

Planning Application for a Discount Foodstore, Land South of Leadon Way, Ledbury (Ref. P242783/O)

Appraisal of Retail and Town Centre Issues

ON BEHALF OF HEREFORDSHIRE COUNCIL

March 2025

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1. Introduction

Instruction

- 1.1 Herefordshire Council (hereafter referred to as 'the Council') has instructed Nexus Planning to provide advice in respect of a hybrid planning application seeking full planning permission for a day nursery (Class E(f)) and a Class E foodstore, and outline planning permission for the erection of a medical centre, at land south of Leadon Way and east of Dymock Road in Ledbury.
- 1.2 The application proposal is for full permission for a 1,100 sq.m (net) foodstore, alongside a daycare nursery and outline consent for a medical centre. The planning application is accompanied by a Planning and Retail Statement ('PRS') prepared by CarneySweeney, dated October 2024.
- 1.3 The purpose of this appraisal report is to consider the merits of the application proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF').

Proposal, Application Site and Context

- 1.4 The site subject to the application submission comprises a broadly triangular parcel of land located at the junction of Leadon Way and Dymock Road, on the south of the settlement of Ledbury. The site is an undeveloped green field.
- 1.5 The hybrid application relates to the development for the construction of a convenience foodstore, a daycare nursery and a medical centre (due to be submitted in outline form only).
- 1.6 The proposed foodstore, which is the focus of this appraisal, will measure 1,100 sq.m (net) which is proposed to be split into 880 sq.m net convenience and 220 sq.m net comparison sales areas.
- 1.7 An application for a foodstore measuring a total of 1,410 sq.m (net) was refused by the local authority in January 2021 (reference 201718) and subsequently dismissed at appeal in September 2022 (reference APP/W1850/W/21/3279731). The main issue identified by the Inspector related to the potential impact of the proposal on the vitality and viability of Ledbury town centre. The Inspector's overarching conclusion is provided at paragraph 62 of the decision, which states:

'I am cognisant that the long term success of Ledbury Town Centre relies on multiple factors. But the retail elements of the scheme appealed would be a substantial long term reason for local residents not to visit it. It would run counter to adopted strategic aims which reinforce the status of the town centre as the main shopping destination for local people. The overall effect would be significantly adverse.'
- 1.8 The appeal decision and the background associated with the appeal has been taken account of in drafting this appraisal.
- 1.9 We also note that representations have been made by Stantec on behalf of the Co-operative Group, dated 5 February 2025. Stantec raise a number of concerns in respect of the proposal which we have ensured are dealt with as part of this response (where relevant).

Structure of Our Report

- 1.10 In the above context, our appraisal focuses on the proposal's compliance with retail and town centre planning policy as set out by the statutory development plan and by the NPPF.
- 1.11 General planning policy matters and wider material considerations fall outside the scope of our instruction, and it will be necessary for the Council to take appropriate account of such matters in its determination of the application at the relevant time.
- 1.12 Furthermore, and notwithstanding our overall advice as to whether the application 'passes' or 'fails' the sequential and impact tests, the local planning authority as part of its overall decision taking will need to give due consideration to the 'planning balance' and the general presumption in favour of sustainable development.
- 1.13 We also advise at the outset that, if the Council does resolve to grant permission, the consent should be the subject of reasonable conditions to restrict the permitted floorspace to that specified in the application submission. Should planning permission be approved, specific conditions should be applied to restrict the use of retail units such that the proposal trades in practice in a manner consistent with that set out by CarneySweeney in the PRS.
- 1.14 Our report is structured as follows:
- Section 2 sets out the retail and town centre planning policy of relevance to the application proposal;
 - Section 3 provides a review of the sequential assessment adopted by the applicant;
 - Section 4 considers the acceptability of the likely impacts arising from the proposal; and
 - Section 5 sets out our conclusions in respect of the proposal's compliance with retail and town centre planning policy.

2. Planning Policy Context

2.1 We identify below the principal planning policies of relevance to retail and town centre matters.

National Planning Policy Framework

2.2 The most recent iteration of the NPPF was published in February 2025. It emphasises the Government's commitment to securing economic growth and building a strong, responsive and competitive economy. With regard to the assessment of proposals for main town centre development, the revised NPPF provides two principal national policy tests relating to the sequential approach to development and to impact.

2.3 In respect of the first of the two tests, paragraph 91 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are neither within an existing centre nor in accordance with an up-to-date plan.

2.4 Paragraph 91 goes on to state that:

'Main town centre uses should be located in town centres, 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.'

2.5 Paragraph 92 then identifies that:

'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'

2.6 Paragraph 94 of the NPPF sets out a twin impact test, stating 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 2,500 sq.m of gross floorspace). This should include 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 wider retail catchment (as applicable to the scale and nature of the scheme).'**

2.7 Paragraph 95 indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused. However, this direction cannot extinguish the requirement set out in statute to first consider development plan policy and then all material considerations in assessing the 'planning balance' when making a decision.

