

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>13<sup>th</sup> March 2024</b>
<b>TITLE OF REPORT:</b>	<b>231703 - DEMOLITION OF EXISTING HOTEL AND ASSOCIATED STRUCTURES AND ERECTION OF CLASS E FOODSTORE WITH ASSOCIATED ACCESS, PARKING, SERVICING, DRAINAGE AND LANDSCAPING. AT THREE COUNTIES HOTEL, BELMONT, HEREFORD, HR2 7BP</b>  <b>For: Lidl Great Britain Ltd per Mr Peter Waldren, Brunel House, 2 Fitzalan Road, Cardiff, CF24 0EB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231703&amp;search-term=231703">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231703&amp;search-term=231703</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 1 June 2023**

**Ward: Belmont Rural**

**Grid Ref: 349683,238587**

**Expiry Date: 20 March 2024**

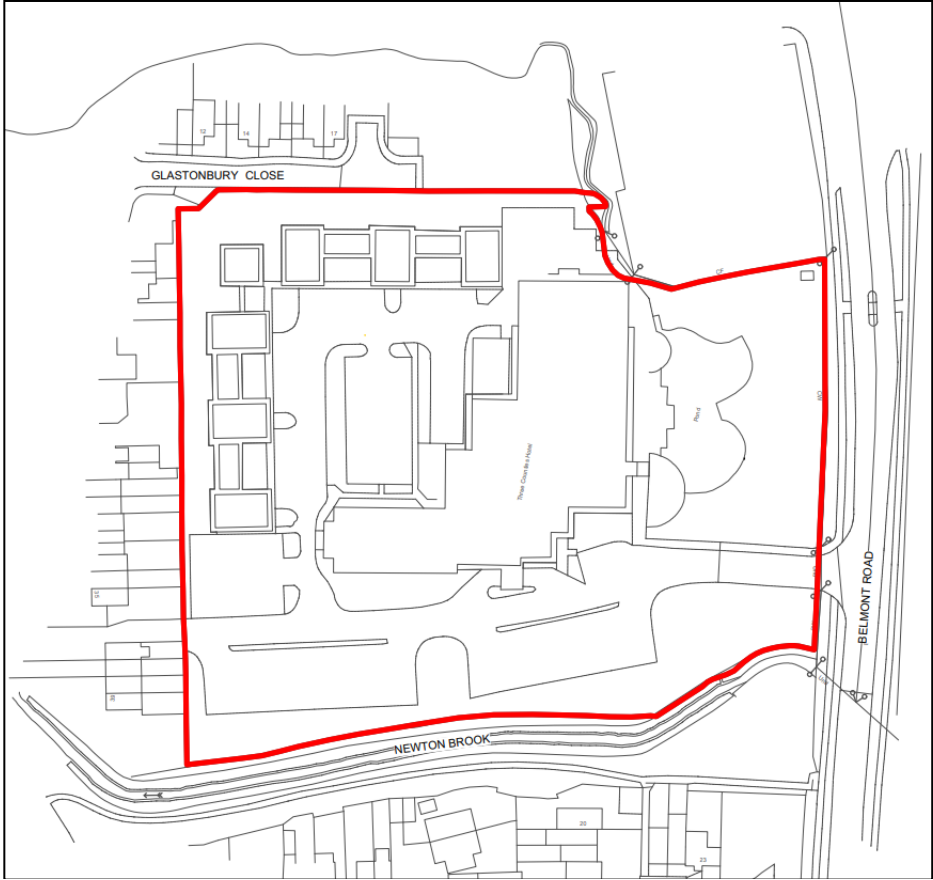
Local Members: Cllr Mark Dykes

Cllr Kevin Tillet and Cllr Jacqui Carwardine (adjoining ward Members)

## 1. Site Description

- 1.1 The 'Three Counties Hotel' is set back off Belmont Road (A465) Hereford to Abergavenny road and located in the south west of Hereford about 1.5 miles from the City Centre. The application site is about 1.66 hectares in size and currently has landscaped gardens (pond and patio area to the front which established trees) as well as car parking. The site is bounded by Belmont Road to the south, residential properties within Glastonbury Close to the north and east. To the south east is a wooded area and adjacent to that a 'Drive Thru' restaurant (McDonalds). To the west beyond the car park are residential dwellings in Flaxley Drive. The Newton Brook runs adjacent to the site to the west. The brook runs from Waterfield Road under Belmont Road and up alongside the Three Counties Hotel then into Glastonbury Close which also runs between Golden Post and Sydwell Road. Residential properties on the periphery of the site are a mix of semi-detached, terraced and detached properties.
- 1.2 A Tree Preservation Order covers 4 individual trees across the site, ref T1, T2, T3, & T4. The site is not located within a designated area known as a national Landscape (previously known as area of Outstanding Natural Beauty). The site lies within Flood Zone 1 (low risk of flooding). The site is not located within or adjacent to a Conservation Area and there are no heritage assets (including non-designated heritage assets) within the site, adjoining the site or in close proximity.
- 1.3 The existing hotel (now closed) had 60 bedrooms with 32 located in an annex to the rear (known as the Garden Rooms). When in use as a hotel it also has an ancillary bar and conference rooms.

The site is previously developed land/brownfield land. Since March 2023 until March 2024 the hotel has been used to house asylum seekers and has been run by the 'Home Office'. The site is currently closed to the general public but would revert back to a hotel following the end of the temporary use to house the asylum seekers.



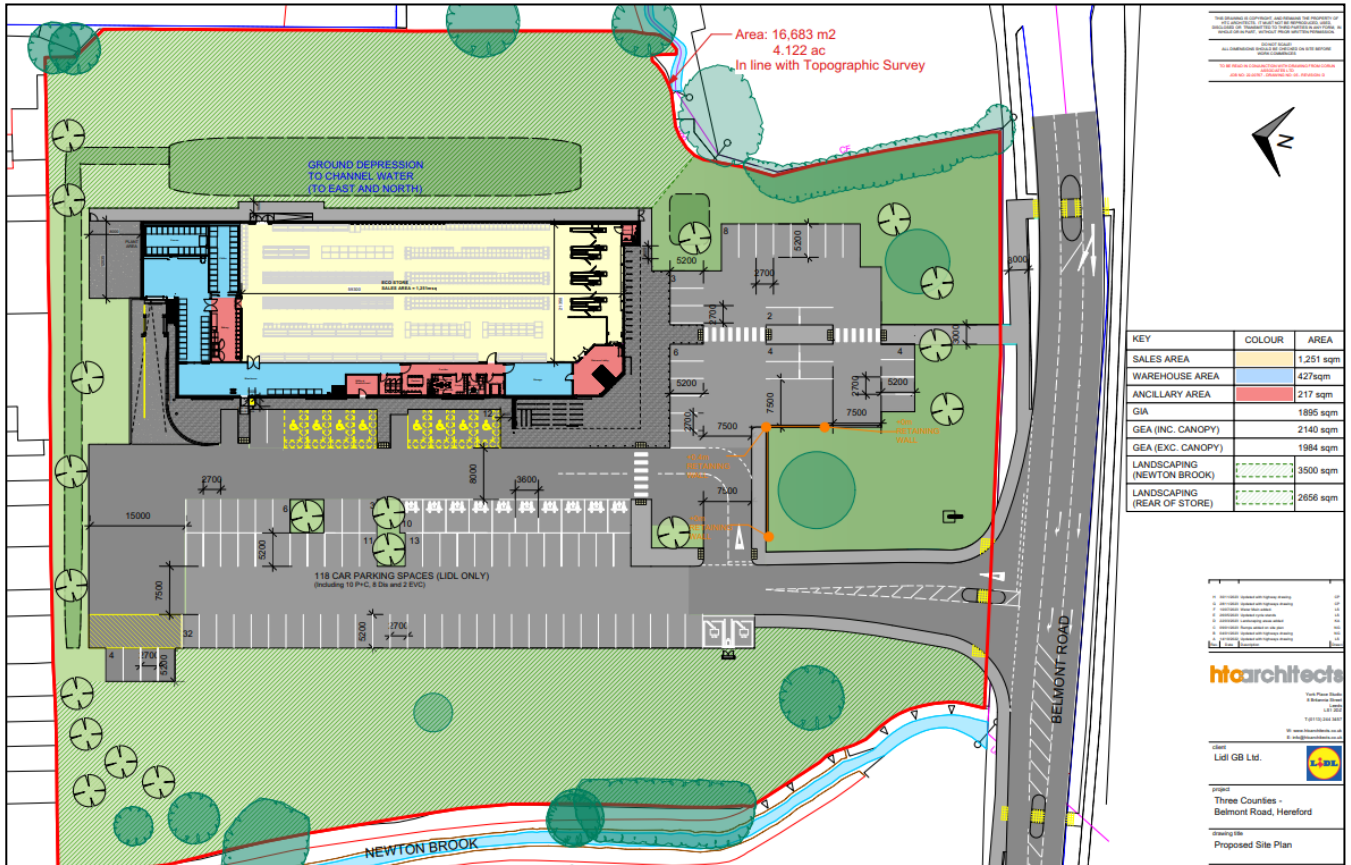
**Figure 1: Site Location Plan**



**Figure 2: Aerial Plan**

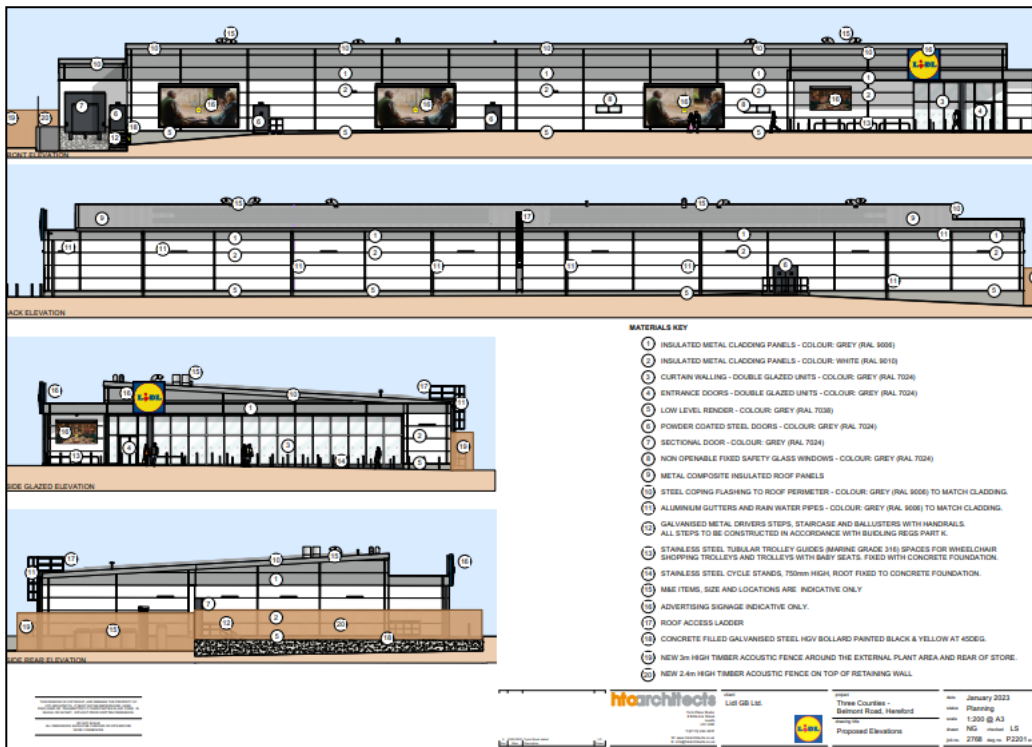
**Proposal:**

- 1.4 This 'full' application proposes the demolition of the existing hotel and associated structures and the erection of a Class E food store with associated access, parking, servicing, drainage and landscaping. The proposed site layout (as amended) can be seen below:



**Figure 3: Proposed Site layout Plan**

- 1.5 The proposed retail store to have a floorspace of 1,984 sqm (GEA) (excluding the canopy) with a sales area of 1,251 sqm. This is reduction of 163 sq metres (net) from previous application which was withdrawn (app 221090). This proposal was also positioned closer to the eastern boundary. This proposal has a reduced sales area and store footprint. The proposed layout shows a car park with 118 spaces including 8 accessible bays (at the front of the store), ten parent/child spaces as well as 2 electric charging bays. A cycle stand is proposed to be located close to the store entrance with a cycle route from the entrance. The retail unit has been positioned on site to provide an active frontage along Belmont Road with the entrance also located via Belmont Road. The unit as shown below is of a modern contemporary design and to have a fully glazed shop front fronting the southern car park and this is complemented by the use of grey cladding and white cladding and areas of render. The store to have a modern mono pitch roof design.
- 1.6 The proposed layout provides a safe route from the parking spaces to the store entrance, pedestrian routes and crossings provide a series of options for pedestrians accessing the store, access for pedestrian and cycles. A new site access is to be formed to provide level access to the site from Belmont Road and deliveries the store to be located at the rear. A new pedestrian island has been created at the entrance into site as well as proposing off site highway work including the widening of footpaths and enhancement of the existing cycle route to the store.



**Figure 4: Proposed Elevations**

1.7 The following trading and delivery hours are sought:

**Trading:**

Monday to Saturday Including Bank Holidays: 08:00 - 22:00  
 Sundays: 10:00 - 16:00

**Deliveries:**

Monday to Saturday: 07:00 - 23:00  
 Sundays: 10:00 - 16:30  
 Bank Holidays: 08:00 - 18:00

**Environmental Impact Assessment Screening**

1.8 Under Regulation 8 (1) of the Town and Country Planning (Environmental Impact Assessment Regulations 2017), the Local Planning Authority must adopt a screening opinion for applications for Schedule 2 Development. This application proposal was subject to the issuing of a formal screening opinion by the Council as the Local Planning Authority. This concluded that this development would have some impact on the surrounding area. However, it was judged that these would not be significant to warrant a formal Environmental Impact Assessment and that the formal opinion of Herefordshire Council, is that an Environmental Impact Assessment is not required to accompany this application in this instance.

1.9 The application has been supported by the following:

- Tree Survey
- Arboricultural Method Statement
- Planting Schedule
- Ground Investigation Report
- Noise Assessment Report
- Preliminary Ecological Appraisal Report
- Ecology Survey Report
- Transport Assessment
- Travel Plan

- Hydraulic Modelling Report
- Flood Risk Assessment and Drainage Strategy
- Flood Risk Technical Note
- Planning and Retail Assessment and update from agent re Retail Response
- Design and Access Statement
- Planting Methodology and Aftercare Landscape Management Plan

## 2. Policies

### 2.1 **Herefordshire Local Plan – Core Strategy:**

- SS1 – Presumption in favour of sustainable development
- SS4 – Movement and transportation
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- MT1 – Traffic management, highway safety and promoting active travel
- SC1 – Social and community facilities.
- HD2 – Hereford City Centre
- E1 – Employment provision
- E5 – Town centres
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- LD3 – Green infrastructure
- LD4 – Historic environment and heritage assets
- SD1 – Sustainable design and energy efficiency
- SD2 – Renewable and low carbon energy
- SD3 – Sustainable water management and water resources
- SD4 – Waste water treatment and river water quality

### 2.2 **Minerals and Waste Local Plan (MWLP): Emerging with significant weight**

Emerging Policy SP1: Resource Management

### 2.3 **Belmont Rural Neighbourhood Plan 2011-2031 (NDP)**

- Policy 6 - Accessibility & Connectivity
- Policy 7 - Supporting small and medium businesses in Belmont Rural

[https://myaccount.herefordshire.gov.uk/media/1998932/belmont\\_rural\\_ndp\\_july17.pdf](https://myaccount.herefordshire.gov.uk/media/1998932/belmont_rural_ndp_july17.pdf)

The Herefordshire Local Plan Core Strategy policies can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/local-plan-1/local-plan-core-strategy>

### 2.4 **National Planning Policy Framework December 2023 (NPPF) – Relevant Chapters:**

- Chapter 2** Achieving sustainable development
- Chapter 4** Decision-making
- Chapter 6** Building a strong, competitive economy
- Chapter 7** Ensuring the vitality of town centres
- Chapter 8** Promoting healthy and safe communities
- Chapter 9** Promoting sustainable transport
- Chapter 11** Making effective use of land
- Chapter 12** Achieving well-designed and beautiful places
- Chapter 14** Meeting the challenge of climate change, flooding and coastal change

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

**Chapter 15** Conserving and enhancing the natural environment

**Chapter 16** Conserving and enhancing the historic environment

### 3. **Planning History & Background**

- 3.1 Application 221090: Hybrid application for demolition of existing hotel and associated structures and erection of Class E food store with associated access, parking, servicing, drainage and landscaping (full permission sought) and erection of drive-thru unit with associated internal access and circulation (outline permission sought). Withdrawn following discussions with the Local Planning Authority under pre application.

### 4. **Consultation Summary**

#### Statutory Consultations

#### 4.1 **Welsh Water comments: January 2024: No objection**

Comments in respect to the proposed development.

#### **ASSET PROTECTION**

The proposed development site is crossed by a 150mm public foul sewer. Please see copy of indicative public sewer record attached. No operational development is to take place within 3 metres either side of the centreline of the sewer. We request that prior to commencing any operational development the location of this asset is determined. If operational development is likely to take place within 3 metres either side of this sewer please stop works and contact us. The applicant may be able to divert this asset under Section 185 of the Water Industry Act 1991.

The proposed development is crossed by a 500mm trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

#### **SEWERAGE**

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

Turning to surface water, it seems the proposal is to discharge surface water into the nearby private culvert. We would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

#### **SEWAGE TREATMENT**

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Condition and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### Condition

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation. If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com) Please quote our reference number in all communications and correspondence.

For indicative map of public sewer record please see link to website:

<https://myaccount.herefordshire.gov.uk/documents?id=2d843bdb-b0ce-11ee-907a-005056ab11cd>

#### **Welsh Water comments: June 2023: No objection**

##### **Asset Protection**

The proposed development site is crossed by a 150mm public foul sewer. Please see copy of indicative public sewer record attached. No operational development is to take place within 3 metres either side of the centreline of the sewer. We request that prior to commencing any operational development the location of this asset is determined. If operational development is likely to take place within 3 metres either side of this sewer please stop works and contact us. The applicant may be able to divert this asset under Section 185 of the Water Industry Act 1991.

