



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 27 February 2017

Committee:
South Planning Committee

Date: Tuesday, 7 March 2017

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Gwilym Butler
Nigel Hartin
Richard Huffer
John Hurst-Knight
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Lee Chapman
Heather Kidd
Christian Lea
Cecilia Motley
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 257716
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 7 February 2017.

Contact Linda Jeavons (01743) 257716.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 pm on Thursday, 2 March 2017.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Land Adjacent To Sainsbury's Supermarket, Old Smithfield, Bridgnorth (16/02739/FUL) (Pages 7 - 46)

Erection of 5 No retail units, car parking, reconfigured access, landscaping and associated works

6 Buildings To The North Of Small Heath Farmhouse, Ashford Bank, Claverley, Wolverhampton (16/03673/COU) (Pages 47 - 62)

Change of use of redundant agricultural buildings Units 1, 2 & 3 to B1 (light industrial) and Units 4, 5 & 6 to B8 (storage and warehousing)

7 Schedule of Appeals and Appeal Decisions (Pages 63 - 72)

8 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 4 April 2017, in the Shrewsbury Room, Shirehall.



Committee and Date

South Planning Committee

7 March 2017

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 7 February 2017

2.00 - 4.14 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Gwilym Butler, Nigel Hartin, Richard Huffer, John Hurst-Knight, Robert Tindall and Tina Woodward

74 Apologies for Absence

Apologies for absence were received from Councillors William Parr and Madge Shingleton.

75 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 10 January 2017 be approved as a correct record and signed by the Chairman.

76 Public Question Time

There were no public questions or petitions received.

77 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

With reference to planning application 16/02758/FUL, Councillors Andy Boddington and Robert Tindall declared that they were members of The Shropshire Hills AONB Partnership.

With reference to planning application 16/02758/FUL, Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Transition Board.

78 Dun Cow Farm Rocks Green Ludlow Shropshire SY8 2DS (14/05573/OUT)

The Principal Planner introduced the application and with reference to the drawings displayed, she drew Members' attention to the location and indicative layout.

Members had undertaken a site visit on a previous occasion and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mr D Appleton, representing Love Ludlow Campaign, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr R Heighway, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor C Sheward, representing Ludlow Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor P Lawley, representing Ludford Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

With the permission of the Chairman and due to the fact that additional speakers had been permitted to speak against the proposal, the applicant was permitted to speak for up to six minutes. Mr S McGrath, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from the Committee regarding shopping habits, the impact the proposal would have on the vitality and viability of Ludlow town centre and the impact on Ludlow town centre if an alternative supermarket chain other than Lidl chose to develop a store on the Rocks Green site.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Members held differing views with some expressing concerns regarding the impact on the hinterland, Ludlow town centre, highway safety and access arrangements. Other Members supported the proposal; commented that the proposal would create employment; acknowledged that the application was an Outline application and the layout was not for consideration at this time; and any future application for reserved matters could be determined by this Committee.

In response to questions from Members, the Principal Planner drew Members' attention to the comments of Shropshire Council Highway Officers and reiterated that highway grounds would not be significant enough to justify refusal. She reiterated that the applicant was entitled to submit an Outline application and there was no justifiable reason for Shropshire Council to request a full application. Shropshire Council Officers had considered the submitted indicative layout as being unsuitable but were of the opinion that a different layout that would protect the residents of

Rocks Green could be achieved. She further drew Members' attention to the Retail Impact Assessment as set out in the report; and explained that a condition restricting the proposal to a named foodstore chain might present a risk of other foodstore chains challenging the consent.

RESOLVED: That,

- Subject to consultation with the Secretary of State and the conditions set out in Appendix 1 of the report, the Planning Services Manager be granted delegated authority to grant planning permission; and
- Any subsequent application for reserved matters to be determined by this Committee.

(At this juncture, the meeting adjourned at 3.22 pm and reconvened at 3.29pm.)

79 Proposed Holiday Chalets At Upper Marsh Catherton Shropshire (16/02758/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which included a statement from Councillor Madge Shingleton, one of the two Local Ward Members.

Councillor G Wadsworth, representing Farlow Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr P Harding, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Gwilym Butler, as local Ward Councillor, made a statement. He then left the table, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- There was a lack of holiday accommodation in the area, major hotels and accommodation that was suitable for use by schools;
- Would help support the public house that had recently opened in the area;
- Would help to encourage income into a low wage economy;
- Family work closely with the local community, are well respected and would abide by any conditions;
- Diversification should be supported; and
- The benefits of the scheme would outweigh the harm raised by the objectors.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Some Members considered that the proposal should not be supported given the continued objection of Natural England. Other Members supported the proposal subject to appropriate conditions regarding layout, materials and a register of occupation to ensure the chalets are used and remain as holiday accommodation.

In response to questions from Members, the Principal Planner explained that if Members were minded to grant consent contrary to the advice of Natural England a notice of the permission and a statement to include the reasons for departing from their advice would have to be sent to Natural England, following which the application may have to come back to Shropshire Council for reconsideration. He further provided advice regarding the guidelines relating to the granting of a temporary consent, definition of a caravan and occupancy of holiday lets.

RESOLVED:

That, as per the Officer's recommendation, planning permission be refused for the following reasons:

1. It is acknowledged that the proposed development would contribute to the rural economy and to the role of Shropshire as a tourist destination to stay. However these benefits are considered to be outweighed by the following environmental harm.

The principle of the proposed change of use of agricultural land and the erection of four holiday chalets in this remote and unsustainable rural area is contrary to both local and national policy planning policy which aims to locate this type of development adjacent to existing settlements or close to existing facilities. The introduction of significant new built form in to this very open location would detract from the visual amenity of the area and fails to respect the local distinctiveness of this part of Upper Marsh. The proposed log cabins and associated hard landscaping would appear as incongruous additions to the area and as such would result in a detrimental impact upon the character and appearance of the area. Accordingly, the proposed development is contrary to Local Plan policies CS5, CS6, CS16 & CS17 of the adopted Core Strategy and policies MD2, MD11, MD12 of the SAMDev and national guidance contained within the NPPF, in particular paragraphs 7, 17, 28, 58 and 109.

2. The application site is adjacent to Catherton Common (SSSI and SWT Reserve) and within both a buffer zone and 'corridor' of the Shropshire Environmental Network. Therefore, the proposed scheme must clearly demonstrate how the development will promote the preservation, restoration and re-creation of priority habitats and ecological networks. It is not considered that the level of suggested ecological enhancement will balance the likely adverse drainage impacts on the SSSI associated with the development. Furthermore, no consideration has been given to the additional recreational pressure on the SSSI and the Shropshire Wildlife Trust Reserve which could occur as a result of the proposed new tourism enterprise. Accordingly, the proposed development is contrary to policies CS17 and CS18 of the adopted

Core Strategy and policy MD12 of the SAMDev and national guidance contained within the NPPF and in particular paragraphs 109 and 118.

80 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 7 February 2017 be noted.

81 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 7 March 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date
 South Planning Committee
 7 March 2017

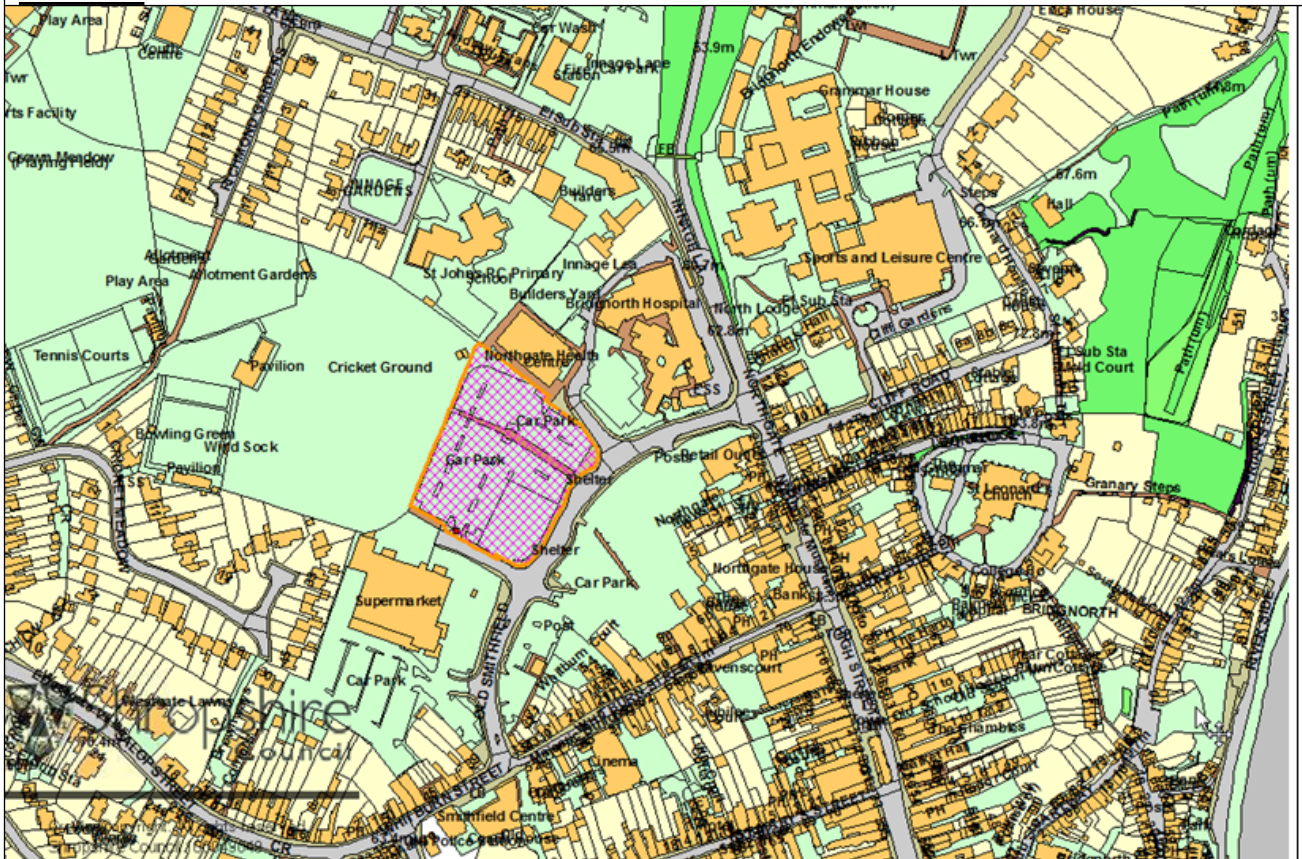
Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 16/02739/FUL	Parish:	Bridgnorth Town Council
Proposal: Erection of 5 No retail units, car parking, reconfigured access, landscaping and associated works		
Site Address: Land Adjacent To Sainsburys Supermarket Old Smithfield Bridgnorth		
Applicant: Mr Andy Thompson		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 371363 - 293310



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REPORT

Recommendation: That delegated powers be given to the Area Planning Manager to grant planning permission subject to the conditions set out in Appendix 1 and subject to a legal agreement to secure a financial contribution towards increasing car parking capacity at Innage Lane and providing signage at Smithfield and Innage Lane to direct cars and pedestrians.

