

MEETING:	PLANNING COMMITTEE
DATE:	14 SEPTEMBER 2016
TITLE OF REPORT:	<p>160606 - PROPOSED EXTENSION TO EXISTING FACTORY BUILDING AND ERECTION OF A LIMITED ASSORTMENT DISCOUNT FOODSTORE (CLASS A1), CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS</p> <p>For: Galebreaker Group Limited and ALDI Stores Limited per Mr Huw Jones, 18 Windsor Place, Cardiff, CF10 3BY</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160606&search=160606
Reason Application submitted to Committee – Strategic application	

Date Received: 1 March 2016

Ward: Ledbury West

Grid Ref: 370230,237883

Expiry Date: 15 June 2016

Local Member: Councillor A Warmington

1. Introduction

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

- 1.4 The majority of housing within Ledbury is located to the west of The Homend with substantial late twentieth century housing centred around the 'New Mills Estate' and the 'Deer Park Estate'.

Site Description

- 1.5 The application site is physically divorced from Ledbury Town Centre being at the western periphery of Ledbury. The site lies upon what is commonly known as the New Mills Industrial Estate immediately north of the loop road that is accessed off a roundabout upon the Leadon Way, the A417, to the west. The entirety of the application site amounts to approximately 2.862 hectares comprising land actively used by Galebreakers and an undeveloped parcel of land. There is an existing vehicular access effectively dividing the two distinct parcels of land. The land slopes down from south-east to the north-west.
- 1.6 Within the application site at its eastern side is an existing area of landscaping beyond which are the two-storey houses in Bronte Drive. It should be noted that on the south-eastern side of New Mills Way is a bus stop.

Proposal

- 1.7 The proposal involves two distinct proposals.
- 1.8 The first proposal involves an extension to the existing light industrial premises currently occupied by Galebreakers. This involves an extension to the north-eastern end of the existing building partially wrapping around the existing north-western and south-eastern elevations. This proposal would add some 2,286 sq metres of floorspace. The extended building would be some 14m – 29 m from the site boundary. The eaves height of the extension would be some 55.53m Above Ordnance Datum (AOD) and the ridge height some 57.21m (AOD). The extension would not be higher than the existing building. The existing internal staff parking area and vehicle manoeuvring areas would be re-configured. It is understood that this may facilitate the creation of an additional 7 full-time jobs and 3 part-time jobs.
- 1.9 The second proposal involves the erection of a retail store with a gross floorspace of some 1,807 sq m on the aforementioned vacant parcel of land. It is understood that the net sales area would be some 1,227 square metres. It is understood that 80% of the store (982 sq m) would be used for the sale of convenience goods (i.e. everyday essential items, including food, drinks, newspapers/magazines and confectionary) whilst the other 20% (245 sq m) would be used for comparison goods (i.e. items such as clothing, footwear, household and recreational goods). Some 40 jobs would be created.
- 1.10 The existing land levels would be remodelled to effectively create a relatively level area with retaining walls. The store would be located close to the rear (north-east) of the site with the service area provided adjacent to the north-western flank of the store. This area would include the requisite plant.
- 1.11 107 car parking spaces would be provided (93 standard spaces, 8 parent and child spaces and 6 disabled spaces). Provision would be made for 2 motor cycle spaces and 5 "Sheffield Stands" for the parking of 10 bicycles.
- 1.12 The vehicular means of access to the store would be via the existing access that the Galebreakers entrance spurs off.
- 1.13 It is proposed to create a pedestrian connection from the south-east corner of the site, close to the entrance to the store, to the footpath network across an existing area of public open space. There would be a pedestrian link from the southern corner of the site to the industrial estate loop road.

- 1.14 The latest amended plans show the provision of a 3 metre wide combined pedestrian/cycle route provision to the front of the application site.
- 1.15 Space for landscaping is shown including the buffer area to the south-west of the houses in Bronte Drive. This will allow the existing planting thereabouts to be supplemented by additional under storey planting.
- 1.16 There would be removable bollards installed to the vehicular entrance of the retail store site.
- 1.17 The application is accompanied by Draft Heads of Terms that would provide a financial contribution of some £120,000 (index linked) towards the public realm. This would specifically be directed towards landscaping improvements to the Masters House, a grade 2* listed building, within the Town Centre. A copy of the agreed draft Heads of Terms is attached as Annex 1.

2. Policies

2.1 The Herefordshire Local Plan Core Strategy 2011 – 2031

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
E1	-	Employment Provision
E2	-	Redevelopment of Existing Employment Land and Buildings
E5	-	Town Centres
S6	-	Environmental Quality and Local Distinctiveness
LD1	-	Landscape and Townscape
LD4	-	Historic Environment and Heritage Assets
SS7	-	Addressing Climate Change
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.2 National Planning Policy Framework

The NPPF needs to be read as a whole. However, the following sections are elements considered to be of particular relevance:-

- Introduction
- Achieving Sustainable Development
- The Presumption in Favour of Sustainable Development
- Core Planning Principles
- Delivering Sustainable Development – Building a Strong, Competitive Economy – *especially* paragraph 22
- Delivering Sustainable Development – Ensuring the Vitality of Town Centre – *especially* paragraphs 26 & 27
- Promoting Sustainable Transport
- Requiring Good Design
- Conserving and Enhancing the Historic Environment

- Planning Conditions and Obligations

2.3 National Planning Practice Guidance

Much of the National Planning Practice Guidance is relevant. That considered to be of most relevance in this case is the category entitled: - 'Ensuring the vitality of town centres'.

2.4 Neighbourhood Development Plan

Ledbury designated a neighbourhood area on 16 November 2012. The plan has yet to reach its Reg14 draft consultation. Whilst a material consideration at this stage any draft plan has no material weight in determining planning application in accordance with para 216 of the NPPF.

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

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. **Planning History**

- 3.1 There is one highly relevant historic application relevant to the consideration of this case:-

N113052/F – Demolition of existing buildings and construction of a superstore class A1, petrol filling station, car parking, bio-mass boiler landscaping and associated works – REFUSED

It should be note that that proposal involved the entirety of the site (at that time it was envisaged that Galebreakers would relocate) and the proposed store had a gross floorspace of 5,427.8 sq m with a net sales area of 2,787 sq metres (comprising 2,090 sq m convenience and 697 sq m comparison).

4. **Consultation Summary**

Statutory Consultations

- 4.1.1 Severn Trent Water – No objections. Recommend conditions and informatives.
- 4.1.2 Welsh Water – No objections. Recommend an informative.
- 4.1.3 Historic England does not consider it necessary for them to comment.

Internal Council Consultations

- 4.2.1 Public Rights of Way – No objections
- 4.2.2 Environmental Health – The information with respect noise from, deliveries and refrigeration plant has been considered and no objections are raised. Conditions & informatives are recommended.

4.2.3 The Team Leader Strategic Planning (Planning Policy) states:-

“Overview and current employment policy

The site at Lower Road, Ledbury was assessed as part of the Employment Land Study (ELS) 2012. This was the supporting evidence for the development of employment policies in the Core Strategy.