The proposed development is crossed by a 500mm trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

#### **SEWERAGE**

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

Turning to surface water, it seems the proposal is to discharge surface water into the nearby private culvert. We would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

### **Conditions**

No development shall take place until an approved scheme to divert the 500mm trunk water main crossing the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.

Reason: To ensure that the proposed development does not affect the integrity of the public water supply system in the interests of public health and safety.

### **Advisory Notes**

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.

Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com). The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

### **SEWAGE TREATMENT**

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

### Internal Council Consultations

#### **4.2 Area Engineer (Highways): (Comments January 2024) No objection**

Following the redesign of the central area of the car park the local highway authority has no objection to the application subject to the below conditions.

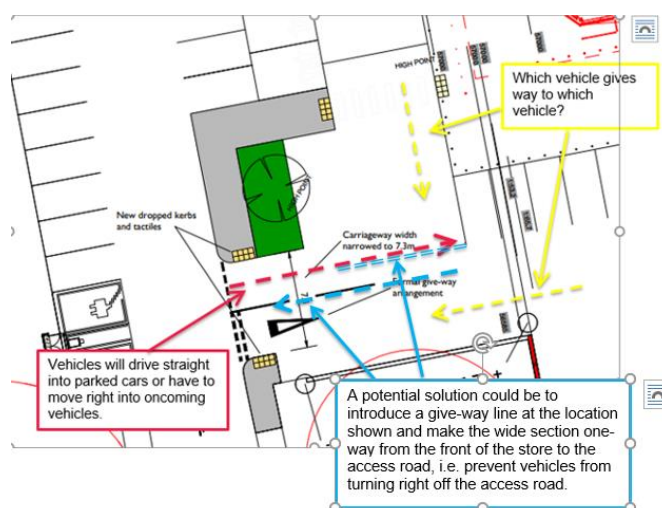
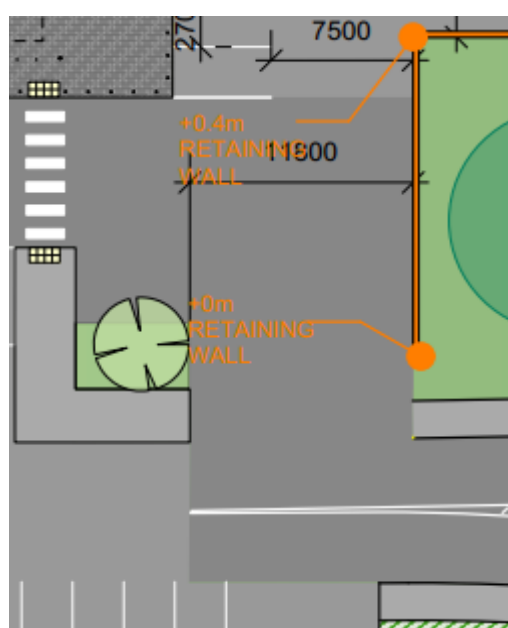
Conditions: CAB (2.4m x 43m), CAD Gates/barriers (setback 7m), CAE, CAJ (car parking to be provided in full prior to store opening), CAP (as per dwg 05 rev G by Corun), CAT, CB3



### Area Engineer (Highways): (Comments November 2023)

The proposed car park arrangement for this central area is confusing and would result in vehicles turning right off the access road and effectively driving straight into the parked cars outside the store (shown by the red arrow on the diagram below) and in order to avoid the parked cars would have to swerve right into oncoming vehicles. This central area is also confusing regarding which vehicle would have priority (see yellow arrows on diagram below), i.e. would vehicles approaching from the delivery area have priority over those approaching from the eastern car park area or vice versa?

One potential solution (shown in blue on the diagram below) could be to make the central area one-way from the store to the access road therefore preventing vehicles from turning right off the access road and forcing them to travel around the loop by the delivery area. Once they reach the central area they should then give way to vehicles travelling from the eastern parking area. This is only a suggested way forward and the LHA would be happy to consider alternatives.



### Area Engineer (Highways): (Comments August 2023)

Further to the most recent submission all points raised in our previous consultation response are considered to be acceptable. The only additional query is in relation to the response that there will not be a one-way system in operation within the car park. As a result of this the large tarmacked area highlighted in the screenshot below may become confusing, for example, who gives way to who, can vehicles entering the store along the access road turn right into this area or would they have to continue straight on (noting the solid white line at this location)? How this area would work needs more clarity.

### Area Engineer (Highways): (Comments June 2023)

The Local Highway Authority has the following comments:

- A separate detailed plan should be provided showing the full extent of off-site highway/walking/cycling improvements that are proposed, at present it is only annotated on the tracking plan.
- The western A465 taper length should be clarified and confirmation provided that it meets the required standards.
- A plan demonstrating the swept path of the largest delivery vehicle traversing the site to and from the loading bay should be provided.

- It is not clear from the site plan whether or not there will be a one-way system through the car park for visitors to the store. This should be clarified.

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

[www.herefordshire.gov.uk/directory\\_record/1992/street\\_works\\_licence](http://www.herefordshire.gov.uk/directory_record/1992/street_works_licence)

<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

Recommendations:

<input type="checkbox"/>	No Highways Objection – No Conditions Required
<input type="checkbox"/>	No Highways Objection – With Conditions (List Conditions Below)
<input checked="" type="checkbox"/>	Additional Information or Amendment Required
<input type="checkbox"/>	Highways Objection (List Reasons Below)

#### 4.3 Environmental Health Service Manager (Noise / Nuisance): August 2023 No Objection

I note the agent's comments regarding the nearby Tesco bank holiday trading hours and agree that the proposed store should be treated in a similar manner. Therefore, I am happy for the option to trade 0800 to 2200 hours on bank holidays to be provided.

#### Environmental Health Service Manager (Noise / Nuisance): July 2023 No Objection

##### Comments

My comments are from a noise nuisance perspective.

I am in receipt of this application for the demolition of the hotel and erection of a Class E food store with associated access, parking, servicing, drainage and landscaping.

I have concerns regarding the impact on the amenity of local residents from noise.

A noise assessment has been provided and considers noise from fixed mechanical plant, deliveries and customer vehicles. Background day and night time noise levels were taken in two locations thought to be representative of the background noise at Glastonbury Close and Flaxley Drive. Noise recordings were also taken between the hours of 05:00 to 7:00 and 20:00 to 23:00.

The noise assessment considers the noise from HGVs delivering to the store during a normal store delivery to another branch of Lidl which takes about 60 minutes and these are set out in table 6.

The report anticipates no more than 2 HGV deliveries per day and the applicant proposes a level dock for vehicle unloading.

The proposed plant includes outdoor air handling units, food refrigeration pump stations and dry coolers which will be mounted on anti vibration mounts. The air conditioning units will only operate during the hours of 07:00 to 23:00.

The noise assessment uses the methodology set out in BS4142 to assess the impact of deliveries, customer vehicles and external noise generating plant at the closest residential premises. Proposed mitigation includes a 3m high acoustic fence around the plant area with a 1.8m high fence to the east with a 2.4m high acoustic fence installed above the retaining wall in the delivery bay. With mitigation in place, the assessment finds that plant noise levels during the day (at ground floor) and night (at first floor) will be less than background noise levels and therefore of low impact.

The assessment then considers the cumulative impact of the plant noise and delivery noise during the day and Sundays/bank holidays. During the day and Sundays/bank holidays there is a small change in the noise levels (+0.7 and +1.1 respectively). We understand that there will be a maximum of 2 HGV and 3 LGV deliveries per day. The deliveries are proposed for the following hours:

0700 - 2300 Monday-Saturday

1000 - 1630 Sunday

0800 - 1800 Bank Holidays

There will be no night time deliveries.

The methodology for the BS4142 includes a character correction for the quality of the noise and the assessment has added 5dB for impulsivity and tonality. With the character correction, there will be an excess of 3dB above the background noise levels during the day. The report discusses the context of its findings and concludes that the cumulative noise level will represent a No Observed Adverse Effect Level in accordance with the National Planning Practice Guidance where noise is noticeable but not intrusive.

Given the nature of the area and the delivery hours of nearby commercial premises, I have no objections to this application subject to the following conditions being added to any permissions granted:

The hours of delivery to the store be restricted to no earlier than 07:00 Monday to Saturday and no later than 22:00. Hours of delivery on Sundays and Bank Holidays shall be restricted to between 10:00 and 16:00.

Noise mitigation in the form of acoustic fencing minimum density 10kg/m<sup>2</sup> as detailed in the application is erected.

The trading hours of the store be restricted to 08:00 and 22:00 Monday to Saturday and 10:00 to 16:00 on Sundays and Bank Holidays.

Prior to the commencement of the development a detailed Construction Method Statement (CMS) shall be supplied and approved to minimise noise and nuisance to neighbours: The CMS shall contain the following:

The methods and materials to be used to ensure that the generation of noise is minimised;

Choice of plant and equipment to be used;

The use of prefabricated materials wherever possible;

Regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and good housekeeping and management, to include.

a) Review of plant and activities to ensure noise minimisation measures are in place and operating;

b) Public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours;

c) Controlling of site traffic and setting up of access routes away from sensitive receptors; and

d) Provision of noise monitoring during activities likely to affect sensitive receptors.

Prior to the commencement of the development a proposal for the survey and treatment of rodents in the vicinity shall be supplied to the authority for approval in writing.

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework

#### 4.4 **Principal Natural Environment Officer (Landscape) (Comments January 2024). No objection**

The latest drawings seem to show an additional section of footpath within the new car park near the front of the site. The Proposed Surfaces Plan (dwg no 4405 rev F), clarifies that the adjacent retaining wall at the front of the site is low, at 0.4m at the highest point. There are no other landscape comments to add.

### **Principal Natural Environment Officer (Landscape) (Comments July 2023). No objection**

A similar application for this site was reviewed in April 2022 (ref 221090) and an associated site meeting was held in July 2022. The site is within the urban area of Hereford. The Hotel and its grounds are dated / of their time, however it is not a degraded, derelict or detracting feature in landscape or townscape terms. The green frontage and site trees do make a limited positive contribution to urban green infrastructure. A tree preservation order (ref TPO\_666) covers 4 of the site trees.

The proposals retain three mature trees along the Belmont Road frontage, as well as retaining adjacent boundary trees and planting. This is enhanced by ornamental amenity shrubs around the new car park. These are set in areas of amenity grassland adjacent to the main road, with the addition of wildflower grass areas to the east and west site edges. The west and north boundaries have a proposed strip of native shrub planting, together with new tree planting – both of which are welcome.

The application includes full details of the planting specifications, locations and detail drawings. It also includes a Landscape Management Plan that covers 5 years.

Hard landscape details are shown on the Proposed Boundary Treatment Plan (dwg no P4407 rev D) and Proposed Surfaces Plan (dwg no P4405 rev D), however both of these cause some concern when compared to the tree protection and planting plans. These are as follows:

- The boundary treatment plan shows a low retaining wall around the retained Willow tree (max +0.4m). The key, however, then states 'New retaining wall and 2.4m high timber acoustic fence to top of retaining wall'. This would be an in-appropriate feature at the front of the site. It is assumed that this only applies to the retaining wall around the service yard, however the drawing is not clear. The planting plan shows a new beech hedge adjacent to the retaining wall, which would protect the small level change.
- The surfaces plan shows a 'Ground Depression' to the rear of the new building. As this is to channel water, it does not seem to be an ideal location for the new tree planting. The four trees identified within the dashed red line added below, could be moved further back into the wildflower area, closer to the boundary (depending on the proximity of any underground services).



Other than the uncertainty mentioned in the two points above, there is no objection to the proposal in relation to Core Strategy Policy LD1 on landscape and townscape character and landscape schemes, or LD3 on green infrastructure.

**4.5 Principal Natural Environment officer (Trees) June 2023; No objection**

This submission for the erection of a Lidl Supermarket appears to be an improvement on the application submitted in 2022, ref 221090. Due to the proposed removal of important trees in the previous application a Tree Preservation Order was served on 4 individual trees, ref T1, T2, T16, & T17 in the accompanying tree report.

T1	<i>Acer platanoides</i> Norway maple	
T2	<i>Cedrus deodara</i> Deodar cedar	
T3	<i>Prunus avium</i> Wild cherry	
T4	<i>Salix babylonica</i> Weeping willow	

This application retains all four trees as well as a collection of trees across the site. Accordingly I am supportive of the retention and protection of existing trees. New planting will mitigate the loss of existing trees with a total of 31 extra heavy standard trees, which are generally 3-4m in height,

being planted. Much of the planting is located in the already grassed areas on the west and east side of the site with 3 trees located within the new parking area.

If the trees do become established they should provide a net gain in canopy cover across the site and help break up the visual impact of the building and hard standing.

My opinion is that the application meets the criteria of policies LD1 & LD3 and I support the application with the addition of the following conditions:

Conditions:

#### Trees In accordance with plans

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:

Arboricultural Method Statement

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### Landscape Maintenance

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

Specifications for operations associated with plant establishment, watering plans and maintenance that are compliant with best practise.

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

#### **4.6 Principal Natural Environment officer (Ecology) February 2024: No objection**

I have read through the additional comments and documents and I refer to the previous consultation undertaken by internal ecology consultee J. Bisset dated 21 June 2023. No further ecology comments, previous consultation and conditions still stand.

#### **Principal Natural Environment officer (Ecology) June 2023: No objection**

It is noted that this is an updated/revised resubmission of a previous outline application submitted April 2022 ref 221090. This new application is a full application rather than outline and does not include the original proposal for a drive thru food and drink outlet. The remaining information and details are primarily the same as those previously submitted and considered.

This previous application was subject to full Habitat Regulations Assessment with a conclusion of 'no adverse effects' on the River Wye SAC – this HRA was subject to a 'no objection' response from Natural England dated 15 June 2022 ref 393376.

With no significant changes identified for the current application the LPA can formally adopt this previous Habitat Regulations Assessment and formal Natural England response in respect of this current application.

Suggested conditions linked to the HRA process are still relevant:

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

### **Habitat Regulations (River Wye SAC) – Foul Water**

Unless otherwise approved in writing by the planning authority, all foul water shall discharge through connection to the existing local 'Hereford-Eign' mains sewer system managed by Welsh Water

*Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.*

### **Habitat Regulations (River Wye SAC) – Surface Water**

Prior to any new construction beginning on site a fully detailed Sustainable Drainage Systems to manage all surface water shall be supplied for written approval by the Planning Authority. The proposed scheme must provide detailed certainty on how all pollutant contaminants from vehicular and other use of the site are fully removed and managed prior to any final discharge of surface water from the site in to the Newton Brook. The approved scheme shall be implemented in full and hereafter maintained unless otherwise approved in writing by the planning authority

*Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3.*

### **Habitat Regulations (River Wye SAC) Construction Environmental Management Plan**

Before any work; including demolition or site clearance begins or equipment and materials are moved on to site, a fully detailed and comprehensive Construction Environmental Management Plan (CEMP) including a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

*Reason: To ensure that all species and local habitats are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.*

### **Other Ecology Comments**

From supplied and available information, included some updated ecological reports no significant changes in the ecological interests of the site are identified and the previous comments remain valid and appropriate.

From supplied information there is no reason for the LPA to consider there will be any significant or longer term impacts on local protected species population or other wildlife. The CEMP required as part of the HRA considerations will ensure all relevant wildlife considerations and working methods/risk avoidance methods are secured.

As identified in policies and frameworks all developments should clearly demonstrate how they will ensure a biodiversity net gain is achieved. As this is a separate standalone application it should clearly demonstrate such BNG and a relevant condition to ensure this is achieved and secured is requested.

### **Nature Conservation – Biodiversity and Habitat Enhancement**

Prior to any construction work above damp proof course level commencing a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including provision of 'fixed' habitat features such as habitat boxes supporting a range of bird species and pollinator homes must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3.

The locality is already subject to significant night time illumination levels and the proposed development should include a lighting scheme to ensure that this is not increased further. A relevant and detailed lighting scheme with illumination plans. Levels and luminaire specification should be secured as a relevant Reserved Matter/Discharge of Condition.

#### **Protected Species and Lighting (Dark Skies)**

Prior to any new construction beginning on site a fully detailed lighting scheme to demonstrate the development will not increase any local illumination levels and including detailed plans, illumination levels and luminaire specifications shall be supplied to the planning authority for written approval. The approved scheme shall be implemented and hereafter maintained and operated unless otherwise approved in writing by the planning authority.

All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

#### **4.7 Retail Planning Consultant Comments:**

The Council has utilised the services of experienced expert Retail Planning consultants to provide retail advice to the Council at the pre-application stage and to advise on the current application proposals. JW Planning were initially retained by the Council (including in respect of the previous application on the site) and their final comments of September 2023 are contained at Appendix 1 of this report. During the period of pre-application discussions, the Council updated its retail evidence base and published the 'Herefordshire Town Centre and Retail Assessment' (Nexus, September 2022) which can be viewed on line at: <https://www.herefordshire.gov.uk/directory-record/6531/town-centre-and-retail-assessment-2022>

Due to differences of opinion between the applicant's retail consultant and JW Planning, and due to their recent authoring of the Council's updated retail evidence base, Nexus were also retained to provide retail advice at the pre-application stage and to advise on the current application proposals. Nexus' final comments of July 2023 are provided at Appendix 2 of this report. Other relevant comments from the Council's retail advisors (JW Planning's comments dated June 2022 and Nexus' comments dated March 2023) comprise background papers and can be viewed on the Council's website by using the following link: [https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=231703&search-term=three%20counties](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231703&search-term=three%20counties) Both advisors offer advice on the retail sequential test and retail impact tests.



#### 4.8 Land Drainage: January 2024: no objection

I appreciate you have had a lot of correspondence with Joel regarding the above site, however we just wanted to clarify that the following **need** to be included as Land Drainage conditions in the Decision Notice, should approval be granted:

- (Pre construction condition) Detailed surface water drainage design plans/construction drawings and associated calculations.  
*This is a crucial condition as the surface water drainage strategy which has been presented at planning is not detailed enough for construction purposes.*
- Trial pit information confirming the route of the 450mm pipe that has been identified which carries flow into the site (referred to as SW1 on the survey). The development will need to consider provision for the ongoing inflow of surface water from this source.
- Shopping trolley condition – as per the below correspondence.