2.8 It should be noted that the Annex 2 Glossary of the NPPF identifies that the 'centre' for the purpose of retail is identified with reference to the primary shopping area.

Adopted Development Plan

2.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

'...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.'

- 2.10 The statutory development plan for Herefordshire is the Local Plan Core Strategy 2011-2031, which was adopted in October 2015 and the Ledbury Neighbourhood Development Plan, which was adopted in March 2023.

Local Plan Core Strategy

- 2.11 Local Plan Policy E5 focuses on town centres. It states that town centres will be the focus for retail, commercial, leisure, cultural, and tourism uses. Proposals for such uses which contribute to the vitality and viability of the town centres of Hereford and the market towns will be supported, provided that they do not:
- adversely affect the primary function of the town centres as shopping destinations; and
 - are of a scale and design appropriate to the size, role, character and heritage of the centre.
- 2.12 Proposals located outside of town centres will be required to demonstrate compliance with the sequential test, and that the proposals would not have a significant adverse impact on the vitality and viability of relevant centres.
- 2.13 An impact assessment for retail, leisure and commercial proposals outside of the town centres may be required with reference to the thresholds set out at paragraph 5.2.27 of the Local Plan. These are as follows:
- Hereford - 700 sq.m;
 - Ledbury, Leominster and Ross-on-Wye - 400 sq.m; and
 - Bromyard and Kington - 200 sq.m.
- 2.14 Within town centres, retail uses will be concentrated within the primary shopping areas as defined by Local Plan Policy E6. It is clear from the above, that as the proposal falls above the local impact threshold, then a full impact assessment is required.
- 2.15 Specific 'Place Shaping' policies for Ledbury are contained within paragraphs 4.5.1 of the Core Strategy. Policy LB1 notes that the principal focus for new housing development will be to the north of the town, and in respect of new retail development states:

'Within Ledbury, new development proposals will be encouraged where they:

- **maintain and enhance the vitality and viability of the existing town centre. Proposals for new retail, leisure or office development of over 400m² in gross floor space and located outside the town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre;**
- **improve accessibility improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre.'**

- 2.16 It is indicated that any specific proposals to meet identified needs will be considered through a Neighbourhood Development Plan.

Ledbury Neighbourhood Development Plan

- 2.17 The previous appeal was determined in the context of the Ledbury Neighbourhood Plan (NDP) adopted in 2018. Since then, a review of the NDP has been undertaken, which was adopted in March 2023.
- 2.18 Objective EE3 of the NDP remains and is set out below:

‘Promote the Town Centre as the destination of choice for retail, leisure and community activities, in order to enhance the appearance and historic character of the town.’

2.19 Policy EE3.1 ‘Retail Areas & Provision’ also remains and focusses on policy requirements in the town centre and designation of primary and secondary shopping frontages (shown in Map 12).

2.20 Policy EE3.2 is a new policy which states:

‘The Defined Town Centre The Ledbury Town Centre Policies Map (Map 12) defines Ledbury town centre for the purposes of Herefordshire Local Plan Core Strategy policies E5 and LB1 (bullet two). Proposals for new retail, leisure or office development of over 400m2 in gross floor space and located outside this defined town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre. New town centre development within this area will be expected to retain or enhance existing pedestrian access, provision for cyclists, servicing and parking spaces.’

2.21 The Town Centre Policies Map (Map 12) is an updated version of that shown in the NDP 2018. Both the primary shopping frontages (Policy EE3.1) and town centre boundary (Policy EE3.2) have been amended. Of particular relevance to this proposal is the fact that the primary shopping frontages and defined town centre are more extensive than previously shown, and both now include the Co-op store.

Overview in Respect of Relevant Retail and Town Centre Planning Policy

2.22 Local Plan Policy E5 is broadly consistent with national retail planning policy as set out in the NPPF, in respect of outlining a requirement to comply with the sequential approach to development and the retail impact test. Both national and local policy tests identify that retail proposals should be considered with reference to the primary shopping area.

2.23 As such, we first consider the application proposal’s compliance with the key retail tests as articulated by national planning policy, before then returning to the matter of the proposal’s compliance with the relevant retail policies of the development plan. In respect of the sequential test, we note that the Council Officers have determined that the application is consistent with the requirements of the test.

2.24 We set out Nexus Planning’s view in respect of the proposal’s compliance with the sequential and impact tests in the following section.

3. The Sequential Test

Requirements of the NPPF and Planning Practice Guidance

- 3.1 Paragraph 91 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre uses development to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered.
- 3.2 Paragraph 92 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 3.3 Additional guidance on the application of the sequential approach is provided by the Town Centres PPG, which was last updated on 18 September 2020.
- 3.4 Paragraph 010 of the Town Centres PPG provides a 'checklist' for the application of the sequential test in decision taking. It indicates the following considerations:
 - With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 3.5 In this instance, the application site is located in an out of centre location. Accordingly, there is a need to consider in-centre, edge of centre and well located out of centre sites in applying the sequential test.
- 3.6 In order to establish the context for the consideration of alternative sites, we first summarise how the Courts and the Secretary of State have considered the matter of flexibility in applying the sequential test, before then reviewing the appropriateness of the site search parameters identified by the applicant.

