

MEETING:	PLANNING COMMITTEE
DATE:	18 SEPTEMBER 2013
TITLE OF REPORT:	<p>N123317/O - CLASS A1 FOOD STORE, PETROL FILLING STATION AND ASSOCIATED PARKING AND SERVICING FACILITIES, RESIZING AND REFURBISHMENT OF TWO CLASS B UNITS AND ASSOCIATED HIGHWAY WORKS AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF</p> <p>For: Mr Barris Liptrott, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU</p>
WEBSITE LINK:	http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123317&NoSearch=True

Date Received: 21 November 2012 Ward: Leominster South Grid Ref: 350133,258042

Expiry Date: 21 February 2013

Local Members: Councillors RC Hunt and PJ McCaull

1. Site Description and Proposal

- 1.1 The development site amounts to 2.7 hectares of employment land. It consists of an existing factory complex and outside storage areas, sitting within a predominantly industrial area, but in relatively close proximity to residential areas to the north west; the closest dwelling being approximately 250 metres away as the crow flies.
- 1.2 The site is bounded on 3 sides by public highways; beyond which are a series of individual commercial units. Bounding the site to the south is a small brook and further beyond is Leominster Enterprise Park. Beyond the Enterprise Park to the south and east is open countryside, intersected only by the railway line and adjacent A49 trunk road running in a north south direction to the eastern side of Leominster.
- 1.3 Southern Avenue runs along the front of the site and provides the main access road linking the various industrial uses within the vicinity with the rest of Leominster. Continuing in a westerly direction the road leads to Hereford Road, a primarily residential area, with direct access into the town centre. Southern Avenue continues northwards, turning to Worcester Road, through further industrial areas in the direction of the railway station and again to the town centre beyond.
- 1.4 The site is currently occupied by a series of industrial units with three separate occupants. The largest of these is Thomas Panels who occupy the largest premises and have sizable areas of external storage. Two smaller portal framed industrial units are located to the west of Thomas Panels, one fronting onto Southern Avenue with the other located behind. These units do not appear to be in as active use as many of those surrounding and are generally in a poor state of repair.

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

- 1.5 The proposal is made in outline, with all matters except access to be reserved for future consideration, and is for the construction of a retail food store and associated infrastructure, a four pump petrol filling station and the re-development of existing industrial units. There is no specified end user for the store at the present time. Although in outline the proposal is specific about the size of the store, amounting to a gross internal floor area of 4,180 m², with a net retail floor area of 2,926 m² and includes the provision of a 246 space car park.
- 1.6 The main access to the retail element of the development remains from Southern Avenue via a new roundabout junction; incorporating new and improved footpaths and cycle ways and a new bus stop to serve the development. The access road sweeps into the site to form a link road running parallel with Southern Avenue enabling the petrol filling station (PFS) to be located to the left and the main customer car park to the right.
- 1.7 The submission includes an indicative layout and elevations of the proposed retail store and these show a building facing onto Southern Avenue with the car park in the foreground. The plans show a contemporary design with a building finished in a combination of timber cladding and glazing in aluminium frames.
- 1.8 The proposal is supported by a range of documents which are listed as follows:
- Design & Access Statement
 - Economic Statement
 - Statement of Community Involvement
 - Preliminary Contaminated Land Assessment
 - Retail Assessment
 - Ecological Survey
 - Transport Assessment
 - Travel Plan
 - Stage 1 Road Safety Audit
 - Flood Risk Assessment
 - Section 106 Heads of Terms

2. Policies

2.1 National Planning Policy Framework

Paragraph 19 – This reinforces the Government’s desire to support sustainable economic growth and reads as follows:

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 22 – This advises against the long term protection of land for specific purposes where there is a lack of demand:

Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Paragraphs 23 to 27 – These paragraphs comments specifically on the need to ensure that town centres retain their vitality. They also comment on matters to be considered when assessing proposals for new retail proposals:

Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

This part of the NPPF goes on to advise that applications should be supported by retail assessments to determine the impact of the proposal on town centre vitality and viability up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. It concludes by stating that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.

2.2 Herefordshire Unitary Development Plan

- S1 - Sustainable development
- S4 - Employment
- S5 - Town centres and retail
- S6 - Transport
- S7 - Natural and historic heritage
- DR2 - Land use and activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning obligations
- E5 - Safeguarding employment land and buildings
- TCR1 - Central shopping and commercial areas
- TCR2 - Vitality and viability
- TCR9 - Large scale retail and leisure development outside central shopping and commercial areas
- TCR18 - Petrol filling stations
- T6 - Walking
- T8 - Road hierarchy
- T11 - Parking provision
- NC1 - Biodiversity and development
- NC7 - Compensation for loss of biodiversity
- NC8 - Habitat creation, restoration and enhancement

2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

- SS1 - Presumption in favour of sustainable development
- SS4 - Movement and transportation
- SS6 - Addressing climate change
- LO1 - Development in Leominster
- RA6 - Rural economy
- MT1 - Traffic management, highway safety and promoting active travel
- E2 - Re-development of existing employment land and buildings
- E5 - Town centres
- LD3 - Biodiversity and geodiversity
- LD4 - Green infrastructure
- SD1 - Sustainable design and energy efficiency

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

ID1 - Infrastructure delivery

2.4 As part of the evidence base for the completion of the Core Strategy the Council has commissioned a Town Centres Study update and this was completed in December 2012. This is referred to in the following Officer's Appraisal and is considered to be material to the determination of this application.

