overlooked).
- 6.33 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.
- 6.34 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 3**.
- 6.35 Impact upon Heritage Assets
- 6.36 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

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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.

6.37 Transportation

- 6.38 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.
- 6.39 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.
- 6.40 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.
- 6.41 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).
- 6.42 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.
- 6.43 Attention is drawn to paragraph 4 of the appeal decision attached as **Annex 3**.
- 6.44 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.
- 6.45 Detailed matters that are not fundamental to consideration of the application and could be overcome by way of negotiation are:-
- design of cycle parking; and
 - the omission of dropped kerbs at the site entrance.

6.46 Loss of employment land & other employment issues

- 6.47 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.
- 6.48 It is understood that the proposed store would generate some 230 jobs. Of these 44 are likely to be full time. The remainder would be part-time staff. The applicant estimates the total full time equivalent job (FTE) numbers to be 100. 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. It is also considered to be logical to assume that due to economies of scale, larger stores such as that proposed may have lower employment densities (i.e. staff / floorspace ratios) than smaller stores.
- 6.49 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.
- 6.50 Documentation submitted in support of the planning application states that there are sufficient levels of employment land in Ledbury to meet current and future demands. However, despite reference to Herefordshire Council's Employment Land Study (update September 2011), the supporting documentation omits reference to the quality of such land.
- 6.51 The Employment Land Study undertakes a qualitative and quantitative assessment of strategic employment sites across Herefordshire. Information submitted in support of the application (Harris Lamb report – October 2011) identifies 18.31 hectares of employment land allocations in Ledbury. However the Employment Land Study notes that land north of the railway viaduct (12.27 hectares) is of poor to moderate quality. The reasoning for this rating is based on two factors. Firstly the viaduct site is considered to be poor when judged against criteria for market attractiveness (e.g. site development constraints and access to strategic road network). Alongside this the viaduct site is assigned the lowest rating for its sustainability and strategic planning potential.
- 6.52 In comparison to the above, the Lower Road Trading Estate is the only employment land within Ledbury classified as 'good'. This is due to the site scoring highly both in terms of its market attractiveness and its sustainability and strategic planning potential. The Employment Land Study notes the Lower Road Trading Estate is 13.87 hectares in size of which 5.15 hectares is currently vacant. The application represents 20.2% of the overall Trading Estate. The application site includes approximately 1.5 hectares of vacant land (former Huna Designs site) which equates to approximately 29.1% of current vacant land on the site.
- 6.53 Policy S4 part 2 seeks to ensure a suitable range of quality and location of employment land. Accordingly the proposed development would be contrary to this statement as it would represent a loss of good quality employment land.
- 6.54 Policy S5 part 3 states that town centre uses that generate and attract many trips, including retail should be located in or adjacent to existing centres. This proposal is contrary to this policy as it is located in an out of centre location being located approximately 900 metres from the primary shopping frontage and located in excess of a 10 minutes walk from an hourly public transport service.

- 6.55 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. Furthermore it would also be necessary for a development proposal to demonstrate that the application site is unsuitable for other employment uses.
- 6.56 The supporting Planning Statement states that “*The partnership with Sainsbury’s will also ensure that Galebreaker are able to remain in Ledbury.*” However, during discussions, Galebreakers stated that their continuing operation in Ledbury was not reliant upon relocation and that they could continue to operate in their existing premises. This indicates that their site is suitable for continued employment operation and therefore the application is contrary to the principles of policy E5 part 1. The land would also be suitable for other potential employment users.
- 6.57 Policy E5 part 2 states that any retail use within designated employment sites should be ancillary to the employment use. The application is contrary to this policy as it would replace the entire employment use.
- 6.58 Paragraph 6.4.26 of the UDP states that retail development within employment sites could detrimentally impact future employment development. The proposed development would have detrimental impact upon both the employment opportunities on the existing site and, alongside the shortage of good quality employment land in Ledbury, a detrimental impact upon the wider economic development of the area.
- 6.59 The Core Strategy has recently been subject to a Revised Preferred Options consultation. This consultation focused on amendments to housing figures and the plan period. 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 did not advance to application stage due to access difficulties for heavy good vehicles. Accordingly the site has been classed as moderate – poor in its quality as employment land.
- 6.60 The general policies of the Core Strategy were subject to consultation at the preferred options stage (Autumn/Winter 2010) and of particular importance is policy EC.1 – Economy. Policy EC.1 states that highest quality employment land will be protected from alternative uses. Accordingly as the application site is the only good quality employment site in Ledbury, the application is contrary to emerging policy.
- 6.61 Central Government advice contained within part d policy EC2 of Planning Policy Statement 4 entitled ‘Planning for Sustainable Economic Growth’ 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 the only good quality employment site in Ledbury. The loss of such land would be contrary to PPS4.
- 6.62 The Planning Inspectorate note that the 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. It is considered that the proposal does not represent sustainable development and therefore fails to meet this most fundamental policy test.
- 6.63 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. Furthermore the market signals do not give rise to the