#### Land Drainage: September 2023: Objection

##### Flood Risk

Major Flooding episodes can occur when Trash Screens block. We are aware of a town in Gloucestershire where a trash screen serving an 800mm diameter culvert blocked in 2007 which led to over a hundred properties flooding internally. None of these properties would normally have been at risk of fluvial flooding.

Shopping Trolleys can act like Trash Screens, debris gets caught on them easily. The applicant has issued a letter (21/8/2023) suggested that magnetically triggered castor lock would be installed on the trollies. It is inevitable that the Gatekeeper Trolley System will malfunction. At that time adventurous vandals could easily move trollies a short distance for disposal within the brook.

The applicant has suggested that a WEEKLY inspection of the Newton Brook is proposed. Flash flooding could occur within hours of a shopping trolley being thrown into the brook. This inspection period is grossly inadequate.

A plan (prepared by Waterco consultants) has been included that shows only the length of the brook downstream of the highway culvert would be inspected. This demonstrates that those who completed the hydraulic modelling of the highway culvert do not have a vested interest in presenting useful information to their client that may mitigate flood risk to the local community. Waterco completed the partial blockage analysis that demonstrated the importance of keeping the culvert clear but have not included the section of watercourse upstream of the culvert on the plan.

In the same way the LIDL site staff will not have a vested interest in mitigating flood risk within the local community. The site staff will not understand the significance of ensuring that shopping trollies are removed from the watercourse in a timely manner. The Site Management Document may include a list of proposed actions, but the staff will not understand the significance of adhering to the management document. Different staff will read the document but each will interpret it slightly differently.

The proposals involve reporting blockages to Herefordshire Council instead of making efforts to remove LIDL shopping trollies.

The proposed development will increase the risk of flooding.

## **Culverting Proposals**

When the Belmont Estate was built, Newton Brook was culverted through the hotel grounds, with an overflow into the pond and then out of the pond to an eastern channel. The culverted section through the hotel has an inlet pipe of approx. 375mm dia.

The applicant has presented survey of the existing 375mm dia pond inlet culvert. There is a 900mm dia headwall at the pond, alongside a manhole that contains a Steel Sluice. During dry weather conditions most of the flow in the Newton Brook is diverted through the culvert.

In addition the survey has identified the presence of a 450mm dia pipe that carries flow into the site (referred to as SW1 on the survey). There are no records on the public sewer record of this drain. The development will need to consider provision for the ongoing inflow of surface water from this source.

Core Strategy policy SD3 has been referenced in the report. Item 4 refers to the 'loss of open watercourse' and 'culverts should be opened up where possible to improve drainage and flood flows'

The current proposals involve infilling the pond. The existing 375mm dia culvert would be extended.

Under the existing arrangement, if the 375mm dia culvert were to become blocked, then the flow of water into the pond would cease. In this case the existing riparian owner would become aware of the blocked pipe and may seek to remedy the issue, to reinstate the flow of water.

Under our previous commentary dated 14th June 2023, we explained that there have been numerous episodes of the highway authority inspecting culverts that appear to be functional that are in fact partially blocked (refer to the example below).

The proposals to replace the pond with an extended culvert will ultimately lead to the scenario of the downstream watercourse being starved of a base flow, because the culvert will become partly blocked.

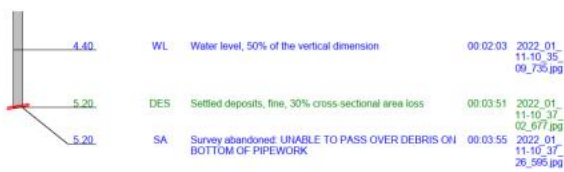
We reiterate that the risk of blockage would increase due to:

- Doubling of the length of the culvert.
- The fact that debris within culverts cannot be spotted.
- The absence of a pond would mean that in future years the culvert would likely become a forgotten relict. It would not be obvious that flow had reduced or even ceased.
- In some cases animals live in dry culverts. They can die there.

The photo below is taken from the applicant's FRA. An inspection could be made on an upstream or downstream culvert headwall and it may be assumed that the culvert is free flowing.



The extract below is also taken from the FRA and demonstrates that there is a partial blockage in the 600mm dia culvert downstream of manhole SW2. In this scenario the water has reached a level of 50% of pipe bore due to the presence of debris.



The applicant's letter (21/8/2023) explains that text will be included in the site management document detailing maintenance actions related to flood risk. These proposals include proposals to complete visual inspections at the inspection chambers. As explained in our previous commentary, such an inspection regime will not provide sufficient information to demonstrate that the culvert is fully functional.

There are also suggestions that a CCTV survey will be completed every 2 years, but even if implemented this measure would not adequately mitigate the risk of the downstream watercourse being starved of water

### Land Drainage: June 2023 : Objection

Our knowledge of the development proposals has been obtained from the following sources:

- Hydraulic Modelling Report (Rev 1);
- Flood Risk Assessment & Drainage Strategy (Rev 3).
- Flood Risk Technical Note (12<sup>th</sup> May 2023)

### Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), February 2023



### **Overview of the Proposal**

The Applicant proposes the demolition of a hotel building and erection of Lidl foodstore, detached drive thru restaurant and associated carparking. The site covers an area of approx. 1.71ha. Newton Brook, an ordinary watercourse, flows along the western site boundary. There is a tributary of the Newton Brook which flows to the east of the site and also connects to an existing pond onsite. The topography of the site gently slopes down from the south to the north by approx. 2m.

### **Flood Risk**

#### ***Fluvial Flood Risk***

Review of the Environment Agency’s Flood Map for Planning (Figure 1) indicates that the site is located within the low probability Flood Zone 1.

Although the proposed development is located within Flood Zone 1, as it is more than 1ha, in accordance with Environment Agency standing advice, the planning application has been supported by a Flood Risk Assessment (FRA) undertaken in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance. This is summarised in Table 1:

Table 1: Scenarios requiring a FRA

	<b>Within Flood Zone 3</b>	<b>Within Flood Zone 2</b>	<b>Within Flood Zone 1</b>
<b>Site area less than 1ha</b>	FRA required	FRA required	FRA not required*
<b>Site area greater than 1ha</b>	FRA required	FRA required	FRA required

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

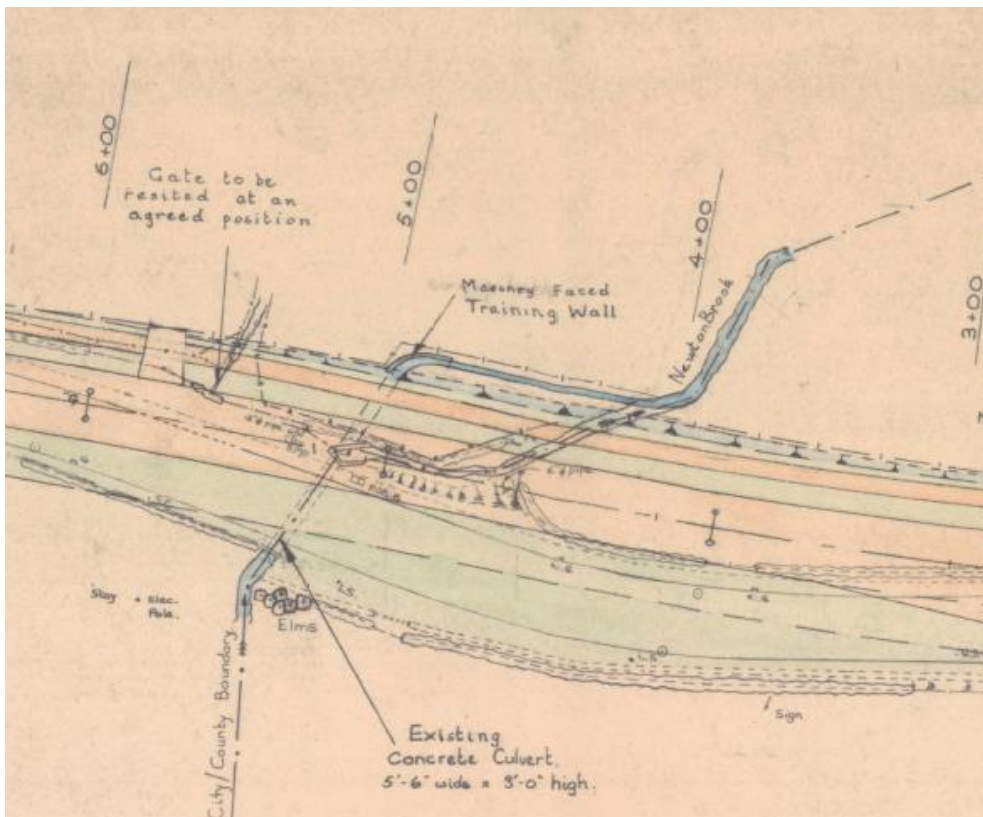
*\*except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding*

The EA Flood Map for Planning does not consider watercourses with small catchments and therefore although the site is identified as located in Flood Zone 1 on the EA mapping, there is a known issue of flooding both onsite and within close proximity to the site from Newton Brook. Newton Brook watercourse is complex in the immediate site area. As can be seen from the historic mapping, the Newton Brook used to cross below the A465 at the same location but followed a route through the hotel grounds.





The road was straightened during 1970's and the channel was altered.



Welsh Water water main records show that a 500mm dia strategic water main crosses below the site. The records suggest that this main was built in 1978. The depth of the main is unknown. The hotel was built after this (noting that the main is shown passing below the building).

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

When the Belmont Estate was built, an overflow channel was incorporated into the development, on the western side of the hotel. This does not follow the lowest profile of the land. At the downstream end of the channel a series of steps was built. Residents regard this watercourse to be the Newton Brook.

Newton Brook was culverted through the hotel grounds, with an overflow into the pond and then out of the pond to an eastern channel. The culverted section through the hotel has an inlet pipe of approx. 375mm dia.

The applicant has presented survey of the existing 375mm dia pond inlet culvert. There is a 900mm dia headwall at the pond, alongside a manhole that contains a Steel Sluice. During dry weather conditions most of the flow in the Newton Brook is diverted through the culvert.

There is a 600mm dia culvert downstream of the pond.

In addition the survey has identified the presence of a 450mm dia pipe that carries flow into the site (referred to as SW1 on the survey). There are no records on the public sewer record of this drain. The development will need to consider provision for the ongoing inflow of surface water from this source.

SITE ENTRANCE



SW2 UPSTREAM HOLDING HIGH WATER LEVEL



GATE VALVE FOR POND

As the overflow channel was designed so that water cascades at the outfall, some section of the 'overflow' watercourse may not been excavated at a steep gradient. It is possible that for this reason the Newton Brook has less capacity than the historic channel did. The channel bed may have been built high to accommodate the water main



The applicant has completed Hydraulic Modelling of the Newton Brook. This has included the scenario of the Belmont Road Culvert and the Glastonbury Close Culvert each being blocked to 67%. The applicant has referred to the likelihood of this occurring as very low, however there has been a flood at this location due to a shopping trolley blocking the Belmont Road culvert. As the proposals are for a supermarket this risk is not very low.

The simulations of the existing site have demonstrated the flood water enters the front of the site. A large proportion of the fluvial floodwater spills in via the road access. Topographical surveys have demonstrated that Belmont Road is almost level. The model has not replicated the existing perimeter wall or the earth bunding between the wall and the pond. Accordingly in reality most of the water would spill into the site via the road access. The simulation does not include the raised floor levels at the hotel.

The simulations of the proposed site show flooding to depths up to 300mm. The proposed superstore has not been modelled as a raised structure, although we understand it will be set at 57.00m AOD (higher than existing site levels). A more detailed assessment would be required to support any planning application, including actual proposed levels. Site levels at the north side of the site need to be considered to ensure that exceedance flows do not displace surface water towards third party property.

The simulations also demonstrate the Maximum Flood Velocity for flows across the site are low risk

### **Culverting proposals**

Core Strategy policy SD3 has been referenced in the report. Item 4 refers to the 'loss of open watercourse' and 'culverts should be opened up where possible to improve drainage and flood flows. There are known flooding issues associated with the Newton Brook. As part of the development, there is the potential opportunity to provide a betterment and lessen flood risk both



onsite and within the immediate surrounding area. As explained in our earlier advice, consideration needs to be given to opening up the culvert system onsite and reinstating the eastern channel as a formal overflow channel. These measures will reduce local flood risks.

The current proposals involve infilling the pond. The existing 375mm dia culvert would be extended. Under the existing arrangement, if the 375mm dia culvert were to become blocked, then the flow of water into the pond would cease. In this case the riparian owner would become aware of the blocked pipe and may seek to remedy the issue, to reinstate the flow of water. The existing 600mm dia culvert discharges flow into a watercourse in the Public Open Space to the east of the site. During our site visit the watercourse was flowing, despite no recent rainfall. If the 375mm dia culvert is extended, then there is an increased likelihood that when the culvert blocks the riparian owner would take no action to unblock the pipe. The implication of extending the 375mm dia pipe may be that the watercourse becomes starved of water. Any Environmental Impact Assessment issued for a planning application would need to consider this risk.

#### Further comments following submission of Technical Note (June 2023)

1. The applicant has advised “a blockage of the existing pipe would not be obvious to the current riparian owner as water losses would be minimal i.e. through evaporation”.

We do not agree with the applicant. A blockage would become evident due to the effect of evaporation and also lack of noise (tricking water), ripples on the surface etc

If the incoming 375mm dia pipe became blocked with debris, fine material would become entwined with the coarse material which would cause flow rates into the culvert system to reduce sharply. The pond is currently fed by an inlet pipe and water then overflows and cascades into the outlet pipe. If there were a blockage then water levels would drop due to evaporation, exposing more vegetation.

Land Drains and Highway Drains that bifurcate typically silt up. This is because water slows down at a bifurcation, causing debris and silt to drop. The more dominant Drain tends to operate well and the less significant Drain tends to be prone to blockages. Ongoing maintenance is a requirement of many Highway Drains where bifurcations exist.

2. The applicant has advised “the proposed arrangement would be for a 375mm dia pipe with a single inlet and a single outlet. This reduces entry points for sediment / debris and reduces blockage risk when compared with the existing. Debris (plant matter, litter etc) could enter the pond causing blockages to the culvert”.

The current arrangement features a 375mm dia inlet culvert. The exit culvert is a twin 600mm dia (incidentally we are unclear whether the second 600mm dia culvert forms an exit for the pond or serves the incoming private 450mm dia pipe).

The applicant’s own survey has confirmed that the incoming pipe is larger than the outgoing pipe. For this reason, we do not accept the applicant’s claim that replacing the pond with a culvert would lead to a reduced likelihood that debris (plant matter, litter etc) could enter the pond causing blockages to the culvert.

3. The applicant has advised “LIDL would incorporate inspections... with inspections of the culvert outlet undertaken to ensure that the pipe is flowing”.

The current proposals involve doubling the length of the culverted watercourse.

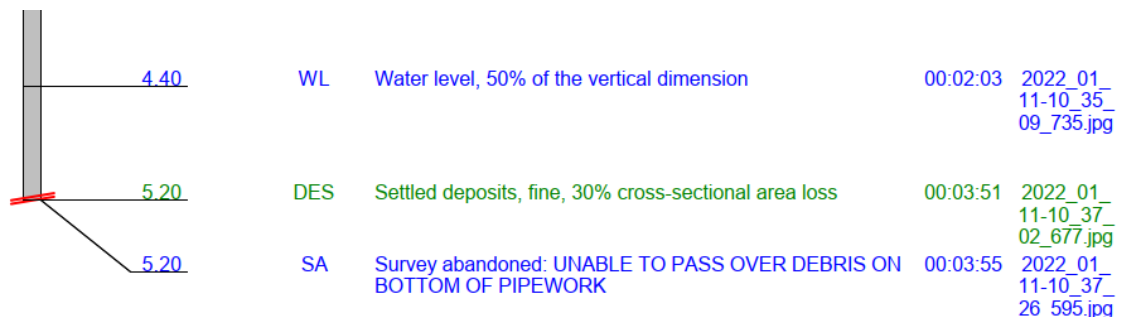
BBLP delivers highway drainage projects on behalf of Herefordshire Highways. Inspections of pipe inlets and outlets do not provide any useful information regarding the condition of the inside of the culvert. We have previously completed investigations using tools such as a high-pressure water jetting boom, to cleanse and establish whether culverts are clear of debris. After the use of a jetting boom there is still no conclusive proof that the culvert is clear. We have worked on

schemes where the jetting boom passed the obstruction and then an episode of repeat flooding has occurred.

The photo below is taken from the applicant's FRA. An inspection could be made on an upstream or downstream culvert headwall and it may be assumed that the culvert is free flowing.



The extract below is also taken from the FRA and demonstrates that there is a partial blockage in the 600mm dia culvert downstream of manhole SW2. In this scenario the water has reached a level of 50% of pipe bore due to the presence of debris.



We

reiterate that the risk of blockage would increase due to :-

- Doubling of the length of the culvert
- The fact that debris within culverts cannot be spotted

- The absence of a pond would mean that in future years the culvert would likely become a forgotten relict. It would not be obvious that flow had reduced or even ceased.
  - In some cases animals live in dry culverts. They can die there.
4. The applicant has advised “there is a much greater chance of the watercourse (the historic Newton Brook Channel) being starved of flow as existing due to the presence of the sluices

As explained above, there is an increased risk of a blockage within the culvert system. The applicant has referred to the sluices, we have inspected the sluices and it is clear that they are not fitted as hydraulic structures. Of key importance is the fact that the sluices are visible and can easily be cleared.

5. The applicant has advised that an open channel leads to a greater potential for fly tipping and blockage. Open channels typically have a much greater cross-sectional area than culverts and are easier to maintain.
6. The applicant has suggested that daylighting the 375mm dia culvert could result in flood flows being directed to properties downstream.

The applicant has already provided modelling results showing the results of the 67% culvert blockage. We do not anticipate that the impact of diverting flows via the historic Newton Brook Channel would differ greatly to this scenario, as the channel is deep to the east of Glastonbury Close.