2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

3.1 There is a long planning history relating to the site. The following three applications are the most recent and are considered to be most relevant to the application:

N102032/F – Proposed extension to Unit 5, Southern Avenue – Approved 06/10/10

NC100060/F – Refurbishment and extension of industrial unit - 6, 7 & 8 Brierley Way – Approved 30/04/10

DCNC2008/1261/F – Proposed three buildings to provide nine units for B2 and B8 use – Unit 5, Southern Avenue – Approved 01/08/08

4. Consultation Summary

Statutory Consultations

4.1 Highways Agency – No objection.

4.2 English Heritage – No objection.

4.3 Welsh Water – No objection subject to the imposition of conditions to ensure that foul and surface water are drained separately from the site.

4.4 Environment Agency – With specific regard to the proposed petrol filling station the Environment Agency object to the application and have requested the submission of further information. The proposed site is located on a Secondary Aquifer of the Raglan Mudstone Formation bedrock aquifer, and is also located within a Groundwater Source Protection Zone 2 for a Welsh Water public water supply well at Midsummer Meadow to the east of the site near to the A49.

4.5 In the first instance, with reference to the above, we would expect the applicant to demonstrate that this site is the most suitable for the proposed use in this sensitive location i.e. it is unclear if there is a recognised need for a petrol station in this location; and if there may be more appropriate, alternative sites. We would require the applicant to justify that underground storage is essential i.e. that an above ground solution would be impossible.

4.6 The site also lies in close proximity to the River Lugg which is a Site of Special Scientific Interest (SSSI) at this location and also classified as a Special Area of Conservation (SAC) further downstream. Protection of the water environment is particularly important due to the requirements of the Water Framework Directive (WFD). The WFD sets a target of achieving 'good status' or 'good potential' in all water bodies by 2015 and there must be no deterioration in the existing status of water bodies.

- 4.7 On the issue of flood risk, the whole site is located within the 1 in 100 year floodplain whilst the updated map, in conjunction with the submitted site levels, demonstrate that the site lies primarily within the 1 in 1000 year floodplain. The modelled 1 in 100 year flood level at this location is 68.2m AOD.
- 4.8 The topographic site survey indicates that the site levels are 67.9m AOD at their lowest and 68.8m AOD at their highest. The lowest part of the site, including the location for the proposed retail building, is therefore in an area at risk of shallow flooding during the 1 in 100 year flood event.
- 4.9 In order to flood proof the new building we would recommend raising of the finished floor levels 300 - 600mm above the 1 in 100 year plus 20% (allowance for climate change) flood level, including any additional flood proofing. The site layout therefore should, if viable, be re-designed so that the main retail building is located on the higher parts of the site, i.e. FZ1 and on land above the 1 in 100 year flood level of 68.2mAOD with the car parking located on the lower lying ground with existing levels maintained. This would reduce the volume of infill required to raise floor levels and negate the need to provide floodplain storage compensation.

Internal Council Consultations

- 4.10 Transportation Manager – Objects to the application on the basis that the site is remote from the town centre, in an unsustainable location and that the overwhelming majority of trips to the site will be by private motor car. Notwithstanding this, the designs of highway improvements are acceptable in themselves, and if you are minded to grant planning permission, they will go some way to mitigate the worst effects of the development's siting, although not enough to compensate for the poor position of the site itself.
- 4.11 Environmental Health and Trading Standards Manager – No objection subject to conditions
- 4.12 Public Rights of Way Manager – No objection
- Conservation Manager
- 4.13 Landscape – No objection subject to the imposition of conditions
- 4.14 Ecology – The existing layout is not acceptable with the service yard too close to the stream, but no objection in principle provided that a sufficient buffer zone of at least 6 metres can be provided in mitigation. It is also recommended that additional biodiversity enhancement measures are required.
- 4.15 Historic Buildings – Raises concerns about the impact of the proposal on the town centre and the potential impact of increased vacancy rates on the historic core.

5. Representations

- 5.1 Leominster Town Council – Object to the application on the grounds that:
- The site is Class B and not Class A retail
 - It will have a major effect on town centre business
 - Possible flooding
 - Issues surrounding the contamination of the land
 - Leominster Parish Plan has strong support for independent businesses
- 5.2 River Lugg Internal Drainage Board – No objection subject to a requirement that no additional surface water runoff is permitted to the ditch to the south of the application site without the written consent of the Board.

