

ANNEX 1

AGREED DRAFT HEADS OF TERMS - 160606

Public Realm Contribution

- 1) On or before the commencement of the development the applicants / developer shall make a payment of £120,000 (index linked) towards improvements to the public realm within the Ledbury Town Centre (the "Public Realm Contribution").
- 2) The Public Realm Contribution shall be used by Herefordshire Council for the following purpose:-
 - Landscaping of the Grade 2* 'Masters House' within Ledbury Town Centre.
- 3) In the event that Herefordshire Council does not for any reason use the Public Realm Contribution for the purposes specified above within 10 years from the date of receipt of the Public Realm Contribution, (unless otherwise agreed in writing with the Council) the Council shall repay to the person(s) who made the payment the said sum or part thereof which has not been used by Herefordshire Council.
- 4) The applicants agree to pay to the Council on or before the completion of the Agreement the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement

ANNEX 2

LPA Ref: P160606/F
May 2016 | RD/JR | BRS.6646



**PLANNING APPLICATION FOR PROPOSED
EXTENSION TO EXISTING FACTORY AND
ERECTION OF A CLASS A1 NEIGHBOURHOOD
FOODSTORE, CAR PARKING, LANDSCAPING AND
ASSOCIATED WORKS (P160606/F)**

**ON LAND AT GALEBREAKER HOUSE, LEADON WAY,
LEDBURY, HEREFORDSHIRE HR8 2SS**

**ASSESSMENT OF RETAIL PLANNING
IMPLICATIONS**

ON BEHALF OF THE CO-OPERATIVE GROUP LIMITED

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PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

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1. INTRODUCTION

- 1.1 This report is to advise the Co-operative Group Food Ltd on representations relating to an application for full planning permission submitted on behalf of Galebreaker Group Limited and Aldi Stores Ltd for '*extension to the existing factory, erection of a Class A1 neighbourhood foodstore, car parking, landscaping and associated works*' on land at Galebreaker House, Leadon Way, New Mills Industrial Estate, Ledbury, Herefordshire, HR8 2SS.
- 1.2 The Co-operative Group Food Ltd operates a food store with a gross floor area of 1,527 sq m and a net sales area of 945 sq m, on the edge of the town centre at New Street, Ledbury, HR8 2EZ.
- 1.3 The Co-operative Group Food Ltd recognises that commercial competition is not a material planning consideration and only objects to planning applications that are clearly contrary to planning policy because they will have significantly adverse impacts on the vitality and viability of a town centre as a whole, including local consumer choice and trade in the town centre, and/or negative impacts on planned investment in an established centre. For the purposes of planning policy, the term 'town centre' may also be applied to local centres, as explained in the National Planning Policy Framework, Annex 2.
- 1.4 This report considers whether the retail development proposals for the site at Leadon Way on the New Mills Industrial Estate, Ledbury, are consistent with local and national planning policies for retail development, in the light of information provided by the applicant including the Planning and Retail Assessment by Turley (February 2016) and in the light of the Co-operative Food Group's experience of trading in Ledbury over many years.
- 1.5 This report makes no observations on the proposed extension of the existing Galebreaker factory, described as 2,215 sq m GIA in the application (and as 2,286 sq m in the Planning and Retail Statement), as that is clearly an appropriate development on the New Mills Industrial Estate which was classified in the Herefordshire County Employment Land Study 2012 (in which it is called the Lower Road Trading Estate) as a 'good' employment site.

2. THE PLANNING APPLICATION

The Site:

- 2.1 The planning application submitted to Herefordshire Council (Ref: P160606/F) states that it is for an area of 2.04 hectares. (The Planning and Retail Statement quotes an area of 2.90ha.) The site is on the New Mills Industrial Estate on the western edge of Ledbury, where there have been previous planning applications for large foodstores, which are described later in this report.

The Proposal:

- 2.2 The application is for full planning permission. It was submitted on 1st March 2016 and validated on 16th March 2016. The application is supported by a range of plans and reports including a Planning and Retail Statement by Turley which is reviewed in this report.
- 2.3 The proposed development is described on the planning application as:
- 'Extension to the existing factory, erection of a Class A1 **neighbourhood foodstore**, car parking, landscaping and associated works'*
- 2.4 The description of the proposed development in the Planning and Retail Statement includes a different description of the food store:
- "Extension to the existing factory building and the erection of a Class A1 **limited assortment discount foodstore**, access, car parking, landscaping and associated works."*
- 2.5 As Aldi Stores Ltd are joint applicants and the intended occupiers of the proposed food store, the description in the Planning and Retail Statement is more accurate; especially as the site is on an industrial estate and not within a residential neighbourhood.
- 2.6 The Planning Application states that the proposed retail floorspace is 1,741 sq m gross internal area (GIA). The Planning and Retail Statement states that the proposed retail floor area is 1,807 sq m gross of which 1,227 sq m is retail sales floorspace; split between 982 sq m (80%) for convenience goods and 245 sq m (20%) for comparison goods, according to the Planning and Retail Assessment, Appendix 1: Impact Analysis, Table 7.