We **object** to the proposals to extend the 375mm dia culvert.

## Surface Water Flood Risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is located within an area at risk of surface water flooding. However the mapping ignores the presence of highway drainage.

Figure 2: EA Surface Water Flood Map, April 2023



Extent of flooding from surface water



## Other Considerations and Sources of Flood Risk

Local residents may identify other local sources of flood risk within the vicinity of the site, commonly associated with culvert blockages, sewer blockages or unmapped drainage ditches. Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

## Surface Water Drainage

As shown on the Existing Site plan (Appendix B), surface water flows from buildings and parking areas within the site are collected by a piped drainage system and flow to a chamber in the north-eastern corner of the site. Herefordshire Council records demonstrate that this discharges to Newton Brook located approximately 25m east of the site. The existing surface water chamber in the north-eastern extent of the site has an identified cover level of 54.75m AOD and an invert level of 53.68m AOD.

A CCTV drainage survey has been undertaken in January 2022, with the CCTV survey report included in Appendix F. The CCTV survey was unable to determine the route of the 450mm surface water drain beyond the site due to high levels of silt within the chamber.

The proposed development will introduce approximately 10,925m<sup>2</sup> of hardstanding in the form of buildings and car parking.

The existing 1 in 1 year greenfield runoff rate for the 1.6804ha development site is 4.6 l/s. A discharge rate of 4.6 l/s is proposed for this site.

An estimated storage volume of 768m<sup>3</sup> will be required to accommodate the 1 in 100 year plus 40% Climate Change (CC) event. The storage estimate is based on storage within a tank or pond structure, an impermeable drainage area of 10,925m<sup>2</sup>, a design head of 0.8m and hydro-brake flow control.

Based on the cohesive ground conditions witnessed across the majority of the site and presence of groundwater, infiltration drainage techniques are not considered a viable option for the site.

### **Foul Water Drainage**

The DCWW sewer records show that there is a 150mm public foul sewer within the northern extent of the site. The 150mm public foul sewer flows west within the site, then north to Glastonbury Close. A 375mm public combined sewer is located in Belmont Road south of the site and flows east.

As shown on the Existing Site Plan (Appendix B), foul flows currently drain to the public foul sewer in the northern extent of the site. Manhole SO49387617 on the foul sewer in the northern extent of the site has an identified cover level of 55.16m AOD and an invert level of 52.96m AOD.

The applicant will need to liaise with DCWW to facilitate approval for a new discharge rate and volume

### **Conclusion**

We object to the proposals to extend the culvert as this will lead to an increase in flood risk due to the likelihood of the culvert blocking, also the downstream watercourse will be starved of water.

The proposals for a supermarket will also lead to an increased risk of the highway culvert blocking due to a supermarket trolley being disposed of in the channel. This in turn will increase flood risk to residents

### **Further comments following submission of Technical Note (June 2023)**

Major Flooding episodes can occur when Trash Screens block. We are aware of a town in Gloucestershire where a trash screen serving an 800mm diameter culvert blocked in 2007, which led to over a hundred properties flooding internally. None of these properties would normally have been at risk of fluvial flooding.

The applicant has suggested that if the site were used for a residential development then there would be a risk of blockage from garden waste. In our own experience garden waste can reduce the capacity of a channel slightly but would only be likely to exacerbate flood risk slightly.

Shopping Trolleys can catch like Trash Screens, debris gets caught on them easily.

The applicant has suggested that magnetically triggered castor locks could be installed on the trolleys. However adventurous vandals could easily carry trolleys a short distance for disposal within the brook.

The proposed development will increase the risk of flooding.

## **4.9 Minerals and Waste Officer Comments: No objection January 2024**

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

## Comments:

Thank you for consulting me on the above application. I can confirm that the site does not raise any issues with regards to the safeguarding of minerals. However, the proposal involves the construction of a significant major development and therefore will generate significant volumes of construction materials and demolition waste and as such the emerging policy SP1 in the Minerals and Waste Local Plan (MWLP) will need to be addressed.

### Resource Management

In 2018 the Department for Environment Food and Rural Affairs identified that the construction industry accounted for 62% of the UK's total waste, making it the largest single source of waste arising in England. Central to government objectives for waste management is to avoid waste going for landfill, with as much recycled where possible. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

The planning system has a role to play encouraging the use of secondary or recycled construction materials and preventing waste generation in construction. All development should be designed to increase the potential for recycling waste. The use of materials and waste resources will be directed to contribute positively to addressing climate change.

In accordance with emerging policy SP1 of the Minerals and Waste Local Plan if the application is approved the applicant will be required to produce a Resource Audit to set out end of life considerations for the materials used in the proposed development. This can be dealt with via the following condition;

Prior to any development commencing on site the applicant shall submit a Resource Audit to identify the approach to materials. The Resource Audit shall include the following;

- The amount and type of construction aggregates required and their likely source;
- the steps to be taken to minimise the use of raw materials (including hazardous materials) in the construction phase, through sustainable design and the use of recycled or reprocessed materials;
- The steps to be taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the construction phase;
- The type and volume of waste that the development will generate (both through the construction and operational phases);
- On-site waste recycling facilities to be provided (both through the construction and operational phases);
- The steps to be taken to ensure the maximum diversion of waste from landfill (through recycling, composting and recovery) once the development is operational;
- End of life considerations for the materials used in the development; and
- Embodied carbon and lifecycle carbon costs for the materials used in the development.

Construction works shall thereafter be carried out in full accordance with the details of the approved Resource Audit unless agreed in writing by the Local Planning Authority.

Reason: The treatment/handling of any site waste is a necessary initial requirement before any groundworks are undertaken in the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### 4.10 **Hereford and Worcester Fire service: general comment: June 2023**

Fire Service Vehicle access must comply with the requirements of ADB 2019 Vol. 2 B5, section 15 & Table 15.1 with regards the proposed floor area, height of the building and type of fire appliance.

- Access road to be in accordance with ADB 2019 Vol. 2 Table 15.2 with regards access widths and carrying capacity

Water for firefighting purposes should be provided in accordance with section 16 and National guidance document on the provision of water for fire - fighting' and BS 9990

#### 4.11 **West Mercia Police: February 2024: No objection**

Observations from West Mercia Police Road Safety team regarding Road-Layout Change at Belmont Road Hereford and its effects on and Gatso\* Speed Camera.

##### 1. Introduction

This document assesses the impact of a proposed road layout change on the existing Gatso speed camera located on Belmont Road, Hereford. It has been prepared in response to a planning application for the layout change facilitation the conversion of the 3 counties hotel into a supermarket and has been informed by consultations with traffic management advisors, highways and local council.

##### 2. Proposed Road Layout Change

The road is currently a single track road with two opposing lanes. The area is primarily residential with a good volume of traffic. With the proposed development it would facilitate changes to the road lay out with a protected right turn into the supermarket and the significant widening of the existing junction providing ingress to the supermarket parking. All lanes will be widened, and the verges of the road moved outward to facilitate this. The plans have been viewed on site.

##### 3. Gatso Speed Camera

The existing Gatso speed camera is located opposite the junction with the current hotel complex. It plays a vital role in the reduction of speed and ensuring road safety. It was initially installed several years ago in response to several serious road traffic collisions nearby to reduce speed and subsequently harm.

##### 4. Consultation and Assessment

Following consultations with traffic management advisors, we are satisfied that the proposed road layout change does not necessitate the relocation of the Gatso speed camera for continued effective policing. The current camera position remains suitable for capturing speeding offences in the designated area. Many of the offences occur during the hours of darkness when the supermarket will not be open, and free flow of traffic not impeded. It is possible that due to the widening of the road traffic speed may increase during the quitter hours, and this camera will have a positive effect on this.

##### 5. Developer Responsibility for Relocation (if applicable)

While we do not object to the camera being relocated at the developer's expense if deemed necessary to facilitate the road layout changes, we request prior consultation before finalizing the

camera's new position. This consultation will ensure the new location maintains the camera's effectiveness in enforcing speed limits and promoting road safety. It is vital for legal compliance that the camera is moved under the supervision of trained technicians who we will appoint but will be paid for at the expense of the developers.

## 6. Conclusion

The proposed road layout change, as assessed in consultation with traffic management advisors, is not expected to hinder the functionality of the existing Gatso speed camera. However, if camera relocation becomes necessary during construction, we request early consultation to ensure the chosen location maintains the camera's effectiveness in promoting road safety.

## 7. Recommendations

- We do not object approval of the planning application for the road layout change, with the understanding that the Gatso speed camera can remain in its current position.
- If camera relocation becomes necessary during construction due to unforeseen circumstances, we request immediate consultation to determine a new location that upholds the camera's effectiveness in enforcing speed limits.

## 8. Additional Information

Here's a brief explanation of what a Gatso camera is:

- Type of Speed Camera: A Gatso camera is a fixed speed camera used for traffic enforcement.
- How it Works:
  - o Radar technology: Gatso cameras primarily use radar to detect the speed of passing vehicles.
  - o Image Capture: If a vehicle exceeds the speed limit, the camera automatically captures multiple images for evidence, including the vehicle's registration plate.
- Purpose: Gatso cameras are installed in high-risk areas to:
  - o Deter speeding: Their primary goal is to deter drivers from exceeding posted speed limits.
  - o Reduce accidents: By decreasing speeding, the likelihood of accidents and their severity can be reduced.
  - o Enforce traffic laws: Gatso cameras provide evidence to issue speeding tickets and hold drivers accountable for traffic violations.
- Brand Name: "Gatso" is a brand name derived from the inventor, Maurice Gatsonides. While Gatso cameras are very common, especially in the UK, other types of fixed speed cameras exist and are often used in traffic enforcement

## 5. Representations

### 5.1 Belmont Rural Parish Council: objection: December 2023

With reference to the application

The Parish Council objects to the application due to the following:-

- The proposed new build does not accord with the surrounding area and will be out of character with the area.
- Traffic increase and congestion on the Belmont Road
- Adverse environmental impact and increased risk of flooding.
- Adverse impact on the amenities of local residents, visual and otherwise.
- Loss of an established habitat,
- Highways safety due to traffic turning right into the site and turning right on exiting the site.
- Insufficient parking.



The Parish Council also requests that if the application is to be refused then Herefordshire Council use their delegated powers in conjunction with the Ward Councillor. However, if it is to be approved then a redirection to full planning committee be made.

## 5.2 **Belmont Rural Parish Council: objection: July 2023**

Having considered the matter, the Parish Council resolved to object to the application due to the following:-

- The proposed new build does not accord with the surrounding area and will be out of character with the area.
- Traffic increase and congestion on the Belmont Road
- Adverse environmental impact and increased risk of flooding.
- Adverse impact on the amenities of local residents, visual and otherwise.
- Loss of an established habitat,
- Highways safety due to traffic turning right into the site and turning right on exiting the site.
- Insufficient parking.

The Parish Council also requests that if the application is to be refused then Herefordshire Council use their delegated powers in conjunction with the Ward Councillor, however if it is to be approved then a redirection to full planning committee should be mad

## 5.3 **Hereford City Council: No objection: January 2024**

Hereford City Council Planning Committee has no objection to planning application 231703 however have comments. Whilst Councillors regret the loss of this hotel and tourism facility, they appreciate the need for an economy food store and associated employment south of the river which will be popular with local residents. Councillors have considerable anxiety about another unregulated junction on an already busy road and feel the proposed design is not respectful of the local environment

## 5.4 **Hereford City Council: no objection: June 2023**

No Objections from Hereford City Council Planning Committee in regards to Planning Application 231703, though Councillors stated that it is regretful to lose the hotel and a shame to see the building demolished

## 5.5 **Hereford Civic Society: November 2023**

Summary of comments:

- Those located at the Oval and on the Newton Farm Estate are particularly vulnerable from this proposed development, since they depend on “top up” rather than on a customers’ weekly shopping trip which most residents probably also undertake at one of the larger supermarkets in Hereford. All the major chains have a Hereford presence within a one to two mile radius.
- The recent establishment of an “out of city” Iceland store at Holmer, led to the closure shortly afterwards of their city centre store in Eign Gate.
- The presence of an additional out-of-city food store will not increase the total “market” for the sale of day-to-day food necessities.
- The Three Counties Hotel is located on a congested section of the A465 Hereford – Abergavenny Road. It is adjacent to a busy McDonald’s outlet with a “drive-in” facility that frequently leads to tail-backs onto the A465. It is opposite junctions leading into the
- Newton Farm residential area. “top up” trips to the local convenience stores at the Oval or on the Newton Farm Estate currently being made on foot/ or by bicycle being replaced by a car journey

- perceived or real danger associated with crossing the A465 and navigating the Lidl car park as compared with walking/ cycling to a local food/ convenience store.
- Access to the supermarket front door, is designed for the customer arriving by car and not those by bicycle or on foot.

## Publicity

- 5.6 The proposal due to the scale of development is classified as a major development. As such it has been advertised in the local press (Hereford Times). As well as numerous site notice displayed around the application site over 2 consultations. In addition, statutory consultees have been consulted.
- 5.7 In response to the public consultation a total of 51 comments were received on the application throughout the process, detailing the following points:

### Objections: 41 comments received

#### **Retail Store**

- New Retail food store would be detrimental
- Do not need another supermarket. Unnecessary supermarket
- Numerous supermarkets and conveniences stores already servicing Hereford
- Better use of the site should be community focal point such as a pub restaurant
- Better off building houses, care home or nursing home/DIY store
- Should be in Rotherwas as Belmont Road busy enough
- Adverse impact on the local shops
- Other sites in Hereford which have planning permission for this use class which could be used?
- Waitrose:
  - Undermine changes which have taken place in Hereford in terms of diversifying and enhancing its retail and commercial leisure offer.
  - Application will draw trade away from the city centre. Wider vitality and viability is compromised when anchor food stores are under performing.
  - The vitality and viability of Hereford City Centre is supported by food stores. The trading impact is a planning consideration.
  - Existing food stores within and on the edge of the City Centre (Waitrose, Tesco, M&S and Morrisons are trading below company average levels. Further loss of spend should be strongly resisted to protect overall vitality and viability of the city centre
  - Hereford city Centre only displays 'moderate' levels of vitality and viability with an above average vacancy rate and a high number of vacant units such as Debenhams. Recent closure of Iceland store confirms the vitality and viability of Hereford City Centre is currently not an optimum level
  - The quantitative impact assessment underestimate the proportion of trade which will be drawn from food stores in Hereford City Centre to the proposed development. Needs further justification and 'scenario testing'.

#### **Trees/Ecology/Drainage**

- Pond in the hotel acts as a soakaway
- Filling in the pond may lead to the brook level rising and flooding the surrounding area
- Loss of green open space
- Protect green space, wildlife, habitats of local brook and hotel pond
- Remove too many trees
- Newts in ponds, protected bats, field mice, water vole, kingfishers, foxes and otters

#### **Amenity**

- Amenity concerns for neighbouring residents: Glastonbury Close. Fluorescent/LED glow, air conditioning units humming and large articulated lorries close by.
- Noise pollution from building work, deliveries and customers
- More pollution to the area: cars: delivery lorries. fumes
- Cul de sac to the rear of hotel enjoys peace and quiet
- Noise from deliveries, collections, general customers, chillers
- Deliveries between 7am and 11pm: noise impacts. Noise late at night
- Waste and rats

### **Building Design**

- Design of the new store: corporate architecture. Awful/Tacky/vile looking Lidl Store
- Not in keeping with the surrounding area
- Current building: Hereford Landmark. Attractive building as is Tesco Store
- Belmont area has undergone improvement
- Design is out of character
- Block light

### **Traffic/Highways**

- Existing McDonalds causes backlog of traffic and past existing hotel entrance
- Most people will use car or taxi to get to store adding more vehicles along Belmont Road
- Road system not capable of taking the additional traffic
- Belmont Road big problem. Easier to go to Newport or Abergavenny
- Increase in housing in the South West Herefordshire means more traffic and will increase significantly. Existing queues already on this road
- If road infrastructure in place then this application may have been possible.
- Inadequate car parking
- Slip road next to McDonalds is inadequate. Existing problem at McDonalds/delivery deliveries
- Increase in accidents and more dangerous for pedestrians
- Don't need shared cycle lanes and footways
- Road Safety camera outside
- Cars turning right
- A roundabout or controlled crossroads for entry/exit
- Consideration must be given to Cyclists

### **Other**

- Does not mention rehouse asylum seekers
- Loss of public house/bar area/hotel accommodation
- Loss of licence amenity in this area Need for social drink venue in this area
- The existing building should be protected.
- Petition on previous application
- Must be determined at planning committee
- Any S106 money to be spent on local activities/clubs for children/young people and those who struggle with social isolation.

### Support:10 comments

- Hotel is unattractive and has looked run down for years. Hasn't been used to it's full potential for decades
- Budget friendly supermarket would be welcomed.
- Elderly people would find this easier than going into town.
- Hotel isn't there for the public to use anymore
- More jobs
- Healthier competition for other supermarkets
- Cost of living a budget supermarket would help

- Belmont road traffic is terrible, can't see it being made worse by Lidl.
- South Side needs a Lidl Store.
- Will reduce carbon emissions/need to travel across town
- Traffic is bad anyway
- If remove the Belmont Inn that can't see why can't remove this eye sore of a building and get a new/modern replacement

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

**Please update link from website (7)**

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

### ***Policy context and Principle of Development***

- 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 purpose 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 The adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'Made' Belmont Rural Neighbourhood Development Plan, The National Planning Policy Framework 2023 is a significant material consideration but does not hold the statutory presumption of a development plan.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and Paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating. A decision was taken to prepare a new local plan in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any applications. In this case the relevant Core Strategy policies have been reviewed and are considered entirely consistent with the NPPF and therefore can be attributed significant weight.