- 5.3 CPRE – Object to the application on the basis that the proposed development seriously threatens the viability of the excellent local shops and consequently the character of the town. Their comments also refer to the ‘Portas Review’ commissioned by the Government in 2011 and its aim to put the heart back into High Streets. This proposal is considered contrary to the aims of the review.
- 5.4 Leominster Civic Society – Object to the proposal on the following grounds:
- Consider that the building of any further supermarkets in the town is likely to seriously damage the economic well-being of the town centre, its local shops and in turn a network of other local businesses.
 - The proposal will have a long-term effect on the character of Leominster conservation area due to the probability of shop closures and consequent lack of investment.
 - The proposal will result in the loss of high quality employment land.
 - Concern that the proposal would lead to a loss of existing employment from town centre shops.
 - Unsustainable location
 - The introduction of a further roundabout and additional traffic will impede traffic flows at peak times.
- 5.5 North Herefordshire Constituency Green Party – Object to the application on the following grounds:
- The proposal will increase car dependency contrary to sustainability objectives.
 - The store is out-of-town and will damage the existing town retail area.
 - The closure of shops will lead to the neglect of historic buildings.
 - The retail impact assessment completed by the applicant’s agent concludes that there will be a substantial impact in terms of loss of trade in the town centre.
 - It will have a particular impact on the Co-Op which plays a pivotal role in the town centre.
- 5.6 Sixty four surveys completed by independent traders in the town centre have been received. The survey asks a number of questions of those completing it, including whether they consider the proposal would have an impact on their business. Forty seven of the respondents considered that the proposal would have an impact on their business, and these impacts are summarised as follows:
- Less people will visit the town centre, causing businesses to close
 - Knock on effect to local producers who supply businesses
 - Unable to compete with supermarket prices
 - A supermarket will sell the same products that are available in town centre in direct competition
 - Free parking at a supermarket will stop people using the town where they have to pay
 - Tourists will be diverted out of the town with a loss of new customers, particularly if the store has a coffee shop
 - The proposal would have a positive impact as it would encourage more people to shop locally
- 5.7 Forty four letters of objection have been received in response to the Council’s statutory consultation period. In summary the points raised are as follows:
- The proposal is contrary to Policy TCR9 of the Herefordshire UDP as projections show that additional retail space is not required in the next 10 years
 - The site is zoned for industry and its loss is contrary to Policy E5 of the Herefordshire UDP

- The proposal will have a detrimental effect on the vitality of the town centre, contrary to Policies TCR1, TCR13 and S5 of the Herefordshire UDP
- The proposal is contrary to recent Government guidance on town centre vitality following the Portas Review
- The proposal will impact upon local business and will either see jobs moved from one employer to another, or will actually reduce employment opportunities
- The developer's suggestion that they would provide bus services between the site and town centre would be commercially unviable.
- The scheme would increase traffic along Etnam Street and Hereford Road, causing congestion and impacting upon highway safety in front of Leominster Infants and Primary schools
- The proposal is unsustainable due to its out of town location and it would increase car dependency, contrary to the National Planning Policy Framework
- The store would not be close enough to most homes in Leominster for people to walk to
- Untenanted business premises would lead to buildings falling into disrepair and impacting upon the town's tourist trade
- Lack of repair of listed buildings in the town centre will impact detrimentally upon its status as a conservation area
- Leominster has sufficient supermarket retail premises already
- The proposal will impact upon flooding issues as a result of further surface water run-off within the River Lugg Special Area of Conservation (SAC)
- A local population of water voles would be adversely affected by the proposal
- The projected 7% (£1.8 million) loss of trade to independent business outlined in the applicant's retail statement does not factor in the loss of business for suppliers and services to that local sector
- The sequential test does not take account of the Dales site at Mill Street when it is well known that it has been promised to Sainsbury's
- The proposals are contrary to the aims of the Leominster Parish Plan which seeks to encourage more shoppers and visitors into Leominster by promoting new and existing independent shops and to seek the democratic consent of the whole community about proposals for new large-scale retail development

5.8 An objection has also been lodged by England & Lyle Planning Consultants, acting on behalf of the Co-Operative Group. In summary the points raised are as follows:

- The applicants have failed to adequately assess the Dales site on Mill Street in their sequential test. It is understood that Dales are proposing to re-locate and that there is an intention to re-develop the site at Mill Street, which include a new retail food store. Whilst the Co-Operative Group would have concerns about any such proposal, it remains apparent that the site is available and it is concluded that the development fails to satisfy the sequential approach to site selection in line with guidance contained in paragraph 27 of the NPPF.
- The applicant's estimate of trade diversion from Hereford of 20% is an over-estimation and the proposed food store would compete to a greater degree with existing stores in Leominster
- The proposal would have a significant impact upon the Co-Operative and would reduce the amount of linked trips between it and other retailers in the town centre
- The proposal may prejudice the prospects of maintaining retail uses within historic buildings in the town, resulting in increased levels of vacancy, undermining the character and appearance of the conservation area and reducing the attractiveness of the town to tourists
- The assessed impact on Leominster town centre would have a significant impact on the overall vitality and viability of the centre, contrary to the NPPF

- The proposal would result in the loss of safeguarded employment land, contrary to Policy E5 of the Herefordshire UDP

5.9 An objection has also been lodged by Barton Willmore Planning Consultants, acting on behalf of Frank H Dale Ltd. In summary the points raised are as follows:

- A sequentially preferable site exists at Dales' site at Mill Street. The company have made clear their intention to re-locate. The site is accessible and well connected to Leominster town centre. The applicant's retail assessment does not adequately assess the merits of the site and consequentially is not sufficiently robust. The proposal is considered contrary to paragraph 27 of the NPPF and Policy TCR9 of the Herefordshire UDP
- An alternative site for the relocation of the existing business at Southern Avenue has not been identified, contrary to Policy E5 of the Herefordshire UDP

5.10 Four letters of support have also been received. In summary the points raised are as follows:

- Leominster only has one large store and there is undoubtedly a need for another store without it impacting upon the town centre
- The site would have good access onto the A49 and new shoppers would be attracted to the town
- Access to Morrisons via Bargates is difficult and the store causes congestion
- The existing businesses on the site are to re-locate so no jobs will be lost
- There are many people on this side of Leominster who could walk to the site, alleviating congestion at peak times

5.11 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 In order to ensure a detailed assessment of this proposal, the Council has commissioned its own independent advice in respect of the retail impact study submitted by the applicant. This has been undertaken by Deloitte, who also completed the Town Centres Study update as part of the evidence base for the Core Strategy. The basis for the advice encapsulates the material planning considerations against which this proposal should be determined, and these are broadly considered to be as follows:

- Whether there are sequentially preferable sites that could meet the identified need for additional retail floorspace within Leominster;
- The impact of the proposal on the vitality and viability of Leominster town centre;
- The likely impact of the proposal upon the historic and architectural heritage of Leominster Town Centre / Conservation Area (e.g. retaining viable uses for the listed buildings within the Town Centre);
- The likelihood or otherwise of linked trips to the town centre;
- Whether the proposal delivers a sustainable pattern of development reducing the need to travel, especially by car;
- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.

The report will consider each of these matters in turn and will also consider other issues including ecological impacts and flood risk.

Sequential Testing

6.2 The application of a sequential approach and impact tests to non-central retail proposals (and other town centre uses) remains a key policy requirement of the NPPF. It maintains a 'town centre first approach' as the Government is committed to promoting the vitality and viability of town centres and in this respect Policy TCR9 of the UDP is consistent with the NPPF. In addition, town centre sites tend to be in sustainable locations that reduce the need to travel, especially by car. Sites should be selected using the sequential process in the following order:-

- a) sites in the town centre;
- b) sites on the edge-of centre; and
- c) sites out-of centre.

In this case it has been agreed by all parties that the application site is in an out-of-centre location.

6.3 In accordance with the NPPF the applicant's retail impact assessment includes a sequential test to identify possible alternative sites within the Leominster area. It has identified four alternative sites and these are listed below with some basic information about each:

- Burgess Street Car Park – approximately 0.4 hectares in a town centre location and also within Leominster Conservation Area. Surrounded by mixed use types including retail, offices and residential.
- Land to the west of Dishley Street – a car park of approximately 0.2 hectares in an edge of centre location and also surrounded by a mix of uses including a car repair garage, car showroom, dental centre and Spa shop.
- Broad Street Car Park – a 1.2 hectare Council owned surface car park, fire station and retail outlet in an edge of centre location.
- Dales site, Mill Street – 5.2 hectares of employment land in an out of centre location approximately 350 metres north east of the town centre. Residential areas lie to the north and east.

6.4 The first three sites are all, at least in part, within the ownership of the Council. The applicants have commented that the sites at Burgess Street and Dishley Street are of insufficient size to accommodate the development proposed. Although the feasibility of developing these sites does not appear to have been tested, the constraints of each of them are considered to be prohibitive to a development comparable to that proposed, a view confirmed by Deloitte in their advice.

6.5 The site at Broad Street is identified in the Council's Town Centres Study update as one that may be appropriate for development to meet future floor area capacity. Its re-development would require the relocation of the fire station and an agreement with the owners of the retail unit that fronts onto Broad Street to purchase their building and land. It would also require an agreement from the Council to sell the land. The applicant's assessment of the site states that they have contacted the Council's Estates Officer and that it is not available. This can be confirmed by the case officer who has made separate enquiries of colleagues in Property Services. Notwithstanding the lack of a feasibility study for the development of the site, it is reasonably concluded that it is not available.