The site assessed in the ELS at Lower Road Trading Estate, Ledbury encompassed an entire area of 13.87ha this included developed and undeveloped land. The application site has a total area of 2.04 hectares. A small portion of land to the east within the application site was not assessed as part of the ELS. The plans submitted with the application show that this portion of land will include a pedestrian footpath which connects with existing links and no other apparent use is proposed for the area.

In the ELS, the entire land at Lower Road was assessed using a ranking system based on the employment land market and the types of employment land within Herefordshire. Sites were generally scored in order of qualitative value from ‘best, good, moderate and poor’. The site at Lower Road, Ledbury was assessed as ‘good’ in the ELS. Policy E2 of the Core Strategy seeks to protect the best quality employment land in Herefordshire from being lost to other uses. The protection of such land is reliant on the classifications used in the ELS.

Policy history of the site

The identified land was protected in the Malvern Hills District Local Plan adopted January 1998. This Plan was in place up until 2001. In this Plan it was protected as an ‘existing industrial commitment’. This commitment did not materialise.

The Unitary Development Plan (UDP) adopted March 2007 was the development plan that superseded the Malvern Hills Plan. The UDP identified the land as safeguarded employment land and was therefore protected as such. However, no employment land development has come forward in that plan period either.

Therefore the site has been afforded a long time period of protection but no employment land development has come forward on the site. There is currently no extant planning permission on the site and the site where the Aldi supermarket is proposed has remained vacant for a number of years.

Employment proposal

Part of this application is for the extension to an existing factory building which is classed as B1 and falls within the planning B use classes. The extension will deliver additional storage and office space associated with the Galebreaker operation. There would be employment opportunities as set out in the applicant’s proposal for 7 full time jobs and 3 part time jobs. As there are employment proposals in line with policy E1 which aids in strengthening an existing business, this part of the proposal would therefore in principle be acceptable on this basis.

Retail on employment land

The other major part of the application proposes an Aldi foodstore with parking which is classified as an A1 retail use. This part of the site is largely undeveloped with only access roads in existence. A retail proposal is considered to be a non-employment planning use. In the Core Strategy, retail uses are generally not considered to be appropriate within an employment site, unless they serve the day to day needs of the site’s employees. The proposed Aldi store would clearly serve the wider community of the town and surrounding areas.

In Ledbury a total of seven employment sites within and around the town have been assessed in the ELS. The sites at Lower Road, the Core Strategy sites at Bromyard Road (3 hectares) and Little Marcle Road (12 hectares) form the three main large employment sites for the town. All three sites have capacity for additional employment development. Therefore there is not considered to be a quantitative lack of available employment land in Ledbury as a whole. The Aldi store proposal estimates 40 new full and part time jobs could be created from its development albeit not in B type planning uses. This would be a beneficial effect for the town.

However, consideration needs to be given regarding the loss of this area of the town's employment land supply, particularly as the land is classed as good quality employment land. In this regard, the views of the Council's Economic Development section would be helpful to ascertain the acceptability of such a loss and the implications for neighbouring employment uses.

Given the site's location amongst other neighbouring employment uses; a Highways assessment regarding user conflicts with HGV vehicles and pedestrians is also necessary.

The Sequential test

It is noted that the applicants have applied the sequential test in the search for a more suitable site close to the town centre. They have looked at the possibility of three sites.

- Land west of Lawnside Road; the applicants have concluded that the site is an unsuitable site to meet the needs of Aldi's store size and design requirements.
- Land at Bye Street car park; the site is not large enough to accommodate the typical Aldi store design and size. the swimming pool has a planned refurbishment due to commence in April 2016 and therefore the opportunity to relocate the pool currently does not exist.
- St. Katherine's car park; again this site was not large enough to accommodate the typical Aldi store design and size. There were concerns for the existing listed building and the impact of a retail store on it.

Overall the applicants have concluded that a search for a site to accommodate the typical Aldi store design and size (0.75ha) have proved fruitless. It is acknowledged that finding a sizeable and suitable site close to the town centre of Ledbury is challenging. Previous Strategic Housing Land Availability Assessments (SHLAAs) carried out in-house have not identified a vacant site of such a size close to the town centre. It is therefore concluded that a satisfactory sequential test has been carried out.

Impact Assessment

The size of the proposed store is greater than the Core Strategy Policy LB1 threshold of 400 metres squared. Therefore a retail impact assessment is required and the applicants have addressed this in their Planning and Retail Statement. The applicants have concluded that the impacts associated with the proposal are low and represent no threat to the vitality and viability of Ledbury town centre. They also state that assessed impacts are not significantly adverse and the proposal is accordingly in compliance with retail guidance in the NPPF.

The Town Centres Studies Update 2012 indicates a need for further convenience shopping floor space in the town up to 2031 and the proposal would provide an element of retail floorspace which would help in meeting such a need. An independent assessment of Turley's Impact Assessment should be sought to determine if the methodology is appropriate and conclusions are satisfactory.

Conclusion

Before a final conclusion can be drawn, an independent assessment of the applicant's Impact Study is necessary. The town is in need of further retail convenience floor space during the plan period. The submitted sequential test sets out why other sites closer to the town centre were not suitable and that position is considered to be acceptable.

The site where the proposed Aldi is to be located has been in two former development plans as protected employment land but to date has not seen any new employment development in over fifteen years. The issue remains as to whether the loss of the employment land is considered to be a sufficient ground for refusal. From a strategic planning perspective, the overall supply is not considered at risk of depletion."

4.2.4 The Economic Development Manager states:-

"With regard to the above planning application I have the following comments to make from an Economic Development perspective.

Localised supply of employment land and property

The application site is within the Lower Road Trading Estate within Ledbury, the wider estate consists of a range of uses with some significant industrial occupiers such as Galebreakers, Ledbury Welding, and Amcor Flexibles, situated alongside trade counters (for example Travis Perkins) and bulky goods retail (Homebase). Consequently there is not a single predominant use within the estate.

It is apparent that, in addition to the application site, there are other vacant allocated plots within the Lower Road Trading Estate that are either on the market or subject to a planning application.

As part of a wider commercial land sale (to the immediate south of the application site) there is an opportunity for a circa 8,000 sq. ft employment development with associated facilities. In addition planning application no. P160974/F asks for permission to create circa 25,000 sq ft of employment development with associated car parking, loading and other facilities. It should be noted that both the land to the south of the application site and that covered by application P160974/F have been subject to previous planning applications for employment uses.

Elsewhere in Ledbury there are the usual supply of town centre based vacant office accommodation supplemented with a mix of commercial units on the various trading and employment estates. In particular there is a significant vacant commercial property on the Bromyard Road, which is currently on the market as a freehold sale, the property offers in the region of 86,000 sq. ft. of employment space, predominantly B1, B1c and B8, with associated car parking and loading facilities.

It is felt that there is a good mix and range of employment accommodation available within Ledbury, ranging from small scale office accommodation, to sites suitable for mid-range employment units, through to a significantly sized site with a range of buildings and services.

Historical supply of employment sites

It is recognised that no recent significant employment allocation in Ledbury has been successfully brought to the market. The Core Strategy has sought to address this deficiency with a recognition that previous pure employment allocations to the north of the town were not able to generate sufficient commercial value to enable their implementation. The Core Strategy has allocated the bulk of the required employment land to the west of the Ledbury bypass with a

smaller, supplementary, allocation accompanying the sustainable urban extension to the north of the railway viaduct.