claim that the site is being unduly protected. Galebreakers indicate they can continue to operate from their existing site. Should their long-term future be away from their existing site, then this site should be subject to a robust and extensive marketing campaign for alternative employment uses prior to allowing any changes of use.

- 6.64 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 fifteen-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. Given the setting and landscape constraints around Ledbury, this could result in unsustainable development.
- 6.65 Current work is ongoing to complete the AMR for the monitoring period 2010/2011. 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.
- 6.66 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. Accordingly, in the short-term, there is a lack of deliverable employment sites within Ledbury that would be exacerbated by the proposed development and result in potential failure to delivery a diverse range of employment land across the county.
- 6.67 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.
- 6.68 Flooding
- 6.69 The Environment Agency and the Council's Land Drainage advisor 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.
- 6.70 Design
- 6.71 The design of the building is functional and considered acceptable in terms of its location within an industrial area.
- 6.72 Landscaping
- 6.73 The proposed landscaping strategy appears reasonable although further detail would be required with regard location, species and density of planting. However, there is a fundamental problem in that the enhanced planting in the existing landscape buffer to the east of the proposed store to the rear of the houses in Bronte Drive is not within the planning application site area or on adjoining land within the applicant's ownership and as such cannot be secured other than by way of legal agreement. The deposited Draft Heads of Terms does not cover this issue. The enhancement of this landscape buffer is considered to be critical in terms of softening the expanse of the rear elevation of the store from those properties in Bronte Drive. This is one of the few benefits offered by the scheme as it completes a wildlife corridor and would be of benefit to local residents. Tree planting within the expanse of car parking is welcomed. Precise details of hard landscaping materials and "furniture" would be

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required (e.g. lighting, bollards, barriers, trolley park design). Particular attention would need to be had with regard the retaining walls. By levelling the land the store and parking would effectively be enclosed to a high degree by retaining walls. These walls would dominate the user experience of the car park. The precise treatment and appearance of these walls would be crucial. Innovative design and construction of these walls could help to create a sense of place rather than merely a utilitarian and functional wall.

6.74 Ecology

6.75 The application is accompanied by an ecological assessment. A presence/absence reptile survey has been undertaken at an appropriate time of year and slow worms have been found to be present although it is not possible to assess the population size from this number of surveys. Slow worms are protected against sale and injury under the Wildlife and Countryside Act and are also a BAP (Biodiversity Action Plan) species of conservation concern. The survey information that has been presented does not include details of the locations of the reptile tiles that were placed or under which refuges the slow worms were found. Insufficient habitat will be retained on the site for reptiles so the proposed mitigation includes translocation of the reptiles to a suitable receptor site. To comply with Natural England's guidance and Standing Advice on reptiles, the receptor site should be close to the application site and of at least the same size. The receptor site should also be within Herefordshire, have suitable reptile habitat and ideally no existing populations of slow worms; it should also have long-term security from future development. No receptor site has been identified and in the absence of this information it is not possible to establish whether translocation is a potential or suitable mitigation strategy. This is a significant omission from the submitted application. Details of the site and landowner would need to be included in a Section 106 Agreement to ensure long-term protection and monitoring of the receptor site. It should also be noted that trapping and translocation could take much longer than the 10 days indicated in the report.