- 6.6 The site identified as Dales on Mill Street is, like the site that is the subject of this application, in an out of centre location. The Council finds itself in an unusual position in that it is also considering an application on the Dales site for a mixed development of food retail, commercial and residential uses. The application has been through an initial consultation process and a number of objections have been raised by statutory consultees including Network Rail and the Environment Agency. It has also attracted a significant number of objections from third parties for similar reasons to those identified earlier in this report. Dales have a recent planning permission for the relocation of their premises to Leominster Enterprise Park and these matters are considered to be material to the determination of this application.
- 6.7 In separate correspondence the applicant has commented that the technical issues of flooding and proximity to the railway crossing represent considerable problems that do not exist with this application site. They also express the view that the Mill Street site is not well connected to the town centre and doubt whether customers would be encouraged to walk to and from the town centre to make linked trips. However, the applicants retail consultant has failed to properly consider the site at Mill Street. When the original retail assessment was completed it was not clear that the site would become available and the assessment comments on this basis. However an update to the report, completed in April 2013, when the proposals for the Mill Street site were in the public domain, fails to make any mention of the site.
- 6.8 It is your officer's view that in simple geographic terms, the site at Mill Street is considered to be sequentially preferable to this application site, being significantly closer to the town centre. Notwithstanding the opinion of the applicant, its closer proximity to the primary shopping area than the site to which this application relates, would offer greater potential for linked trips to be made, albeit that it is also an out of centre site. It is also immediately adjacent to residential areas and would offer a genuine opportunity for customers to walk to and from the site. Dales have made clear their intention to relocate their premises to Leominster Enterprise Park and have permission to do so. An application has been submitted for re-development of the Mill Street site and it is therefore reasonable to conclude that the site is available.
- 6.9 The fact that the site at Mill Street is considered to be sequentially preferable should not be taken to prejudice the outcome of that application. There are a number of technical matters relating to the site that the applicant is currently actively seeking to resolve, and the proposal is materially different to that being considered here. Deloitte have also been engaged to undertake a similar exercise of the retail assessment submitted. The application will be reported to Committee in due course and must be determined on its own merits.
- 6.10 It is therefore concluded that the submitted sequential assessment is not sufficiently robust and as such is considered to be contrary to the NPPF and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan.

Impact Upon The Vitality And Viability Of The Existing Town Centre

- 6.11 The quantitative assessment of convenience goods floorspace needs in Leominster town centre in the Town Centres Study update indicates that there will be a demand for additional floorspace over the Core Strategy plan period as follows:

Year	Floor space capacity (net sq m)
2012	+1,483 to +3,412
2016	+1,670 to +3,842
2021	+1,938 to +4,458
2026	+2,242 to +5,157
2031	+2,571 to +5,912

- 6.12 Although the proposal is only in outline, the supporting documentation to the application indicates that the net floor area of the retail store would be 2,926 m². This falls towards the upper end of the margin for floor space demand in 2012, but well within the parameters shown

for 2016. The size and scale of the proposal is considered by officers to be proportionate to current identified demand for additional convenience floor space. However, the study also assumes that opportunities for provision will exist within the town centre, drawing more shoppers into the town centre and complementing existing independent shops.

- 6.13 Leominster currently has three food retail stores; Morrisons, Aldi and Co-Op. The applicant's retail assessment highlights the fact that both Morrisons and Co-Op are trading well above company benchmark averages (105% and 124% respectively), and suggests that this level of overtrading is due to a lack of genuine choice and competition in the main food shopping sector. It also suggests that their surveys of the stores provide evidence that they are both extremely busy.
- 6.14 Qualitative tests of overtrading include whether the store is excessively busy or uncomfortable for shoppers and include matters such as inadequate shelf space to stock goods, narrow aisles and queuing at tills. These are matters that are difficult to resolve without increasing the floorspace of a store.
- 6.15 The Town Centre Study update advises that, despite the current economic downturn, Leominster town centre appears to be in good health with low vacancy rates and a good mix of national and independent retailers. The assessment completed by the applicant's retail consultant highlights this point. It goes on to state that the proposed store is of a size and scale to compete directly with Morrisons, adding to the level of choice in the town and its surrounding catchment area and enhancing the attractiveness of Leominster as a market town.
- 6.16 The applicant's retail assessment goes on to consider the trade draw of the proposal from its immediate competitors and these are shown as follows:
- 9% (£2.6m) of trade drawn from existing retail facilities in Leominster Town Centre:
- 3% (£0.7m) from the Co-op store, Dishley Street.
 - 7% (£1.8m) from other stores in the town centre.
- 51% (£14.1m) from out-of-centre facilities in Leominster:
- 8% (£2.2m) from Aldi, Dishley Street
 - 40% (£11.1m) from Morrisons, Baron's Cross Road.
 - 3% (0.8m) from other out-of-centre stores in Leominster and others in Zone 3.
- 6.17 The advice provided for the Council by Deloitte accepts the methodology employed by the applicant's retail consultant in the completion of their assessment. It advises that Leominster's convenience shops currently attract 86.2% of Zone 3 (Leominster's identified catchment area) residents' expenditure, of which approximately 44% is captured by Morrisons. The Deloitte advice notes that although Morrisons is the dominant foodstore for residents, other convenience outlets in Leominster attract an almost equal amount (42%) of Zone 3 residents' convenience expenditure. The most popular destination for Zone 3 residents convenience shopping other than Leominster is Hereford's convenience shops, but they attract only 8.3% of Zone 3 residents' expenditure.
- 6.18 Deloitte's report also notes that the retention rate for convenience goods from Zone 3 (Leominster) residents is high (because the town already has a large foodstore, discount food store and town centre Co-Op). The scope for further clawback is therefore limited. The proposed store would provide an alternative to the Morrisons store for Leominster residents, rather than being a new type of facility to which they have not previously had access.
- 6.19 The advice goes on to note that the estimated trade diversion impact on other town centre shops is relatively modest, but considers that this is the most difficult to judge. This is because such facilities are mostly independent shops varying significantly in their operations. The

margins of some of these retailers may be tight so that even small diversions of trade can have serious consequences. In short, irrespective of the application proposals, independent traders are facing challenging times. Deloitte's advice concludes that they are less confident about the resilience of the 'other' shops (as compared with the Morrisons store), but their vulnerability is related to wider factors than the application proposal alone. The economic recession has had a major impact on retailing, particularly in the smaller centres.