- 2.7 Pre-application advice is described on Section 5 of the planning application form to have comprised: *'three pre-application meetings with Roland Close. Herefordshire Council's highways and landscape officers have also been party to pre-application discussions.'*
- 2.8 The outcome of those meetings and discussions is not recorded. Paragraph 2.1 of the Planning and Retail Statement states: *'Further to extensive pre-application discussions with the Council's planning officers, Aldi has responded to an identified need for a new limited assortment discount foodstore, selling a quality range of affordable, fresh and healthy food in Ledbury by designing a contemporary foodstore with high sustainability credentials...'* However, the views of Council officers are not reported and the Statement does not say that the application has responded to discussions with Council officers; only that it followed such discussions.
- 2.9 There is a history of previous planning applications for food stores on the New Mills Industrial Estate, Ledbury which are described in the following section.

3. RELEVANT PLANNING HISTORY

Tesco's Planning Application:

- 3.1 A planning application by Tesco (Ref: N111554/F) for a food store on a neighbouring site on the other side of the same industrial estate, the Ledbury Welding & Engineering site, was submitted on 15th June 2011, validated on 17th August 2011 and withdrawn on 1st November 2011. It proposed to replace Tesco's Orchard Lane store, which had a net sales of 1,175 sq m, by a much larger store with a sales area of 3,083 sq m; divided between 2,004 sq m (65%) for convenience goods and 1,079 sq m (35%) for comparison goods.

Sainsbury's Planning Application:

- 3.2 A planning application by Sainsbury (Ref: N113052/F) for a food store on essentially the same site as the current application by Aldi (although with a rear pedestrian access from Bronte Drive rather than Barnett Avenue) was submitted on 31st October 2011, validated on 7th December 2011 and refused on 22nd February 2012. It proposed a retail store with a gross floor area of 5,428 sq m, including a net sales area of 2,787 sq m; divided between 2,090 sq m (75%) for convenience goods and 697 sq m (25%) for comparison goods.
- 3.3 There were seven reasons for the refusal of Sainsbury's application, based on policies of the Herefordshire Unitary Development Plan 2007 and Planning Policy Statement 4, including: an insufficiently robust sequential sites assessment; failure to demonstrate lack of impact on the vitality and viability of the town centre; consequent impacts on the conservation area; loss of employment land; an unsustainable location; and environmental objections.

Homebase and Argos:

- 3.4 There is a Homebase DIY store on the New Mills Industrial Estate near the roundabout between Lower Mills Road and Leadon Way, west of the Ledbury Welding & Engineering site. It was permitted on 13th November 2003 (planning permission reference NE2003/1037/F). The permission was for '*a DIY store and garden centre with Class A1*'. Condition 3 expressly prohibited the sale of food and drink and other goods, except when ancillary to the main retail activity.
- 3.5 Condition 3 was modified in January 2015 to allow Argos to operate a catalogue showroom of up to 185 sq m in the store (Application P153551/F).

3.6 Documents relating to the 2003 Homebase permission are not available on the Council's web site, so it is not possible to find out what the relevant planning policy and other material considerations were. However, it is clearly relevant that the Council sought to prohibit the sale of food in that location by Condition 3 of permission NE2003/1037/F. These restrictions imposed were re-imposed in January 2015 when Condition 3 was varied to permit an Argos 'insert' in the store