Suitability and Flexibility

- 3.7 Case law has emphasised that the 'suitability' of sequential alternatives must be considered with reference to the subject application proposal and whether the proposal (or a variant thereof, allowing for some flexibility in respect of its format) could be accommodated at a sequentially preferable location.
- 3.8 In particular, it is appropriate to take into account the *Tesco Stores Limited v Dundee City Council [2012] UKSC 13* Supreme Court judgment which gave specific consideration to the meaning of 'suitable' in respect of the application of the test.
- 3.9 Paragraph 38 of the Dundee judgment states that:

‘The issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism...they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.’ (Our emphasis.)

3.10 The Supreme Court has jurisdiction over England and, whilst there is a clearly need to consider its findings in the appropriate local policy context, both the Courts and the SoS have found the direction to apply the test ‘in the real world’ to be of some relevance to the English planning system. This is demonstrated by the ‘call in’ decision in respect of an application by LXB RP (Rushden) Limited to provide for large-scale retail-led development at land adjacent to Skew Bridge Ski Slope at Rushden Lakes¹.

3.11 Paragraph 8.46 of the Rushden Lakes Inspector’s Report states that:

‘It is important to bear in mind that the sequential test as set out in NPPF require applications for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether *the application* i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So Dundee clearly applies to the NPPF.’ (Inspector’s emphasis.)

3.12 Paragraph 15 of the SoS’s decision letter endorses the Inspector’s conclusions in this regard.

3.13 It is helpful to further qualify the direction provided by the above cases by also acknowledging that the Courts have found that an individual operator’s particular requirements are not generally of relevance in applying the sequential test. In considering proposals for a discount foodstore in Mansfield (Aldergate v Mansfield District Council & Anor [2016] EWHC 1670 (Admin)), Ouseley J concludes (at paragraph 35 of the Judgment) that:

‘In my judgment, “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content.’

3.14 The above three cases are widely referred to in applying the sequential test. Whilst the exact requirements with regard to flexibility will depend on the prevailing circumstances for each proposal, we believe it to be clear that:

- sequential alternative sites should be able to accommodate a broadly similar form of development as the application proposal (allowing for flexibility in respect of format and scale) in the ‘real world’ in which developers operate; and that
- operators’ distinct models are not generally of direct relevance to the test, and as such sequential alternatives should not be discounted due to individual operator preference.

Area of Search and Parameters

3.15 The proposal seeks consent for the construction of a Class E discount foodstore with associated access, car parking, servicing and wider works, alongside the daycare nursery and medical centre.

¹ Planning Inspectorate reference APP/G2815/V/12/2190175.

3.16 As noted by CarneySweeney, the site is allocated under NDP Policy EE1.2 for sensitive proposals falling within, inter alia, Use Class E(e) (Medical services), and E(f) (Day Nursery). Accordingly, the site is considered sequentially preferable for the delivery of these proposed uses. However, the site is not allocated for Class E(a) Uses and is therefore the focus for the sequential test. In this regard, the assessment is rightly considering the foodstore on its own for the purposes of the sequential test, taking account of the need to disaggregate elements of the proposal in certain instances.

3.17 The site search requirements are provided by CarneySweeney at paragraph 6.5.5. These are as follows:

- a minimum net floorspace of c.1,200sqm on a single level (we assume this is meant to read 1,100 sq.m);
- approximately 100 adjacent surface level parking spaces. A site that is able to offer adjacent surface level car parking, so that customers can easily transfer goods to their vehicles;
- A site that can allow for the safe manoeuvring of customer vehicles and delivery vehicles on site;
- A prominent site with the ability to attract passing trade;
- A site that is easily accessible by a choice of means of transport; and
- Provision of a dedicated service area to the rear of the store, including the ability to accommodate HGVs.

3.18 Reviewing the general operator requirements for foodstores including Aldi and Lidl, Nexus is generally satisfied with CarneySweeney's approach as set out above, and consider the level of flexibility applied to be broadly appropriate.

3.19 A number of sites are identified by CarneySweeney, and we provide a summary below in respect of their consideration of the availability and suitability of sites and Nexus' overarching conclusions. We also take account of the findings previously set out as part of the appeal, and the considerations provided in respect of the sites assessed.