It is reasonable to assume that either or both of these sites will provide a longer term supply of employment land for Ledbury, in particular the viaduct site where opening discussions have been held with developers.

Additionally it is recognised that the application site, although indicated for employment purposes and situated within a recognised trading estate, has not been brought forward for an employment use despite being allocated between, at least, 2001 and 2016.

Galebreakers proposals and job creation

Galebreakers have provided supporting information to evidence that the application “*also secures our future in Ledbury creating and safeguarding Galebreaker jobs*”, it is inferred within the supporting information that these benefits are realised through the extension of their production facilities.

Galebreakers go on to say “*The extension will be used to accommodate additional production lines, will add a new research and development centre and additional goods out warehousing which are needed to meet our demand from our expanding home and international markets. The Aldi proposal will accelerate this development and our market growth plans.*”

It is not apparent that the Aldi element of the application is essential to enable the growth of Galebreakers as a company but it is apparent that an extension to the existing Galebreakers building would facilitate new employment creation.

As a single application the proposal has the prospect of two forms of job creation. Firstly within the Aldi Store the applicant states that 40 jobs will be created, both full and part time, in a range of occupations. Secondly Galebreakers would create 7 new full time and 3 part time jobs with the expanded building.

Whilst the employment associated with Galebreakers appears to be significantly lower than could be expected for 25,000 sq. ft of a B1c type use (using the HCA Employment Densities Guide 2015 suggests that approximately 49 jobs could be accommodated within this space) it is appreciated that the calculations have been made by Galebreakers themselves who are in the best position to accurately predict the job numbers they expect to create.

Additionally, given the size of the expansion to Galebreakers, it is reasonable to expect that future job creation, beyond the 10 full and part time positions mentioned in the supporting information, could be accommodated within the expansion proposed.

The total number of jobs stated to be created via the application, 50 full and part time positions, is lower than would be expected if the entire site had come forward for a B1c or B8 use (calculated using the HCA Employment Densities Guide 2015). However the reality is that the application provides a high degree of certainty over the provision of the stated 50 jobs and it should be recognised that the site has not come forward for a full employment use despite being allocated as such for at least 15 years.

Conclusion

Lower Road Trading Estate, although rated as “Good” quality employment land by the Employment Land Study, is not fully built out and has a range of occupiers ranging from retail to light manufacturing, to trade counters. This mix of businesses does not appear to generate any specific spatial or use conflict and there would be no reason to suppose that the application would alter these circumstances.

It is apparent that there is a supply of commercial property, of various sizes and locations within Ledbury, additionally there are development sites currently available which have never successfully been brought forward for employment purposes despite having planning permission for such uses.

There is a definitive prospect of employment generation both in the retail and employment elements of the application and it is recognised that this is in marked contrast to the history of the application site which has been allocated for employment use in several iterations of the local plan without being brought forward and without any associated job creation.”

4.2.5 Transportation Manager (Highways) has no objections to the proposal.

4.2.6 Conservation Manager (Ecology) has no objection to the proposal.

4.2.7 Land Drainage Consultant – no objection subject to imposition of an appropriate planning condition.

4.2.8 Conservation Manager (Historic Buildings) states:-

“It seems clear that the proposed Aldi store would have a potentially detrimental impact on the vitality of Ledbury Town Centre by reducing the footfall of shoppers in particular. This could lead to reduced turnover in shops and therefore a reduced level of maintenance for the buildings themselves. As most buildings in Ledbury Town Centre are listed buildings, this would put designated heritage assets at risk from poor maintenance.

To offset the potential reduction in shoppers, it is vital to ensure that the town centre public realm is maintained to a high standard to provide a welcoming place to visit. The recently completed restoration of the Master’s House is a fully accessible, grade II* heritage building which is open to the public. It is currently set within a sea of car parking and needs an appropriately landscaped setting to act as car park and welcome point.

The Section 106 money of £180k (*now reduced to £120k*) being discussed should sensibly be utilised on the Master’s House landscaping to upgrade this central location and arrival point for visitors and residents alike. The monies made available would need to be sufficient to complete the landscaping to a high standard rather than being either part-completed or completed to a lesser standard.”

5. Representations

5.1 Ledbury Town Council support the application.

5.2 117 written representations of support in relation have been received on the following summarised grounds:-

- Insufficient provision in Ledbury for an affordable family grocery shop;
- The proposal would not negatively impact upon the Town Centre;
- The access to the site is good and would avoid lorries travelling through the Town Centre;
- The proposal would provide greater choice;
- The proposal would mean more Ledbury residents shopping in Ledbury as opposed to elsewhere (i.e. Hereford, Ross, Malvern) and as a consequence involve shorter car journeys;
- There are no other suitable alternative locations;
- The proposal would provide more jobs;
- Ledbury’s population will be growing with more housing;
- The site is well related to the main residential areas; and
- The proposed store appears well designed to meet the needs of the disabled.

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

- 5.3 20 representations of objection have been received on the following summarised grounds:-
- Concern with respect to noise and light pollution impact especially upon the occupiers of dwellinghouses in Bronte Drive;
 - Impact upon the vitality and viability of Ledbury Town Centre;
 - Loss of employment land; and
 - Impact upon highway safety, especially the New Mills/Leadon Way roundabout.
- 5.4 A representation of objection has been received from an agent on behalf of the Co-op. This is attached in full as Annex 2 to this report.
- 5.5 A representation of objection has been received from an agent on behalf of Tesco. This is attached in full as Annex 3 to this report.
- 5.6 Nine representations of observation/comment have been received raising the following matters:-
- A financial contribution should be made to the public realm of the Town Centre (i.e. landscaping of the Masters House);
 - The Lawnside site is unsuitable for this type of development due to highway constraints;
 - It would be preferable to have a different operator, a larger supermarket and a petrol filling station;
 - Other employment land may be required;
 - Would prefer the extension to Galebreakers to be further from houses in Bronte Drive; and
 - Attention needs to be given to the detail of any lighting design.
- 5.7 The consultation responses can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160606&search=160606>

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

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 6.2 In this instance the Development Plan for the area is the Herefordshire Local Plan – Core Strategy (CS). A range of CS policies, referred to in Section 2.1 are relevant to the development of this nature. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms proposals that accord with the policies of the Core Strategy (and where relevant other Development Plan Documents and Neighbourhood Plans) will be approved, unless material considerations indicate otherwise.
- 6.3 For the purposes of this appraisal the retail aspect of the proposal is assessed first and then the extension to the existing light industrial premises.

Retail Proposal

- 6.4 It is clear from the Council's Town Centre Update 2012, which formed part of the evidence base informing the Core Strategy, that it was envisaged that Ledbury should, during the Plan period, be capable of accommodating the amount of additional convenience and comparison floorspace sought by way of this application. It is, however, accepted that that document only represented a strategic overview at that point in time and that any subsequent application needs to be carefully assessed.