REPORT**1.0 PURPOSE OF REPORT**

1.1 This application was previously considered by the South Planning Committee at its meeting on the 10th January 2017. Members at that meeting were minded to refuse the application, the minutes of the meeting record the proposed reason for refusal as:

"The committee acknowledges that the proposal would provide additional retail choice in Bridgnorth Town Centre, but the loss of car parking spaces and the uncertainty of the impact on independent traders in the Town Centre would be contrary to Core Strategy Policy CS15 and paragraph 27 of the National Planning Policy Framework."

1.2 This report seeks to provide members with further information on the application as received from the applicant following the January meeting and advice on the risks associated with refusing the application for the above reason. The original report presented to members in January 2017 is attached to this report for information.

1.3 The risk of refusing any planning application is that the applicant appeals the decision. This is a risk in that a Planning Inspector deciding an appeal may overturn the Councils decision and allow the proposal. There are costs associated with defending an appeal against refusal but there are also risks of the Council being required to pay the appellants costs of an appeal. Costs can be awarded if the Council is considered to have behaved unreasonably, in not allowing the application or in its conduct in defending an appeal, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The purpose of the of the costs regime is stated to include encouraging local planning authorities to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case. All involved in the appeal process should behave in a reasonable way including presentation of full and detailed evidence to support their case.

1.4 This report is before members on the basis that the above reason for refusal was considered by officers, at the January committee meeting, to not be defensible if challenged at appeal. The report below seeks to advise members on the defensibility of the different parts of the above reason for refusal.

2.0 ADDITIONAL INFORMATION RECEIVED

2.1 Following the January committee meeting the agent has submitted additional information on behalf of the applicant. The additional information includes key

points from the previously submitted retail statement including:

- Bridgnorth town centre is healthy, vital and viable
- Only 31% of residents expenditure is spent in the town centre
- By 2021 £71m would be spent in other towns and £31m in Bridgnorth
- If 20% more can be retained it would increase spend in the town centre by 50%
- The town centre does not have large format shops
- The proposed development would benefit the town by an increase of 18% on turnover, taking into account trade diversion
- Development would not compete with existing town centre trade or tourism attraction
- Will encourage linked trips

2.2 The agent has also submitted heads of terms for a new car park management agreement to be set up between the land owner and the Council for the Council to operate the car park from the site. This document confirms the new agreement would be for 80 years, will provide 126 short term shoppers parking and 32 long stay parking spaces with concessions to allow for school drop off and collection, overnight parking and also to allow retailers to offer parking concessions to customers.

3.0 MATTERS FOR CONSIDERATION

- 3.1
- Loss of parking
 - Impact on independent traders

4.0 OFFICER APPRAISAL

4.1 Loss of parking

4.1.1 The draft reason for refusal noted in section 1 above suggests that members concern was that the loss of car parking which will result from the development proposed will contribute to the impact on the vitality and viability of the town centre. Firstly members need to consider whether there will be a loss of car parking and whether any such loss would impact on the vitality and viability of the town centre.

4.1.2 As noted in section 6.2 of the January report the current car park is owned by Sainsburys and operated by Shropshire Council under a car parking agreement. This is not a lease to the Council, it is purely an agreement between the land owner, Sainsbury, and the operator, the Council. The agreement requires the Council to operate the car park as a short stay car park. Members were advised by the Council Solicitor at the January meeting that the Council are currently in breach of this agreement. The car park currently allows long stay parking during the day both by pay machine and also through the use of season tickets. As such the owners, Sainsbury, could terminate the current car park agreement after giving 20 days notice to the Council to correct the breach.

4.1.3 The termination of the agreement could result in the loss of all of the parking spaces. Officers accept that members do not like to predict what might or might not happen. The agent has confirmed that Sainsburys do not wish to terminate the agreement and would rather keep the car park open for use. The agent has

also confirmed that approximately 100 spaces could be kept open during the construction of the proposed development (except when the car park resurfacing is required). However, members should be aware of the risk of the closure of the whole of the car park. This risk is most relevant when considering reasons for refusal. A refusal based on loss of parking between what is currently available and what is proposed with the development subject to the current application would fall if Sainsbury close the car park. Officers advise that there is a very significant risk that if the application were to be refused on loss of parking that Sainsbury would terminate the car park agreement and close all of the car park in the time between refusal of the planning application and the determination of an appeal.

- 4.1.4 In that eventuality, the inspector deciding the appeal would have a proposal for retail units and car parking on an empty piece of brownfield land. The proposed 158 parking spaces would be seen as a benefit to the town. The point here is that it would be to Sainsburys benefit to close the car park if members refused the current application on loss of parking.
- 4.1.5 The inspector would also take into account the extant consent for the DIY store and that the current proposal provides more parking spaces than that consent. Officers acknowledge that members do not believe the DIY store consent would be built out, however they have no evidence to show that it wouldn't. Since the January meeting the agent has provided a statement confirming that they have been in discussions with a potential DIY store operator and as such this is evidence that the extant consent could be developed. This is a material consideration and also a risk. Officers consider that the current proposal is better for the town in terms of numbers of parking spaces and also in design and layout issues. The DIY store is a large bulky building which turns its back onto the medical centre and does not provide a link through.
- 4.1.6 Even if Sainsburys did not close the car park officers still consider the current proposal will benefit the town. The proposal will enable the Council to correct the current breach and operate the new car park as short stay only through the new car parking agreement as detailed under section 2 above.
- 4.1.7 The breach in the agreement itself has an impact on the availability of car parking. As noted above the Council currently allow long stay parking and season ticket on this car park. Currently there are 278 parking spaces. There are 85 season tickets issued by the Council for this car park and 3 staff permits which therefore has the potential to reduce the available short stay parking to 190 spaces. Information from the Council car park management team has confirmed that 20% of the ticket sales are for over 3 hours (long stay) and as such this equates to approximately 38 of the 190 spaces thereby reducing the short stay space availability to 152 parking spaces.
- 4.1.8 Officers accept that these are estimates and worse case scenarios. There may not be a situation when all of the season ticket and staff permit holders are occupying a parking space and there may be instances when less than 20% of the ticket sales are long stay. However, on the worse case scenario there are currently 152 short stay parking spaces providing space for shoppers, visits to the

hospital and other services and facilities in the town. The proposal would provide 126 short stay parking spaces to the front of the retail units which would be available for these same shoppers, visits to the hospital and other services and facilities.

4.1.9 The survey evidence, and some members own experiences of the car park, shows that the current car park is only full on a Saturday and this would be mitigated by a financial contribution towards providing parking elsewhere in the town. The provision of additional spaces at Innage Lane will provide for the displacement of the long stay parking from Smithfield and also enable short stay weekend parking to be provided in the current coach spaces to offset the shortfall of spaces identified on Saturdays.

4.1.9 Officers accept that for members to approve this application is not going to be easy and that it will be unpopular locally. However, given the current breach of the car park agreement, the fall-back position of the extant consent and the proposed financial contribution towards mitigation officers strongly advise members that a refusal based on loss of parking or the impact on viability and vitality from loss of parking would not be defensible at appeal and would place the Council and Bridgnorth at risk of losing the whole car park and at risk of costs.

4.2 **Impact on independent traders**

4.2.1 The minutes of the January committee meeting record the reason for refusal commenting that members were seeking to refuse the application on the basis of "*uncertainty of the impact on independent traders in the Town Centre*" and considered this impact, along with the impact of the loss of car parking spaces, as contrary to CS15 and the NPPF.

4.2.2 Policy CS15 states:

"Development and other measures will maintain and enhance the vitality and viability of Shropshire's network of town and rural centres, and, within the context of the strategic approach (policies CS1-CS5), support the delivery of appropriate comparison and convenience retail; office; leisure; entertainment and cultural facilities.

In accordance with national planning policy, and having taken into account sequential and impact assessments where relevant, town centres will be the preferred location for new retail, office and other town centre uses...."

"The Market Towns...will act as principal centres to serve local needs and the wider service and employment needs of communities within their respective spatial zones. Appropriate convenience and comparison retail, office, and other town centre uses will be permitted to support these roles."

4.2.3 The explanatory text with CS15 advises that Shropshire's network of Market Towns will provide a key role in providing new shopping, office and other town centre uses. Development in these towns will help support the continued vitality of settlements. The focus on the principal centres will enable the provision of significant town centre facilities to a wide catchment area within each spatial zone.