Consideration of Sequential Alternative Sites

3.20 Table 3.1 below provides a summary of the sites assessed for the purposes of the sequential assessment.

Table 3.1: Assessment of Sequential Alternatives

Site	CarneySweeney Considerations	Nexus Considerations
Site 1 - Bye Street Car Park	<p>CarneySweeney notes that the site measures 0.15ha and is in current use as a town centre car park, providing approximately 70 parking spaces.</p> <p>The site is bound by existing residential and commercial uses, with access off Bye Street.</p> <p>CarneySweeney state that the site is too small to accommodate the proposal, even when allowing a reasonable degree of flexibility. Furthermore, CarneySweeney state that the site is not being actively marketed and there is no clear indication that the landowner would be willing to sell the site. On this basis, CarneySweeney state that the site is not available.</p> <p>Overall, CarneySweeney conclude that the site is not available or suitable to accommodate the proposal.</p>	<p>Nexus is satisfied that due to the site's size and wider context, it is not a suitable alternative to accommodate the proposal, even when applying a sufficient degree of flexibility. Relocating the proposed foodstore to the site at Bye Street would not result in the delivery of a broadly similar proposal.</p> <p>In terms of the site's availability, we note that there is no obvious indication that the site could be purchased and that there is no available marketing material. Overall, we agree that it is unlikely that the site would become available within a reasonable timeframe.</p> <p>As such, we are satisfied that the site does not represent an available and suitable alternative for the proposed development.</p>

Site	CarneySweeney Considerations	Nexus Considerations
Site 2 - Ledbury Park	<p>In terms of Site 2, CarneySweeney note that Ledbury Park forms part of the historic gardens and that the entirety of the park lies within an AONB. The site is also affected by a number of TPOs.</p> <p>CarneySweeney state that the site is not considered to be suitable for a mixed-use commercial development due to the level of environmental and heritage planning policy protection. Furthermore, the site is not considered to be available.</p>	<p>Nexus is satisfied that due to the site's current active use and associated heritage and environmental protection, that it does not represent a suitable alternative to accommodate the proposal.</p> <p>Furthermore, we agree that the site is not available to accommodate the proposal.</p>
Site 3 - Public Park, Orchard Lane	<p>CarneySweeney note at paragraph 6.6.18 that the site measures approximately 0.9ha. Its consists of public open space including football pitches. The site is bound by Orchard Lane to the north, residences to the east, a footpath to the west and playground to the south.</p> <p>CarneySweeney then state that they understand the site is Council owned and is not being actively marketed and therefore is not considered to be available for the purposes of the test.</p> <p>Overall, it is concluded that the site is not available or suitable to accommodate the proposal.</p>	<p>Nexus is satisfied that due to the site's current active use and associated policy protection in terms of the loss of public open space, it does not represent a suitable alternative to accommodate the proposed development.</p> <p>As such, although the availability of the site has not been fully confirmed by the applicant, the site does not represent a suitable alternative for the proposed development.</p>

- 3.21 In addition to the above, CarneySweeney refer to their healthcheck undertaken within Ledbury town centre, which identified 20 vacant units in the centre. They state that none of the vacant units identified are of a sufficient scale to accommodate the proposal. We are satisfied with CarneySweeney's conclusions reached in respect of the remaining vacant units within the centre, and that there are none which are of a suitable size to accommodate the proposal.

Conclusion in Respect of the Sequential Test

- 3.22 Nexus has undertaken a detailed review of the sites, units and other opportunities identified by CarneySweeney within their submission. Our analysis has considered the availability and suitability of these potential opportunities to accommodate the proposed development, even when applying a sufficient degree of flexibility in accordance with policy.
- 3.23 Overall, we are satisfied that it is unlikely that there are no alternative sites which can be considered to be both available and suitable to accommodate the proposal. It is also noted that the Inspector also previously concluded that the sequential test had been passed as part of the previous appeal. We are not aware of any material changes since that conclusion was reached, and therefore are of the view that the same conclusions must apply now.
- 3.24 We also note CarneySweeney's commentary at paragraphs 6.6.24 and 6.6.25 in respect of the pre-application discussions with the Council, and in particular the confirmation from officers that no further sites had been identified to be included within the sequential assessment.
- 3.25 Given the above, we are satisfied that the proposal complies with Policy E5 insofar as it relates to the sequential test, and paragraphs 91 and 92 of the NPPF.

4 The Impact Test

Requirements of the NPPF and the Town Centres and Retail PPG

- 4.1 Paragraphs 94 and 95 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development.
- 4.2 In assessing the significance of impacts arising from development, it is necessary to reflect upon the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:
- ‘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.’ (Our emphasis.)**
- 4.3 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition, and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a ‘significant adverse’ impact.
- 4.4 Paragraph 016 of the Town Centres PPG is also of some relevance in considering how the impact test should be applied. It states that:
- ‘As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.’**
- 4.5 In the local area, we anticipate that the foodstore will trade most directly against the other large format convenience stores located within, on the edge of and outside of Ledbury town centre.
- 4.6 We set out below our appraisal of the application proposal’s compliance with the two key impact tests identified by paragraph 94 of the NPPF.
- 4.7 The tests relate to:
- the impact of the proposal on existing, committed and planned public and private sector 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 wider retail catchment (as applicable to the scale and nature of the scheme).

Impact of the Proposal on Existing, Committed and Planned Public and Private Sector Investment in a Centre or Centres in the Catchment Area of the Proposal

- 4.8 Paragraph 7.5.2 of the PRS quotes paragraph 44 of the appeal decision, which notes that the main parties agreed that there were no impacts to existing, committed and planned and private investments in the catchment area of the scheme which are considered to apply.
- 4.9 CarneySweeney then go on to state that they are not aware of any material changes in respect of any investment proposals coming forward subsequent to the appeal decision and that therefore, the proposal is unlikely to give rise to a significant adverse impact.