Sequential Testing

- 6.5 The National Planning Policy Framework (NPPF) still essentially retains a "Town Centre first" approach. Local Planning Authorities should apply a sequential test to planning applications that are not in an existing centre. Paragraph 24 of the NPPF is clear that:- "They should require applications for main town centre uses to be located in the town centre, 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". This policy approach is reflected and specifically referenced in Core Strategy policy E5.
- 6.6 It is not considered that there are any suitable sites within the Town Centre.
- 6.7 In terms of edge-of-centre sites, when dealing with the aforementioned historic application (N113052/F) the Local Planning Authority considered that the sequential testing was not robust. Certainly at that time, it was considered that the Lawnside site off Bye Street had not been appropriately considered. That was not to state that it was a suitable and available site. At that time it was considered that a supermarket operator *may* consider the possibility of a land assembly (if the various parts of the site were available) and redevelopment. However, integral to such a scheme would have been the relocation and/redevelopment of the existing leisure centre (i.e. swimming pool and gym facility operated by Halo). This is because of the relatively central location of the existing leisure centre within the wider Lawnside site. At that time there was a degree of uncertainty surrounding that facility due to its physical condition and lack of space. There was concern over the stability/condition of the roof structure; the age and condition of the changing facilities and the lack of space was restricting the ability of the management to generate income to continue the sustainability of the facility. However, circumstances have changed in that the decision has been made to retain, refurbish and extend the existing leisure centre. This scheme was detailed in planning permission 133503. The works on that project costing some £2.621m (including some £500,000 external funding from Sport England) commenced in June 2016. The works are scheduled to be completed in May 2017. The refurbished facility will need to remain in its current use for some 21 years.
- 6.8 In addition, during the aforementioned works to the Leisure Centre the former 'Youth Centre' located at the south-western corner of the Lawnside site is to be used by Halo as a temporary facility.
- 6.9 It is considered that the retention of the public parking that not only assists in serving the Town Centre but also the aforementioned leisure facility is of importance.
- 6.10 The Local Planning Authority is highly unlikely to support the loss of the listed building within the Lawnside site which is currently in use as a public house.
- 6.11 As a consequence of the above, it is considered that the amount of and size/shape of site that could potentially be assembled (if there were other willing landowners) would not be suitable for a supermarket of the nature proposed (even with flexibility in format). Indeed there is no reason to believe that any part of the site, other than the former Ambulance Station may be available.

- 6.12 It is not considered that there are any other edge-of-centre sites that require investigation.
- 6.13 It is considered that even out-of-centre sites need to be carefully considered in terms of location, including distance to the Town Centre. Clearly, for example, a site located inside (i.e. to the east) of the “Ledbury by-pass (i.e. A417) is preferable to one located outside (i.e. to the south / west). The site the subject of the current application has the following benefits:-
- a) It is located inside of the “Ledbury by-pass” / A417;
 - b) It is well related to one of the main residential estates of Ledbury (i.e. the New Mills Estate);
 - c) It is well linked to the other, albeit limited, out-of-centre retail development that exists in Ledbury (i.e. Homebase / Argos); and
 - d) It has the potential to link well to the footpath / cycle route network that leads to the Town Centre and the adjoining residential areas.

- 6.14 In conclusion, it is considered that there is no sequentially preferable available and suitable site to accommodate this retail development (even allowing for flexibility in format).

Impact upon the vitality and viability of the Town Centre together with impact upon heritage assets

- 6.15 It is worth noting that currently Ledbury Town Centre appears “healthy”. In the ‘Town Centre Update 2012’ it was stated that:-

“Ledbury remains a vibrant and strong centre, with a local population keenly active in seeking to protect the future health of the centre. The vacancy rate remains low, and new developments such as the Design Quarter have strengthened the independent / niche retail offer.”

- 6.16 Members attention is drawn to the critical wording in paragraph 27 of the National Planning Policy Framework (NPPF) where it states that where an application “...is likely to have significant adverse impact...” it should be refused. Specific attention is drawn to the word “significant”.
- 6.17 The agent for the applicant has submitted an ‘Impact assessment’. Understandably the impact assessment focuses on convenience goods. The impact assessment forecasts a 5.9% trade impact upon the Town Centre.
- 6.18 Officers have sought expert independent advice from an experienced retail consultant. It is his view that the impact is more likely to be in the region of 8.8%. All of the Council’s consultant’s written advice can be viewed via the aforementioned website link.
- 6.19 The main reason for this apparent difference in view is that the agent for the applicant appears to have underestimated the proportion of the new store’s trade that would be drawn from Ledbury shops. They estimate that it would be in the region of 55% whilst the Council’s engaged consultant considers that it would be around 63%.
- 6.20 The figure of 45% of the store turnover drawn from non-Ledbury shops suggested by the agent for the applicant is considered to be too high and is more likely to be in the region of 37%.
- 6.21 The Council’s ‘Town Centre Study Update 2012, upon which the Turley impact assessment is based forecast an expenditure per head growth of +1.1% during the period 2012-2016 and +3.5% for the period 2016-2021. However, more recent forecasts indicate that growth is likely to be a little lower than this. As a consequence the impact of the proposal is likely to be slightly greater than forecast (see 6.18 and 6.19 above).
- 6.22 It is accepted that a new discount foodstore in Ledbury would be beneficial to the town’s residents by widening consumer choice and competition for the purchase of food products. Members will have noted the representations received from residents of Ledbury.

- 6.23 It is the case that trade impact experienced in Ledbury Town Centre will fall on smaller shops as the existing two larger supermarkets lie outside the Town Centre. They are edge of centre stores. The range of independent food traders (including butchers) in Ledbury town centre is unusual. They play a major contribution to the vitality and viability of the Town Centre. Whilst Ledbury town centre is healthy, it should not be assumed that it is immune from the commercial pressures that small shops are generally experiencing. Furthermore, although discount retailers have a distinctiveness and somewhat different model, it should not be assumed that Town Centre retailers will be insulated from competition. In recent years discount foodstores have made major inroads into the food market.
- 6.24 What is clear is that the trade diversion and quantitative impact on Tesco and the Co-op in edge-of-centre locations would be greater. With both stores being outside the Town Centre the impact on them is of less policy significance, but not wholly irrelevant to the vitality and viability of the Town Centre. There is a degree of linked trips between these stores and the Town Centre.
- 6.25 Ultimately it is for the decision maker to form a view as to whether the proposal would have a significant adverse effect upon the viability and vitality of the Town Centre. It is considered that the proposal would have an adverse impact. However, ultimately the question is whether that effect would be “significant”.
- 6.26 It is at this stage of the assessment that one needs to consider the special qualities of Ledbury Town Centre from a heritage perspective. The entirety of Ledbury Town Centre lies within a designated conservation area and there are numerous listed buildings. Intrinsic to the character of the Conservation Area are the retail uses. In addition, viable uses for listed buildings are critical to ensure that they do not fall into disrepair. If the character of the Conservation Area were to be diluted and the maintenance of listed buildings lessened, then Ledbury is likely to be less attractive to tourists. In other words, despite its apparent health Ledbury Town Centre warrants special consideration.
- 6.27 It is considered that the financial contribution of £120,000 (index linked) to the landscaping of the Masters House would constitute a contribution to the enhancement of an important community facility and heritage asset that assists in drawing visitors to the Town Centre. It would assist in offsetting some of the impact of footfall loss in the Town Centre that would otherwise occur. It assists in mitigating an adverse impact.
- 6.28 On balance, it is considered that the proposed development would not significantly adversely affect the vitality and viability of Ledbury Town Centre. As a consequence it is considered that the proposal accords with policy E5 of the Herefordshire Local Plan Core Strategy 2011-2031.