- 6.20 The report by Deloitte does express some concerns in respect of the individual impacts assessed for the Aldi and Co-Op stores. It acknowledges the respective floor areas of the two stores as 1,099 sq. m and of the Co-Op 756 sq. m and then comments on the apparent disproportion between the projected trade diversion experienced by each if the development were to be approved. The applicant's retail assessment estimates that the trade diversion from the Aldi store would be £2.2m, as compared to £0.7m for the Co-Op. Deloitte's report accepts that this is justifiable in part because of the higher floor space and the significantly higher turnover attributed to the Aldi store by the 2012 Shopper Interview Survey. However, they are of the view that the difference between the estimates is disproportionate.
- 6.21 The estimated trade diversions result in a 2018 trade impact on Aldi of 18.4% and 10.7% on the Co-Op. Aldi is a discount trade offer which because of its business model generally claims to have some resilience to competition from large foodstores. Deloitte are therefore of the view that the impact on the Co-Op could be a little more than indicated in the retail assessment and the impact on Aldi correspondingly less.
- 6.22 Aldi and Co-op are both well placed in relation to the town centre and there is clear evidence to show that their customers will undertake linked trips to other shops. A diversion of trade from both may have further implications for other independent retailers in the town centre beyond those identified in the applicant's retail assessment.
- 6.23 The Deloitte advice concludes that despite its relative health, there can be no doubt that Leominster is vulnerable to the changes in retailing that are taking place. Concern is therefore expressed that the introduction of a second large foodstore in Leominster outside the town centre, in a location that is unlikely to generate significant linked trips, could significantly undermine the shopping role and function of the town centre.
- 6.24 It is therefore considered that the proposal is contrary to the NPPF and Policies S5, TCR1, TCR2 and TCR9 of the UDP.

Linked Trips

- 6.25 Whilst highway matters and sustainability are dealt with later, 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.
- 6.26 The application site is a walking distance of approximately 1.25 kilometres to the town centre boundary, 700 metres to the railway station and 450 metres to the closest residential area. The routes are generally flat but 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 physically closer to the town centre.
- 6.27 In their critique of the applicant's retail assessment, the Council's consultant has stated that the benefits of the proposal from linked trips to the town centre are likely to be marginal. The proposed store is a similar distance from the town centre as the existing Morrisons store. With very limited clawback and the bulk of the store's turnover being diverted from Morrisons, there is no reason why residents should make additional visits to the town centre. Any 'linked trip' benefits arising would have to be from new shoppers who currently do not visit the town

(mostly from outside the town's acknowledged catchment area). Hence it is considered that any benefits would be very limited.

- 6.28 Therefore it is considered that the store would become a destination in its own right with shoppers unlikely to visit the town centre. Notwithstanding this, any linked trips that might be made are most likely to be undertaken as a separate car trip which is in itself unsustainable. The proposal is therefore considered to be contrary to the aims of the NPPF to promote sustainable development and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

Impact upon Heritage Assets

- 6.29 Leominster's town centre is also designated as a Conservation Area and contains many listed buildings. Intrinsic to its character are the retail uses. Given the view formed above that the proposal would have an adverse impact upon the viability and vitality of Leominster town centre, it is submitted that there would be a secondary negative impact upon the character of the Conservation Area. Clearly to retain retail uses within existing premises, many of which are listed, the businesses must remain viable.
- 6.30 Chapter 12 of the NPPF relates to the historic environment. It requires that local planning authorities should take into account the desirability of sustaining and enhancing heritage assets and of new development making a positive contribution to local character and distinctiveness. Paragraph 128 of the NPPF states:

"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected..."

It goes on to say;

"The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."

- 6.31 The potential trade diversion from retail premises within the town centre, and the edge of centre stores of Aldi and Co-Op which promote linked trips to independent retailers, will mean that there is a prospect of existing retail businesses ceasing trading. This would lead to the vibrancy of Leominster 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. It would be detrimental to the Conservation Area and may lead to it becoming a heritage asset which is at risk.
- 6.32 The potential impact upon Leominster Conservation Area was raised as an issue at pre-application stage and it was advised that this should be addressed in any formal submission. The documents submitted in support of the application do not specifically make mention of any potential impacts and it is therefore considered that the proposal is contrary to the NPPF and Policy S7 of the Herefordshire UDP.