- 4.10 Nexus agrees with CarneySweeney's analysis, and consider that the proposal is unlikely to have a significant adverse impact on existing, committed or planned in centre investment and therefore complies with the first part of the impact test.

Impact of the Proposal on Town Centre Vitality and Viability

- 4.11 We provide below our appraisal of the principal inputs and assumptions relied upon by the applicant in assessing the impact of the convenience goods floorspace within their PRS.
- 4.12 At the outset, based on the net comparison floorspace presented in the PRS, we recognise that the comparison goods floorspace associated with the proposal is limited and that, in practice, this element of the proposal will likely trade against a wide range of destinations (including online retailers and other foodstores situated in out of centre locations). The comparison goods offer of a discount foodstore is qualitatively different to that evident in Ledbury town centre (which is the centre of greatest relevance in respect of retail impact).
- 4.13 In this context, it is also relevant to note that household shopper surveys can often understate the comparison goods turnover of foodstores. Given that the comparison goods turnover of the application proposal will be diverted in part from foodstore locations, it is our view that a monetary trade diversion impact assessment relating to this part of the proposal may be somewhat imprecise. A convenience goods trade diversion assessment is generally more accurate and a more appropriate basis upon which to determine the acceptability of the subject proposal.
- 4.14 Given the nature of the comparison goods floorspace and its limited turnover as presented in the PRS, we believe it to be clear that there would be no significant adverse impact arising from the comparison goods floorspace, subject to the convenience goods floorspace being acceptable.

Assessment Period

- 4.15 The applicant undertakes its impact assessment based on a test year of 2027, and then also 2029.
- 4.16 Paragraph 017 of the Town Centres PPG specifically directs that the design year for impact testing should be the year that the proposal has achieved a 'mature' trading pattern. It states that this is conventionally taken to be the second full calendar year of trading after the opening of a new retail development.
- 4.17 We consider that a development of this nature would likely be trading by 2026 or 2027. On this basis, 2029 is considered an appropriate design year.

Baseline Position

- 4.18 CarneySweeney derives the 'pre-impact' turnover of existing grocery retailers and defined centres from the Herefordshire Town Centre and Retail Assessment 2022 ('HTCRA') which was authored by Nexus.
- 4.19 CarneySweeney has adopted a 2020 price base in accordance with the Retail Assessment and has used the population and per capita expenditure provided within the HTCRA. CarneySweeney have then used the Experian Retail Planner Briefing Note 21, published in February 2024 to calculate the forecasted online sales and growth in floorspace efficiencies.
- 4.20 The turnover of existing destinations within and surrounding Ledbury are calculated by multiplying the market share attracted to each destination recorded in the household survey, by the available convenience expenditure within each zone.

- 4.21 We are satisfied with CarneySweeney's approach in calculating the pre-development turnovers of the existing convenience destinations presented within the PRS.

Turnover of the Application Proposal

- 4.22 CarneySweeney estimates the turnover of the application proposal at Table 6 of Appendix D of its PRS.
- 4.23 This identifies a convenience goods sales density for Lidl at 2024 of [REDACTED] per sq.m which, based on the identified convenience goods sales area of 880 sq.m, equates to a turnover of [REDACTED] at 2024. CarneySweeney then provide two turnovers at 2027 and 2029, the first which does not account for inflow, and the second which does account for 12% of inflow. On this basis, at 2027, CarneySweeney estimate that the turnover could equate to either £ [REDACTED] or [REDACTED].
- 4.24 As set out above, whilst we consider the comparison turnover to be broadly reflective of how we envisage the store would trade in practice, given the modest turnover we have not considered the potential impact of this element of the proposal in detail.
- 4.25 We note that Stantec have raised queries in respect of the appropriateness of the source used to calculate the sales density for the proposed store. In doing so, Stantec state:

'We appreciate that the P&RS was published in October 2024. However, we note that GlobalData released its latest 'Convenience and Comparison Sales Densities of Major Grocers – 2024e' in December 2024. We suspect that, if the convenience sales density specified for Lidl within GlobalData's latest release was used instead of the figure from the 2023 version, the trade impact figures would be higher than those cited within the impact assessment tables. As such, to ensure robustness in decision making, the impact assessment should be updated to reflect the latest sales density figures from GlobalData. We request that we are notified and afforded the opportunity to comment further if necessary.'

- 4.26 Subsequent to the above, Nexus requested that CarneySweeney provided an update to the quantitative impact assessment to reflect the latest figures provided by GlobalData. CarneySweeney responded to the Council on the 4th March 2025, confirming that the updated convenience sales density (at 2020 prices) is [REDACTED] per sq.m, compared to [REDACTED] per sq.m previously provided. As such, the turnover of the proposal would in fact decrease, resulting in the associated impacts also decreasing. Given this, we are satisfied that the impact assessment as presented by CarneySweeney represents a 'worst case scenario' and is therefore robust.
- 4.27 Given the above, overall we are satisfied with the calculation of the turnover of the proposal as presented within the PRS.