- 4.2.4 Within SAMDev policy MD10a Bridgnorth is a category B town, a settlement with a Town Centre and Primary Shopping Area (both identified on the adopted map for Bridgnorth). MD10a continues the primacy of the town centre set in CS15 placing greater importance to the Primary Shopping Area, followed by the wider Town Centre. MD10a advises that there is a presumption in favour of proposals for main town centre uses within the wider Town Centre. The explanatory text to CS15 also comments on retail assessment noting that the assessments carried out for the former District/ Borough councils identified priorities and opportunities.
- 4.2.5 MD10b states:
"1. To ensure development does not cause significant adverse impacts on the vitality and vibrancy of Shropshire's town and rural centres, applicants will be required to prepare Impact Assessments for new retail, leisure and office proposals where they:
i. Are located outside a defined town centre, or are more than 300 meters from a locally recognised high street or village centre; and
ii. Are not in accordance with the area's settlement strategy; and
iii. Have a gross floorspace above the following thresholds:
a) Shrewsbury – 500sqm;
b) Principal Centres (identified in CS15) – 300 sqm;
c) District Centres (identified in CS15) and other rural centres – 200 sqm.
- 2. The Council will not permit proposals which have a significant adverse impact on town centres, or where it is considered the scope of the Impact Assessment is insufficient."*
- 4.2.6 MD10b provides local thresholds for the submission of an Impact Assessment and accepts that proposals for main town centre uses under these thresholds in edge or out of centre locations are unlikely to lead to significant adverse impacts on town centres and therefore impact assessment will not be required in these instances. The explanatory text of MD10b also advises the information required for an impact assessment should focus on the predicted level of trade diversion from the town centre, and have regard to expenditure and population forecasts.
- 4.2.7 Policy S3 – Bridgnorth, of the SAMDev states:
1. Over the period 2006-2026, Bridgnorth will maintain and enhance its role in accordance with Policy CS3 by making provision for the needs of the town and surrounding hinterland, including attracting businesses to the area and allowing existing businesses to expand....
3. Retail development will be directed to the town centre where it will benefit from, and contribute to, the town's historic character. The Primary Shopping Frontage at High Street and Whitburn Street are protected for retail uses in accordance with Policies CS15 and MD10a and MD10b...."
- 4.2.8 Paragraphs 26 and 27 of the NPPF state:
26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local 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). 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 area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

- 4.2.9 Officer's advice regarding the reason for refusal noted in section 1 above is that the reason would not be defensible on appeal. Firstly the reason for refusal implies that members considered the site to be within the town centre of Bridgnorth ("*The committee acknowledges that the proposal would provide additional retail choice in Bridgnorth Town Centre*") and as such none of the national or local policies in the Core Strategy and SAMDev would require the applicant to submit an assessment of impact and therefore it would be wholly unreasonable for members to consider the scheme as harmful on the basis of impact. Both national and local policies support the provision of new retail development in the town centre, as such if members consider the site is within the Town Centre then members should be supportive of a proposal for retail development on the site.
- 4.2.10 Secondly, if members altered their view expressed in the first sentence and noted that only part of the site was in the town centre, the latter part of the reason for refusal seeks to protect the impact on independent traders rather than the impact on the whole of the town centre. There is no policy justification for such protection. There is no protection for independent traders within CS15 or paragraph 27 of the NPPF and as such the reason for refusal is not based on policy. Both national and local policy seeks to protect the town centre from significant impact on vitality and viability. The protection is for the whole of the town centre not specific uses, traders or businesses. A refusal based on impact on independent traders, therefore not based on policy justification, would be unreasonable and would not stand up to scrutiny on appeal.
- 4.2.11 Officers accept that members consider that there should be greater protection for independent traders; that is clear from both this proposal and other similar schemes across the County. However, there is no such protection afforded by either national or local policy and a change to local policy to introduce such protection would go beyond the requirements of national policy and would be likely to be not found sound at a local plan hearing. The matter of greater protection for independent traders over national chains could only be provided by a change to national policy and as such is not something which members can introduce through a decision on a planning application.

- 4.2.12 Notwithstanding the above, the agent has also sought to assist members in considering this matter further by providing additional information on the existing businesses in the town centre. The information has been provided in the form of plans showing the location and number of independent traders and national stores within the primary shopping area defined in the SAMDev (known as a Goad plan). The plan shows that on High Street nationals occupy 65% of the space and independents occupy 35% (not including restaurants and pubs, banks, solicitors or estate agents). The situation is opposite in Whitburn Street with most of the units being occupied by independent traders. However, the plan shows that overall the majority of the retail floor space within the town centre is occupied by national retailers rather than independents.
- 4.2.13 This information was requested by officers to assist members in understanding further the limited impact the proposed development will have on independent stores. The retail impact of the scheme on the whole town centre, national and independent retailers, is 4.7%. The plan shows that the town centre is predominately national retailers and as such the majority of the impact will be on the national retailers. This is especially likely as the new retail units are most likely to also be occupied by national retailers and the NPPF accepts that retail impact has most effects like for like.
- 4.2.14 Also of note is, of the 26 independent retailers, there are 4 food retailers (butchers, baker, health food shop) and 2 services (hairdresser and opticians) which are not likely to be affected by the proposed development as the proposed units do will not compete with these types of uses. As such, within the primary shopping area there are 20 independent retailers who may be affected. Officers consider that this is a good proportion of the town centre but also that it shows that the town centre is not predominately independent retailers and furthermore that the impact of the proposed development is going to be spread across national and independent retailers.
- 4.2.15 The minutes of the meeting do record that some members raised concerns about the general impact of the development on the vitality and viability of the town centre, not just on the independent traders. As noted above a significant adverse impact could be justified as a reason for refusal against CS15, MD10b and NPPF paragraph 26 and 27. However, it remains officer's advice, as detailed in the January report, that a 4.7% impact could not be considered as significant.
- 4.2.16 Members are also advised of the need to determine applications with a level of consistency and at the last south committee meeting members concluded that 9.6% impact on Ludlow would not be significant. There is no substantial difference between Ludlow and Bridgnorth in terms of the health of the town centre and therefore its ability to accept change. Officers consider that a refusal based on 4.7% impact could not be defended at appeal and the Council would be at significant risk of losing such an appeal.

5.0 CONCLUSION

- 5.1 For the reasons given in this report officers retain their strong advice given at the January committee meeting that the draft reason for refusal detailed in section 1 above would not be defensible if challenged at appeal and furthermore that

pursing the draft reason for refusal may put the Council at risk of an award of costs.

- 5.2 Taking into account the current breach of the car park agreement, the fall-back position of the extant consent and the proposed financial contribution towards mitigating the shortfall of car parking space availability on Saturdays, officers strongly advise members that a refusal based on loss of parking or the impact on viability and vitality from loss of parking would not be defensible at appeal.
- 5.3 For the reasons given above and within the original report to committee dated January 2017 officers remain of the opinion that approval of five retail units on the application site would not have a significant adverse impact on the vitality and viability of Bridgnorth town centre.
- 5.4 Accordingly officers advise that the proposal is considered to comply with the Development Plan Core Strategy policies CS3, CS6, CS17 and CS18, and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Bridgnorth Town Centre. The scheme is also in accordance with the policies within the recently adopted Shropshire Site Allocations and Management of Development (SAMDev) policies MD10a, MD10 and S3 and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27.

6.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

6.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

6.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

6.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

7.0 **FINANCIAL IMPLICATIONS**

7.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

8. **Background**

Relevant Planning Policies:

National Policy

National Planning Policy Framework

Shropshire Core Strategy

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Shropshire Site Allocations and Management of Development

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S3 - Bridgnorth

Other documents

Bridgnorth District Council Retail Study 2006-2021

Relevant planning history:

08/0239 Reserved matters application for the erection of an extension to existing supermarket pursuant to outline planning permission ref 04/0919 – Granted 30th May 2008

08/0238 Reserved matters application relating to the construction of a diy retail warehouse and associated garden centre pursuant to outline permission ref 04/0919 – Granted 23rd February 2009

07/0928 Reserved matters for design, external appearance and landscaping on outline permission ref 04/0919 approved 27/4/05 for relief road and town centre car park – Granted 13th March 2008

04/0919 Outline (including siting and means of access) for the construction of a DIY retail warehouse and associated garden centre, extension to existing Sainbury's retail store, erection of four retail units, construction of car parking and relief road, relocation of indoor market and provision of dedicated area for outdoor market - Granted 27th April 2005

98/0613 - Outline planning application – erection of retail food store construction of car parking construction of Whitburn Street/Northgate link road including bus waiting area formation of vehicular and pedestrian accesses and alterations to public car park (siting and access included and not reserved) – consent

96/0250 - Erection of part single part two storey development of shops and offices with associated service area and car parking – consent

9. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Christian Lea

Cllr William Parr

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – Committee report 10th January 2017

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 08:00 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

4. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development approved by this permission shall commence until the applicants, or their agents, or their successors in title have secured the implementation of a programme of archaeological work in accordance with the Written Scheme of Investigation (WSI) submitted by CgMs Consulting (March 2016) as part of this application.

Reason: The site is known to hold archaeological interest.

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

8. No development-related works (including vegetation / site clearance, ground levelling and demolition, if relevant) shall commence on site and no equipment, materials or machinery shall be brought onto the site, until a scheme has been submitted to the written satisfaction of the LPA to safeguard trees, woody shrubs and hedges to be retained on and adjacent the site. The scheme shall be based upon an Arboricultural Impact Assessment and include an Arboricultural Method Statement, based upon the Heads of Terms of an Arboricultural Method Statement presented as Appendix 2 of the Arboricultural Report (acs consulting, April 2016) and a Tree Protection Plan prepared in accordance with and meeting the minimum tree protection requirements recommended in British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations, or its current version.

Reason: to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

9. All pre-commencement tree protection measures detailed in the approved Arboricultural Method Statement (AMS) and / or Tree Protection Plan (TPP) shall be fully implemented to the written satisfaction of the LPA, before any development-related equipment, materials or machinery are brought onto the site. Thereafter the approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site. The development shall be implemented in strict accordance with the approved AMS and / or TPP. Any tree protection area fenced in accordance with this condition shall be treated as a construction exclusion zone (CEZ); vehicles shall not traverse and nothing shall be stored or placed and ground levels shall not be altered nor any excavation made within the CEZ, without the prior written consent of the LPA.