6.76 Therefore, the presence of protected species in the form of slow worms has been established. Insufficient habitat will be retained on the site for reptiles so the mitigation measures proposed by the applicant include translocation of the reptiles to a suitable receptor site. Such a receptor site should be close to the application site, within Herefordshire, have suitable reptile habitat and ideally no existing populations of slow worms. The submitted application fails to identify a suitable receptor site. The submitted planning application cannot be approved without a suitable receptor site having been identified as in the absence of a suitable receptor site being identified, the Local Planning Authority are unable to establish whether translocation is a suitable mitigation strategy. In addition, the application does not include a suitable legal mechanism to secure translocation to an identified suitable receptor site together with long-term protection and monitoring of the receptor site. As such the proposal is contrary to the Central Government advice contained within Circular 06/2005, Planning Policy Statement 9 entitled 'Biodiversity and Geological Conservation and policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007.

6.77 Residential Amenity

6.78 Concern has been expressed with respect the impact of the proposal upon the amenities of the occupiers of the houses in Bronte Drive to the north-east of the site.

6.79 The proposed store building would be close to the north-eastern boundary.

6.80 The eaves height of numbers 12, 18, 32, 36 and 38 are 55.3 (AOD), 55.3 (AOD), 56.75 (AOD), 56.8 (AOD) and 56.8 (AOD) respectfully. The ridge heights of the houses at numbers 12, 18, 32, 36 and 38 are 58.35 (AOD), 58.35 (AOD), 58.8 (AOD), 58.9 (AOD) and 59.6 (AOD). The height of the rear elevation of the store varies between 56.15 (AOD) and 57.35 (AOD). In essence, at no point is the eaves level of the store more than 85 cm above the eaves level of the aforementioned houses and the ridge level of the store (57.63 AOD) is materially lower

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than the ridge level of the houses. This has been achieved by effectively lowering the store into the ground as previously described. The restricted height of the store and the fact that the distance from the original rear elevations of the houses in Bronte Drive exceeds 21 metres means that I am satisfied that the proposed store not be unduly high nor would it result in an undue loss of daylight and / or sunlight to properties in Bronte Drive.

6.81 The Environmental Health Manager has addressed issues relating to noise, lighting and air pollution from the service yard, car park, plant and the bio-mass boiler. He is satisfied that there would not be undue loss of amenity to occupiers of residential properties in the immediate vicinity. An appropriate planning condition could be attached restricting the hours of deliveries and despatches.

6.82 Contaminated Land

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

Petrol Filling Station

6.84 Ledbury currently has two petrol filling stations, one within the Town Centre on the eastern side of The Homend and one on the western side of the A417 approximately one mile south of the Town.

6.85 The proposed Petrol Filling Station needs to be considered against the provisions of policy TCR18 of the Herefordshire Unitary Development Plan 2007 and other Development Plan policies.

6.86 The site is located within Ledbury, albeit on the periphery. The proposed kiosk is considered to be modest in scale. It is also considered that the proposed petrol filling station would not adversely affect the amenities of the occupiers of existing residential properties in the area. Emission of petrol vapours would be regulated under the Environmental Permitting Regulations 2010.

6.87 However, the petrol filling station is located upon land safeguarded for employment purposes. This employment land is of a high quality. As such, the petrol filling station element of the proposal also conflicts with Policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.

6.88 Draft Heads of Terms

6.89 The Draft Heads of Terms submitted by the agent for the applicant is attached as **Annex 2**. 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 £652,065 (index linked). The Draft Heads of Terms fails to secure the proposed enhancement to landscaping outside of the planning application site adjacent to the eastern boundary.

6.90 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).

6.91 Conclusion

6.92 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 EC17 of Planning Policy Statement 4 and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The local planning authority consider that the expenditure capacity and impact assessments forming part of the planning application are not robust and fail to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within Policy EC17 of 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 including the petrol filling station, 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 the satisfaction of the Local Planning Authority 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 presence of protected species in the form of slow worms has been established. Insufficient habitat will be retained on the site for reptiles so the mitigation measures proposed by the applicant includes translocation of the reptiles to a suitable receptor site. Such a receptor site should be close to the application site, within Herefordshire, have suitable reptile habitat and ideally no existing populations of slow worms. The submitted application fails to identify a suitable receptor site. The submitted planning application cannot be approved without a suitable receptor site having been identified as in the absence of a suitable receptor site being identified, the Local Planning Authority are unable to establish whether translocation is a suitable mitigation strategy. In addition, the application does not include a suitable legal mechanism to secure translocation to an identified suitable receptor site together with long-term protection and monitoring of the receptor site. As such the proposal is contrary to the Central Government advice contained within Circular 06/2005, Planning Policy Statement 9 entitled 'Biodiversity and Geological**

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

Conservation and policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007.