Patterns of Trade Diversion and Impact

- 4.28 We believe that the potential impact arising from the proposal at any defined centre other than Ledbury town centre would be very limited. This is due to the distance between the application site and other centres, recognising that competing main food shopping competition is dispersed across a number of locations.
- 4.29 We therefore agree with the overarching focus of CarneySweeney's assessment being on the existing convenience destinations within, on the edge of and outside of Ledbury town centre.
- 4.30 We also agree with CarneySweeney that the highest level of trade is likely to be diverted from the existing out of centre stores, particularly given comparative nature of these stores within the wider Ledbury urban area. Additionally, we agree that the highest proportion of trade will likely be diverted from the Aldi on Leadon way,

followed closely by the Tesco on Orchard Lane due to the comparative nature of the stores and the existing shopping patterns established in the household survey.

- 4.31 Overall, we consider the trade diversion assumptions applied by CarneySweeney within the PRS to be reasonable and appropriately take account of the nature of the stores, their location in the context of the application site and the established shopping patterns identified by the household survey.
- 4.32 CarneySweeney has also provided the relevant calculations in respect of the expected company benchmark performance of existing convenience floorspace at pre and post-development stage. The consideration of the performance of the stores against their company benchmark averages is a useful step in seeking to understand the potential trading implications of the proposal.
- 4.33 The next step in assessing the acceptability or otherwise of a proposal, is to consider the existing health of the relevant defined centre, in order to understand if the proposal could result in an impact which could be considered to be significant adverse. As such, we provide a summary of the assessment of the health of Ledbury town centre, taking account of CarneySweeney's analysis and our own understanding of the characteristics of the centre.

Ledbury's Vitality and Viability

- 4.34 It should be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact.
- 4.35 Paragraph 016 of the Town Centres PPG is also of some relevance in considering how the impact test should be applied. It states that:
- 'As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.'**
- 4.36 As such, in order to assess the potential impact a proposal may have on defined centres, the applicant should firstly assess the existing performance and overall health of the identified centres within the catchment area. It can be the case that if a centre is in a poor state, (i.e. vacancy levels are above average, numbers of national multiple retailers are below average, footfall is low, and the overall environment within the town centre is poor), then impacts can be accentuated. Any impacts, even on a seemingly 'healthy' centre, need to be carefully assessed on a case by case basis.
- 4.37 A healthcheck for Ledbury town centre was undertaken by Nexus for the purposes of the Retail Study, based on a survey of the uses in May 2022. At the point of our May 2022 healthcheck, it was concluded that Ledbury has an historic retail core which provides a characterful and attractive retail environment, although similar with other towns in the authority area the town centre lacked modern, purpose built retail premises.
- 4.38 Notwithstanding this, we concluded that the town centre provided a diverse range of operators who are considered to be easily capable of providing for the day-to-day needs of the local community. The centre has also become more diverse in recent years, with comparison goods units being successfully repurposed for service uses.
- 4.39 Overall, although the vacancy rate had increased from 5.4% of units at 2012 to 9.3% at 2022, the vacancy rate remained lower than the national average as at April 2022. Furthermore, these units were located in the more

peripheral parts of Ledbury, with fewer vacant units located in the main retail core along The Homend and High Street. As such, as of May 2022, Ledbury was considered to be vital and viable, and the current vacancy rate in Ledbury was not considered to represent cause for concern.

- 4.40 CarneySweeney has provided an update to the healthcheck and the diversity of uses within the PRS, using composition figures from May 2022, May 2023, January 2024 and then in October 2024. As of October 2024, CarneySweeney identifies that the number of vacant units equates to 19, or 11.0% of the total number of units within the centre. Although this is slightly higher than that identified in 2022, it is still below the national average of 14.1%.
- 4.41 CarneySweeney conclude that the town centre is considered to be buoyant and performing strongly, with a good mix of representation of national multiple retailers and independent operators. Furthermore, it is considered that the centre is highly accessible by a variety of transport modes, with good levels of conveniently located car parking provision located at the heart of centre. The public realm throughout the town is of a good quality, kept clean and tidy and free from litter and graffiti, adding to the overall shopping experience. In summary, CarneySweeney concludes that there is no evidence of any underlying weaknesses in the centre, which is considered both vital and viable.
- 4.42 Overall, taking account of the updated evidence provided by CarneySweeney and our own review of the centre, we still consider that the conclusions reached within the HTCRA remain of relevance in respect of the overarching vitality and viability of the town centre, in that Ledbury is considered to be vital and viable, and the current vacancy rate in Ledbury was not considered to represent cause for concern.