Reason: to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

10. Prior to the first opening of any of the retail units hereby approved a tree planting scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape - Recommendations, or its current version, has been submitted to and approved in writing by the LPA.
The approved scheme shall include:
- a) details of the trees and shrubs to be planted in association with the development, including species, locations or density and planting pattern, type of planting stock, size

- at planting, means of protection and support, planting period and date of completion, and measures for post-planting maintenance and replacement of losses;
- b) details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in a) above.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

11. The approved scheme of tree planting shall be implemented as specified and in full within the timescale agreed with the LPA. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies, is uprooted or removed, or, in the opinion of the LPA becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

12. Prior to the first occupation of the buildings hereby permitted, a suite of artificial nesting boxes suitable for a range of bird species (such as robins, tit species, house sparrows, house martins, swifts and starlings) shall be erected on the buildings. The types and locations of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

Reason: To ensure the provision of nesting opportunities for birds in accordance with section 11 of the National Planning Policy Framework.

13. Prior to the first opening for trade of any of the retail units hereby approved 2 electric vehicle charging points shall be provided in a location in the car park to be agreed with the Local Planning Authority. The charging points shall be installed as approved and shall be maintained and retained for 10 years from the date of installation.

Reason: To help to reduce air pollution from vehicles within the area of the development.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

14. The development hereby approved shall be for no more than 5 A1 retail units, of which no one unit shall be more than 806sqm gross, including mezzanine floor space (the size of the largest proposed unit), and no more than 186sqm of the total gross floor space shall be used for the sale of food or drink (class A3).

Reason: To protect the vitality and viability of Bridgnorth town centre.

APPENDIX 2 – COMMITTEE REPORT – 10TH JANUARY 2017**1.0 THE PROPOSAL**

- 1.1 The application seeks full planning permission for the erection of four A1 retail units and one A3 café unit. The plan indicates five units with varying size footprints with the café having a gross floor area of 186sqm and the retail units having floor areas of 650sqm, 234sqm, 697sqm and 806sqm. Two of the units are shown as having partial mezzanine floors above the ground floors but these are included in the gross floor areas detailed above. However, as detailed later in the report the agent has advised that the internal division will depend on end users requirements and as such is not submitted for approval at this time. The units will be provided in one, two storey high, building which will be subdivided internally and externally with finished material features and different roof shapes.
- 1.2 In association with the retail units the scheme also proposes new parking arrangements, servicing to the rear of the store, a pedestrian route through the site and additional landscaping.
- 1.3 The application is submitted with full plans detailing the layout, scale and design of the buildings and the associated car parking, servicing and landscaping of the site. In addition the application is supported by a Planning Statement, Design and Access Statement, Retail Assessment, Statement of Community Involvement, Transport Statement, tree and landscaping plans and reports and archaeological survey.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is 0.87 hectares in size and is currently used as a car park with some existing landscaping within the car park and on the boundaries. Access is off Old Smithfield. The applicant has confirmed that the land is privately owned but that the car park is operated by Shropshire Council on a lease.
- 2.2 Bridgnorth Hospital and health centre lie to the north east, Sainsbury store and car park lie to the southwest, to the north is recreation clubs and fields and to the south is a further car park which is also the site of the weekly outdoor market.
- 2.3 The site is within the development boundary for Bridgnorth and is, in part, within the town centre as identified in the SAMDev. The town centre includes the Sainsbury store to the southwest and then runs along and High Street with a small part of the town centre either side of the bridge over the River Severn in Low Town.
- 2.4 Bridgnorth is one of the main market towns in Shropshire and is noted in the Core Strategy as a town which will provide a focus for development within the constraints of its location on the edge of the Green Belt and on the River Severn. It is a key service centre not just for the town itself but also for the rural area around the town. It is historic with unique qualities and charm which attracts both local residents and tourists. The Green Belt does not affect the current application as the site lies outside of the boundaries of the Green Belt.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application is referred to the planning committee for determination since the officer recommendation of approval is contrary to the Town Council's objection and the Chair and Vice Chair of the planning committee consider that the application is locally contentious and warrants consideration by the Planning Committee.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

4.1.1 **Bridgnorth Town Council** – The Town Council recommends refusal on the grounds that the loss of car parking provision and increased parking demand are unacceptable, particularly on a Saturday, with consideration of possible future impact on the town from extra housing, loss of Westgate car park, impact on hospital, surgery and schools. Furthermore, more work needs to be done to establish the impact that the proposal would have on retail trade in the town and the vitality of the existing shopping centre.

Following receipt of the amendments and the additional information regarding the car parking Members of Town Council resolved that the Town Council continues with their opposition to this development and wish to express their disappointment that the plans include the removal of a recycling area.

4.1.2 **Policy** – The appellant has prepared a Retail Assessment which includes consideration of both sequential and impact tests. It is noted that a standard methodology is followed for these assessments.

With regard to the sequential test, the applicant acknowledges that given approximately half of the proposed retail area is situated outside the defined town centre, a sequential test is required. The applicant goes on to assess sites within the town centre against their viability, suitability and availability and concludes there are no alternative sequentially preferable sites.

The scope of the applicant's assessment is considered appropriate. Some degree of flexibility is considered with the applicant reducing the overall size of the floorspace by 10%. The applicant does not seek to disaggregate the scheme by unit, and although it is considered such an approach would inevitably provide for a greater degree of alternative site options, it is accepted this approach could well undermine the business model proposed and call into question its overall deliverability to the market. Equally, it is considered such an approach would also reduce the regeneration potential of the scheme and the wider knock on benefits to the existing town centre.

Overall it is considered the applicant has sufficiently demonstrated there are no sequentially preferable sites either within or on the edge of the town centre to accommodate the proposed development.

With regard to the Impact assessment, the applicant has utilised an appropriate Study Area and has used up-to-date Experian data to inform the current and expected expenditure capacity within that area. Table 1 of the applicant's RIA shows this clearly. A suitable consideration is included for Special Forms of Trading (SFT) – mostly internet sales – of 15% at 2021.

Table 4 of the applicant's RIA applies information derived from the Household Survey in establishing how much expenditure is current spend within different parts of the Study Area. This indicates the market share for the area, which in the case of Bridgnorth is just above 33%. This would indicate a relatively high degree of leakage from of expenditure capacity to other Centres, which is an issue raised by the applicant in seeking to 'claw back' some of this expenditure to the town. This is material to the overall sustainability of the scheme and in the assessment of impact.

The applicant concludes that the scheme is expected to draw around £2.0m from the town centre, equating to 4.7%. In itself this level of impact is not considered to be significantly adverse, and would therefore not be contrary to paragraph 27 of the NPPF of policy MD10b of the SAMDev. In addition, it is noted the location of the proposed store is approximately half within the exiting town centre, the other half being classed as edge of centre. The applicant makes the case that due to this proximity there will be benefits to the wider town centre by virtue of the genuine opportunity to link shopping trips. I would agree that this is the case, and if approved it would be advisable in future reviews of the Local Plan for this whole area to become part of the town centre.

It is acknowledged the Council has received an objection from Bridgnorth Chamber of Commerce in the form of a petition. This calls into question the validity of the applicant's retail evidence base. However, no other evidence of impact is provided by the Chamber. On the basis of the available information from the household survey, and in particular taking into account the site's beneficial location party within the defined town centre, it is not considered the scheme would lead to a significant adverse impact on Bridgnorth Town Centre.

4.1.3 **Conservation** – The proposal for the development of a range of additional retail space within the existing retail and community facilities provided within the old Smithfield as currently submitted are an improvement on the current pre-approved plans in a number of ways as detailed below, and are acceptable from an historic environment and design perspective with a number of elements to be confirmed via conditions below.

A previous development has been approved for retailing use on the application site, which has established the principle for the current application.

Since then, a number of changes in the policy context have occurred, including the requirement for the LPA to give due regard to the desirability of preserving and enhancing the character and appearance of designated heritage assets, including predominantly in this case, the Bridgnorth conservation area and other non-designated heritage assets, whose setting may be affected by the development. Policies MD13 in the SAMDEV plan and Section 12 of the National Planning Policy Framework apply.

It is our opinion that the residual effect – post design changes made by the applicant during the pre-application process - on the heritage assets and their setting will be at best an enhancement in townscape terms on the scheme

approved and on the current condition of the site. An existing semi derelict area of ground, the former site of the main cattle markets and sheds, now a gap site in this part of the historic town core, will be replaced by a modern range of appropriately designed and landscaped series of individual retail units, and as such the proposals are in accordance with historic environment, design and sustainable development policies in the NPPF, the Shropshire Core Strategy and in the SAMDEV Plan, adopted in 2015. Any potential residual effects of the scheme can be addressed through mitigation by design, and materials which consider and reflect the local vernacular of Bridgnorth and the site's market history.

Conditions should therefore be applied for all external materials, including details of hard landscaping materials, to be submitted, with sample panels to be agreed pre commencement.

- 4.1.4 **Archaeology** – The proposed development site is located adjacent to the Medieval urban form of Bridgnorth (HER PRN 06044) as defined by the Central Marches Historic Towns Survey and a group of tenement plots to west of High Street and north of Whitburn Street (HER PRN 05644 & 05645). The site of a post medieval Ropewalk and associated buildings, which presumably made ropes for the barge trade lies within the proposed development site (HER PRN 06929). In consideration of the size of the development, and given its location adjacent Medieval Bridgnorth and the later post medieval activity identified in the area, the site is deemed to have some archaeological potential.

In view of the above, and in relation to Paragraph 141 of the NPPF, it is advised that a programme of archaeological work, to comprise a watching brief during any ground works associated with proposed development, be made a condition of any planning permission for the proposed development.

- 4.1.5 **Highways** – The proposed development seeks to utilise an existing car parking area, which is subject to a Car Park Management Agreement which was signed in July 2008, between, the owner of the site Sainsbury's and Bridgnorth District Council, which provides details of the management of the car park and its future uses.

Planning Permission for a DIY Store and Garden Centre was granted on 6th January 2005. This application was for a store 3146m², and provided 136 parking spaces. The principal of development at this site is considered to be established.