4. THE PLANNING AND RETAIL STATEMENT

- 4.1 The Planning and Retail Statement (PRS) by Turley describes the proposed development and the proposed retail operation; sets out their view of the relevant planning policy context; provides their 'health check' of Ledbury Town Centre; sets out their assessment of potential sequentially preferable sites; presents their retail impact assessment; considers any additional planning considerations; and gives their conclusions.
- 4.2 The PRS states (paragraph 2.4) that the application site is '*approximately 950 m west of Ledbury's defined town centre*'. This statement is not accurate. The entrance to the proposed store would be more than 1.2 km from the nearest part of the secondary retail frontage on Bye Street and more than 1.3 from the primary retail frontage on The Homend.
- 4.3 The application proposes a discount food store, which it claims will increase choice and competition for consumers and help to retain expenditure in the town. These claims are considered later in this report in relation to the Retail Impact Assessment of the PRS.
- 4.4 The application also describes the proposed extension of the Galebreaker factory, but does not claim or provide evidence that the foodstore is necessary to enable the expansion and retention of the factory.
- 4.5 The RDS describes the particular trading characteristics of Aldi as a limited range discount food store, including the requirement for adjacent car parking. The scheme provides parking for 108 vehicles, reflecting the location which will be accessed primarily by car for bulk food shopping trips.
- 4.6 The PRS summarises national and local planning policies. Paragraph 3.6 refers to '*the emerging Herefordshire Core Strategy*' although the Core Strategy was in fact adopted on 16 October 2015 and the threshold for retail impact assessments of out-of-centre retail proposals is therefore 400 sq m for Ledbury, as described in paragraph 5.2.27 and Place-Shaping Policy LB1, in support of Policy E5 – Town Centres. The PRS accepts that this threshold applies in this case.

Herefordshire Council Town Centres Study Update 2012:

4.7 The PRS refers to the Herefordshire Council Town Centres Study Update of 2012, which included the following assessment of future retail floorspace capacity in Ledbury town centre:

Ledbury Town Centre Floorspace Capacity (sq m net) from Table 9.3 of the Town Centres Update 2012 by Drivers Jonas Deloitte

	2012	2016	2021	2026	2031
Convenience Goods	+687 to +1,579	+748 to +1,721	+846 to +1,946	+946 to +2,218	+1,093 to +2,515
Comparison Goods	-475	-373	-80	+523	+1,190

4.8 The ranges of 'floorspace requirements' in the Town Centres Update 2012, as shown in the table above reflect an allowance for variations in sales densities (or turnover per sq m) of different retailers, as explained in paragraph 9.30 of the study.

4.9 The Town Centres Update 2012 states that its household survey indicated that the Tesco on Orchard Lane was trading well and the Co-operative store on New Street was trading less well. It also notes that: *'the town centre also contains independent specialist traders (convenience and comparison) which make an important contribution to the appeal of the town for both residents and visitors.'*

4.10 The quantitative assessment in the Town Centres Update 2012 assumes that the market shares of expenditure attracted to centres, as indicated by the household survey, will remain constant throughout the forecast period. This is a hazardous assumption in view of the increasing use of online shopping, markets, farm shops and other forms of trading, and changes in retail floorspace that may take place within the wider catchment area.

4.11 The Town Centres Update 2012 (paragraph 6.8) notes that *'for convenience trading as a whole Hereford and Ledbury have seen a small decline in their convenience goods market share.'*

4.12 The Town Centres Update 2012 also notes, in paragraph 7.39, that *'projections of retail expenditure growth and retailer turnover requirements over a lengthy period of time are subject to significant margins of error. This is particularly the case in*

the present period of economic uncertainty. The forecasts should therefore be read with caution and treated as a broad indicator of needs, and not a prescriptive schedule of floorspace requirements.'

- 4.13 The forecasts ranges of potential growth in floorspace capacity the Town Centres Update cannot therefore be relied on as an indication of floorspace that can be accommodated *elsewhere* in the town without adverse impacts on existing traders in the town centre. They need to be interpreted in the light of specific proposals.

Town Centre Health Check:

- 4.14 The PRS describes the retail trade mix of Ledbury town centre within the town centre boundary defined by the Unitary Development Plan, but does not acknowledge that the Co-operative store in New Street is less than 100 m from the Town Centre Central Shopping and Commercial Area; 110 m from the Secondary Shopping Frontage in New Street; and 220 m from the Primary Shopping Frontage in the High Street.
- 4.15 A similar point applies to the Tesco supermarket at Orchard Lane to the north of the Town Centre which is only 220 m from the Town Centre Area or Secondary Shopping Frontage and 300 m from the Primary Shopping Frontage.
- 4.16 Both of these larger food stores are in edge-of-centre locations, as defined by the National Planning Policy Framework (*'for retail purposes, a location that is well connected and up to 300 metres of the primary shopping area'*). They are well located to cater for linked shopping trips with shops in the town centre, with their free adjacent car parking, and can be seen to perform anchor roles for the town centre from the south and the north of the centre.
- 4.17 Given the historic character of Ledbury town centre it is not surprising that the role of anchor supermarkets is performed by stores that are on the edge of the historic core of the town centre; in this case very close to town centre shops. The roles of these edge-of-centre supermarkets will be considered further, in relation to the retail impact assessment of the PRS, later in this report.