8. 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).
9. The proposed enhancement of the landscape buffer with associated biodiversity benefits to the rear of the proposed retail store does not lie within the planning application site area and as such a planning condition could not secure its provision. Furthermore no other legal mechanism is provided by the applicant to secure this landscaping. In the absence of this landscaping, it is considered that the continual horizontal mass and expanse of the building is such that it would have an adverse impact upon the amenities of the occupiers of numbers 12, 14, 16, 18, 20, 34, 36, 38, 40, 42, 44 and 46 Bronte Drive, contrary to Policies S2, DR2, LA6 and NC7 of the Herefordshire Unitary Development Plan 2007.

Informative:

1. For the avoidance of any doubt the documents to which this decision relates are:-
 - 1) Letter dated 28th Oct from Turley Associates received 31st October 2011
 - 2) Draft Heads of Terms received 31st October 2011
 - 2a) Existing Site Plan / Red Line Boundary - Drawing PL-01 received 31st October 2011
 - 3) Existing Site Layout – Drawing No. PL-02 received 31st October 2011
 - 4) Existing Elevations – Drawing No. PL-04 received 31st October 2011
 - 5) Existing Site Sections – Drawing No. PL-03 received 31st October 2011
 - 6) Proposed Site Plan – Drawing No. PL-10 received 31st October 2011
 - 7) Proposed Ground Floor Plan – Drawing No. PL-11 received 31st October 2011
 - 8) Proposed Roof Plan – Drawing No. PL-12 received 31st October 2011
 - 9) Proposed Elevations – Drawing No. PL-13 Rev A received 2nd February 2012
 - 10) Proposed Sections – Drawing No. PL-14 Rev A received 2nd February 2012
 - 11) Proposed Boundary Sections – Drawing No. PL-15 Rev A received 2nd February 2012
 - 12) Proposed Site Sections – Drawing No. PL-16 Rev A received 2nd February 2012
 - 13) Proposed Part Bays – Drawing No. PL-17 received 31st October 2011
 - 14) Sainsbury's PFS – Drawing No. 2592/20 received 31st October 2011
 - 15) Sainsbury's PFS – Drawing No 2592/12 received 31st October 2011
 - 16) Sprinkler Tank & Biomass Boiler details – Drawing No PL-20 received 7th December 2011
 - 17) Trolley Bay Shelter Details – Drawing No. PL21 received 7th December 2011
 - 18) Tree Survey Schedule received 31st October 2011
 - 19) Tree Survey Plan – Drawing No. 900-01 Revision B received 31st October 2011
 - 20) Tree Removal, Retention & Protection Plan – Drawing No. 900-02 Revision B received 31st October 2011
 - 21) Outline Landscape Proposals – Drawing No. 900-03 Revision D received 31st