Car park Management Agreement

In accordance with Section 9 of the above mentioned agreement, the terms of the agreement, requires the owner to provide a minimum of 136 spaces. The proposed development, provides 126 spaces to the front of the units with a further 32 spaces to the rear.

However, we would raise issues with regard to the practically of providing 32 spaces to the rear of the units. It is considered that once the units are occupied this area will be used for storage and deliveries, and the parking areas will in all probability will not be utilised for their intended purpose. It is also considered that

there is potential conflict between delivery vehicles and pedestrians.

Whilst it is noted that the applicant has tried to maximise parking within the site, Shropshire Council would prefer not to take over the management of the rear area, however if the applicant would want to retain ownership of the spaces for staff parking then as an Authority we would have no objection.

In light of the above, it is not considered that the 32 spaces should be taken into account, and the proposed development should be considered on this basis.

Proposed Layout and mitigation measures

In principle, and from a highways & transport perspective, the proposed development of retail units at this location are considered acceptable. Whilst it is acknowledged that the development does not provide 136 spaces, it is not considered that any further spaces can be provided within the proposed development area based on the current layout. Discussions with the applicant have concluded that the location of units cannot be moved west due to screening of the building,

The submitted Transport Statement provide a summary of existing car parking occupancy, and identifies that during the survey times the car park and those within the vicinity are over capacity between 11:00 and 16.00 on a Saturday only. Therefore, the applicant has considered a number of measures to mitigate this; the applicant has put forward the suggestion discussions the applicant providing a Highway contribution towards the Park and Ride that is currently operated by the Chamber of Trade. However, whilst Shropshire Council have encouraged the initiative, Shropshire Council are not directly involved with the operation of the scheme, therefore it was not felt appropriate that Shropshire Council secured a contribution through a Section 106, to fund a private enterprise.

The applicant has also considered other measures such as improvements to Innage Lane car park to maximise parking. Draft proposals have been submitted for consideration and are acceptable in principle.

Proposals for the weekday could potentially increase the number of spaces by an additional 16 car parking spaces. However, this would be subject to the removal of the recycling area, this will require further consideration, however it is felt that with the introduction of kerbside card board recycling in the Bridgnorth area could provide an opportunity to re-evaluate the need for the recycling points.

Proposals for the weekend would potentially provide a further 56 spaces, but would involve the removal of coach parking on a Saturday. Survey data has indicated that there is no demand for coach parking on a Saturday, however concerns have been raised with regard to the impact that this could potentially have on the overall economy of the Town if parking for Coaches is not permitted on Innage Lane. It is considered that in the event Coaches are visiting the Town then they are likely to drop off and pick up at a central location within the Town, and there is not a need for coaches to park on Innage Lane, particularly if as a result other car parking spaces are lost. Notwithstanding the above, it is recommended that a Highway Contribution is secured through a Section 106

Agreement, which would provide sufficient funding for the re-design of the Innage Lane Car Park that investigates fully the feasibility of removing the recycling units and HGV and Coach parking, with a view to the retention of possibly 1 or 2 spaces. Any contribution should be deposited prior to commencement and spent within 5 years.

Additional proposed mitigation measures

In addition to the above mentioned Highway contribution the applicant has also agreed to provide 2 electric charging points at the front of the store, from a Highways perspective this proposal is supported, and should be conditioned appropriately.

In order to direct vehicles to Innage Lane car park, the applicant is also proposing to provide additional signage, these details should be submitted for approval prior to commencement and installed prior to occupation of the units.

Recommendation

In consideration of the above, Shropshire Council as Highway Authority raises no objection to the granting of consent, subject to the securing of a Highway Contribution to cover the cost of the re-design of Innage Lane Car Park and the implementation of the proposals. It is recommended that the following conditions are attached to any permission granted.

- 4.1.6 **Waste Management** – The Recycling Facilities that are currently located at the Smithfield car park are managed by the councils contractor Veolia would prefer that these remained in place however as there are other bring banks and a Recycling centre in the town this would have minimal impact on recycling performance. If banks have to be removed the council would require notice so its contractor can make arrangements for them to be removed.

It is important that there is an area large enough set aside to accommodate all the refuse containers for these retail units and that there is sufficient space to accommodate any refuse containers.

- 4.1.7 **Public Protection** – Bridgnorth suffers from poor air quality in specific locations. In particular the Whitburn Street/ Pound Street junction has been declared an Air Quality Management Area (AQMA) with recent monitoring finding pollutant levels, nitrogen dioxide, to be 25% above the national target level. The main contributor to air pollution in this area are motorised vehicles. The development will bring additional vehicles movements into the area particularly HGV movements for deliveries.

In Lowtown there are pollutant levels very close to the national objective level. Traffic often comes into Lowtown and travels up through the town to reach the Hightown area rather than using the bypass. This flow of traffic may be increased causing AQMA to be declared in the Lowtown area. Furthermore, members of the public and other Shropshire Council officers have commented that car parking in the town is a concern particularly at weekends causing cars to circle the town looking for parking. This adds to the air quality issues identified above. This development seeks to remove car parking spaces which it is envisaged would

increase the car parking issue in Bridgnorth and exacerbate air quality concerns. A reduction of 120 car parking spaces as this application suggests is expected to further increase the potential for this to occur resulting in increased congestion at pinch points in the town, notably the air quality management area.

Following receipt of air quality assessment confirmed that the information is satisfactory in what it has taken into account. The air quality report suggests no impact from the development for a number of reasons. Accepts the reasoning given in the assessment.

In addition the information provided by Royal Haskoning DHV dated 31/10/2016 confirms that the betterments noted through; an increase in parking spaces at the Innage Lane site, the provision of 2 electric charging points to the retail frontage at the Old Smithfield car park and signage to avoid congestion at peak times are suitable and I have no objection to this application based on these elements being suitably conditioned to ensure execution. I would advise that the Innage Lane improvements are made prior to car park works at the Old Smithfield site in order to alleviate parking concerns during development of the Old Smithfield site.

Pam Brown Associates have submitted a Phase I Study and Phase II Geo-Environmental Investigation dated March 2016 in support of this planning application. The intrusive investigation and soil analysis results have not identified any significant sources of contamination on-site with all analysis results indicated that contaminants were present at concentrations below their respective generic guidelines for a commercial/industrial use. Asbestos was identified in one area in a previous investigation but no asbestos was found in the most recent investigation. The management of potential risks in this area will be dealt with under health and safety. Accordingly, I have no further comments to make on this application in respect of contaminated land. No contaminated land condition is necessary.

4.1.8 **Ecology** – No objection. Recommends provision of artificial nesting boxes.

4.1.9 **Trees** – Agree with the main findings and conclusions of the Arboricultural Report (acs consulting, April 2016), in that the majority of the trees on the site are of low quality and amenity value and does not object to their removal to facilitate the proposed development; subject to implementation of a high quality planting scheme, including appropriate tree planting, and subject to adopting necessary measures to protect offsite trees that could be damaged during implementation of any approved development.

Agree with the approach to landscaping of the scheme offered in the Landscape Strategy plan (1008 001 B, DSA environment & design), but note that details of species, planting stock and planting specifications have yet to be provided. Given the very poor rooting environment offered by the site at present, would expect significant effort to be put into ground remediation and preparation prior to tree planting being carried out. This may, for example, entail the use of proprietary subterranean structural cells and importing of top soil to provide sufficient quantity and quality of rootable soil around the tree planting stations. A suitable system of

irrigation would also be required – options could be explored to utilise 'grey water' and roof run-off as part of a bespoke SuDS design.

On a point of detail, would question whether Maple tree T1 might be retained within the proposed scheme rather than removed as currently suggested, on the basis that this young tree appears to have established reasonably well in an area of existing and proposed future soft landscape and its removal does not appear to be necessary in order to implement the development.

Agree with the Heads of Terms of an Arboricultural Method Statement presented as Appendix 2 of the Arboricultural Report and would recommend these be dealt with subject to condition of any approval, along with the landscape details.

Does, however, take issue with a couple of points within the Arboricultural Report:

Disagrees with the assertion in the final paragraph of Section 2.02 that this application 'is not the subject of the National Planning Policy Framework in terms of trees', because it is 'concerned with ancient woodland and veteran trees, which do not appear at this site'. Whilst I acknowledge that ancient woodland and veteran trees are mentioned specifically in paragraph 118 of the NPPF, but not other types and classes of trees, I would argue that all trees and woodland are an integral part of the natural environment which, together with social and economic factors, is a key component of sustainable development; and sustainable development is the 'golden thread' running throughout the NPPF (as paragraph 14 of that document states). The policies and recommendations of the NPPF should therefore apply in respect of trees at this site as in every other site containing trees, whatever their type or classification.

The second point with which I would take issue is in the classification of the avenue of 11 lime trees and one sycamore alongside the western boundary of the site. The Arboricultural Report classifies this group (G1) as C1/2, ie trees of very limited merit or such impaired condition that they do not qualify in higher categories; or trees present in groups without this conferring significantly greater collective landscape value, or trees offering only low or temporary / transient landscape benefits. In the context of this site and its surroundings, I consider this avenue of trees, located as it is along the boundary of the cricket club and forming a green backdrop to the urban environment of the town, to be a category 'A2' ie trees or groups of particular visual importance as arboricultural and / or landscape features.

Recommends conditions requiring safeguarding and protecting existing trees and hedges, requiring details of new planting and implementation of new planting.

4.1.10 **Drainage** – The proposed drainage details, plan and calculations should be required by condition if planning permission is granted.

4.2 **Public Comments**

4.2.1 This application was advertised via notice at the site. At the time of writing this summary, 130 comments had been received in response to this publicity.