Sequential Sites Assessment:

- 4.18 We are not sure whether the scope and parameters of the sequential sites assessment were agreed with the Council. The Council's refusal of the Sainsbury application (paragraphs 3.2 and 3.3 above) showed that they considered the car park west of Lawnside Road (1.12 ha) to be an appropriate edge-of-centre site for a supermarket and it was identified as a potential development site for convenience goods retailing in the Herefordshire Council Town Centres Update 2012.
- 4.19 In any event, passing the sequential test does not confer any presumption in favour of planning permission; it merely indicates that the automatic refusal for failing the test that is required by paragraph 27 of the NPPF does not apply. It is important to note the statement in PPG (Reference ID: 2b-010-20140306) which complements the statement in paragraph 27 of the NPPF:

'Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.'

Retail Impact Assessment

- 4.20 The PRS provides a Retail Impact Assessment (RIA) in Section 6 and Appendix 1. It is considered below under its various components.

(a) Catchment Area

- 4.21 The Primary Catchment Area (PCA) is defined as Zone 5 in the Herefordshire Council Town Centres Update 2012 by Drivers Jonas Deloitte. Population and Expenditure data was also taken for that study, updated from 2011 to 2013 prices. 90% of the proposed store's turnover is forecast to be drawn from this area (PRS Appendix 1, Table 7).

(b) Turnover

- 4.22 The PRS states that some 20% of the proposed store's turnover would be sales of comparison goods and that this can be considered *'de minimis'*: *'For these reasons comparison goods impacts have not been assessed specifically, the analysis focussing on the implications of the proposal for existing convenience facilities. Comparison turnover has, however, been considered in broad terms in relation to estimated expenditure growth in the catchment area.'* (PRS 6.16)

4.23 That is not a satisfactory approach. Aldi is known for the attraction of its 'special buys' which cover a wide range of comparison goods, such as baby and toddler goods, clothing, DIY tools, electrical apparatus, health and beauty products, home and garden equipment, sports and outdoor goods, and motor and travel accessories. These goods are heavily promoted and sold on a 'when it's gone, it's gone' basis, with new ranges released twice weekly. Sales of such goods from an out-of-centre Aldi store would clearly have negative impacts on sales by specialist comparison goods retailers in the town centre.

4.24 The turnover of the proposed Aldi store is estimated by the PRS on the basis of sales densities of £9,808 per sq m for the 982 sq m of convenience goods floorspace and £8,207 per sq m for the 245 sq m of comparison goods floorspace, to give the total benchmark turnover figures shown below:

2016 Turnover	Floor Area (sq m)	Sales Density (£/sq m)	Total Turnover (£m)	Turnover from PCA @ 90% (£m)
Convenience Goods	982	9,808	9.63	8.67
Comparison Goods	245	8,207	2.01	1.81
Total	1,227		11.64	10.48

Source: PRS Appendix 1, Table 7

4.25 For 2021, these turnover estimates are increased by 0.4% per annum for convenience goods and 1.8% per annum for comparison goods, on the unlikely assumption that Aldi's sales densities will increase in line with the averages for all retailers.

4.26 These assumptions about turnover and the forecast growth to 2021 are too low. The rapid growth in sales and market share of the discount food retailers in recent years has been well documented. Retail analysts have also recognised that this rapid growth in sales has been partly the result of increased sales per square metre (floorspace efficiency) as well as increased floorspace from the opening of new stores.

4.27 An article by Retail Week on 9th April 2015¹ estimated that Aldi's overall sales density had more than doubled between 2010/11 and 2014/14: from £5,005 per

¹ <http://www.retail-week.com/sectors/grocery/aldi-sales-densities-soar-as-it-outpaces-the-big-grocers/5073761.fullarticle>

sq m (£465 per sq ft) in 2010/11 to £11,571 per sq m (£1,075 per sq ft) in 2014/15. Sales densities of the larger, established supermarket operators like Sainsbury, Tesco and Morrison have declined as they have lost market share, in particular to discount food retailers like Aldi.