### **Herefordshire Core Strategy**

- 6.4 Core Strategy Policy SS1 identifies a presumption in favour of sustainable development. This means, when considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy.
- 6.5 Core Strategy Policy SS4 – Movement and transportation states New developments should be designed and located to minimise the impacts on the transport network; ensuring that journey times and the efficient and safe operation of the network are not detrimentally impacted. Furthermore, where practicable, development proposals should be accessible by and facilitate a genuine choice of modes of travel including walking, cycling and public transport. The policy sets out development proposals that will generate high journey numbers should be in sustainable locations, accessible by means other than private car. Alternatively, such developments will be required to demonstrate that they can be made sustainable by reducing unsustainable transport patterns and promoting travel by walking, cycling and public transport. Proposals to provide new and improved existing public transport, walking and cycling infrastructure will be supported. Where appropriate, land and routes will be safeguarded as required in future local or neighbourhood development plans and developer contributions, which meet the statutory tests,

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

sought to assist with the delivery of new sustainable transport infrastructure, including that required for alternative energy cars.

- 6.6 Core Strategy policy SS6 describes proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. Policy SS6 then states in its list of criteria states Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.
- 6.7 Core Strategy Policy SS7 – Addressing climate change states Development proposals will be required to include measures which will mitigate their impact on climate change.  
At a strategic level, this will include:
- focussing development to the most sustainable locations;
  - delivering development that seeks to reduce the need to travel by private car and which encourages sustainable travel options including walking, cycling and public transport;
  - designing developments to reduce carbon emissions and use resources more efficiently;
  - promoting the use of decentralised and renewable or low carbon energy where appropriate; supporting affordable, local food production, processing and farming to reduce the county's contribution to food miles.
  - protecting the best agricultural land where possible
- 6.8 Key considerations in terms of responses to climate change include:
- taking into account the known physical and environmental constraints when identifying locations for development;
  - ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading; minimising the risk of flooding and making use of sustainable drainage methods;
  - reducing heat island effects (for example through the provision of open space and water, planting and green roofs);
  - reduction, re-use and recycling of waste with particular emphasis on waste minimisation on development sites; and
  - developments must demonstrate water efficiency measures to reduce demand on water resources.
- 6.9 Core Strategy Policy MT1 – Traffic management, highway safety and promoting active travel states Development proposals should incorporate the following principle requirements covering movement and transportation:
1. demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;
  2. promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
  3. encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
  4. ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;
  5. protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and

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6. have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices. Where traffic management measures are introduced they should be designed in a way which respects the character of the surrounding area including its landscape character. Where appropriate, the principle of shared spaces will be encouraged.
- 6.10 Core Strategy Policy E1 – Employment provision states that the focus for new employment provision in Herefordshire is to provide a range of locations, types and sizes of employment buildings, land and offices to meet the needs of the local economy. Development proposals which enhance employment provision and help diversify the economy of Herefordshire will be encouraged in circumstances including where:
- the proposal is appropriate in terms of its connectivity, scale, design and size; and
  - the proposal makes better use of previously developed land or buildings.
- 6.11 Core Strategy Policy E5 – Town Centres sets out these areas are the primary location and focus for retail, commercial, leisure, cultural and tourism uses and seeks to protect this position. The policy sets out how development outside of this area will be assessed, expectations on applications and a requirement for an assessment on the town centre's vitality and viability to support any such proposals
- 6.12 The policy sets out how development outside of this area will be assessed, expectations on applications and a requirement for an assessment on the town centre's vitality and viability to support any such proposals. Policy E5 has been informed by the findings of the Town Centres Study Update 2012 which outlines the retail, office and leisure needs of Hereford and the five market towns. The report identifies limited requirement for further retail and leisure development and advises that there is no need for out of centre retail allocations in Hereford or in the market towns. Where town centre uses are proposed in edge of centre or out of centre locations, a sequential approach to selecting sites will be adopted in accordance with the National Planning Policy Framework. Evidence will be required to demonstrate that all available town centre opportunities have been thoroughly assessed, and transparent reasons provided as to why the town centre sites are not suitable and available, before land and/or buildings in edge of centre and then out of centre locations are considered.
- 6.13 The sequential approach will also apply to large scale extensions to existing retail and town centre uses, as well as proposals to vary or remove conditions restricting the range of goods that can be sold, where the site is located in an edge of centre or out of centre location. In considering the suitability and availability of sites, applicants will be required to demonstrate how they have adopted a flexible approach to the size, design and format of the proposal.
- 6.14 Core Strategy Policy LD1 – Landscape and townscape criteria requires new development should achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;  
conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management
- 6.15 Core Strategy Policy LD2 Biodiversity and geodiversity. Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire.
- 6.16 Core Strategy Policy SD1 – Sustainable design and energy efficiency states Development proposals should create safe, sustainable, well integrated environments for all members of the

community. In conjunction with this, all development proposals should incorporate the following requirements:

- ensure that proposals make efficient use of land - taking into account the local context and site characteristics,
- new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;
- safeguard residential amenity for existing and proposed residents;
- ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;
- utilise physical sustainability measures that include, in particular, orientation of buildings, the provision of water conservation measures, storage for bicycles and waste including provision for recycling, and enabling renewable energy and energy conservation infrastructure;
- where possible, on-site renewable energy generation should also be incorporated
- create safe and accessible environments, and that minimise opportunities for crime and anti-social behaviour by incorporating Secured by Design principles, and consider the incorporation of fire safety measure

6.17 Core Strategy Policy SC1 – Social and community facilities requires that “Development proposals which protect, retain or enhance existing social and community infrastructure or ensure that new facilities are available as locally as possible will be supported...Existing facilities will be retained, unless it can be demonstrated that an appropriate alternative facility is available, or can be provided to meet the needs of the community affected; or it can be shown that the facility is no longer required, viable or is no longer fit for purpose; and where appropriate, it has been vacant and marketed for community use without success. Viable alternative facilities must be equivalent to those they replace, in terms of size, quality and accessibility...” The policy does not however contain a definition of what facilities are to be treated as ‘social and community facilities’. However, the supporting text states that: “Social and community facilities can be defined as physical facilities for different individuals and communities, which are provided by a range of organisations (public, private and voluntary). They provide for the health, welfare, social, educational, spiritual, recreational, leisure and cultural needs of the community. These facilities play an important role in the development of a vibrant community by creating a sense of place and providing a place for people to meet and interact socially.

6.18 They also offer services that are essential for education, health and well-being; and support community cohesion and benefit the general quality of life of residents. Social and community facilities can include: public services, community centres and public halls, arts and cultural facilities including theatres, public art and heritage centres; policing and criminal justice facilities, fire and ambulance services, health and education facilities including GP surgeries and NHS walk-in centres; public houses, local shops, public toilets, youth centres, social care facilities including day centres and child care facilities; places of worship, and services provided by the community and voluntary sector - for example scout and guide premises.

6.19 Core Strategy Policy HD2 – Hereford City requires an impact assessment for proposals for new out of centre retail development over 700sqm ‘gross’ floorspace. The policy states that in order to maintain and enhance the viability and vitality of the city centre, new retail uses will be focused to the core of the city centre as defined below. Any identified need for further major retail development over the plan period will be met within the Eign Gate and that part of the Edgar Street regeneration area which lies within the defined town centre, including the Old Market, along Blueschool Street and through the refurbishment and re-development of the Buttermarket.

## **Neighbourhood Plan**

6.20 The Neighbourhood Development Plan known as the Belmont Rural Neighbourhood Development Plan was made on 6 October 2017. It now forms part of the Development Plan for Herefordshire.

- Policy 6: Accessibility & Connectivity – mentions that “new development should take every available opportunity to provide new and enhanced safe footpaths and cycleways”, this policy mainly focuses on sustainable modes of transport, to increase active travel.
- Policy 7: Supporting small and medium businesses in Belmont Rural – states that existing small/medium businesses will be supported within the neighbourhood plan area and where they exist small scale expansion will be supported if the following criteria are met:
  - a. There is a satisfactory means of access and adequate parking provided on site;
  - b. There will not be unacceptable harm to the amenity of any neighbouring properties;
  - c. All new development must demonstrate good quality design. This means responding to and integrating with local surroundings and landscape context as well as the existing built environment;
  - d. Development can only proceed where any likely significant effect on the River Wye SAC can be avoided or mitigated.

### **National Planning Policy Framework: December 2023**

6.21 The NPPF has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving Sustainable Development
- 4. Decision Making
- 6. Building a Strong Economy
- 7. Ensuring the Vitality of Town Centres
- 8. Promoting Healthy and Safe Communities
- 9. Promoting Sustainable Transport
- 11. Making Effective use of Land
- 12. Achieving Well-Designed Places and Beautiful Places
- 14. Meeting the Challenge of Climate Change, Flooding and Coastal Change
- 15. Conserving and Enhancing the Natural Environment

6.22 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.23 Paragraph 85 recognises planning policies and decisions “should help create the conditions in which businesses can invest, expand and adapt.” Therefore, there should be significant weight on the need to support economic growth and productivity. This can be done by considering both local business needs and wider opportunities for development.

6.24 Chapter 7 sets out the Governments’ strategy for ensuring the vitality of town centres. Proposals for main town centre uses should be located within existing town centres, which are considered the most sustainable locations for such uses. The NPPF sequentially prioritises sites within existing centres, rather than edge-of-centre or out-of-centre sites for these uses.



The NPPF recognises the wider role town centres play for their communities and planning decisions should support this.

Paragraph 94 states that “when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).”

NPPF paragraph 95 states where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused. Referenced Paragraph 94 b) states the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

6.25 NPPF Paragraph 131 states The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 outlines Planning decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

6.26 Chapter 6 of the National Planning Policy Framework (NPPF) sets out policy guidance aimed at creating the conditions in which businesses can invest, expand, and adapt. Paragraph 85 recognises planning policies and decisions “should help create the conditions in which businesses can invest, expand and adapt.” Therefore, there should be significant weight on the need to support economic growth and productivity. This can be done by considering both local business needs and wider opportunities for development.

6.27 Paragraph 96 confirms planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- Promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other;
- Are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion;

- Enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.

6.28 Chapter 9 addresses sustainable transport and states it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users;
- the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.29 Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.30 Chapter 11 of the NPPF document is the 'Making effective use of land' and in terms of retail, paragraph 127 states that Local Planning Authorities (LPA) should take positive approach to applications for alternative uses of land which is currently developed.

6.31 Chapter 12 of the NPPF confirms that it's important to create high quality, beautiful and sustainable buildings. NPPF Paragraph 131 states The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 outlines Planning decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

6.32 Chapter 14 addressed climate change and flooding. Paragraph 164 states that, in determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency, including through installation of solar panels).

6.33 Paragraph 168 sets out the aim of the sequential test, which is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 169 states that the need for the exception test will depend on the potential

vulnerability of the site and of the development proposed. Buildings used for shops are classified as 'less vulnerable' development where the exception test is only required in flood zone 3b. Para 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed; and
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Paragraph 175 states major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

6.34 Paragraph 180 guides and states that planning decisions should “contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

6.35 Paragraph 191 advises planning decisions “should ensure that new development is appropriate for its location taking into account the likely effects... of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site” or the surrounding areas to impacts that could arise from the development activity.

6.36 Paragraph 57 mentions that planning obligations should “only be sought where they meet all of the following tests:

- a) 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.”

## Key Considerations

6.37 The key considerations in the assessment of this application are:

- Principle of development including retail impact
- Design: townscape and visual impact
- Transportation, Access and Parking
- Impact on neighbouring residential amenity

- Drainage/Flooding
- Landscape and Trees

### **Principle of Development**

- 6.38 As a starting point the application site is brownfield land within the Herefordshire settlement boundary. It is situated in a location which is accessible by a choice of means of transport. The proposals are considered to form a sustainable location for redevelopment.
- 6.39 Chapter 6 of the National Planning Policy Framework (NPPF) sets out policy guidance aimed at creating the conditions in which businesses can invest, expand, and adapt.
- 6.40 Chapter 7 of the NPPF sets out policy guidance aimed at positively promoting and enhancing competitive town centres and supporting their vitality and viability. Proposals for main town centre uses should be located within existing town centres, which are considered the most sustainable locations for such uses. The NPPF sequentially prioritises sites within existing centres, rather than edge-of-centre or out-of-centre sites for these uses.
- 6.41 Where development proposals involving main town centre uses located outside of town centres are made, the NPPF requires the LPA to apply a Sequential Test. Due to the site's out-of-centre location, the application of the sequential test is required. As the proposed store is over the locally set threshold of 700m<sup>2</sup>, an assessment of the retail impact, as a consequence of the proposed store, is also required.
- 6.42 Policy and guidance underlines that the scale and scope of retail assessments should be proportionate to the scale of development proposed and this is applied in this instance. Policy is permissive of retail development outside of designated centres if the sequential and impact tests are satisfactorily addressed. The LPA's opinion on the relevant policy tests is set out below:

### **Sequential Test**

- 6.43 The application site lies in an out-of-centre location in retail policy term and this is agreed by both the applicant and the Local Planning Authority. The National Planning Policy Framework (para. 91) is clear that main town centre uses should be located in town centres first, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 6.44 The NPPF and Policy E5 of the Core Strategy require that the sequential approach to site selection should be applied to all development proposals for main town centre uses that are not in an identified centre and not in accordance with an up-to-date development plan. Applications for main town centre uses should be located within a town centre, then in edge-of-centre locations, and only if suitable sites are not available should out of centre sites be considered. The NPPF further requires that applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.
- 6.45 As part of a sequential assessment the applicant is required to set out their site/unit requirements and national policy requires that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. The applicant's Planning & Retail Statement states that the applicant requires a site that can accommodate a store in excess of 1,900 sqm gross and that a development site of approximately 0.8ha would be required in this regard. However, in recognition of the requirement for flexibility, the site area for the purposes of the sequential test was reduced by 25% to 0.6ha. The area of search comprised Hereford City Centre, and Oval and Belmont neighbourhood centres.
- 6.46 Your officers and the Council's Retail consultants have reviewed the submitted information and are satisfied with the methodology and approach applied. Both of the Council's retail advisors and

your officers agree that the parameters for undertaking the sequential test are flexible and appropriate to form the basis for site selection. Furthermore, it is agreed that the search areas identified are suitable for the catchment and that no centres have been missed.

- 6.47 The submitted sequential assessment found no suitable or available sequentially preferable site to accommodate the development. JW Planning have also previously advised on the availability of sequentially preferable sites in respect of another application and defer to your officers' local knowledge as to whether there have been any material change in circumstances since that assessment. Your officers are satisfied that there has been no material change in circumstances.
- 6.48 Accordingly, a search for sequentially preferable sites has been undertaken in a flexible way and there are no other sites that are suitable, viable or available. It therefore stands that following a robust assessment, there are no sequentially preferable sites within or on the edge of the identified centres which could realistically accommodate the proposed store. As a result and in respect of sequential assessment the provision of a food retail store in an out of centre location is acceptable in principle and accords with the NPPF and policy E5 of the Core Strategy.

### **Retail Impact Assessment**

- 6.49 Due to the site's out-of-centre location, the application has been accompanied by an assessment of the retail impact, as a consequence of the proposed store. The NPPF states that an impact assessment needs to accompany planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan "if the development is over a proportionate, locally set threshold (if there is no locally set threshold, the default threshold is 2,500sqm)".
- 6.50 The NPPF also states this should include an assessment of:  
*"the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and  
The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."*  
(Para 94 (a) and (b))
- 6.51 The NPPF is also clear in stating that only proposals which are likely to have a "significant adverse impact" on one or more of the above factors should be refused.
- 6.52 This application is for a floor space of c.1,895sqm GIA which is under the prescribed NPPF threshold. Policy HD2 of the adopted Herefordshire Local Plan Core Strategy requires an impact assessment for proposals for new out of centre retail development over 700sqm 'gross' floor space. This application is supported by an impact assessment which has been reviewed by officers and the Council's retail specialist.
- 6.53 Following the withdrawal of the previous application (221090) and the period since the previous application was submitted the Council has updated its retail evidence with the publication of the Herefordshire Town Centre and Retail Assessment (HTCRA, Nexus, September 2022) see link below. The focus of this Study was to establish the current position in respect of the need for additional retail and leisure facilities in Herefordshire, and to consider the vitality and viability of the authority's principal defined centres. This study replaces the previous Town Centres Study Update, which was undertaken by Drivers Jonas Deloitte and reported in December 2012. In assessing the trading impacts of the proposed food store regard has been had to the approach advocated within Planning Practice Guidance when examining the diversion of trade. This uses a 'like affects like' principle with the reasonable assumption that a new discount food store would divert the majority of trade from equivalent surrounding food shopping destinations.

- 6.54 This application has been supported by a retail impact report and assessment based on the Nexus HTCRA. The Herefordshire Town Centre and Retail Assessment report can be viewed on line at: <https://www.herefordshire.gov.uk/downloads/file/24354/town-centre-and-retail-assessment-september-2022>
- 6.55 Within the National Planning Practice Guidance there is detail on how the impact test should be used in decision making and this is detailed within 'Town centres and retail' section of the National Planning Practice Guidance (NPPG). It is noted that the two retail assessors (the council retail expert and that of the applicants) have a difference in professional opinion in regard to the closing of the Iceland store in Eign Gate. The applicant has produced a response in regards to the statement that by the Councils retail assessor stated in their comments they have tried to 'disguise' the effects of the Iceland closure by not treating it as a commitment. However, as a point of clarity "Commitments" tend to be floorspace which has been granted planning permission but have not yet commenced trading or which had not commenced trading at the time of the relevant evidence base. Officers are of the opinion this does not apply to the closure of the former Iceland store. Given the disagreement between the applicant and the Council's advisor and given the publication of the HTCRA by Nexus, officers also sought the view of Nexus on the acceptability of the proposal.
- 6.56 The Council's retail advisor has supplied commentary which has been reviewed by officers and can be seen within Appendix 1. It is acknowledged that the Council's retail advisor has advised within their comments about the centre's being 'vulnerable', however it is also observed in the Carney Sweeney note (final response dated 6 October 2023) that:
- "JWPlanning accept, at paras 30 & 31 "that there is a good mix of retailers in Hereford City Centre, including a good range of convenience traders in the central core of the City Centre and on the edge of the Centre (within the Goad Map area)." And that it "...also has a strong role as the administrative and service centre for the County, as well as being an historic ecclesiastical centre."*
- 6.57 Officers note that the JW Planning has raised concerns about the City centre's vulnerability, notwithstanding this view your officers have also looked at 'local circumstances' and what constitutes 'significant adverse impact'. The Town Centres and retail PPG (para 018) confirms that there is no definitive definition in regarding what constitutes 'significant adverse impact' in the context of the impact test when looking at the NPPF: 'A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.'
- 6.58 As highlighted within the Nexus HTCRA the overall health of Hereford Centre is described as 'moderate', and this is when looking at the vacancy rate and its associated impact on appearance and function of the centre. However, Nexus also find that it is the focus for national multiple retailers in the County, accommodates a significant number of high end and independent retailers, provides an attractive retail destination with a high standard of environmental quality and benefits from a diverse range of retail operators.
- 6.59 In respect of vacancy the applicant has supplied details of vacancy rates within their update note and also makes reference to the survey undertaken by Nexus.
- 6.60 While Nexus conclude the health of the centre is moderate, there is no suggestion that the centre is fragile or failing. It serves a robust purpose and is relied upon as the key centre in the County. Vacancy is not entrenched and is falling and the associated impact of vacancy on appearance is capable of being mitigated. As such, we firmly believe that the local circumstances are such that a -0.6% impact (as claimed by the applicant) or even a -2%-3% impact (as suggested by the

Council's advisor, to allow for prudent variation) on the centre would not be significantly adverse. The existing strong make up and role of the centre would continue.