Co-op representations submitted by Pegasus

- 6.29 With respect to the objections raised by the agent acting for the Co-op, the following comments are made (n.b. the paragraph references refer to those in their representation attached as **Annex 2**):-
- **Paragraph 4.2** - the agent for the applicant’s quoted distance to the defined CSA boundary (950m) is broadly correct (as presumably are the Pegasus stated distances to the primary and secondary retail frontages). It is not considered that the precise distance is critical as it is readily accepted that the site is an out-of-centre location;
 - **Paragraph 4.13** – the point about the reliability of the Study retail forecasts is accepted and the need for ongoing consideration at the time of specific proposals (as is being done in this case).
 - **Paragraphs 4.24-4.29** – It is not accepted that the turnover estimates are too low. It is correct that Aldi sales densities have risen significantly over recent years from around

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

£5,000 per sq.m in 2010. The agent for the applicant's estimate of £9,800 per sq.m recognises this. There are some discrepancies between the different published information sources - Mintel and Verdict. Mintel (April 2016) gives an Aldi company average sales density of £10,704 per sq.m.

It should also be noted that for individual operators there is known to be a wide variation of performance around the company average between stores. In addition the figures are prone to vary from year to year. Even if the Aldi sales density estimate for Ledbury is slightly below the company average, this does not appear to be unreasonable for a small town such as Ledbury, where the store is likely to be less busy than in more densely populated areas where many Aldi stores are located.

- **Paragraphs 4.32-4.33** – The agent for the Co-op maintains that the impact on the town centre shops may have been underestimated, because it is acknowledged that the household surveys may have underestimated the turnover of the town centre small shops. Their point is not logical. The agent for the applicant is saying that if the turnover of the town centre shops is low, the impact arising from any trade diversions will be correspondingly higher. This would only be the case if trade diversions caused by the store remained the same, which would be unlikely.

The more important issue is whether the % of the Aldi store turnover drawn from the town centre shops is realistic - 5% trade set out in Table 8. This is a judgment based on the scale and retailing format of the application proposal, and the scale and nature of retailing within the town centre (and other competing facilities). It assisted by an understanding of existing shopping patterns shown by the household surveys, but not directly informed by them.

- **Paragraphs 4.35-4.36** – The agent for the Co-op makes the same point as Officers make that the proportion of trade drawn from the town centre shops is unrealistically low and that from further afield is too high.
- In **Paragraph 4.38 (bullet points)** the agent for the Co-op summarises his concerns in respect of Turley' PRS

Bullet 1 - Officers believe the Aldi turnover estimate is reasonable for Ledbury.

Bullet 2 – This is an agreed point.

Bullet 3 – Officers do not agree, for the reasons given above.

Bullet 4 – It is agreed that the Co-op is not performing well

Bullet 5 – It is considered that that it is not necessary to assess comparison trading in the same level of detail as for convenience goods. Available catchment area comparison goods expenditure is estimated at £55.4m at 2021 (PRS Table 2). This can be compared with an Aldi comparison goods store turnover of just under £2m only. It is considered that the implications of the comparison goods element of the proposal can be dealt with in qualitative terms. It is considered that the comparison element of a discount store such as that proposed is likely to provide a different offer to the distinctive independent comparison retail shops that are so prevalent in Ledbury Town Centre.

Tesco representation submitted by MRPP

6.30 With respect to the objections raised by the agent acting for Tesco (see **Annex 3**), the following comments are made:-

- They first comment on the turnover estimate used for the proposed ALDI store, which is based upon Turley's sales density estimate of £9,808 per sq.m. It remains officers view that even if the sales density used for an ALDI store in Ledbury is slightly below the company

average, this does not appear to be unreasonable, because the store is likely to be less busy than stores in more densely populated areas where many ALDI stores are located.

- The agent for Tesco maintains that the proportion of the store turnover drawn from shops outside Zone 5 (Ledbury) estimated by Turley is too high. This is accepted. However, in the assessment above it is recognised that the figure of 45% of the store turnover drawn from non-Ledbury shops is too high and likely to be in the region of 37%;
- The agent acting for Tesco maintains that no more than 10% of the ALDI turnover would be drawn from non-Ledbury shops. Whilst it is accepted that the estimate of the proportion of the proposed store turnover drawn from non-Ledbury shops provided by the agent for the applicant is too low, it is questioned whether it could be as low as 10%, as suggested by the agent acting for Tesco. The introduction of an ALDI store would diversify the type of convenience facility on offer in Ledbury. There are existing ALDI stores in Hereford City (the City is a widely used destination for Ledbury residents) and Ross on Wye (which is also relatively close-by). It is therefore considered that the level of clawback would be greater than assumed by the agent acting for Tesco.
- The views with respect to the significance of Tesco and the Co-op edge-of-centre stores for Ledbury Town Centre are accepted;
- Based on a higher ALDI store turnover and a much lower proportion of the store turnover drawn from non-Ledbury shops than estimated by the agent acting for the applicant, the agent acting for Tesco estimates a trade impact on Ledbury Town centre convenience shops of -10.8%. This compares with figures of -5.9% suggested by the agent for the applicant and -8.8% suggested by the Council's independent consultant. It is considered that the trade draw assumptions provided by the agent for Tesco in respect of non-Ledbury shops are unrealistically low.

“Linked Trips”

- 6.31 The application site is a walking distance of approximately 830 metres to the Town Centre, in excess of 1km from the Market Hall in the centre of the Town Centre and approximately 1.5km from the railway station. The proposal does include an enhanced link to the footpath network to the south-east and enhanced cycling provision to the front of the site.
- 6.32 It is not considered that there would be many linked-trips to the Town Centre. However, the applicant has included the requisite enhancements to encourage such linked trips and it is not considered that there is a sequentially preferable site.
- 6.33 Furthermore the links are such that the use of modes of transport, other than the private motor vehicle, especially from the New Mills housing area is considered likely.
- 6.34 It should not be assumed that shoppers would utilise such a discount store as a single destination. They may undertake trips to both such an out-of-centre discount store and say smaller independent shops within the Town Centre. One of the concerns with respect the previous proposal relating to this site for a significantly larger store was that it may have become a single destination in its own right due to its sheer scale and range of goods / services offered.

Transportation

- 6.35 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 splays are adequate.
- 6.36 The parking provision is considered to be acceptable.

- 6.37 The proposed development with the enhanced provision/connectivity for cyclists proposed is such that trips to the store by cyclists appear likely.
- 6.38 As a consequence it is considered that the proposal complies with policies SS4 and MT1 of the Herefordshire Local Plan Core strategy 2011 – 2031.