- 4.28 Aldi's overall sales density (for convenience and comparison goods) is now estimated (by Verdict and Retail Week) to be between £11,000 and £12,000 per sq m which would imply an overall turnover of £13.5m to £14.7m on the total proposed floorspace of 1,227 sq m. Current growth rates in Aldi's sales densities also imply a much higher turnover by 2021 than is estimated in the PRS.
- 4.29 More realistic estimates of turnover imply higher forecasts of trade diversion and impact.

(d) Trading Impacts

- 4.30 *'The aggregate convenience goods impact on stores in Ledbury town centre is estimated to be -5.9% in 2021.'* (PRS 6.35)
- 4.31 *'The impacts on the edge-of-centre Co-op and out-of-centre Tesco stores (both of which are considered by the Retail Study to be overtrading relative to their benchmark turnovers) are estimated to be -19.5% and -16.1% respectively.'* (PRS 6.37)
- 4.32 The PRS admits (in paragraph 6.36) that market shares for the smaller stores in Ledbury town centre are likely to be underestimated, because household surveys tend to underestimate the turnovers of small stores and top-up locations, but the PRS then draws entirely the wrong conclusion:
- 'As such, the estimated impact on the town centre is likely to represent a 'worst case' scenario.'*
- 4.33 By using the household survey results to estimate trade draw, the PRS is in fact most likely to have *underestimated* trade diversion from the smaller stores and their baseline turnovers, and therefore underestimated the impacts on town centre stores. Ignoring the comparison goods turnover of the proposed Aldi compounds that error.
- 4.34 It is also incorrect to say that the Retail Study considered both the Co-operative and the Tesco store to be over-trading relative to benchmark turnovers. In

Appendix 2 of the Herefordshire Council Town Centres Study Update 2012, a comparison of Table 6 (*Total Convenience Goods Flows of Expenditure 2012*) with Table 8 (*Benchmark Convenience Goods Turnover 2012*) shows that whilst the Tesco store was estimated to be trading above the benchmark turnover calculated by the study, the Co-operative store was estimated to be trading just below the benchmark turnover calculated by the study, as shown below.

Survey-derived turnover estimates and benchmark turnovers for Tesco and Co-operative Stores in Ledbury from the Herefordshire Council Town Centres Study Update 2012 (Appendix 2)

Survey-derived turnover figures (£m)	Tesco	Co-operative
From the Study Area	14.35	5.30
Inflow	2.15	0.53
Total	16.5	5.83
Benchmark turnover per sq m, 2012	£11,467	£6,917
Benchmark turnover, 2012 (£m)	10.35	5.32

- 4.35 Table 8 in Appendix 1 of the PRS, 'Anticipated Trading Effects of Proposed Development (Convenience Goods) 2021', shows the detailed assumptions made about trade diversion. Although the Primary Catchment Area (Survey Zone 5) is said to account for 90% of the turnover of the proposed store, stores in Zone 5 account for only 55% of trade diversion; 25% of the proposed store's turnover is estimated to be diverted from Survey Zones 1 and 6 (Hereford and Ross-on-Wye) and 20% from outside the Study Area (Malvern, Gloucester and elsewhere).
- 4.36 This pattern of trade diversion could only be explained by the new store clawing back substantial outflows of retail expenditure currently flowing to stores outside the PCA – equivalent to 45% of the turnover of the proposed store. This is not a realistic scenario. There is no evidence or explanation for this scenario. It is much more likely that a significantly higher proportion of the store's turnover will be diverted from stores within the PCA; Ledbury town centre and the edge-of-centre supermarkets.
- 4.37 Tables 3 and 5 in Appendix 1 of the PRS show that that available convenience goods expenditure within Ledbury (Zone 5): £35.26m in 2016 and £37.18m in 2021 is relatively small in relation to the capacity of the existing stores in the town centre and the edge-of-centre supermarkets (£31.94m) without the additional capacity of the Aldi supermarket that is now proposed (which the PRS assess at about £10m

in convenience goods, but which is more likely to be about £12m, as explained in paragraph 4.26 to 4.28 above). It is also necessary to take account of the inevitable 'outflow' of expenditure that will take place from areas on the edges of Zone 5 to nearby towns like Great Malvern and Hereford.