Acceptability of the Proposal

- 4.43 We have reviewed CarneySweeney's assessment and in particular the analysis provided within the PRS and the associated quantitative tables in respect of trade diversion and the resultant impact. We have also given consideration not only to the evidence submitted in respect of the previous dismissed appeal, but also the wider analysis provided by CarneySweeney in respect of the growth in population in the surrounding area associated with proximate residential growth.
- 4.44 In particular, our assessment undertaken in respect of CarneySweeney's impact assessment notes that:
- the application proposal will compete most directly against the nearby Aldi store (which doesn't benefit from retail 'policy protection'), the edge of centre Tesco store, and will also divert trade from a range of stores further afield;
 - the convenience goods trade diversion from retailers in Ledbury town centre will be moderate overall, in light of the wider offer at edge and out of centre locations in the town;
 - one of the key considerations will be whether this moderate level of diversion would result in an impact which could be considered to be significant adverse. CarneySweeney estimate that the convenience impact on the convenience turnover of Ledbury town centre is expected to be -11.6% at 2027;
 - the convenience trade diversion on the edge of centre Tesco store will be higher, and therefore another key consideration is the potential impact of this trade diversion on the wider town centre, through the loss of linked-trips and associated expenditure;
 - CarneySweeney has provided an assessment of the comparison of the survey derived turnover of stores against the benchmark turnover of the stores. The performance of existing stores, particularly in the context of the town centre, will be key to understanding the potential implications of the proposed development. In

doing so, CarneySweeney calculates that both the Aldi and Tesco stores are overtrading when compared to their national benchmarks, and the Co-op is undertrading; and

- Ledbury town centre generally benefits from a wide range of retailers and service providers which help to provide some resilience in respect of a further out of centre foodstore.

4.45 Referring back to the dismissed appeal, it is noted that the Inspector concludes at paragraphs 34 to 36 that:

‘The existing edge of centre stores are favourably situated towards either end of the main high street. They both feature convenient customer parking which reinforces access to other shops. Local residents would be inclined to regularly use the stores and parking areas relative to other reasons for making regular linked visits. The presence of Bye Street public car park roughly half way down the high street being a further parking option.

Irrespective of any broader capacity, comparison or convenience retail arguments, I find that the function of the existing edge of centre stores to play a greater role in vitality and viability levels than that suggested by the appellant. I am also conscious that online grocery delivery and collection services are part of a modern day shopping economy which can influence travel.

I have substantial concerns that allowing a second out of town store of the scale proposed poses serious risks to maintaining low vacancy rates and the continued economic success of Ledbury’s retail centre. It would divert trade away from the retail core. The effect would be harmful.’

4.46 There are some important matters to note in respect of the dismissed appeal. These are as follows:

1. The previous considerations in respect of the potential impact of the proposal on Ledbury town centre took account of the potential ongoing implications associated with the COVID 19 pandemic and the uncertainties around the longevity of the performance of some operators. The updated healthcheck provided by CarneySweeney and summarised above, indicates that Ledbury town centre has withstood the impacts from the pandemic well, and that it remains a vital and viable centre, with a good mix of operators.
2. The proposal subject to the latest submission seeks permission for a reduced scale foodstore, and therefore a lower proposed turnover.
3. A new retail study has been published in the intervening years following the dismissed appeal, which includes a new household survey and corresponding survey derived turnovers of existing stores. The September 2022 Study identifies that:
 - i. the vitality and viability of Ledbury town centre was good and the vacancy rates did not represent a cause for concern;
 - ii. the Tesco and Aldi stores continue to trade above their respective benchmark averages. However, the Co-op store was identified to trade below benchmark, and lower than the figure presented within the previous, refused planning application;
 - iii. the proportion of identified linked trips between the existing Tesco and Co-op stores to the wider town centre offer is limited; and
 - iv. although not a policy test, the Study identified a convenience capacity within Ledbury of between 900 and 1,600 sq.m by 2041, indicating an under provision of convenience floorspace within the town.

4.47 In terms of the latest impact assumptions provided by CarneySweeney, they calculate that the total convenience impact on town centre retailers (including the Co-op) is expected to be -11.6%, and on the edge of centre Tesco store at Orchard Lane, to be -19.5%. Looking specifically at the Co-op, from which CarneySweeney estimate approximately 7% of the proposal’s convenience turnover will be diverted from, the resultant convenience impact

is expected to be -12.2%. We note that the impact of the Co-op is raised by Stantec in their February 2025 representations, and in particular Stantec state:

‘It is important that the Council consider this in its assessment of retail matters because even a small diversion of trade from an undertrading convenience store to a second out-of-centre foodstore could fundamentally compromise the stores viability and consequently have a harmful impact on the town centre due to the harm to a key convenience retailer.’

