

PLANNING COMMITTEE

Date: 14 September 2016

Schedule of Committee Updates/Additional Representations

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

SCHEDULE OF COMMITTEE UPDATES

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

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

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

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

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

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

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

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

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

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

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

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

ADDITIONAL REPRESENTATIONS

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

Officer Comment (Written on 12.09.2016):-

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

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

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

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

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

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

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

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

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

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

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

NO CHANGE TO RECOMMENDATION

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

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

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

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

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

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

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

ADDITIONAL REPRESENTATIONS

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

OFFICER COMMENTS

The report already refers to the need for highway conditions.

NO CHANGE TO RECOMMENDATION