Objections: 125

Supporting: 2

Neutral: 3

4.2.2 The objections raise the following comments:

Planning history

- Previous consent for DIY store etc has lapsed and can not be relied on

Economic uncertainty

- Loss of small local independent shops
- Vacant premises on High Street should be filled before developing a Retail Park
- Loss of jobs in local businesses, weakening the local economy
- Will draw trade and footfall away from the town centre
- Decline in local tourism, therefore local economy
- New jobs that will be provided are not a positive form of employment (e.g. low paid)

Character of Bridgnorth

- Local businesses are the “backbone of rural community”
- Design of buildings are generic and out-of-character
- Will result in decline of Bridgnorth as a historical centre
- High Street losing its character due to loss of local shops
- High Street should always remain the focal point of Bridgnorth
- Bridgnorth is a finalist in the Great British High Street because of its historic character

Car-parking

- Lack of parking
- Will exacerbate the issue of insufficient car-parking spaces
- Harm from removal of existing long-stay parking spaces
- Will cause inconvenience to regular users, e.g. medical staff and patients from Bridgnorth Hospital and Medical
- inconvenient to people who are not as able to walk distances
- Air pollution caused by drivers unable to find spaces and circle the town
- Concerns over change in disabled parking
- Concerns over even worse car parking scenario during big local events e.g. Bridgnorth 10k
- Impact on Innage Lane car park
- Loss of coach parking will impact on tourism and also market traders who use these spaces on Saturdays

Transport

- Dangerous parking on Innage Lane and surrounding streets near the school
- Congestion created by large delivery vehicles
- Uncertainty about the effectiveness of the Park and Ride scheme
- Increased traffic if shoppers prefer Bridgnorth to nearby towns

- Contributes to poor air quality
- Inadequate Transport Assessment document
- No practical suggestions for dealing with transport issues
- Safety risk of increased use of Innage Lane and crossing the roads to the town centre

Others

- Lack of need for more retail units
- Money should be spent on repairing and/or maintaining local infrastructure
- Retail Assessment submitted is out-of-date
- Building the Retail Park on the outskirts of the town would be more appropriate
- Removal of recycling facilities from Smithfield and Innage Lane car park not appropriate

4.2.3 The responses in support raise the following comments:

- More choices of shops will be provided
- More convenient for people who do not drive to get access to “appropriate” shops
- Old traditional features should be changed to keep up with the latest generation

4.2.4 Bridgnorth Chamber of Commerce organised a petition objecting to the development. This has now been submitted and shows 6,840 signatures.

The covering letter from the chamber comments that the survey data used by the applicant is over 10 years old, the job creation is over estimated and the impact on the existing businesses is under estimated. The chamber also raise concern that the new units will not retain expenditure as claimed by the applicant.

The park and ride service noted by the applicant is operated by the chamber and has been running to maximum capacity. It is operated by volunteers and paid for by contributions from local traders. It can not be guaranteed and only operates on Saturdays during the tourist season. Meridith's yard car park is also not available on Saturdays.

Car parking in the town is totally inadequate and the development would exacerbate this. The land was sold for car parking and is legally required to be retained as such.

4.2.5 Bridgnorth CPRE have written in objecting on the grounds of the design not resembling the historic High Street, that there is no demand from or for high street retailers, existing empty shops should be used before new units built, new units would draw trade away from town centre, loss of parking will impact the town centre, medical centre and leisure uses, will only bring part time jobs.

Vigorously oppose this application and remain very concerned.

5.0 THE MAIN ISSUES

- Relevant policy

- History of site
- Sequential site assessment
- Impact assessment
- Layout, scale and design
- Impact on amenities of neighbouring uses
- Access, car parking and accessibility to town centre
- Impact on historic environment
- Landscaping and ecology
- Flooding, drainage and contamination
- Other matters

6.0 OFFICER APPRAISAL

6.1 Relevant policy

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS3 (The Market Towns and Other Key Centres) aim to encourage the continued sustainable growth of Bridgnorth as the main market town in the eastern part of Shropshire, serving both the town residents and a wide rural hinterland. Bridgnorth is noted in CS3 as providing a focus for development within the constraints of its location on the edge of the Green Belt and River Severn. It is noted within the explanatory text of CS3 that the town is historic with medieval street pattern and many fine old buildings. The overarching policy of CS3 advises that development in the market towns will be to maintain and enhance their role in providing facilities and services to the rural hinterlands, and providing a foci for economic development and regeneration. Balanced housing and employment development, of an appropriate scale and design will take place within the towns' development boundaries.
- 6.1.3 With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available. Within CS15 the market towns will act as principal centres to serve local needs and the wider needs of the spatial zone. Appropriate convenience and comparison retail, office and other town centre uses will be permitted to support these roles.
- 6.1.4 There is no longer a policy requirement to prove a need for additional retail

development and it is not a case of providing for new retailers (end users) but a case of providing new retail floor space. As such, although there may be some empty units in a town, or underused units, this is not a reason to refuse consent for new retail floor space. There is a general presumption in favour of proposals for new retail floor space within the market towns and there is also a general acceptance in national planning guidance that there will be turnover of users in high street stores. Overall Bridgnorth is considered to be a healthy town centre with few vacancies, a low rate of turnover between users and this has all been acknowledged by its recent status as the winner of the 2016 Large Market Town award in Britain's best high street.

- 6.1.5 The SAMDev for Bridgnorth, policy S3, follows from the principles set in the Core Strategy policy CS3. This policy seeks to enhance Bridgnorth and includes a positive approach to attracting business to the area. Section 3 of S3 notes that "retail development will be directed to the town centre where it will benefit from, and contribute to, the town's historic character. The Primary Shopping Frontage at High Street and Whitburn Street are protected for retail uses in accordance with policies CS15 and MD10a and MD10b.
- 6.1.6 Policies MD10a and MD10b relate to Managing Town Centre Development and Town and Rural Centre Impact Assessments. Policy MD10a defines Bridgnorth as a category 'B' town, a settlement with a town centre and a primary shopping area. In category 'B' towns there is a presumption in favour of retail proposals in ground floor premises in the primary shopping area, additional main town centre uses in the primary shopping area and within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre of Bridgnorth, and which have a gross floor space of over 300sqm, will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.
- 6.1.7 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the "town centre first" approach where out of town sites should only be considered where there are no sites within or on the edge of centres and preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.8 Paragraph 26 of the NPPF also requires out of centre retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application

fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application.

6.1.9 The key issues are firstly, determining whether there are any sequentially preferable sites available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. Other material considerations also need to be taken into account, in accordance with legislation, and these, for this site, include the planning history of the site.

6.2 History of site

6.2.1 Outline planning permission was granted in April 2005 for redevelopment of the site for the construction of a DIY store with garden centre, extension to the existing Sainsbury food store, erection of four retail units (at the rear of 8 & 9 Whitburn Street), construction of a 136 space car park, construction of a new road, relocation of the indoor market and provision of an outdoor market area (application reference 04/0919). This outline superseded a previous outline consent dating back to 1999.

6.2.3 The outline consent was assessed against the policies in force at that time and the need for additional retail floor space was required as that was a policy requirement at that time. However, as referenced above members should note that there is no longer a policy requirement to prove a need for new retail developments. The outline consent was granted subject to conditions including the following condition:

1. *(a) In the case of any reserved matter application for approval must be made not later than the expiration of three years beginning with the date on which this permission is granted; and (b) The development to which this permission relates must be begun not later than whichever is the later of the following dates (i) the expiration of five years from the date on which this permission is granted; or (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.*

This condition requires the commencement of the outline consent within the time periods detailed in the condition. It does not require all of the reserved matters to be applied for and approved before any of the work commences. Providing an application for approval of reserved matters, even in part, is applied for within three years and providing the development, even in part, commenced within 5 years of the outline then the consent would remain valid and implementable.

6.2.4 Three reserved matters applications were thereafter approved. 07/0928 detailed the design, external appearance and landscaping of the car park and relief road; 08/0239 detailed the appearance, scale and landscaping of the extension to

Sainsbury; and 08/0238 detailed the scale, external appearance and landscaping of the DIY store and garden centre. The works to the car park and road approved in the 07/0928 consent have been carried out and as such this work has implemented the outline consent in accordance with the condition.

- 6.2.5 Accordingly the DIY store and garden centre could also be built as the outline consent was implemented and the detail of the DIY store and garden centre were applied for within the timescale given in the condition on the outline consent.
- 6.2.6 This has been questioned by a number of objectors as the decision notice for the DIY store reserved matters application includes a condition which requires the development to be begun within 5 years of the outline or 2 years from the approval of the reserved matters. The objectors consider that this condition means that the DIY store consent has now lapsed. However, section 92 of the Town and Country Planning Act 1990 states that the time period condition is to be imposed on the outline consent. There are two types of planning permission – full and outline. It is the outline consent that is the planning permission, the reserved matters is an application for approval of details and does not constitute a new planning permission. The details within the reserved matters application cannot alter the outline consent. Furthermore the wording of the condition refers to “*the development to which this approval of reserved matters relates...*”. The development to which the reserved matters relates is the works in the outline permission as a whole because the reserved matters are just approval of details of the development permitted under the outline consent. The requirement to impose a time limit condition under s92 has already been met on the outline consent rendering the condition attached to the reserved matters consent for the DIY store unnecessary. It is therefore advised that the time period condition on the reserved matters decision notice is unenforceable and does not alter the outline consent.
- 6.2.7 It is officer's advice that the outline consent has been implemented, there is no requirement for all of the reserved matters to be submitted prior to implementation and there is approval for the details of the DIY store and garden centre. As such building works on the approved DIY store and garden centre could be commenced. It is acknowledged that this is not the view of the Chamber of Commerce, however having considered this carefully this is the view of your Planning Officers and Council Solicitor. It may not be a popular view in the community, however it is the legal position on the outline consent and cannot be ignored.
- 6.2.8 The 2005 outline was also subject to a Section 106 agreement to require a section 38 highways agreement to enable the development of the road, CCTV, footpath links, public art and traffic order and management contributions to pay for any orders required to enable the development of the road and towards traffic management in the town centre. It was also subject to several other conditions including conditions to ensure the road was completed first and to control the size, opening hours and delivery hours of the DIY store, Sainsbury's extension and the number of parking space to be provided adjacent to the DIY store (136 spaces). Condition 19 on the outline consent also required a scheme to establish the pricing of car parking.