4.38 No reliance should therefore be placed on the PRS assessment of trade draw and trade diversion from the town centre, for the following reasons:

- The estimate of turnover for the proposed Aldi store is too low, especially for 2021;
- The household survey data used to estimate trade diversion is acknowledged in the PRS to underestimate the market shares and turnovers of smaller town centre shops;
- Underestimates of market share will result in underestimates of trade diversion and impact, and not a '*worst case scenario*' as claimed in the PRS;
- The assertion that the Co-operative store was 'over-trading' at the time of the household survey is not supported by the evidence; and
- Impacts of trade diversion from comparison goods retailers in the town centre have not been assessed.

4.39 The trade diversion figures for Ledbury Town Centre that are quoted in the PRS should therefore be regarded as unreliable. It is also important to consider the secondary impacts on the town centre resulting from a loss of trade from the edge-of-centre supermarkets.

4.40 Trade diversion from the Tesco and Co-operative stores in Ledbury cannot be disregarded simply because they are in edge-of-centre locations. The projected trade diversions are high, even on the approach of the PRS, at 19.5% for the Co-operative and 16.1% for Tesco and, for the reasons given above, trade diversion is likely to be even higher; in excess of 20%.

4.41 The two edge-of-centre supermarkets are well located and, with free adjacent car parking, are able to cater for linked shopping trips to shops in the town centre. These supermarkets therefore perform anchor roles for many smaller shops (convenience and comparison) and other businesses in the town centre. Loss of trade from these supermarkets would have secondary impacts on the historic town

centre through the loss of combined shopping trips that include shopping in town centre shops. The resulting loss of trade by small independent businesses in the town centre therefore be significantly more than the 5.9% quoted in the PRS and would pose risks to their survival.

- 4.42 The relevant tests in the NPPF, paragraphs 26 and 26, refer to *'the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area...'* Impacts on the edge-of-centre supermarkets which are likely to be in excess of 20% would in this case result in significantly adverse indirect impacts on the vitality and viability of the town centre.
- 4.43 In reviewing Turley's retail impact for the Sainsbury application, the Council's advisers Drivers Jonas Deloitte pointed to the significant weight that should be given to adverse impacts on Ledbury town centre, because of its historic character and the importance of retail and other commercial activity in the town centre for maintaining the fabric of historic buildings and the character of the conservation area. A vibrant retailing sector is an essential factor in preserving and enhancing the character of the conservation area as an historic market town, in addition to its importance in maintaining the fabric of historic buildings.

(e) Other Planning Issues:

- 4.44 Section 7 of the PRS discusses the loss of employment land with a selective reference to Policy E1 of the Core Strategy and claims that the proposals would help to diversify the local economy.
- 4.45 The claim that the proposals in this application would comply with Policy E1 needs to be viewed in the light of the expected impacts on existing shops in the town centre and on the edge of the town centre. Trade diversion from existing shops would inevitably result in some loss of employment from those shops.
- 4.46 The PRS does not refer to Policy E2, which states:
- 'Employment land and buildings rated as 'best' and 'good' using the methodology in the Employment Land Study 2012 (or successor document) will be safeguarded from redevelopment to other non-employment uses.'*
- 4.47 The New Mills Industrial Estate, which is called the Lower Road Trading Estate in the Herefordshire County Employment Land Study 2012, is classified as 'good' in that Study.

4.48 It is clear, from the Council's response to previous retail planning applications, and from the Planning Policy consultation response to this application, that the Council does not consider retail uses to be appropriate for an employment site, even though they provide retail employment, unless they serve the day-to-day needs of the site's employees. The application does not therefore comply with Core Strategy Policy E2.

5. CONCLUSIONS

- 5.1 The planning application by Galebreaker Group Limited and Aldi Stores Ltd proposes an extension to the existing factory and a limited range discount food store (Class A1) for Aldi, on land at the New Mills Industrial Estate (also known as the Lower Road Trading Estate) which is classified as a 'good' employment site in the Herefordshire County Employment Land Study 2012.
- 5.2 A previous application by Sainsbury for a food supermarket on the site was refused in 2012 for seven reasons, including: an insufficiently robust sequential sites assessment; failure to demonstrate lack of impact on the vitality and viability of the town centre; consequent impacts on the conservation area; loss of employment land; an unsustainable location; and environmental objections.
- 5.3 A previous application by Tesco for a food supermarket on a neighbouring site on the same industrial estate, which was also opposed by the Council, was withdrawn in 2011.
- 5.4 As the current planning application includes proposals for a town centre retail use in an out-of-centre location, it requires a sequential test of alternative more central sites and, as the proposed retail floorspace exceeds the local threshold for Ledbury of 400 sq m set by the Core Strategy, a retail impact assessment is required. The application is supported by a Planning and Retail Statement by Turley which includes a sequential test and retail impact assessment. The proposal to extend the factory complies with planning policies.
- 5.5 The Herefordshire Council Town Centres Study Update 2012 includes an assessment of future retail floorspace capacity for Ledbury Town Centre, based on the assumption that market shares derived from a household survey will remain constant; that forecasts of local population and expenditure will be achieved; that there will be a steady growth in online shopping and other non-shop forms of trading; and that the turnovers of existing shops will achieve company average levels.
- 5.6 The Town Centres Study observed that the edge-of-centre Co-operative Store was performing at an average level; that the edge-of-centre Tesco store was performing above average; and that for convenience trading as a whole the town had seen a small decline in its convenience goods market share. The Study also observed that