Loss of employment land & other employment issues

- 6.39 Employment land is normally considered to be land that is actively lawfully used for employment purposes, has an extant planning permission for employment purposes or land specifically allocated for employment purposes.
- 6.40 It is understood that the original Malvern Hills District Council outline planning permission for the New Mills residential development and industrial area envisaged this parcel of land (amongst others) being utilised for employment purposes. However, research suggests that there was never a reserved matters application relating to this land nor has there been any subsequent outline or full planning permission relating to this land.
- 6.41 It does seem somewhat strange that previous policy documents (e.g. the Herefordshire Unitary Development Plan 2007) “safeguarded” the land for employment purposes, rather than “allocated” it for employment purposes. One normally only “safeguards” land for purposes where that land is lawfully actively used for that specific purpose already or has an extant planning permission. One can only assume that the *intent* was actually to “allocate” the land.
- 6.42 In the absence of definitions of the terms safeguard and allocate within the Core Strategy or any other policy document of which officers are aware, the dictionary definition has been considered. The online Oxford Dictionary tells us that to ‘safeguard’ is to “Protect from harm or damage with an appropriate measure”. It states that to ‘allocate’ is to “Distribute for a particular purpose”. In considering these definitions, officers consider ‘safeguarding’ to be a preventative measure, seeking to protect something which is already established. Conversely, to allocate something is a proactive measure. It occurs prior to the referenced action being undertaken.
- 6.43 In terms of the existing Development Plan, the Herefordshire Local Plan Core Strategy 2011-2031, the land is not allocated for new employment provision. However, it is again “safeguarded”. It appears that the intention when producing that document was that the land be used for employment purposes in that under the section entitled ‘Safeguarding existing employment land’ in policy E2 it states that:-
- “Employment land and buildings rated as ‘best’ and ‘good’ using the methodology in the employment Land Study 2012 (or successor’s document) will be safeguarded from redevelopment to other non-employment uses”.
- 6.44 The land in question is rated as ‘good’ using the methodology in the employment Land Study 2012.
- 6.45 It could be argued that the land is not employment land as it is not actively lawfully used as such at present and is not allocated for employment purposes in say a Neighbourhood Plan that carries weight.
- 6.46 Nevertheless, for the purposes of this report it will be assumed that the land is safeguarded employment land legitimately the subject of Policy E2 of the Core Strategy.
- 6.47 It is considered that the key matter in consideration of this matter is paragraph 22 of the NPPF that states:-

“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. When 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 and uses to support sustainable communities”.

- 6.48 The land in question has effectively been identified / safeguarded for employment purposes by successive policy documents since 1998 without the land coming forward with employment development.
- 6.49 It is also worth noting that there have been other planning permissions for employment development in the area (e.g. N103020/O) on “employment land” that have not been implemented.
- 6.50 Furthermore, one should note that the Core Strategy identifies a further 15 hectares of land for employment purposes at Ledbury (12 hectares south of Little Marcle Road and 3 hectares as part of the mixed use scheme on land north of the viaduct).
- 6.51 The Planning Policy Section conclude that: “From a strategic planning perspective, the overall supply is not considered at risk of depletion.”
- 6.52 One also needs to recognise the wider issues with regard to the proper planning of the area. If one accepts that Ledbury can satisfactorily accommodate the retail floorspace proposed by this store and that there is no sequentially preferable site, the question would be if one considers that the application site should be used for employment purposes, where would one locate such a store? It may need to be located the other side of the by-pass (A417) with all the problems associated with such a location. In essence, it is considered that it is more important that retail floorspace is kept as close to the Town Centre, inside the “by-pass” (A417) and well related to the residential population than employment land. In other words, if one would need to displace a use further out-of-centre it is considered that it is preferable to displace an employment use as opposed to a retail use.
- 6.53 Finally whilst accepting that this aspect of the proposal is not for an “employment use”, one needs to be aware that the retail proposal would generate employment (some 40 jobs),
- 6.54 It is not considered that a refusal based on loss of employment land contrary to policy E2 of the Herefordshire Local Plan Core Strategy 2011-20312 could be substantiated.

Flooding & Drainage

- 6.55 The site is located within the low risk Flood Zone 1. Flood Zone 1 comprises land assessed as having less than a 1 in 1,000 annual probability of river flooding. There are no objections to the proposal from a flood risk or drainage point of view, although a condition is recommended to deal with matters of detail.

Siting/Design

- 6.56 It is considered that locating the store to the rear of the site with parking to the front has a number of advantages. The building itself, due to its mass, would act as an acoustic barrier safeguarding the dwellinghouses in Bronte Drive from noise and disturbance rising from the associated motor vehicle parking. In addition, with the store entrance being sited at the southern end, it facilitates the optimum pedestrian linkages to be created to the New Mills estate and the wider Town.

- 6.57 The design of the building is relatively standard. The area is surrounded by industrial buildings. However, it is considered that the more modern / contemporary Aldi store designs are attractive with their strong horizontal emphasis effectively “broken-up” and given architectural interest by the generous overhanging canopy to the store entrance, over the trolley parking, cycle parking area and wrapping around the southern end elevation.

Landscaping

- 6.58 The landscaping strategy is considered to be acceptable, especially the manner in which the internal parking area is to be broken-up/softened by landscaping. There is less landscaping to the frontage than originally envisaged but this was a consequence of securing the requisite cycle link improvements.
- 6.59 Nevertheless, a detailed landscaping scheme (including the implementation and maintenance of such a scheme) would need to be secured by way of appropriate planning conditions.

Ecology/Bio-diversity

- 6.60 An ecological appraisal of the proposed development based on the results of a desktop study, Phase 1 habitat survey and a number of detailed protected species surveys, has been carried out.
- 6.61 There are no statutory or non-statutory nature conservation designations present within or adjacent to the site, and no such designations within the surrounding area are likely to be adversely affected by the proposals.
- 6.62 The Phase 1 habitat survey established that the site is dominated by habitats of negligible to low ecological value whilst adjacent off-site habitats are of elevated ecological value. Given that on-site habitats are of negligible to low ecological value their loss to the proposals is not considered to form a constraint. Nonetheless, new habitat creation is proposed to offset any losses.
- 6.63 The habitats within the site support or have the potential to support, several protected species, including species protected under the provisions of relevant legislation (reptiles and bird species). Accordingly, a number of mitigation measures are proposed to minimise the risk of harm to protected species, with compensatory measures incorporated, where appropriate, in order to maintain the conservation status of local populations. In particular, a suitable reptile mitigation strategy is proposed in order to protect the population of Slow-worm recorded at the site during the survey work undertaken.
- 6.64 In conclusion, the proposals minimise impacts and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm to ecological receptors. Indeed, the proposals provide a number of ecological enhancement measures. Appropriate planning conditions are recommended.