- 6.2.9 To deal with this latter condition Sainsburys, as the applicant, drew up a car parking agreement. The car park agreement allows the Council to use the car park for 80 years, it also allows Sainsburys to develop the approved DIY store or another consent 10 years after the date of the car park agreement providing they retain 136 parking spaces. This agreement has been questioned by a local resident as it refers to the wrong planning reference and also that the current application is not submitted by Sainsbury. This has been checked and the case officer can confirm that the date and reference number in the car park agreement is wrong, however it is clear from the detail in the agreement which planning application is intended to be developed, that of the DIY store. As for who can apply for an alternative consent under the car park agreement the current applicant is Ziran Land Ltd who are acting on behalf of Sainsbury and therefore Sainsbury are applying for the current proposal.
- 6.2.10 In conclusion, officers are sympathetic to the views of the Town Council and local residents in regard to loss of car parking from this site, as will be considered below. However the consent for the DIY store remains extant and could be developed. Such development would reduce the number of car parking space to 136 (as required by the decision notice and the car park agreement) and this must therefore be considered as the fall back position when considering the impact of reduction in car parking. This matter will be dealt with in more detail later in this report, however members must note the fall back which is a lawful permission which cannot be ignored as it is relevant material consideration.
- 6.3 **Sequential site assessment**
- 6.3.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in 'out of centre' locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.3.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach (now superseded but still good advice) states that:
"the sequential approach is intended to achieve two important policy objectives:
- Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel,
- The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre."
- 6.3.3 The application site is located adjacent to the existing Sainsbury food store. It is within the development boundary for Bridgnorth and partly within the identified

town centre as shown on the plan in the adopted SAMDev. The retail statement submitted with the application has included a sequential site assessment on the basis that the application site is partly outside the town centre. The assessment advises that there are no sites in the town centre which can accommodate the proposed development of 5 units, service area and car parking.

- 6.3.4 One edge of centre site was considered, that being Meredith Yard/ car park. This site is 0.71ha, wholly on the outside edge of the centre and currently car park/ market site. The site is not available due to the existing use and not being marketed for redevelopment. Furthermore, the site is smaller, irregular in shape and adjacent to the conservation area. Therefore the agent advises that the site is not suitable for the proposed development.
- 6.3.5 Meredith Yard is also not sequentially preferable to the application site as the application site is partly within the identified town centre. As such the current application is considered to comply with the sequential test. There are no sequentially preferable sites and this site is also considered by officers to be well connected to the existing town centre by reason of its close proximity to the town centre car park and pedestrian linkages.
- 6.3.6 The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. The scheme is considered to pass the sequential test and therefore we move on to assess impact.

6.4 **Impact assessment**

- 6.4.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse. Policy MD10a of the SAMDev advises that there is a presumption in favour of proposals for main town centre uses within the wider town centre. The proposal for 5 retail units is a main town centre use and is partly within the identified town centre. MD10b sets a local threshold for considering impact; any retail development outside the town centre with a floor area over 300sqm will require an impact assessment. As noted above the site is partly outside the town centre and as such the MD10a presumption does apply in part but so does the requirement for an impact assessment.
- 6.4.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increases in choice.
- 6.4.3 The Town Council objection includes concerns about the impact of the proposal on the retail trade and vitality within the town. The Chamber of Commerce and local objectors have also raised this issue as concerns with the Chamber commenting that the impact has been under estimated, jobs are over estimated

and that the clawback is not as claimed. Objectors questioning the potential loss of independent shops, loss of jobs, that the scheme will draw trade away from the town centre. However there has also been some local support to the potential for increased choice and new shops.

- 6.4.3 Within the submitted retail statement the agent has used data to calculate possible turnover of the proposed units, to calculate possible expenditure within the town and potential for growth through planned housing development. The statement advises that currently only 14% of the available expenditure is retained in the study area, the majority of this is spent in Bridgnorth but this does show that there is a significant level of expenditure lost to other towns.
- 6.4.4 The agent has commented that the proposed units will provide larger retail units than are currently available in the town centre but will not be as big as out of town retail parks. They also suggest that the proposal will provide greater retail choice, reduce the need to travel and create jobs. It is expected that the size of the stores will therefore compete with other large stores in neighbouring towns rather than competing with the smaller stores in Bridgnorth and therefore that the proposed development will claw back trade lost to other towns which do have shops of this size.
- 6.4.5 The Bridgnorth District Council Retail Study 2006-2021 is the most up to date retail study for the area. The agent suggests that there has been little change in shopping patterns since the study and also that the study confirms that there is retail trade lost from Bridgnorth to Telford and Kidderminster. The agent has also commented that vacancies within the town centre are lower than national average and that the town centre is popular and is meeting the day to day needs of the area. Within the town centre there are limited number of national retailers and a good range of independent retailers which helps to contribute to vitality. The size of stores is also mainly smaller units and as such the agent considers that there is a gap in the market.
- 6.4.6 As noted above current policy does not require applicants to prove a need for new retail proposals, the policy requirement is for new development to ensure that there is not a severe impact on the vitality and viability of the town centre. The Bridgnorth retail study identified need for additional floor space alongside the approved DIY store and as such there is no policy argument against the principle of new retail units, providing the impact is not severe.
- 6.4.7 The retail assessment predicts a £2m trade diversion from the existing town centre. This equates to a total trade diversion of 4.7%. This is 4.7% from across the town centre not from any individual store. The Council Policy Officer's advice is detailed in full under section 4 above. This advises that the submitted impact assessment is acceptable and based on appropriate information and that the conclusion of the assessment is sound. Furthermore the Policy Officer notes that the site is partly within the town centre and likely to become part of the town centre in a future local plan review. The position of the site is also considered to increase the potential for linked trips to the existing town centre. Accordingly, given that the existing town centre is healthy with low levels of vacancies and turnover between users, a good proportion of independent traders and with

historic environment which attracts locals and tourists a 4.7% impact could not be considered as a significant adverse impact.

6.4.8 The objections from the Chamber of Commerce, Town Council and locals are noted, however they are not supported with any evidence of impact assessments. Accordingly officers would advise members strongly that a refusal based on the impact possibly being more than 4.7% would not be defensible on appeal. A 4.7% impact could in no way be considered severe (note the 11% impact of Rocks Green, Ludlow) and there is no evidence to support a higher impact. As such it is officers opinion that the scheme as proposed meets the impact test requirements in the national and local policy.

6.5 **Layout, scale and design**

6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.5.2 This application seeks full planning permission for the erection of 5 retail units with a total floor space of 2,135sqm, car parking to the front and rear and service area to the rear. The agent has commented that the internal layout as shown on the plan is for indicative purposes only and the final floor space of each unit will depend on the requirements of end users. At this time there are no named operators for the units and as such no defined internal floor space arrangements. The intention is for the end unit to be operated as a café with an external seating area, however this is also subject to finding a suitable user.

6.5.3 Access is as existing and currently provides access to the car park. The scheme will provide two points of access off the service road, one to the front car park and one to the car parking/ service area to the rear of the building. The proposed retail units are shown to be sited near the rear of the site, no further forward than the existing health centre building. The proposal is for a single building internally divided into 5 units, as noted above the internal division is not for approval at this time. Officers acknowledge that the internal space requirements will be dependent on the potential end user, however we consider it would be reasonable to place a maximum floor space limit to ensure that there isn't one very large unit and 4 small units which could potentially alter the impact on the town centre.

6.5.4 Externally the building has been designed with four sections of pitched roof and two sections of curved roof. The planning statement comments that, in the opinion of the applicant, the design provides a mix of pitched and curved roofs which the agent considers fits in with the previous use of the site as a livestock market. The external finish materials are to be cladding, glazing, ironwork and brick and these materials and the roof shape have been designed to break up the massing of the overall building. The multiple roof shapes will also ensure that the overall height of the building is kept low, as a larger expanse of roof would require a higher ridge level.

- 6.5.5 In addition to the proposed plans the applicant has also submitted computer generated images (CGIs) which are intended to assist in understanding how the building will appear in the context of the existing development. CGI1 shows the proposed building with the retained landscaping to the rear and the health centre in the background. CGI2 shows the proposed building with Sainsburys store in the background. CGI3 is the view from the far side of the Merediths car park with the existing landscaping breaking up the view of the building and also the building in context with the Sainsbury store and health centre which are both larger buildings. CGI4 & 5 both show views from Smithfield Road and show the building with the car parking to the front and the new planting along the back of the footpath. These views also show that the proposed building will be lower in height than both the Sainsbury and health centre buildings. CGI6 is the view of the site from the existing cricket and hockey club with the landscaping screening any views of the building but with the health centre and Sainsburys visible. Officers consider that even if the building was glimpsed over and through the trees this would not be unacceptable. These CGIs are considered by officers to provide useful additions to the plans and help to show how the building will appear in the existing landscape and context.
- 6.5.6 The building is designed to face towards Smithfield with the main car park in between, this will provide natural surveillance of the car parking area. The existing trees and hedges around the site are to be retained and new trees planted to provide a buffer between the car park and health centre. The agent also considers that the proposed development will complete the redevelopment of the wider area which was started with the construction of the road.
- 6.5.7 Objections have been raised by Bridgnorth CPRE on the basis that the design does not resemble the historic High Street and objections have also been received from local residents that the designs are generic and out of character. Concerns have also been raised that Bridgnorth is a finalist in the Great British High Street because of its historic character.
- 6.5.8 The Council Conservation and Design Officer has advised on this application given the scale of the development and the proximity of the site to the historic town centre. The advice is that the scheme is acceptable from an historic environment perspective and that the design of the current proposal will be an enhancement to the townscape taking into account the previous approval for a DIY store and garden centre and also the existing condition of the site. The Conservation Officer comments that the site is currently vacant and semi derelict, a gap in the historic town, to be replaced with a modern range of retail units that reflects the historic use of the site and local vernacular. Conditions are recommended to ensure appropriate materials.
- 6.5.9 Design and historic impact is a subjective matter, however the site is outside of the historic core of the town centre and would not have a direct impact on the historic centre. Officers consider that it would be inappropriate to attempt to replicate the historic core on this site given that it is detached from the core and also given the surrounding development. The design is considered by officers to represent the previous use of the site and also be better than the design of what was previously approved on this site. The context of the Sainsbury store and

health centre also need to be taken into account. The proposed design and scale would not have a visual impact on the heritage of Bridgnorth. Furthermore, Bridgnorth has now won the Large Market Town category of the Great British High Street but this was based on the use of events, local history and the park and ride scheme. The proposed development on this site would not impact on the historic town centre or its ability to continue to achieve the things that have won it this award.