- 6.61 Officers have concluded that when assessing impact regard must always be paid to local circumstances and comparisons between centres should always be made with caution. Officers have also taken advice from economic development colleagues in regards to local occupancy of retail units. Evidence provided as in April 2023 it was reported that 65 of the 500 units were vacant (13%). As of April, the national figure was 13.8%, or thereabouts (end of Q4) <https://www.retail-insight-network.com/news/brc-retail-vacancy-uk/> The Old Market currently has 3 vacant units out of 33 (9.09% - this is good compared to the national average of 17.8%. Some units have a single occupier.
- 6.62 Nexus, concludes at paras 18 & 19 of its latest advice dated July 2023 (see Appendix 2) that “we are of the view that the trade diversion assumptions set out above are unlikely to result in an impact which could be considered to be significant on Hereford city centre. This conclusion has been reached having regard to the existing health of the centre, the nature of the proposal, the existing established shopping patterns and the location of the application site.” And that “...we are now satisfied that the application also complies with the second part of the impact test and therefore complies with paragraph 91 of the NPPF and Policy E5 of the adopted local plan.” This advice can be seen in Appendix A of this report.
- 6.63 The applicant has provided an assessment of trading impact to surrounding main stream food stores and centres, taking account of both convenience and comparison retail goods expenditure. The analysis concludes that the proposed store is highly unlikely to result in a significant impact to the long-term trading performance of surrounding mainstream food stores and with only limited trade diversion. The assessment includes a health check analysis of these areas in order to determine vacancy rates, environmental conditions and the current vitality and viability of any of the identified, defined centres and shops will remain largely unaffected. There is no evidence to suggest that the role and function of these centres will abate following the introduction of the proposed foodstore and would therefore comply with the relevant policy and guidance.
- 6.64 Pulling all matters together, officers have concluded that when looking at the local level and the local circumstances they are of the opinion/judgment that 2% would not lead to an overall decline in the vibrancy/vitality of Hereford City/centre and as such would not lead to significant adverse impact.
- 6.65 Officers are satisfied that Hereford City is vital and viable when assessed against the relevant NPPG indicators. An impact assessment has been carried out in a transparent way, based upon up-to-date data and making robust assumptions. The impact assessment finds the proposed development is not likely to give rise to a significant adverse impact on existing, committed and planned public and private investment in the centre or on centre vitality and viability. The local planning authority do not agree that the city centre is fragile or failing. On balance, drawing all the above together officers have concluded that the potential impact on the city centre trade would not be significantly adverse and would not conflict with the objectives of Core Strategy policy E5 and HD2 and the proposal is not considered to materially affect the vitality and viability of Hereford City Centre.

### **Conclusion on Retail Matters**

- 6.66 It is considered that the application is supported by a robust impact assessment and that there are no sequentially preferable sites, the proposed store can be satisfactorily accommodated without any significant effects upon existing retail operations within the identified catchment area, the store will not have a significant adverse impact upon existing protected retail locations within the identified catchment area. It is believed on balance the proposed store is located within a sustainable location and that the addition of a discount retailer will add to consumer choice and quality of shopping provision in the area in which the site is located. In regards to trade impact on

the vitality and viability of the centre, the development would not have a significant adverse impact and accord with the NPPF and policy E5 of the Core Strategy. A condition is recommended to limit the floor space and mix based on the application as submitted.

### **Employment Creation**

- 6.67 The proposed development will create approximately 40 full time equivalent (FTE) jobs and these positions will be at varying skill and experience levels. This is aside from creating employment during construction and through supply chains and this will be a boost to the local economy. The site is capable of being accessed by a choice of transport modes and thus is consistent with policy E1 which gives preference to locations that are accessible by a choice of sustainable modes of transport. The creation of employment will be beneficial to the local economy and as such the proposal accords with the Government's commitment to securing economic growth (Chapter 6 of the NPPF) and policy E5 of the Core Strategy.

### **Transportation, Access and Parking**

- 6.68 Core Strategy Policy SS4 relates to movement and transportation and states new developments should be designed and located to minimise the impacts on the transport network. Core Strategy Policy MT1 relates to traffic management, highway safety and promoting active travel. The policy sets out, amongst other things, development should demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed or mitigated. Additionally, to ensure safe entrance and exit and have appropriate manoeuvring facilities.
- 6.69 NPPF sets out at paragraph 114 that applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 of the Core Strategy is reflective of this approach, as it seeks to promote active travel and development without adversely affecting the safe and effective flow of traffic on the highway network. Further at paragraph 115 the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.70 The applicant has provided a detailed Transport Statement and a Travel Plan and following discussions with the Council's Local Highway Authority Officer further amendments were sought to address the entrance into the site and car park layout. Concerns were initially raised by the Local Highways Authority, and it is noted highway matters have been raised by local residents. To address concerns the submission of a detailed plan showing the proposed off-site highway/walking/cycling improvements, drawings in regard to the A465 taper length to ensure it meets the required standards as well a plan demonstrating the swept path of the largest delivery vehicle traversing the site to and from the loading bay were provided. Also clarification was sought in regards to the 'one-way system through the car park for visitors to the store'.

### **Current Access**

- 6.71 The existing vehicular access to the site is via a priority T Junction along the A465 Belmont road to the south. The A465 is one of the main strategic highway routes within Hereford taking traffic between the A49 in the centre of Hereford to the east and Abergavenny to the west. This road is currently subject to a 30mph speed limit and there is a speed camera located on the North Side of the road in close proximity to the application site. Pedestrian access is currently provided at the vehicle access junction via a direct connection into the footway which runs along the north side of the A465. There is also a grass verge which runs along the footway which is about 1.8m



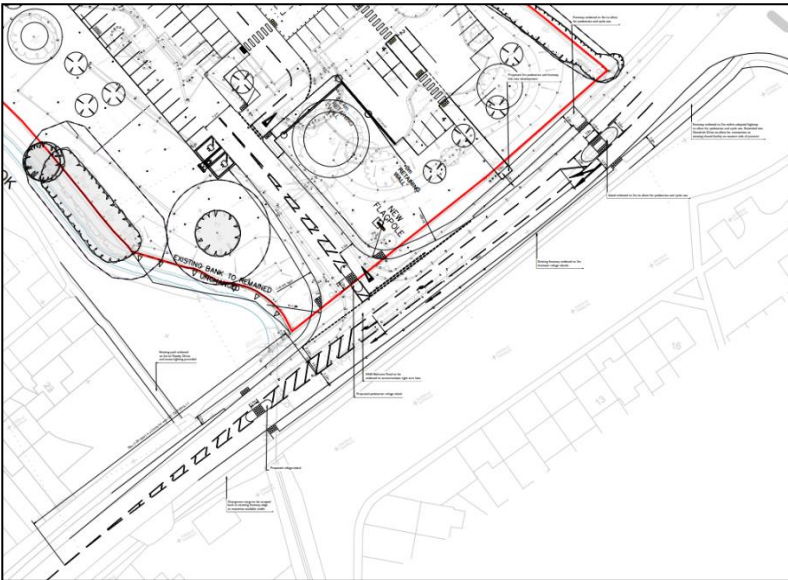
wide. As confirmed within the submitted transport statement and evident on site about 55m east from the site access there is a refuge island crossing point across the A465 which provides connectivity into the footway running along the side of the road. A signal crossing is located some 250m to the east of the site.

### **Pedestrian Priority & Movement**

- 6.72 As can be seen from the submitted proposed layout plan a number of highway and pedestrian improvements are proposed. Existing footways along the site frontage on the northern and southern sides of Belmont Road (A465), will be increased in width to 2.0m. The existing footways to the west of the site, along the northern side of Belmont Road (A465) leading to Flaxley Drive will be widened to 2.0m. Also a new 3.0m wide shared use cycleway/footway will be provided from the end of the existing shared use facility on Goodrich Grove along the southern side of Belmont Road (A465), leading to an upgraded pedestrian refuge island on Belmont Road. The existing Belmont Road (A465) refuge island will be widened to 3m to facilitate shared use. The existing footway along the northern side of Belmont Road (A465) will be increased in width to 3m from the proposed upgraded refuge to a dedicated 3.0m wide internal footway/cycleway which crosses the existing verge and leads directly to the store frontage and the cycle storage area.
- 6.73 The site is ideally situated to be accessed by a range of non-car modes including walking, cycling and public transport as well as travel to the site by sustainable modes to be further promoted via a Travel Plan which will increase awareness of and encourage the use of travel by non-car modes or car sharing. Within the car park there will be cycle parking, with 118 car parking spaces of which 8 disabled and 10 parent/child spaces. The layout also includes the provision of 2 electric vehicle charging points.

### **Proposed Access**

- 6.74 The proposal has evolved and the location of the site entrance, has been altered to provide an improved arrangement. This redesign consists of a right turn lane arrangement along the A465, with a single lane approach provided on the site exit approach arm. The right turn lane along the A465 has been designed to accommodate the anticipated development traffic volumes. The site access works also include a 2m wide pedestrian refuge, to facilitate pedestrian movement across the junction bellmouth. The proposed pedestrian refuge is located on the desire line. As part of the submission traffic modelling has been produced which identified that the proposed new site access junction would be expected to operate well within theoretical capacity with the proposed development in operation. It also highlighted that 'Some minor delay may be anticipated within the site during the weekday PM peak hour, but no queuing or delay is anticipated during any period along the A465 arms of the junction'. The councils transport officers have reviewed the submission and confirmed that the proposal is not anticipated to cause any significant capacity issues on the local highway network.
- 6.75 Also as detailed within the transport statement a review of the accident record does not identify any significant highway safety issue at the site access junction, and the increase in traffic generated by the proposed development is unlikely to exacerbate the existing safety record and again Transport Officers have not disputed this data.



**Figure 5: Proposed access junction**

- 6.76 The existing cycle route will benefit due to the addition of connecting Goodrich Grove directly with the site. It is also noted that new lighting is proposed alongside Newton Brook into Flaxley Drive which will improve security as well as promote safety of pedestrians.

### **Servicing**

- 6.77 HGV Tracking details have been provided to ensure that delivery trucks can move safely into and out of the site. There would be one or two deliveries per day.

### **Travel Plan**

- 6.78 As part of the submission a travel plan has been submitted which aims to maximise active modes of travel and use of public transport and this will be secured by an appropriately worded condition.

### **Speed Camera**

- 6.79 A fixed speed camera is located on the southern side of the road along the A465, within an existing verge. The installation of traffic and speed cameras is not development as defined in the Town and Country Planning Act 1990, so neither planning permission nor permitted development rights are required for their installation. The application proposes widening the verge and therefore the carriageway markings associated with the camera will need to be repainted during the junction construction. West Mercia Police have been consulted and have confirmed they wish the speed camera to remain along Belmont Road and this may need to be realigned during works.
- 6.80 Any works to both the carriage way markings and location of the speed camera will be secured in liaison with West Mercia Police by an appropriately worded condition.
- 6.81 To conclude the proposal has been reviewed by the Transportation Manager who confirmed that subject to conditions the proposal was considered to adhere to Core Strategy MT1 and the published highways design guidance. Any vehicular uplift is not considered to be severe in accordance with the NPPF, they are content that the local highway network can absorb the additional traffic generated without compromising the safe operation of the network. Therefore officers are satisfied the proposal is in accordance with Core Strategy policies SS4 and MT1 and the requirements of para 114 of the NPPF and the aims of the Belmont Rural Neighbourhood Plan (Policy 6).

### **Flooding and Drainage**

- 6.82 The Council's Land Drainage Team (Local Lead Flood Authority) has been consulted on the application as have Welsh Water. A Flood Risk Assessment (FRA) and Drainage Statement has been submitted to accompany this planning application. Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.83 The site is located in low risk Flood Zone 1 and because the proposed development is more than 1 hectare, it is supported by a Flood Risk Assessment. As highlighted by within the drainage comments though the site is located in Flood Zone 1 on the EA mapping, there is a known issue of flooding both onsite and within close proximity to the site from Newton Brook. The Newton Brook watercourse is described as being 'complex in the immediate site area'. Due to an existing culvert and the fear that alterations to the site would lead to an increase in flood risk due to the likelihood of the culvert blocking and the the potential of an increased risk of the highway culvert blocking due to a supermarket trolley being disposed of in the channel, drainage colleagues initially objected to the proposal due to the possibility of an increase flood risk to residents.
- 6.84 Following the submission of additional details to satisfy earlier concerns raised by drainage colleagues the objection has been removed and officers have confirmed no objection subject to suitably worded conditions to address earlier concerns in particular, detailed surface water drainage design plans/construction drawings and associated calculations, trial pit information and a shopping trolley condition. Therefore officers are satisfied that a Sequential Test in regards to planning and flood risk as per the NNPF para 167 is not required.
- 6.85 Welsh Water have confirmed that there is capacity within the existing public sewerage network in order to receive the domestic foul only flows from the proposed development site and advised no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site. Welsh Water have raised no objection to the proposal, however have recommended a compliance condition advising that no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network and advisory notes. As such, officers would conclude that the application aligns with both Core Strategy policies SD3 and SD4 and will be controlled via conditions.

### **Landscaping and Trees**

- 6.86 Core Strategy policy SD1 requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design. The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. Furthermore LD1 seeks to and extend tree cover where important to amenity. As part of the submission a planting schedule, planting methodology and aftercare landscape management plan, arboricultural method statement and detailed drawings have been submitted. The site is not located within any locally or nationally designated landscapes and the landscape officer and tree officer have both been consulted on the application and provided comments.

6.87 The landscape officer within their comments have confirmed that the site is within the urban area of Hereford and identified that albeit the existing hotel and its grounds are ‘dated / of their time’, the site is not a ‘degraded, derelict or detracting feature in landscape or townscape terms’. They have highlighted that the green frontage and site trees do make a limited positive contribution to urban green infrastructure. The retention of the three mature trees along the Belmont Road frontage is therefore a positive, as well as retaining the adjacent boundary trees and planting. As identified within the submission this overall landscape is also enhanced by the ornamental amenity shrubs around the new car park. As shown on the submitted landscape plan there are also areas of amenity grassland adjacent to the main road, with the addition of wildflower grass areas to the east and west site edges. The west and north boundaries have a proposed strip of native shrub planting, together with new tree planting. This is seen as a welcome addition to the proposal by the landscape officer in their comments and have confirmed no objection to the proposal in relation to Core Strategy Policy LD1 on landscape and townscape character and landscape schemes, or LD3 on green infrastructure.

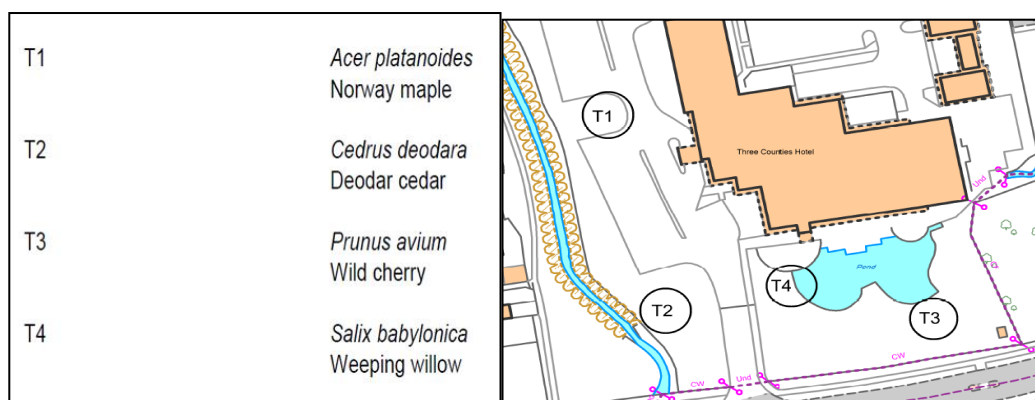


Figure 6: TPO trees

6.88 As can be identified on the existing site plan, there are a number of trees positioned to the front of the site and an existing ornamental pool and patio area. Officers secured 4 of the trees to be subject of a Tree Preservation Order. These trees were due to be removed in the previous application so a Tree Preservation Order was served on 4 individual trees, ref T1, T2, T3, & T4 (see figure 6).

6.89 The proposed site layout has evolved and designed to ensure that the TPO trees on the site are protected as well as ensuring that the ground levels maintained within the root protection areas. Also the proposed access, and parking has been located away from the trees whilst the perimeter of the roots of T4 are protected by the retaining wall. The tree officer has reviewed the proposal and supporting information and confirmed that they are supportive of the retention and protection of existing trees and the proposed new planting will mitigate the loss of existing trees with a total of 31 trees, which are generally 3-4m in height, being planted. Much of the planting is located in the already grassed areas on the west and east side of the site with 3 trees located within the new parking area. As identified by the tree officer when the trees become established they should provide a net gain in canopy cover across the site and help break up the visual impact of the building and hard standing. The proposed tree retention, planting and landscaping will deliver a positive impact on the streetscape. Accordingly, the development is considered to accord with policy LD1 through the appropriate replacement of trees lost and new planting to support green infrastructure. Both the tree officer and landscape officer has raised no objection and concluded that the proposal is in accordance with Core Strategy Policy LD1 and LD3. Therefore officers are satisfied for the reasons outlined above and proposed conditions suggested the proposal accords with Policy LD1 and LD3 of the Herefordshire Core Strategy.