Highway Safety and Sustainability

- 6.33 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.
- 6.34 However, good planning involves the proper integration of land-use planning and transportation planning. It is now a fundamental of the planning system, reflected in both Central Government advice and Development Plan policy, that development should be located so as to reduce the need to travel especially by way of the private motor vehicle. Such sustainable patterns of development also respond to issues of climate change. Ideally one

should locate such developments in close proximity to the existing commercial core and transport nodes.

- 6.35 The proposed development is located in a position that is not realistically accessible by modes of transport other than the private motor vehicle. Leominster railway station is some 700 metres away and the site is within walking distance of a limited proportion of the town's residential areas, particularly when compared to the geographical relationship between Morrisons on Barons Cross Road and the Buckfield residential estate opposite.
- 6.36 As a consequence it is considered that the location of the proposal is such that it would increase reliance upon the private motor vehicle, contrary to the guiding principles of the NPPF and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

Loss of Employment Land & Other Employment Issues

- 6.37 The site is currently used for employment purposes, is located within an area that is designated as safeguarded employment land by Policy E5 of the UDP, and is rated as 'good' in the Council's Employment Land Study 2012. It has a good vehicular access and is divorced from residential properties to such a degree that a general industrial use can satisfactorily take place without any detriment to amenity. It is well located in terms of access to the wider road network with direct access to the A49(T).
- 6.38 As stated earlier in the report, an operator for the proposed food store has not been identified. Consequently the Economic Statement accompanying the application is unable to give a specific forecast of the numbers of new jobs likely to be created. However, it relies on advice given in the Homes and Communities Agency Employment Densities Guide which estimates that 172 full time equivalent new jobs in Leominster would be created. This figure is based on the net internal area of the store.
- 6.39 The Economic Statement goes on to consider the current availability of employment land and space in Leominster. It identifies that there is either 3.06 or 7 hectares of land available, dependent upon the availability of plots amounting to 3.94 hectares which have been sold subject to contract, and other areas within the locality that would bring the potential availability to 8.25 hectares. The report concludes that there is an ample supply of employment land in Leominster, that there are a large number of vacant employment premises and that the proposal would not prejudice the Council's employment land strategy.
- 6.40 The statement also includes correspondence from the directors of Thomas Panels & Profiles Ltd who currently occupy the main factory premises and an outside storage area amounting to 1.82 hectares in total. The buildings have been adapted to suit their particular requirements over time but the business has now outgrown the site and it needs to re-locate if it is to expand in the long term. The correspondence states:
- "Our preferred location is Leominster; this town is an ideal location for us. At present there is little industrial land of any size available which we are working hard to secure. In 5 years time, suitable land is likely to be less available in Leominster and this would force us to leave the town and seek relocation in another area."*
- 6.41 As referred to earlier in this report, Dales have recently secured planning permission for the relocation of their existing business at Mill Street to a large site on the Leominster Enterprise Park. This accounts for the potential availability of land referred to in the Economic Statement and means that only 4.31 hectares of land are currently available.
- 6.42 Policy E5(2) states that any retail use within designated employment sites should be ancillary to an otherwise acceptable Part B or other employment generating use. The application is contrary to this policy as it would replace the entire employment use.

- 6.43 The clear inference of the Economic Statement is that the loss for employment use is justified as there is adequate provision elsewhere within the town. However, the statement made by the directors of Thomas Panels directly contradicts this as they are quite clear that there is insufficient land available within the town to meet their aspirations to expand. The loss of their site to a retail use would, in your officer's opinion, significantly impinge upon the Council's ability to meet future demand for employment land.
- 6.44 Paragraph 6.4.26 of the UDP states that retail development within employment sites could detrimentally impact future employment development. The proposed development would have a detrimental impact upon both the employment opportunities on the existing site and, alongside the shortage of good quality employment land in Leominster, a detrimental impact upon the wider economic development of the area.
- 6.45 Paragraph 22 of the NPPF advises that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose should be avoided. However, this has not been demonstrated. Whilst the current economic climate is not ideal for business growth, the up-take of plots on Leominster Enterprise Park is good. Dales have secured a permission to relocate, and the current occupants of the site to which this application relates are also looking to expand their business. These are considered to be clear indicators of demand within the town.
- 6.46 In conclusion, the loss of the land to retail use is unwarranted. Its loss would unacceptably erode the ability of the Council to ensure adequate provision of employment land moving forward and the application is therefore contrary to Policies E5 and S4 of the Herefordshire UDP.