the town centre contains independent specialist traders that make an important contribution to the appeal of the town for residents and visitors.

- 5.7 The Town Centres Study forecasts of future retail floorspace capacity took the form of ranges, to allow for variations in the sales densities of different retailers. The Study cautioned that these forecasts should not be treated as a prescriptive schedule of floorspace requirements. The forecasts of the Town Centre Study do not support out-of-centre proposals like that of the current application.
- 5.8 The Planning and Retail Statement that accompanies the planning application includes a 'health check' of Ledbury Town Centre, which is largely based on subjective judgements rather than quantitative data about the performance of the centre and does not consider the important roles of the two edge-of-centre supermarkets as anchor stores for the town centre and its smaller, independent and specialist traders.
- 5.9 The sequential sites assessment in the Planning and Retail Statement concludes that there are no sequentially preferable sites for the proposed Aldi supermarket. It is not clear whether the Council agreed the scope of the sequential test. The Council has previously preferred an edge-of-centre car park site, off Lawnside Road, that was identified for retail development in the Town Centres Study. In any event, compliance with the sequential test does not create a presumption in favour of planning permission.
- 5.10 The retail impact assessment in the Planning and Retail Statement is subject to a number of shortcomings:
- The forecast turnover of the proposed Aldi supermarket is understated.
 - The household survey data used to estimate market shares is acknowledged to underestimate the market shares and turnovers of smaller town centre shops.
 - The forecast pattern of trade diversion (55% from the Primary Catchment Area) does not reflect the expected pattern of trade draw (90% from the Primary Catchment Area).
 - These assumptions imply unrealistic expectations of 'clawback' from centres outside the Primary Catchment Area. Trade diversion from Ledbury is likely to be substantially higher than is forecast in the Planning and Retail Statement.

- The Planning and Retail Statement incorrectly states that the Co-operative store in Ledbury was found to be 'over-trading' by the Town Centres Study.
- Impacts of trade diversion from comparison goods retailers in the town centre have not been assessed.
- The retail impact assessment does not consider the secondary impacts on town centre traders of the substantial trade diversion forecast from the two edge-of-centre supermarkets, or the importance of these supermarkets in supporting the town centre.
- The retail impact assessment does not consider the impacts of trade diversion on conservation of the town centre and Ledbury's historic role as a market town.

5.11 For these reasons, this planning application should be refused as it fails to comply with the requirements of national and local planning policies for town centre uses in an out-of-centre location; including paragraphs 24 to 27 of the National Planning Policy Framework and Policies E2, E5 and LB1 of the Herefordshire Local Plan Core Strategy (2015).

ANNEX 3

Our Ref: 2844/LR/LT20160525

10th June 2016

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MRPP

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By email only

Dear Mr Close,

**P160606/F – FOODSTORE DEVELOPMENT, LAND AT GALEBREAKER HOUSE,
LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS**

We act on behalf of Tesco Stores Ltd and write to raise concerns with the above application.

We are concerned that the application raises fundamental planning policy points of principle which should be more fully scrutinised in the consideration of the application to ensure there is a fair and consistent approach to decision making.

There are three matters here that we are particularly concerned about. They are:

- 1) Town centre impact
- 2) The application of the sequential test
- 3) The loss of employment land.

Town Centre Impact

Paragraph 26 of the NPPF requires retail development which is not in a centre and not in accordance with the development plan, to be assessed in terms of its impact on town centre vitality and viability.

The site is not in a centre, and the proposal is not in accordance with the development plan. Policy LB1 of the Herefordshire Core Strategy (2015) requires out-of-centre retail proposals over 500m² to be assessed for impact on Ledbury Town Centre.

This has been undertaken by the applicant, but we have serious reservations over the methodology and assumptions applied, explained below.