### Residential Amenity/ impact on Living Conditions

- 6.90 Core Strategy Policy SD1 and NPPF Core Planning Principles require good standards of amenity. This could be as a result of overlooking, noise, fumes, overshadowing and loss of light. Additionally, during the construction phase there could be impacts in terms of noise, dust and other pollution. It is acknowledged that there are residential properties in close proximity. In terms of noise, odour and light pollution, the nearest residential properties being Glastonbury Close and Flaxley Drive. When reviewing the proposal in regards to the potential effect of noise, vibration, smell, and other pollution, the proposal has been assessed by officers and technical officers within the Environmental Health Team.
- 6.91 The NPPF recognises the need to make efficient use of land, whilst ensuring safe and healthy living conditions and that developments should create safe, inclusive and accessible places that promote health and well-being with a high standard of amenity for existing and future users – where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.92 Development on the site has the potential to impact on existing residents, as the proposed development is to be positioned relatively close to the boundary with existing dwellings. The scale and mass of any building sited within close proximity to existing dwellings may result in development that would appear overbearing and obtrusive or result in a loss of light. In addition to the location of windows sited close to existing properties might result in unacceptable overlooking and a loss of privacy, albeit this is not the case in respect of this proposed development due to the placement of windows.
- 6.93 As part of the submission a noise assessment has been provided and considers noise from fixed mechanical plant, deliveries and customer vehicles. Within this report it is noted that background day and night time noise levels were taken in two locations thought to be representative of the background noise at Glastonbury Close and Flaxley Drive.
- 6.94 As highlighted in the EHO comments the noise recordings were also taken between the hours of 05:00 to 7:00 and 20:00 to 23:00 and the noise assessment considers the noise from HGVs delivering to the store during a normal store delivery taking about 60 minutes. The report anticipates no more than 2 HGV deliveries per day and as can be seen on the submitted plans the application proposes a level dock for vehicle unloading. The proposed plant includes outdoor air handling units, food refrigeration pump stations and dry coolers which will be mounted on anti vibration mounts. As part of the submission proposed mitigation has been included and this includes a 3m high acoustic fence (solid barrier) around the plant area as well as proposing a 1.8m high fence to the north with a 2.4m high acoustic fence (solid barrier) installed above the retaining wall in the delivery bay.
- 6.95 In terms of the impact of the existing acoustic environment on future occupiers, the Council's Environmental Health (Noise) Team have assessed the report, its methodology and assessment within their comments. They have no objections to this application subject to suitably worded conditions being added to any permissions granted. It is noted that the noise assessment discusses the context of its findings and concludes that the cumulative noise level will represent a No Observed Adverse Effect Level in accordance with the National Planning Practice Guidance where noise is noticeable but not intrusive.
- 6.96 As noted on the plan below to ensure acceptable standards of amenity for neighbouring residential properties proposed acoustic fencing and a landscape buffer has been provided. Also the plant area and the delivery bay will be enclosed to ensure that the proposed use of the store will not impact residents. The proposed mitigation in regard to boundary treatments can be seen on the proposed boundary treatment plan below with figure 7.

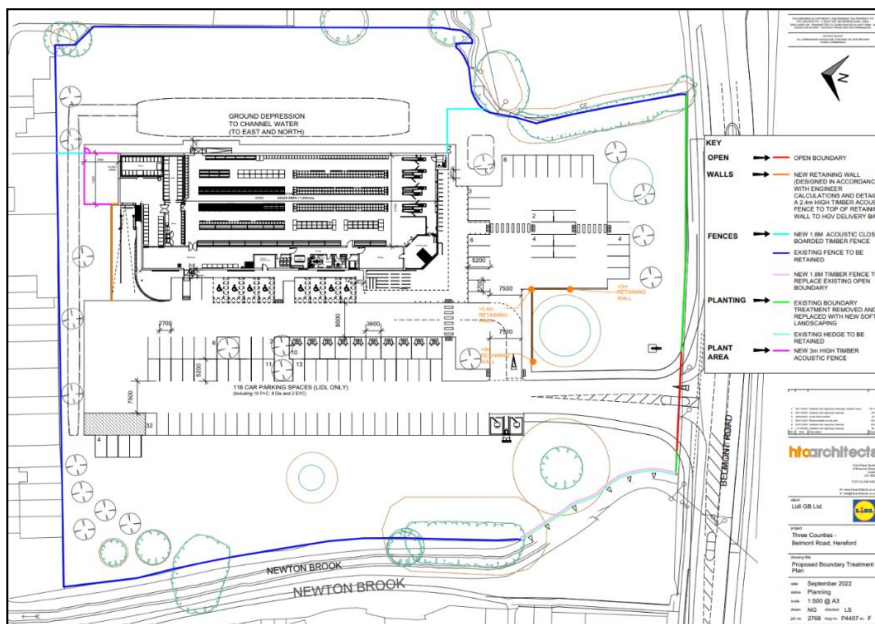


Figure 7: Boundary Plan

- 6.97 A construction management plan has been recommended in order to control and minimise disturbance during the construction phase, given the proximity of the site to residential receptors. Once completed, the development should have no greater implications for noise generation or nuisance than the existing use. In addition to noise from deliveries and the store, the installation of external lighting of the development could also potentially give rise to nuisance to occupiers of the dwellings to the north, east and west of the site, as security/flood lighting if poorly installed and set-up could cause unwarranted glare to occupiers. A condition is recommended for the submission of external lighting details such that all reasonable mitigation measures can be assessed and implemented.
- 6.98 To conclude proposed conditions shall be imposed to control the hours of working during the construction period and for the submission of a construction management plan, to limit impacts of dust and noise upon surrounding occupiers to satisfactory levels during construction. Noise impacts to the surroundings will be minimised where possible with the help of proposed acoustic fencing and a landscape buffer. The plant area will be enclosed by a 3m high timber acoustic fence, whilst a 1.8m timber acoustic fence will control access to this area to the rear of the proposed store. A new 2.4m high timber acoustic fence will be also added on top of the retaining wall of the delivery bay. Incorporation of these timber acoustic fences will ensure that the operation of the store will not impact residents.
- 6.99 Therefore officers are satisfied for the reasons outlined above and proposed conditions suggested the proposal accords with Policy SD1 and SS6 of the Herefordshire Core strategy and the NPPF in terms of safeguarding amenity.

### Lighting

- 6.100 As highlighted within the ecology officers comments the locality is already subject to significant night time illumination levels. However to ensure this is not increased suitable worded conditions have been added to submit a relevant and detailed lighting scheme with illumination plans. This will ensure that any light pollution emanating from the building at night does not impede the view of the night sky and cause glare effects. Therefore officers are satisfied for the reasons outlined above and proposed conditions suggested the proposal accords with Policy SD1 and SS6 of the Herefordshire Core strategy and the NPPF in terms of safeguarding amenity.

### Crime and Security

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- 6.101 The proposal has been designed with crime prevention and safety fully in mind and this includes measures to be incorporated which would reduce opportunities for crime, including CCTV and lighting.

### **Loss of Community Asset**

- 6.102 Core Strategic Policy SC1 relates to Social and Community facilities. Development proposals which protect, retain or enhance existing social and community infrastructure or ensure that new facilities are available as locally as possible will be supported. This policy provides no definition of what facilities are to be treated as 'social and community facilities'. Notwithstanding the comment above officers consider that hotels provide a service to paying guests, principally from out-of-area, in providing a place to stay for the night, so do not meet the needs of the local community and are therefore not deemed to a community facility. Furthermore, the primarily function of the site as a hotel for paying guests ceased in March 2023 when the site began to be used to house asylum seekers. It is noted that within representation received it is claimed that the hotel bar may have acted as a pseudo public house for the local area. However, officers consider a hotel bar, like the hotel function rooms, was ancillary to the hotel (overnight stays) use prior to it being closed. The 'bar function' also ceased operating in March 2023. As such there is no conflict with Policy SC1 and the use of the hotel and ancillary bar do not fall under the terms of this policy.

Notwithstanding the bar and hotel functions have ceased, given the alternative provision in the locality, any resulting harm would be very limited.

### **Heritage**

- 6.103 The Planning (Listed Buildings and Conservation Areas) Act 1990 states "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."
- 6.104 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 outlines that when considering any planning application in a conservation area, a local planning authority must pay special attention to the desirability of preserving or enhancing the character of appearance of that area.
- 6.105 Core Strategy Policy SS6 is a strategic policy relating to environmental quality and local distinctiveness. The policy outlines development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, and notes heritage assets and specifically those with environmental designations.
- 6.106 Core Strategy Policy LD4 of the Core Strategy requires that development proposals protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance. Additionally, to contribute to the character and local distinctiveness of the townscape or wider environment, especially within Conservation Areas.
- 6.107 When considering the impact of a development proposal upon the setting of a heritage asset, there are several stages. Firstly identifying those assets which may be affected and their significance. Then those aspects of their setting which contribute to the significance are identified and lastly the impact of the development upon this significance. It should be noted that a view to or from a heritage asset does not necessarily mean that a site is within that assets setting, this depends upon whether that view contributes to the significance of the asset. Also a site can be within the setting of a heritage asset without their being a direct view under certain circumstances.

The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.

- 6.108 The site is not within a conservation area nor does it contain or adjoin any designated or non-designated heritage assets. It is also noted that the existing building is not a non-designated heritage asset. As such noting the age, design and character of the building, officers would not consider the building to be of local interest to warrant retention. Therefore, officers would raise no objections to the proposed demolition. There are listed buildings within the area (the closest being the Grade II listed Barwood House, located 330m to the north with intervening residential estate, however they are sufficient distance from the site not to be affected by the proposed redevelopment of the site.

### **Ecology and Biodiversity**

- 6.109 In terms of ecology, Policy LD2 is of direct pertinence. This generally requires that proposals protect, conserve and enhance the county's biodiversity assets and make adequate provision for protected species. The application is supported by a preliminary ecological appraisal produced by 'Just Mammals dated March 2022' and this initial appraisal was updated to take in account specifics of the site including the ornamental pond, and summer bat activity (October 2022). The hotel buildings and the trees on site were not found to contain bat roosts and the work 'test' on the ornamental pond concluded that the presence/likely absence of great crested newts was negative. The ecological appraisals and application has been reviewed by the Councils' ecology officers. Ecology colleagues have raised no objection to the findings and advised that from the supplied information there is no reason for the Local Planning Authority to consider there will be any significant or longer term impacts on local protected species population or other wildlife. Mitigation and enhancement measures within are secured by condition. Conditions restricting lighting to protect dark skies, proposed biodiversity net gain enhancement features and securing submission of Construction Environmental Management Plan are included as per the Ecology recommendations. The proposal, subject to conditions is therefore considered acceptable, according with policy LD2 and SS6 of the Core Strategy.
- 6.110 The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024 confirm that the requirement for 10% BNG does not apply to permissions where the application for permission was made before 12 Feb 2024. As such, it is not a requirement for the current application to demonstrate a 10% gain. Nonetheless, section 10 of the submitted ecology report (October 2022) shows a gain well in excess of 10%.

### **Habitat Regulations Assessment**

- 6.111 The application site is within the River Wye SAC catchment; directly adjacent to a main local tributary Newton Brook and therefore development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the Local Planning Authority. The Council's Ecologist has reviewed the submitted proposal and highlighted in their comments that the previous application on the site was subject to full Habitat Regulations Assessment with a conclusion of 'no adverse effects' on the River Wye SAC and this 'HRA' was subject to a 'no objection' response from Natural England dated 15 June 2022 ref 393376 (see Appendix 3). The Council's ecologist advised that 'with no significant changes identified for the current application the LPA can formally adopt this previous Habitat Regulations Assessment and formal Natural England response in respect of this current application.

### **Design, Appearance and Layout**

- 6.112 Core Strategy Policy SD1 relates to sustainable design and energy efficiency and states development proposals should create safe, sustainable, well integrated environments for all members of the community. In conjunction with this, all development proposals should incorporate the following requirements:



- *ensure that proposals make efficient use of land - taking into account the local context and site characteristics,*
- *new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;*
- *safeguard residential amenity for existing and proposed residents;*
- *ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;*
- *create safe and accessible environments, and that minimise opportunities for crime and antisocial behaviour by incorporating Secured by Design principles, and consider the incorporation of fire safety measures.*

6.113 Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 (a) of the NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

6.114 Policy SD1 is engaged in the first instance. This states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

6.115 Core Strategy policy LD1 – Landscape and townscape criteria requires new development must achieve the following:

demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;

conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.

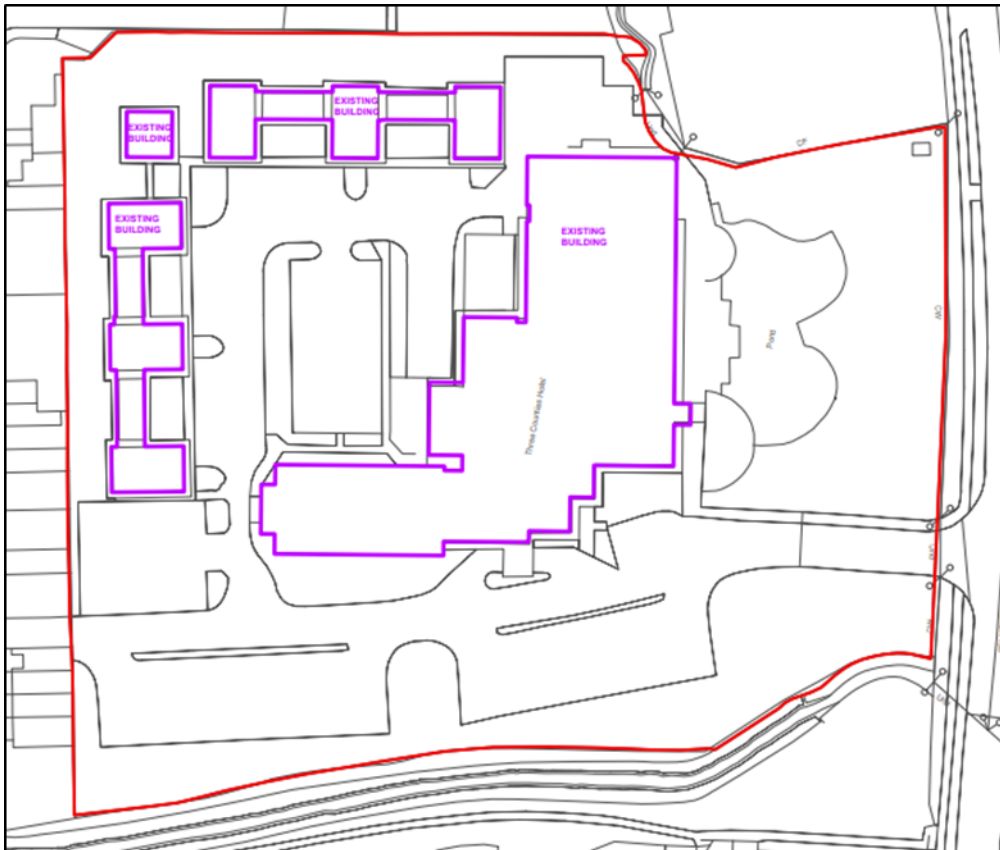
6.116 The application is accompanied by a Design and Access Statement which explains the rationale in regards to the site's context and building design. The proposal included the demolition of the existing buildings on the site and the proposed replacement structure is a modern mono-pitched retail unit and as detailed within the supporting documentation the building design is 'driven by its functional requirements'.

6.117 However, the layout is well conceived and has suitable landscaping. The proposed store is located at the east to allow for a clearly maintained street line and relationship to existing structures. Glazing on the store will help create an active frontage to the existing streetscape. The single storey building is appropriate and the building's scale, mass and design is considered to be appropriate when looking at the immediate context. The proposed store will have an active retail frontage. As detailed within the submission the proposed building layout graduates in its profile from its main elevation to its rear elevations as it grades downwards towards the rear elevation. The front of the building shows a clear entrance and exit route from all angles of approach. The glazed side elevation will face towards Belmont Road. The proposed development is one storey high with the main frontage facing the road with canopy and a mono pitched roof that reduces towards the eastern boundary. This ensures a retail frontage along Belmont Road whilst the scale of the rear (to the east) reduces in height. The massing and scale of is appropriate and in comparison to the surrounding properties

- 6.118 The proposed design to be built from natural and neutral colours and materials. The final details of the materials have been conditioned. The site is not considered to be in a sensitive nor in a prominent location and the proposal is considered to be appropriate for an edge of town setting. It is acknowledged that a number of representations have highlighted the site is not bespoke. When looking at the site's context it is bound by the A465 road and existing residential development and when looking at the redevelopment oval and residential development in close proximity to the site officers are satisfied that the new building would not be out of place. The building design would not have a significant negative impact on visual amenity. The use of a suitable palette of materials will create a modern aesthetic while being complimentary to the surrounding area. Whilst the overall form is a template design and not itself a unique response to context, the details secures an acknowledgement of the context and officers consider the overall design and layout is appropriate for the site.
- 6.119 The scale of the development is to be in keeping with the surrounding neighbouring properties. The site also adjoins residential development on 3 sides and landscaped boundaries are proposed adjacent to residential properties that will maximise screening, reduce the impact of noise and ensure a green border is created to maintain privacy.
- 6.120 On the basis of all of the above the design of the retail unit is considered acceptable and represents an informed response to context which when combined with the landscaping proposal features both mitigation and enhancement of the site and locality. The proposal with respect to landscape and design, satisfies Herefordshire Core Strategy policies SS6, LD1 and SD1, as well as the relevant aims and objectives of the NPPF.