Impact of the Petrol Filling Station

- 6.47 The Environment Agency has been the only consultee to comment in detail about this aspect of the proposal, and has expressed concerns about its potential impact upon a Secondary Aquifer and Groundwater Source Protection Zone. The concerns lie with the introduction of underground storage tanks (USTs). They suggest that there is historic evidence that USTs do leak and contaminate the underlying aquifer, supply wells, boreholes and nearby watercourses. They recommend that the petrol filling station should be designed to the highest of modern protection measures specification in order to protect groundwater resources in the underlying aquifer(s) and the nearby watercourse, including measures for the protection of controlled waters from the possibility of any future USTs and associated fuel lines to dispensing pumps leaking.
- 6.48 The Environment Agency comments refer to guidance in their recently revised Groundwater Protection: Policy and Practice (GP3) which states that:
- "We will object to storage of hazardous substances below the water table in principal or secondary aquifers", unless:*
- "there is evidence of overriding reasons which indicate a) the activity cannot take place on unproductive strata (elsewhere); and b) the storage must be below ground."*
- 6.49 The applicant's agent has submitted a further response to the Environment Agency's request for further information which is based, in part on the sequential testing undertaken in relation to the retail assessment, concluding that geological conditions are similar across three of the four sites and that it reasonable to include a petrol filling station as part of the proposal in order for the scheme to compete equally with the existing Morrisons store. It also advises that there are no operational petrol filling stations within 1km of the application site.
- 6.50 The further response goes on to advise that concerns raised about the pollution of groundwater and watercourses would be addressed by the installation of double skin tanks and pipework, the encasement of tanks in a concrete surround, a leak detection system and

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the use of a staff training manual to explain the site-specific environmental risks associated with the petrol filling station for future operators, together with actions to be taken in the event of a pollution incident.

- 6.51 The applicant's agent suggests that the relocation of the store would require it to be located closer to the Leominster Compensation Ditch and that this could result in a greater risk to controlled waters in the event of a fuel spillage.
- 6.52 The Environment Agency has yet to respond to the applicant's most recent response. Their technical advice about the impact of USTs on groundwater and watercourses will ultimately determine whether the proposed petrol filling station is acceptable, or if there is a fundamental objection to its inclusion in the scheme. A further verbal update will be provided based upon the additional advice received from the Environment Agency

Flood Risk

- 6.53 The issue of flood risk is clearer and the applicant has gone some way to satisfying the comments raised by the Environment Agency. The update report suggests that the proposed site layout should be retained as submitted, but incorporating the Environment Agency's recommendation that the finished floor level should be raised a minimum of 300mm above the 1 in 100-year plus 20% flood level.
- 6.54 Some concerns have been raised by others about a perceived increased risk from surface water flooding. However, the site is currently hard surfaced and this area is not significantly increased by this proposal. The applicant has indicated that a sustainable drainage system would be installed should planning permission be granted and the flood risk assessment submitted in support of the application indicates that this would be a feasible approach, subject to further detailed design. This is considered to be a reasonable approach given that this is an outline application.

Ecological Impacts

- 6.55 The application is supported by an ecological survey. It covers all aspects of ecological interest across the site, but a separate report focuses specifically on the potential presence of otters and water voles in the locality and particularly the Leominster Compensation Ditch which bounds the site to the south.
- 6.56 The report advises that no evidence of otters was to be found, but confirmed the likely presence of water voles. Accordingly the mitigation strategy included with the report advises that a buffer zone of at least 3 metres from the water's edge should be maintained, with an actual recommended buffer of 5 metres preferred.
- 6.57 The Council's Ecologist expresses some concern that, with only a 3 metre buffer zone, there will be some disturbance to water vole habitat during and post-construction. It was recommended that additional mitigation and compensation measures are required, with a minimum buffer zone of at least 6 metres throughout to provide sufficient protection, including the retention of the existing hedgerow and some additional native-species planting set back from the bank.
- 6.58 The application has been made in outline and only access is to be determined at this stage. If the application were to be approved a condition could reasonably be imposed to require a 6 metre buffer strip along the Leominster Compensation Ditch, along with one requiring a detailed ecological mitigation and compensation plan.

Draft Heads of Terms

- 6.59 Discussions have continued between the applicants and the Council regarding the level of contributions required, particularly in respect of improvements to pedestrian links to the application site. A detailed schedule of works have been agreed, but due to the transition of responsibilities for highway works from Amey to Balfour Beatty, a detailed costing for these

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works has not been provided and therefore an agreed Heads of Terms is not available. If Committee were minded to approve the application it is recommended that any permission should be subject to the completion of a legal agreement under Section 106 of the Town & Country Planning Act.

- 6.60 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).

Conclusion

- 6.61 In the light of the above appraisal it is considered that the proposal is contrary to both Central Government advice and Development Plan policy. Furthermore whilst the emerging policies of the Draft Core Strategy can only be given very limited weight at this stage, consideration has been given to the consistency of these policies in relation to the saved policies of the Herefordshire Unitary Development Plan and the NPPF. It is considered in particular, that draft policy E5 would continue to support the need for sequential testing of sites whilst policies SD1, SS1 and SS6 promote the presumption in favour of sustainable development and developing sites that are located in sustainable locations where there is a genuine choice of non-car based means of access. 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 for the following reasons:

- 1. The Local Planning Authority does not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the National Planning Policy Framework and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 3. Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposal would result in the loss of good quality employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.**
- 5. The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to the guiding principles of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**

- 6. The proposed development would necessitate a planning obligation compliant with the criteria set out in the Supplementary Planning Document - 'Planning Obligations' to secure contributions toward sustainable transport infrastructure, including enhanced pedestrian and cycle links to the Leominster Town Centre, to mitigate against the impact of the development. A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

INFORMATIVES

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 123317/O

SITE ADDRESS : LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF

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