Martin Robeson Planning Practice is a trading division of Martin Robeson & Partners Ltd
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Since the submission of the planning application, the Mintel Retail Rankings 2016 has been published, identifying that Aldi's average convenience goods floorspace turnover density is circa £11,000/m², which is far in excess of the £9,808/m² applied by the applicant. It increases the expected turnover¹ from £8.84m to £9.91m, more than £1m. This will result in additional loss of town centre turnover.

The expected trade diversion at Table 8 of Appendix 1 of the Planning & Retail Statement is considered unrealistic, with too great an emphasis on trade diversion from stores outside the primary catchment (45% (or £4.46m if the higher turnover above is applied)). The primary catchment (i.e. Zone 5) is already well contained, with limited leakage (17.5%)². There is therefore limited scope to increase retention, except where trade is being diverted from a discount foodstore, outside of Zone 5. That opportunity is however very limited given that the Aldi and Lidl stores in Hereford³ attract only £0.11m of expenditure from Zone 5.

There may also be some limited diversion from expenditure generated in Zone 4, given its geographical proximity. It is unlikely that there would be any meaningful diversion of expenditure generated in Zones 1-3 or 6, since these residents already have better access to nearby discount foodstores.

On that basis, diverting anything more than 10% of the proposal's turnover from stores outside of Zone 5 is unrealistic. With a total convenience goods floorspace turnover of £9.91m, 90% equals £8.92m. Apportioning this additional diversion from Zone 5 stores, in the same proportions as the applicant's analysis⁴, results in a town centre impact of £0.81m, or 10.8%.

It also results in the diversion of a significant proportion of trade from the edge-of-centre Tesco and Co-Op stores – the applicant suggests 16.1% and 19.5% respectively⁵. For the reasons set out above, we consider that diversion would be even greater. Whilst these stores are not centrally located, they are situated on the edge of Ledbury Town Centre (at either end) – a distance of 220m and 120m respectively. They therefore have a strong anchor role, and generate spin off trade for the independent and smaller traders in Ledbury Town Centre. The projected impact on these stores would therefore have serious indirect consequences for Ledbury Town Centre. Compounding this with the aforementioned direct impact on the town centre would result in a significant adverse impact. Paragraph 27 of the NPPF advises that, in this instance, the application “*should be refused*”.

Sequential Test

The applicant's sequential assessment has been undertaken on this basis of a 0.75 development site. However, we note that Aldi's website confirms that it will acquire sites of 0.8 acres (0.3ha) and above. Aldi's proposed format and scale can be delivered on a site of this size and the sequential assessment should be re-undertaken on this basis.

¹ In 2021.

² Table 6, Appendix 1, Planning & Retail Statement.

³ As well as the Lidl in Malvern and Aldi in Ross-on-Wye.

⁴ Table 8, Appendix 1, Planning & Retail Statement.

⁵ Table 8, Appendix 1, Planning & Retail Statement.

Employment Land

The proposal would result in the loss of designated employment land. The Council published its Employment Land Study in December 2012, which forecasted the amount of employment land required up to 2031, and assessed the quality of individual employment sites. It found that 'Land at Lower Road' (within which the site sits) "*achieves a good score in commercial attractiveness terms*" and classified it overall as "*Good*"⁶.

The Employment Land Study formed the evidence base for the 'Economic Prosperity' chapter of the Herefordshire Core Strategy that was adopted in October 2015. As a result, Policy E2 was created, which is clear and unequivocal – "*Employment land and buildings rated as 'best' and 'good' using the methodology in the Employment Land Study 2012 (or successor document) will be safeguarded from redevelopment to other non-employment uses*".


The Core Strategy is only eight months old, and hence remains fully up-to-date. To allow the loss of a 'good' employment site, totally contrary to a clear policy within the Core Strategy, would raise serious questions over the purpose of the Core Strategy, and the Council's application of a 'plan-led' planning system. It is therefore only reasonable that the application be refused.

Conclusion

Our review of the above matters has demonstrated some fundamental flaws in the assessment that supports the application. On this basis, the proposal is out of accordance with the NPPF and development plan, no material considerations outweigh this policy presumption, and therefore it is only reasonable that planning permission be refused.

We look forward to receiving confirmation of receipt of this objection, and notification of when the application will be determined, and the relevant Planning Committee date if necessary.

Yours sincerely,



Luke Raistrick

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⁶ On a scale of Poor, Moderate, Good , Best.