#### **Demolition/Construction Management**

- 6.121 The principle of the demolition of the existing building on site is to be considered as part of this application, see figure 8 below which highlights the structures on site to be demolished. The present structure is considered to be of minimal architectural merit and the loss of the existing structure would offer significant public benefits by leading to environmental, social and economic improvements to the local area. The minerals and waste officer has been consulted and has advised the proposal involves the construction of a significant major development and therefore will generate significant volumes of construction materials and demolition waste and as such the emerging policy SP1 in the Minerals and Waste Local Plan (MWLP) will need to be addressed. A construction management plan is required by condition which would include the above requirements as well as management during the overall construction programme. To make sure construction and demolition is effectively controlled and to prevent any disruption to existing occupiers in the area, or along key routes throughout this part the city, a condition is included which requires the submission and approval of a construction management plan. Also as per the minerals and waste officer comments the planning system has a role to play encouraging the use of secondary or recycled construction materials and preventing waste generation in construction. All development should be designed to increase the potential for recycling waste. The used of materials and waste resources will be directed to contribute positively to addressing climate change. As such and in accordance with emerging policy SP1 of the Minerals and Waste Local Plan a condition has been added to secure the submission of a 'Resource Audit' to set out end of life considerations for the materials used in the proposed development.



**Figure 8: Demolition Plan**

6.122 As advised above appropriate conditions have been added to manage the demolition and removal of waste from the site, neighbouring amenity as well as to protect wildlife/protected species.

**Other matters**

**Climate Change/renewable/Sustainable energy**

6.123 Core Strategy policy SS7 requires focus on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD1 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030; and a Climate Change Checklist to aid the consideration of development proposals.

6.124 Chapter 14 of the NPPF is also of relevance with, paragraph 159 stating that development should be planned so that they:

“a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and

b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design.

6.125 Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards.”

6.126 The application site is located within a sustainable location with access to a range of amenities, transport services as well as being in close proximity to a residential neighbourhood which the proposed use is largely intended to serve and therefore reducing the distance need to travel. As part of the submission the application is supported by a design and access statement (chapter 6 Sustainability & Energy Efficiency) which seeks to demonstrate how the development would achieve both a sustainable design and construction. The proposal includes electric charging points and a condition has been added to ensure electric vehicle charging points will be incorporated as part of the Development. A system of 180.12kWp Photo Voltaic (PV) panels consisting of 468 PV modules are proposed on the roof of the store to generate on site renewable energy for use in the store, in line with Core Strategy Policy SD2.

### **Advertisements**

6.127 Signage related to the proposed store and within the site is not a matter to be considered under this application.

### **Non material planning considerations**

6.128 Whilst concerns raised in regards to negative effect on the value and resale of properties are understood it is a well-established principle these are not material planning considerations. This issue is not material to decision-making and must not be attributed any weight.

### **S106/Planning obligations**

6.129 Paragraph 57 mentions that planning obligations should “only be sought where they meet all of the following tests:

- a) 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.”

6.130 There is no requirement for the Local Planning Authority to secure planning obligations for this proposal.

### **Human Rights and Equalities Assessment**

6.131 The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:

1. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
2. The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it.
3. The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

6.132 This planning application engages certain human rights under the Human Rights Act 1998 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

6.133 The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.

## Conclusion

- 6.134 The application seeks full planning permission to erect a retail store and demolish the existing hotel on the site. A large number of comments, both in support of the proposal and in objection, have been reported above. It is considered that the matters raised have been addressed in the report. The proposed development would make efficient use of a previously developed site and is accessible by a choice of means of transport. The proposal would also be contributing to the local economy through the creation of jobs. There is also no conflict with Policy SC1 in regards to the loss of the existing building on the site. The principle of redevelopment of the site for Class E use is considered acceptable, subject to the application of the retail planning policy tests. The applicant has demonstrated that given the out of centre location of the site, there are no sequentially preferable sites, or allocated sites, within the area that are available, suitable and viable. Officers are satisfied that Hereford Centre is vital and viable when assessed against the relevant NPPG indicators. An impact assessment has been carried out in a transparent way, based upon up-to-date data and making robust assumptions. Based on this the impact assessment finds the proposed development is not likely to give rise to a significant adverse impact on Hereford centre or on its vitality and viability.
- 6.135 The proposal is appropriate in terms of its scale and function to its location. It is considered that it is unlikely to lead to any negative impacts to residential amenity and the operation of the local highway. As the report concludes, subject to appropriately worded conditions the proposal is considered acceptable in all other technical aspects including transport/car parking; flood risk and drainage; ecological impact; design and landscaping, ground conditions and noise. As such, the proposal is considered to accord with the development plan and there are no material considerations to indicate that planning permission should not be granted.

## RECOMMENDATION

**That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers:**

**1 Time limit for commencement (full permission)**

**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 Approved Plans**

**The development shall be carried out strictly in accordance with the approved plans and materials:**

- **2768 P4400 Site Location Plan**
- **2768 P4402 Existing Site Plan**
- **2768 P4403 GEA of Existing Building Areas**
- **2768 P4404/H Proposed Site Plan**
- **2768 P4405/F Proposed Surfacing Plan**
- **2768 P4406/G Proposed Tree removal Plan**
- **2768 P4407/F Proposed Boundary treatment plan**
- **2768 P4408/K Proposed Levels Plan**
- **2768 P4409/F Site Plan and Utilities**
- **2768 P4410/F Proposed site Tracking**
- **2768 P4416 Existing buildings to be demolished**

- 2768 P1100 Proposed Floor plan
- 2768 P1101 Proposed Roof Plan
- 2768 P2201/A Proposed Elevations
- CA HFD 2022-01 Rev E Hereford Tree Survey and Existing Features
- CA HFD 2022-02 Rev F Hereford Overlay and Tree Protection
- CA HFD 2022-03 Rev D Hereford Landscape Proposals
- CA HFD 2022-04 Rev A Hereford Landscape Sections
- CA HFD 2022-05 Rev B Lidl Hereford Willow and Cherry Close up
- CA HFD 2022-06 Lidl Hereford Car Park Tree Section
- CA Lidl Hereford Planting Methodology and aftercare rev 22 October 2022
- CA Hereford Planting Schedule rev 22 October 2022
- 22-00767/05/G Proposed Highway Works - Right Turn Ghost Island and Active Travel Improvements

except where otherwise stipulated by conditions attached to this permission.

**Reason.** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework

**Prior to Commencement**

### **3 Construction Management Plan**

Development shall not begin until details and location of the following have been submitted to and approved in writing by the Local Planning Authority, and which shall be operated and maintained during construction of the development hereby approved:

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives
- Construction Traffic Management Plan
- Hours of working
- Location of any welfare buildings and site compounds / storage areas

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

**Reason:** In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

### **4 Construction Method Statement (CMS): Noise**

Prior to the commencement of the development a detailed Construction Method Statement (CMS) shall be supplied and approved to minimise noise and nuisance to neighbours: The CMS shall contain the following:

The methods and materials to be used to ensure that the generation of noise is minimised; Choice of plant and equipment to be used; The use of prefabricated materials wherever possible; Regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and good housekeeping and management, to include.

- a) Review of plant and activities to ensure noise minimisation measures are in place and operating;
- b) Public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours;
- c) Controlling of site traffic and setting up of access routes away from sensitive receptors; and
- d) Provision of noise monitoring during activities likely to affect sensitive receptors.

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework

## **5 Habitat Regulations (River Wye SAC) Construction Environmental Management Plan**

Before any work; including demolition or site clearance begins or equipment and materials are moved on to site, a fully detailed and comprehensive Construction Environmental Management Plan (CEMP) including a specified 'responsible person', shall be supplied to the Local Planning Authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that all species and local habitats are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

## **6 Material Resource Audit**

Prior to commencement of development, a Resource Audit to identify the approach to materials shall be submitted to and approved in writing by the Local Planning Authority. The Resource Audit shall include the following

- The amount and type of construction aggregates required and their likely source;
- the steps to be taken to minimise the use of raw materials (including hazardous materials) in the construction phase, through sustainable design and the use of recycled or reprocessed materials;
- The steps to be taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the construction phase;
- The type and volume of waste that the development will generate (both through the construction and operational phases);
- On-site waste recycling facilities to be provided (both through the construction and operational phases);
- The steps to be taken to ensure the maximum diversion of waste from landfill (through recycling, composting and recovery) once the development is operational;

- End of life considerations for the materials used in the development; and
- Embodied carbon and lifecycle carbon costs for the materials used in the development.

Construction works shall thereafter be carried out in full accordance with the details of the approved Resource Audit.

Reason: The treatment/handling of any site waste is a necessary initial requirement before any groundworks are undertaken in the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and Emerging Policy SP1: Resource Management of the Minerals and Waste Local Plan.

## **7 Surface Water**

Prior to any development commencing on site full details of a surface water drainage design plans shall be submitted including the submission of construction drawings and associated calculations and the development to be carried out in accordance with the approved details.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

## **8 Drainage**

Prior to any development commencing submission of trial pit information confirming the route of the 450mm pipe that has been identified which carries flow into the site (referred to as SW1 on the survey) as well as details of how inflow from this pipe will be provided for shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

Prior to the first occupation/other stage conditions

## **9 Materials**

With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

## **10 Noise Mitigation**



**Prior to the first use of the food store hereby approved, the proposed noise mitigation in the form of acoustic fencing with a minimum density 10kg/m<sup>2</sup>, as detailed in the noise assessment, shall be erected. The noise mitigation shall be retained for so long as the use hereby authorised remains on site.**

**Reason: To safeguard the amenities of the locality and to comply with Policies SS6 and SD1, of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**11 Car Parking**

**Prior to first use of the food store hereby approved, the parking and manoeuvring facilities shall be completed in accordance with drawing P4404 rev H. Thereafter, these parking facilities shall be retained and maintained for the duration of use and shall not be used for any other purpose.**

**Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework**

**12 Rodent Survey**

**Prior to the commencement of the development a proposal for the survey and treatment of rodents in the vicinity shall be supplied to the authority for approval in writing.**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework**

**13 Highway Works**

**Development shall not begin in relation to any of the specified highways works as detailed on dwg 22-00767/05 rev G by Corun), until details of the works have been submitted to and approved by the Local Planning Authority in writing following the completion of the technical approval process by the Local Highway Authority. If relocation of the Speed Camera is required consultation should be undertaken with west Mercia Police in conjunction with the Local Highway Authority. The development shall not be occupied until the scheme has been constructed in accordance with the approved details.**

**Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.**

**14 Travel Plan**

**Prior to first use of the food store hereby approved, a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives**

and a review of the Travel Plan shall be undertaken annually for the first five years from first occupation of the development. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

**15 Cycle Provision**

Prior to first use of the food store hereby approved full details of a scheme for the provision of covered and secure cycle parking facilities to serve the food store shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained;

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**16 Waste Storage**

Prior to the first use of the food store hereby approved, suitable provision for storage of waste and waste collection areas should be provided in accordance with details that shall have been submitted and approved by the Local Planning Authority that allows or the convenient storage of waste and unrestricted access at all times. Such waste collection areas shall be retained for so long as the use hereby authorised remains on site.

Reason: In the interest of amenity in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy.

**17 Habitat Regulations (River Wye SAC) – Surface Water**

With the exception of any site clearance and groundworks, no development shall commence until a fully detailed Sustainable Drainage Systems to manage all surface water shall be supplied for written approval by the Local Planning Authority. The proposed scheme must provide detailed certainty on how all pollutant contaminants from vehicular and other use of the site are fully removed and managed prior to any final discharge of surface water from the site in to the Newton Brook. The approved scheme shall be implemented in full prior to the first use of and hereafter maintained unless otherwise approved in writing by the Local Planning Authority

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3

**18 Landscape Maintenance**

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

Specifications for operations associated with plant establishment, watering plans and maintenance that are compliant with best practise.

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

**19 Lighting Scheme**

Prior to first use of the food store hereby approved any external lighting proposed to illuminate the development including detailed plans, illumination levels and luminaire specifications shall be supplied to the Local Planning Authority for written approval. The approved scheme shall be implemented and hereafter maintained and operated.

All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals and Core Strategy policies SD1.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SD1 SS6, LD1-3.

**20 Planting Methodology**

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the details specification within the approved document “CA Lidl Hereford Planting Methodology and aftercare rev 22 October 2022” produced by Corscadden Associates within the next planting season (October to April) but no later than two years from the date of this Consent and thereafter retained.

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

**21 Arboricultural Works**

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:

- Arboricultural Method Statement Report rev 22Oct2022 produced by David Rice Forestry

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

## 22 EV Charging Point

With the exception of any site clearance and groundworks, no development shall commence until written and illustrative details of the 2 electric vehicle charging points proposed within the food store car park have been submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions of the National Planning Policy Framework.

## 23 Biodiversity Net Gain

With the exception of any site clearance and groundworks, no development shall commence until written detailed scheme and annotated location plan for the proposed biodiversity net gain enhancement features referenced in paragraph 10.10 of the Ecology Survey Report (Just Mammals, October 2022) including provision of ‘fixed’ habitat features such as habitat boxes supporting a range of bird species and pollinator homes have been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and hereafter maintained as approved.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3.

Compliance

## 24 Public Sewage Network

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**25 Visibility Splays**

The visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**26 Use Class**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order, with or without modification), the foodstore hereby permitted shall be used mainly for the sale of food falling within Class E(a) of the aforementioned Order and for no other use and no more than 80% of the net sales area shall be used for the sale of convenience goods and no more than 20% of the net sales area shall be used for the sale of comparison goods.

Reason: In order to protect the vitality and viability of Hereford City centre in accordance with Herefordshire Local Plan – Core Strategy Policy E5, Paragraphs 86 to 91 of the National Planning Policy Framework.

**27 Permitted Development rights**

Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, C, E, of Part 7 of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**28 Site Management Plan: Trolleys**

The Site Management Plan set out in Lidl’s letter dated 24 October 2023 shall be implemented in full upon first opening of the store for trading purposes and shall continue to be implemented for the lifetime of the development. As set out in the Site Management Plan, the management regime shall comprise:

- Installation of Gatekeeper trolley system;
- Weekly briefing of relevant staff on the sensitivity of the site and local area to flooding and the importance of spotting and remedying any blockage of Newton Brook and the associated culvert to the local system;

- **Twice annual inspection of the piped culvert linking the new and historic channel of Newton Brook and piped outfall to Newton Brook to ensure water is freely flowing. If water is not free flowing, and in any event biennially, undertake CCTV survey of the piped culvert linking the new and historic channel of Newton Brook. If a blockage or obstruction is found, undertake repair / maintenance to remove the blockage as required;**
- **Daily visual inspection of Newton Brook west of the site both upstream and downstream of the site. If a blockage or obstruction is found, take efforts to remove Lidl shopping trolleys if safe to do so and report to Herefordshire Council if appropriate or necessary.”**

**Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**29 Foul Water**

**All foul water shall discharge through connection to the existing local ‘Hereford-Eign’ mains sewer system managed by Welsh Water**

**Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.**

**30 Service Vehicles**

**The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall be restricted to no earlier than 07:00 Monday to Saturday and no later than 22:00. Hours of delivery on Sundays and Bank Holidays shall be restricted to between 10:00 and 16:00.**

**Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**31 Hours of opening**

**The food store hereby permitted shall not be open to customers outside the hours of 0800 to 2200 hours Mondays to Saturdays (including Bank Holidays) and 10:00 to 16:00 on Sundays.**

**Reason: In the interests of the amenities of existing residential property in the locality and to comply with SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**32 Single Unit**

**The retail unit (Class E) hereby approved shall trade as single retail unit and shall not be subdivided into separate smaller retail units.**

**Reason: In order to minimise the impact of the proposed development on the vitality and viability of Hereford City Centre, in accordance with policy E5**

**33 Display of goods in car park**

**No goods shall be displayed for sale in the car park or landscaped (hard and soft) areas as shown on the approved plan.**

**Reason: To manage the retail sales element of the development and protect the visual amenities of the site in accordance with policy**

**34 Vehicular Access**

**The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**35 Gates/Barriers**

**Any new access gates or barriers shall be set back 7 metres from the adjoining carriageway edge and shall be made to open inwards only.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**Informatives**

**1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. 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 Welsh Water**

**The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.**

**Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.**

The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirement

### **3 Signage**

The applicant is advised to take appropriate professional advice in relation to whether advertisement consent is required for any new outdoor signage.

### **4 Highways Design Guide and Specification**

The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'

### **5 Mud on highway**

It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

### **6 Travel Plans**

In connection with Condition 14 the applicant is advised that in the case where a Travel Plan currently exists the Condition will require a full review of the Plan and a revised submission to the Council.

### **7 Annual travel Plan Reviews**

In connection with Condition 14, the applicant is advised that the annual Travel Plan Review must include a survey of staff/resident travel patterns and attitudes to travel. (For businesses employing less than 50 people and for residential developments of less than 50 units, a travel survey will only be required every two years). For residential developments, the review should also include traffic counts and an assessment of trips by mode. Applicants are encouraged to conduct their own monitoring and review process. However, they may choose to engage outside consultants to manage the process on their behalf. Council officers can also provide monitoring services for

Travel Plan reviews and for this a request should be made to the Sustainable Transport Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford, HR4 0WZ



**8 Drainage other than via highway system**

**It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.**

**9 Works adjoining highway**

**Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).**

**10 Extraordinary maintenance**

**The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic**

**11 Disabled needs**

**The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act.**

**12 Design of street lighting for Section 278**

**The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be installed by the developer of the site in accordance with the design issued by the Highway Authority and their design shall include any necessary amendments to the existing system**

**13 Brightness of illuminated signs**

**The brightness of the floodlit surface, or illuminated sign face, shall not exceed the values stipulated in the Institution of Lighting Engineers Technical Report No. 5: 1991 "The Brightness of Illuminated Advertisements".**

**14 No drainage to discharge to highway**

**Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.**

**15 Section 278 Agreement**

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

**16 Works within the highway**

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

**17 Private apparatus within highway**

This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

**Background Papers** – none identified

**List of Appendices:**

**Appendix 1 - Retail Policy advice JW Planning**

**Appendix 2 - Retail Policy advice Nexus Planning**

**Appendix 3 - Natural England Comments: Dated 15 June 2022 ref 393376**

**Useful links:**

All the application drawings and other relevant documents are available to view on the Council's website. See weblink to application.

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=231703&search-term=231703](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231703&search-term=231703)

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**APPLICATION NO:** 231703

**SITE ADDRESS :** THREE COUNTIES HOTEL, BELMONT, HEREFORD, HEREFORDSHIRE, HR2 7BP

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