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

October 2011

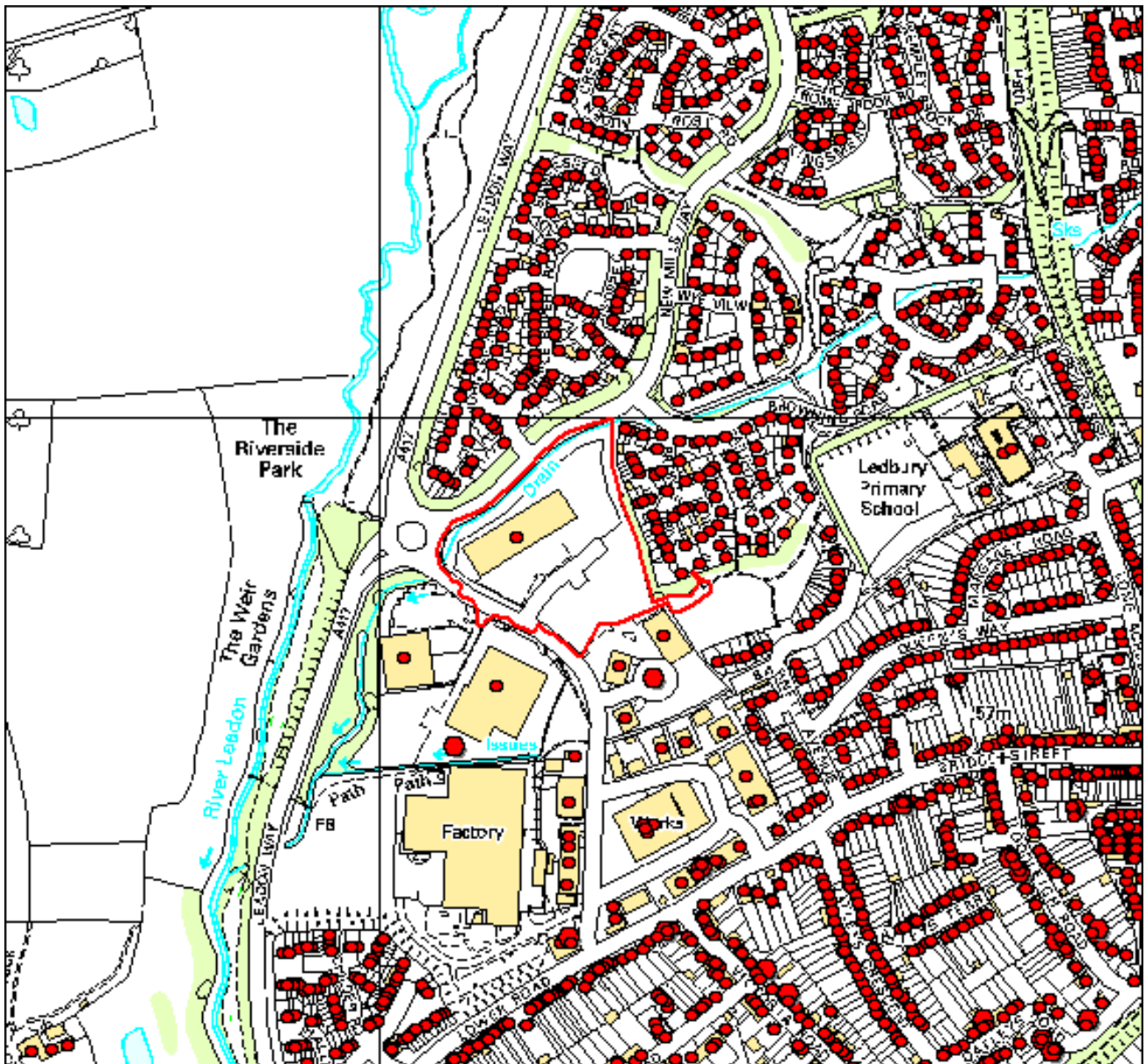
- 22) Inter Car Park Tree Pit Detail – Drawing No. 900-04 received 31st October 2011
- 22a) Pedestrian Walkway Tree Pit Detail – Drawing No. 900-05 received 31st October 2011
- 23) Statement of Community Involvement received 31st October 2011
- 24) Design & Access Statement received 31st October 2011
- 25) Planning Statement received 31st October 2011
- 26) Economic Assessment 7th November 2011
- 27) Employment Land Study received 31st October 2011
- 28) Transport Assessment received 31st October 2011
- 29) Interim Travel Plan received 31st October 2011
- 30) Service Yard Management Plan received 31st October 2011
- 31) Noise Impact Assessment received 31st October 2011
- 32) Air Quality Assessment received 31st October 2011
- 33) Renewable Energy & Energy Efficiency Assessment received 31st October 2011
- 34) External Car Park Lighting Statement received 31st October 2011
- 35) Landscape Statement received 31st October 2011
- 36) Ecological Assessment received 31st October 2011
- 37) Pan Brown Associates Phase 1 Desk Study received 31st October 2011
- 38) Flood Risk Assessment received 31st October 2011
- 39) Archaeological & Cultural Heritage Desk – Based Assessment received 31st October 2011 received 31st October 2011
- 40) Application Form received 31st October 2011

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/113052/F

SITE ADDRESS : LAND AT GALEBREAKER HOUSE, LEADDON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS

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