Residential Amenity

- 6.65 Concern has been expressed with respect to the impact of the proposal upon the amenities of the occupiers of houses in Bronte Drive to the north-east of the site. The specific areas of concern have revolved around noise arising from deliveries and from refrigeration plant. In this regard the deliveries yards are now fitted with docking bays such that unloading can be dealt with in a controlled enclosed environment. The application has been accompanied by a noise assessment and the Council’s Environmental Health Section is satisfied that the proposal would not cause any undue loss of amenity to the occupiers of dwellinghouses in Bronte Drive.
- 6.66 Concern has also been raised with regard to potential light pollution. This is a legitimate concern and that concern extends to light spill beyond the site boundaries especially the tree

belt to the rear of the proposed store which may be used by bats. Lighting can be controlled and in that respect appropriate conditions are recommended.

- 6.67 The ridge heights of numbers 46 and 48 Bronte Drive are 58.9 m AOD and 59.6 m AOD respectfully. The height of the store (parapet level) is 57.585 and thus below the ridge levels of the dwellinghouses in Bronte Drive beyond. The finished floor level of the store would be 52.125 m AOD with a total height above that of 5.46 m. This together with the intervening distance means that it is considered that the proposed development would not have an undue physical massing affect upon the occupiers of dwellinghouses in Bronte Road nor would occupiers of dwellinghouses in Bronte Road suffer an undue loss of daylight and/or sunlight.
- 6.68 With regard to servicing, this proposed Aldi store would only be served by two delivery vehicles per day. These would deliver to the store between the hours of 7am and 10pm.

Contaminated land

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

Conclusion with regard retail store

- 6.70 In the light of the above it is considered, with respect to the retail store proposal, that:-
- Whilst the site is out-of-centre there is not a sequentially preferable suitable and available site;
 - The loss of land identified for employment purposes is not considered to warrant a refusal, primarily due to the fact that the no such development has come forward for a period in excess of 15 years;
 - The proposed development with the proposed financial contribution mitigating the potential adverse affect upon the Town Centre would not significantly affect the vitality and viability of the Ledbury Town Centre;
 - The siting/layout, access, design and appearance of the proposal with the recommended conditions would be appropriate;
 - The proposal would not have an adverse impact upon the landscape/townscape nor would it harm bio-diversity; and
 - The proposal would not harm the amenities of the occupiers of dwellinghouses in Bronte Drive.

Extension to Existing Employment (Light Industrial) Premises

Principle

- 6.71 The proposal accords with the objective of policy E1 of the Herefordshire Local Plan Core Strategy 2011-2031 as the proposal involves an extension to an existing employment premises.

Access

- 6.72 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 splays are adequate.
- 6.73 The parking provision is considered to be acceptable.
- 6.74 As a consequence it is considered that the proposal complies with policies SS4 and MT1 of the Herefordshire Local Plan Core strategy 2011 – 2031.

Layout /Siting and Design

- 6.75 The siting of the extension and its design is considered to be functional, logical and appropriate. It accords with the design of the existing premises.
- 6.76 Details as to the precise colour of the external materials would be required.

Residential Amenity

- 6.77 For the avoidance of any doubt it has been previously established that the Galebreakers use is a light industrial use. Within the report relating to the historic proposal to relocate Galebreakers (120261) the Officer delegated report states:-

“I can confirm that following a site visit to the existing Galebreaker premises on 15th February 2012, the Environmental Health Officer (Richard Corfield) confirmed to me that he was satisfied that the process undertaken by Galebreaker fell within use class B1© (i.e. light industrial).”

- 6.78 A use falling within class B1 is by its very nature a “use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.”
- 6.79 As a consequence it is considered that bringing the use closer to houses in Bronte Drive by extending the building would not cause harm.
- 6.80 It is noted that the delivery and dispatch area for lorries is not located to the north-east of the building but to the south-west with the proposed extension itself creating an acoustic barrier.
- 6.81 The eaves height of numbers 12 and 18 Bronte Drive are 55.3m (AOD) and their ridge heights are 58.8 m AOD. The height of the proposed extension to the light industrial premises would be 57.1 m (AOD) lower than the ridge levels of numbers 12 and 18 Bronte Drive. This together with the intervening distance means that it is considered that the proposed development would not have an undue physical massing effect upon the occupiers of dwellinghouses in Bronte Road nor would occupiers of dwellinghouses in Bronte Road suffer an undue loss of daylight and / or sunlight.

Other Matters

- 6.82 The appraisal as far as it relates to flooding/drainage, ecology/bio-diversity and contaminated land is the same as the appraisal with respect to the retail store element of the wider development.

Conclusion with regard to the extension to the light industrial premises

- 6.83 The proposed extension to the light industrial premises is acceptable in principle and the detail is also considered to be acceptable. It clearly has potential economic benefits and there are no environmental objections.

Overall Conclusion

- 6.84 It is considered that the proposal complies with the Development Plan on all regards other than there appears to be a conflict with the intention of policy E2 with respect safeguarding employment land. However, for the reasons set out above a refusal on that basis is not considered to be justified. It is not considered that the retail element of the proposal would have a “significant” adverse impact upon Ledbury Town Centre. Officers estimate a trade impact on Ledbury Town Centre convenience shops of some -8.8%, the agent for the applicant estimates that it would be -5.9% whilst the agent representing Tesco estimates 10.8%. Ultimately whether

there would be a “significant” adverse impact upon the vitality and viability of Ledbury Town Centre is a judgement for the decision maker. Officers consider that the proposal by a “discount retailer” provides a different offer / choice and that the proposal is unlikely to become a “one-stop shop” or destination in its own right. Ledbury Town Centre is relatively healthy at present and appears to offer a distinctive offer of specialist independent shops, particularly with regard to comparison shopping. Officers consider that there are economic and social benefits deriving from the proposed development and there are not considered to be any significant adverse environmental impacts. The proposal is considered to represent a sustainable form of development.

RECOMMENDATION

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

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

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

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

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

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

- a) a ‘desk study’ report including previous site and adjacent uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;**

- b) If the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation shall be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;**

- c) If the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants or gases when the site is developed shall be submitted in writing. The remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval;**

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

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

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

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

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

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

No development shall commence until the written approval of the Local Planning Authority has been obtained. The development shall be carried out in full accordance

with the approved detail and thereafter maintained to the satisfaction of the Local Planning Authority;

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

7. Prior to commencement of the development hereby permitted a scheme of landscaping using indigenous species shall be submitted to the Local Planning Authority for their written approval. The scheme must include enhancement of the landscape buffer to the rear of the site including under-storey planting. The landscaping scheme must detail the trees to be retained, the location of all new planting, their species, size and density of planting. The development must not commence until the landscaping scheme has been approved in writing by the Local Planning Authority;

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

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

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

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

Reasons:-

a) To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;

b) To comply with Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031; in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

10. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work;

Reasons:-

a) To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species

Regulations 2010 and Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;

b) To comply with Policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031; in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

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

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

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

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

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

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

- 13. No part of the retail store building hereby permitted shall exceed a height of 5.75m above ordnance datum (AOD);**