- 4.48 The objection raised by Stantec on behalf of the Co-op is noted, and the assertions made have been considered in reaching our recommendations below.
- 4.49 It is clear that the Inspector and the previous advisors to the Council in respect of the dismissed appeal, were concerned that the level of trade diversion and associated resultant impact on the town centre in terms of both the loss of expenditure and footfall could be detrimental. In doing so, they came to the conclusion that the potential impact on Ledbury town centre could be significant adverse.
- 4.50 One of the key considerations was the direct impact on the edge of centre stores (the Tesco and Co-op) and the indirect impact on the loss of linked-trips to the remainder of the town centre as a result of the diversion of expenditure to these stores. Specifically, the Inspector states at paragraphs 35 and 36 of the decision:
- ‘Irrespective of any broader capacity, comparison or convenience retail arguments, I find that the function of the existing edge of centre stores to play a greater role in vitality and viability levels than that suggested by the appellant. I am also conscious that online grocery delivery and collection services are part of a modern day shopping economy which can influence travel.**
- I have substantial concerns that allowing a second out of town store of the scale proposed poses serious risks to maintaining low vacancy rates and the continued economic success of Ledbury’s retail centre. It would divert trade away from the retail core. The effect would be harmful.’**
- 4.51 We have given consideration to the previous conclusions reached by the Inspector, the latest findings in respect of the impact assessment and the matters which represent a material change in circumstances since the previous assessment was undertaken. We have also given consideration to the detailed representations made by Stantec on behalf of the Co-op.
- 4.52 However, we are of the view that the town centre is generally vital and viable and although the two edge of centre stores provide important convenience shopping provision for shoppers, the stores and the wider centre are sufficiently diverse and healthy to withstand the level of diversion set out by CarneySweeney and assessed by Nexus.
- 4.53 Overall, we consider that given the proposal’s scale, the centre’s health, the wider commercial provision within Ledbury town centre and the provision of out of centre convenience facilities from which the proposal will divert trade from, the potential impact of the proposal is unlikely to be significantly adverse. This is principally due to the convenience trade diversion being moderate and the centre being generally vital and viable.
- 4.54 Furthermore, we are of the view that residents and visitors alike will still need to visit the town centre to meet their wider commercial needs. Overall, we do not anticipate that there will be any material reduction in the vitality of the centre arising from the loss of linked trips related to the proposal (as these may be undertaken by car or may occur at other times).

- 4.55 Taking the above into account, we are satisfied that the proposal complies with Local Plan Policy E5, insofar as we are of the view that it will not have a significant adverse impact on town centre investment or on the vitality and viability of the centre.

5. Conclusions and Recommendations

- 5.1 Herefordshire Council instructed Nexus Planning to provide advice in respect of a full planning application relating to a hybrid application which includes a proposed Class E foodstore at land south of Leadon Way and east of Dymock Road in Ledbury.
- 5.2 The hybrid application proposal is for full permission for a 1,100 sq.m (net) foodstore, alongside a daycare nursery and outline consent for a medical centre. The Application is accompanied by a PRS prepared by CarneySweeney, dated October 2024.
- 5.3 The purpose of this appraisal report is to consider the merits of the proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF'). We have also given consideration to the representations made by 3rd Parties in respect of the proposal.
- 5.4 Paragraph 95 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.
- 5.5 In respect of the sequential approach, Nexus has undertaken a detailed review of the sites, units and other opportunities identified by CarneySweeney within their submission. Our analysis has considered the availability and suitability of these potential opportunities to accommodate the proposed development, even when applying a sufficient degree of flexibility in accordance with policy. Overall, we are satisfied that it is unlikely that there are no alternative sites which can be considered to be both available and suitable to accommodate the proposal.
- 5.6 Given the above, we are satisfied that the proposal complies with Policy E5 insofar as it relates to the sequential test, and paragraphs 91 and 92 of the NPPF.
- 5.7 With regard to the first part of the NPPF impact test, we do not believe that the grant of planning permission for the proposed foodstore would lead to an adverse impact in respect of any existing, committed and planned public and private sector investment. Nexus agrees with CarneySweeney's analysis, and consider that the proposal is unlikely to have a significant adverse impact on existing, committed or planned in centre investment.
- 5.8 In terms of the second part of the test (relating to the vitality and viability of town centres), it is clear that the Inspector and the previous advisors to the Council in respect of the dismissed appeal, were concerned that the level of trade diversion and associated resultant impact on the town centre in terms of both the loss of expenditure and footfall. In doing so, they came to the conclusion that the potential impact on Ledbury town centre could be significant adverse.
- 5.9 We have revisited the previous conclusions reached, and the updated assessment, and are of the view that the impacts associated with the proposal are unlikely to be significantly adverse. This view has been reached taking account of the health of the town centre, the nature of the proposal and the associated trade diversion, alongside the wider convenience provision within the settlement and a consideration of likely trade diversion and impact assumptions.
- 5.10 Given the above, we conclude that the refusal of planning permission for this application proposal would not be supported on retail and town centre planning policy grounds alone (subject to conditions to ensure that the

proposal continues to trade as a supermarket in the manner set out by the planning application documents, should planning permission be approved).

- 5.11 We reiterate that our advice relates only to the merits of the proposal in respect of its compliance with retail and town centre planning policy, and that it is for the Council to weigh all relevant planning policy considerations in the balance in determining the application.
- 5.12 We trust that the above appropriately sets out our view in respect of retail and town centre policy matters but would be happy to provide further assistance should it be required.



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