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

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

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

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

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

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

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

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

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

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

- Drainage Layout – Drawing number 9944-0070 REV. A (Scale 1:250) received 6.7.2016;
- Drainage Layout – Drawing number 9944-0050 REV. D (Scale 1:200) received 6.7.2016;
- Retaining Wall Cross-Section for Cycle Path – Drawing number 140217 P(1)13 REV.A (Scales 1:50 & 1:100) received 26.5.2016;
- Proposed Site Plan – Drawing number 140217 P(1)10 Rev. F (Scale 1:200) received 26.5.2016;
- Proposed Site Plan – Drawing number 140217 P(1)03 Rev.G (Scale 1:500) received 26.5.2016;
- Proposed Cycle Route – Drawing number 140217 P(1)14 (Scale 1:200) received 26.5.2016;
- Proposed Site Sections – Drawing number 140217 P(1)09 Rev. A (Scale 1:200);
- Proposed Store Elevations – Drawing number 140217 P(0)06 (Scale 1:100);
- Proposed Roof Plan – Drawing number 140217 P(1)05 (Scale 1:100);
- Proposed Floor Plan – Drawing number 140217 P(1)04 (Scale 1:100);
- Site Location Plan – Drawing number 140217 P(1)01 Rev. B (scale 1:1250);
- Proposed Elevations (Galebreakers) – Drawing number A1150-B (Scales 1:200 & 1:250);
- Proposed Roof Plan (Galebreakers) – Drawing number A1012-A (Scale 1:200);
- Proposed First Floor Plan (Galebreakers) – Drawing number A1011-A (Scale 1:200);
- Proposed Ground Floor Plan (Galebreakers) – Drawing number A1010-C (Scale 1:200);
- Proposed Site Plan (Galebreakers) – Drawing number A0950-D (Scale 1:500);
- Proposed Context Elevations – Drawing number 140217 P(1)07 (Scale 1:200);
- 'Noise Assessment' prepared by entrant environmental & transportation dated 22.06.2016; and
- 'Ecological Appraisal' prepared by aspect ecology dated February 2016.

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

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

18. The access vehicle parking and turning/manoeuvring areas shown upon the approved plans relating to the retail shop shown upon the approved plans shall be fully implemented in accordance with the approved plans prior to the first use of the retail shop hereby permitted. Thereafter these areas shall be kept permanently available for the

parking and manoeuvring of motor vehicles in accordance with the approved detail and be maintained free from obstruction;

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

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

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

20. The retail shop (Use Class A1) hereby permitted shall not be open to customers outside the following times:-

- 08:00 – 22:00 hours on Mondays to Saturdays (inclusive and excluding Bank and Public Holidays)
- 10:00 – 16:00 hours on Sundays, Bank and Public Holidays

without the express consent of the Local Planning Authority;

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

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

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

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

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

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

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

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

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

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

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

INFORMATIVES

- 1) **Statement of Positive & Proactive Working** - The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2) Severn Trent Water advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant / developer is advised to contact Severn Trent Water.
- 3) Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of the Building Regulations 2000 Part H4 Severn Trent can direct the building control officer to refuse building regulations approval.
- 4) The proposed development is in the vicinity of distribution water mains. Dwr Cymru / Welsh Water as Statutory Undertaker has statutory powers to access their apparatus at all times. The applicant's attention is drawn to Welsh Water's Conditions for Development near Water main(s). It may be possible for this water main to be diverted under section 185 of the Water industry Act 1991, the cost of which would be re-charged to the developer.
- 5) The LPA advise that the contaminated land assessment is required to be undertaken in accordance with good practice and needs to be carried out by a suitably competent person as defined within the National Planning policy Framework 2012.

6) The LPA require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this shall be included in any submission.

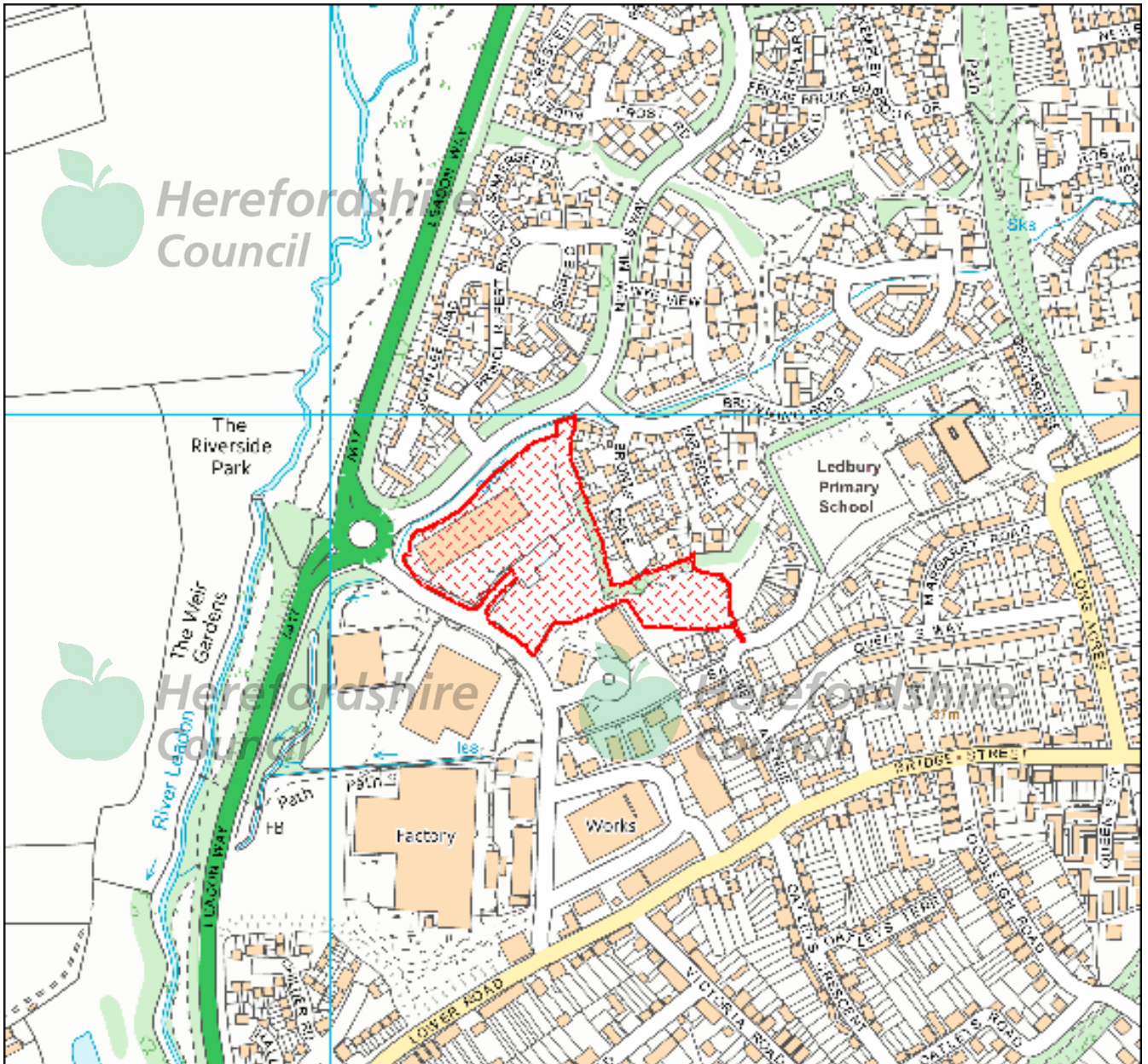
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 160606

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

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