6.5.9 The impact on vitality and viability of the town centre has already been considered earlier in this report. The proposed development is intended to provide retail units that provide different sized units to those available in the town centre and as such officers consider that overall there is not sufficient evidence to show that the scheme will result in a detrimental impact to the town centre or its historic character.

6.6 **Impact on amenities of neighbouring uses**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.6.2 The site is enclosed by the existing Sainsbury store to the south, health centre to the north, cricket pitch to the west and car park to the east. There are no residential properties around the site with the nearest residential properties being on the opposite side of the health centre, car park and Sainsburys. Accordingly the development of this site as proposed would not have an impact on the residential amenities of any property.

6.6.3 In terms of impact on local amenity the above section seeks to provide comment on design and scale matters and it is officers opinion that the proposed development would be an acceptable form of development for the local area and would not adversely affect the local amenity, including the historic character of Bridgnorth and the associated conservation area.

6.7 **Access, car parking and accessibility to town centre**

6.7.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.7.2 Access is proposed via the existing access junction which currently provides access to the car park. The proposal is for 5 retail units with a car park providing 126 spaces between the proposed retail units and the highway and a service area and 32 parking spaces to the rear of the building. 20 cycle & 4 motorcycle parking spaces are also proposed. The Council Highway Officer's comments are provided in detail in section 4 above. The Highway Officer has concerns about the parking spaces to the rear of the building and considers that this is most likely to be used for storage, deliveries and staff parking. However, the Highway Officer's advice is

that these parking spaces are not essential for the development and that, on balance, taking into account the site constraints, the access layout and provision of 126 parking spaces is acceptable.

- 6.7.3 The application form notes that there are currently 278 parking spaces and that the proposal will provide 158 parking spaces which is a reduction of 120 spaces. The Town Council, local objectors and the Chamber of Commerce have all raised concerns about the loss of any parking within the town and commented that parking is often in short supply, not just at weekends.
- 6.7.4 This is a genuine concern and one which officers acknowledge. The loss of parking is a material consideration and not something which officers would usually seek to encourage unless it can be proven that the parking spaces are surplus to requirements or can be accommodated elsewhere.
- 6.7.5 The planning statement and transport statement acknowledge that, after the development is completed, there is likely to be a shortfall of approximately 161 parking spaces on Saturdays but that at most other times there would still be sufficient space within the car park and other town centre car parks to accommodate all parking requirements. This information is based on surveys of the car parks and as such is considered to represent an accurate picture of the potential shortfall. Although local objections have suggested that there is a shortfall at other times as well as weekends the evidence does not support the objection. As such, although the objections are noted there is no evidence to show that the development will impact on parking other than on Saturdays.
- 6.7.6 The surveys were carried out across all car parks in the area. Sainsburys car park provides 271 spaces which is free for the first 15 mins and charged thereafter (but shoppers spending more than £5 in the store get a refund). Merediths car park on the opposite side of Smithfield road has 321 spaces (reduced to 122 on Saturdays due to the market). Innage Lane car park, which is within walking distance of the town centre but not considered to be on the edge of the centre, has 144 car parking spaces and 8 HGV spaces in which coaches can park for free. In addition the Chamber of Commerce operate a park and ride between 9:30 and 4:30 on Saturdays between April and September and during Christmas time. This is not a Council operated park and ride, it is a private venture operated and paid for by members of the Chamber of Commerce.
- 6.7.7 The car parking licence agreement between Sainsburys and the Council is also relevant to car parking. The agreement allows Sainsburys to alter the configuration of the car park to carry out the development of the land which they had consent for under the previous permission, providing 136 parking spaces are maintained. Accordingly, Sainsburys would be within their rights to reduce the level of parking to 136 spaces, without the need for any other planning consent. Furthermore, at present the car park charging schedule on the application site includes long stay parking. This therefore puts greater pressure on the availability of short stay parking spaces.
- 6.7.8 The proposal help to would resolve this conflict by only allowing short stay parking in the majority of spaces, the 126 to the front of the retail units, and thereby

increasing the availability of short stay parking. The Council Highway Officer has advised that a revised car park management scheme should be drawn up for the 126 spaces to the front of the site and that the charging schedule could allow for long stay parking but would seek to discourage it through charging rather than prevent it altogether. This would be considered to therefore increase short stay parking availability whilst not preventing long stay parking.

- 6.7.9 In addition to increasing supply of short stay parking the applicant has offered off-site mitigation in the form of financial contributions to the existing park and ride and also to re-organise the car park at Innage Lane and provide additional signage.
- 6.7.10 The financial contribution to the park and ride scheme is suggested to reconfigure the land which the park and ride is operated from to increase the available parking spaces. However, as this is not a Council operated park and ride the Council could not spend any monies received as a result of this application on the existing park and ride. Furthermore, as noted by the Chamber of Commerce in their comments the park and ride can not be guaranteed in the long term as it is funded by Chamber members.
- 6.7.11 Money could, however, be spent on providing additional car parking elsewhere within the town. Such a financial contribution would comply with the tests within legislation. As the development will result in a shortfall of parking on Saturdays the contribution would be required to make the development acceptable, the contribution would be reasonable and appropriate for the development being considered. The agent has made a suggestion that the HGV spaces at Innage Lane could be used for car parking on Saturdays and that the existing recycling centre on Innage Lane could be removed to provide additional parking spaces. The reuse of the HGV spaces would be done by lining for both HGVs and cars and would provide an additional 56 car parking spaces which could be used for long stay parking at the weekends.
- 6.7.11 Objectors have commented that the loss of the HGV spaces will impact on coach parking and therefore tourist visitors. However, the evidence provided by the agent, which is backed up by the comments of the Council Highway Officer, is that the HGV spaces are not frequently used at weekends and no other evidence has been provided to contradict this. Coaches can still drop off & pick up tourists in the town centre and then park elsewhere within the town. The proposal would provide multi-use spaces which can be used by HGVs and coaches during the week and then cars on Saturdays however the advice of the Highway Officer is that the financial contribution to car parking should be used to investigate the options and may allow the retention of 1 or 2 coach parking spaces.
- 6.7.12 Objectors and the Town Council have also raised concerns about the loss of recycling facility from Innage Lane and commented that this will impact on where people can go to recycle items not collected from households. The Council website advises that the Innage Lane car park provides recycling for all items collected from households (plastic, metals, paper, glass) and also cartons, clothes and small appliances. As such it would only be these last three items that are not currently collected directly from households and would be lost facilities from this

location. The Council Waste Team has commented on the removal of the recycling facilities from Smithfield car park and, although they would prefer not to see the loss of the facilities, they have not objected. There are other facilities within the town and around the town to provide for recycling over what is collected from households. As such it is considered that the loss of the recycling facilities from both Smithfield and Innage Lane would not be sufficient justification to warrant refusal of the current proposal.

- 6.7.13 The works proposed to Innage Lane would provide additional parking spaces which would help to alleviate the identified shortfall and provide replacement parking for what is being lost at Smithfield. As such it is officer's opinion that, even if the previous consent on the site was not extant, mitigation can be provided to overcome the loss of parking from the application site and therefore it would not be reasonable to refuse the current proposal on the grounds of loss of parking. In addition the agent has offered additional signage between Innage Lane and the town centre to direct cars to Innage Lane car park if Smithfield is full and also to direct pedestrians from Innage Lane to the town centre. This can also be achieved through the payment of a financial contribution and additional signage would also help to alleviate the reduction in parking on the existing site.
- 6.7.14 As noted the proposed works to Innage Lane car park and also the provision of additional signage would need to be achieved through a Section 106 legal agreement as the works would need to be done by the Council on land not within the application site or within the control of the applicant. Therefore the recommendation will be subject to the applicants entering into a legal agreement to secure a financial contribution.
- 6.7.15 With regard to traffic movements the agent suggests that the scheme will reduce traffic movements along Smithfield because of the reduction in parking spaces. It is also generally accepted that retail traffic movements are not new movements and are likely to already be on the local network either doing other shopping trips or linking the trips with access to employment or services. However, there is concern that the reduction in parking spaces at Smithfield might result in increased traffic movements around the town centre as a result of shoppers looking for parking spaces. This issue was raised by the Council Public Protection Officer who noted that Whitburn Street/ Pound Street suffers from poor air quality.
- 6.7.16 Air quality assessments were therefore requested and submitted. The Public Protection Officer has commented on these assessments and confirmed that the information is satisfactory and that the conclusions are reasonable but also asked for further information regarding traffic looping around the town looking for parking spaces. Information was then provided by the applicant's Highway Consultant which the Public Protection Officer has agreed to. In addition to rearranging parking at Innage Lane and the additional signage the applicant has offered to install 2 electric charging points within the application site car park. The advice is that the Innage Lane improvements are made prior to car park works at the Old Smithfield site in order to alleviate parking concerns during development of the Old Smithfield site. The mitigation proposals are considered by officers to help to alleviate the concerns regarding the potential impact on air quality.

- 6.7.17 The submitted planning statement also considers that the site is highly accessible on foot, by bus and by bicycle and are close to the existing town centre. The statement advises that the whole of Bridgnorth is within cycling distance of the site and a large majority is within walking distance. The site is within the 30mph limit and there are existing bus stops on both sides of Smithfield. Accordingly the site is well connected to enable access by means other than the car.
- 6.7.18 The transport assessment advises that the proposed retail units would be likely to receive a single delivery each per day. That would equate to 5 delivery vehicles per day. Swept path analysis has been provided to show that the delivery vehicles can turn within the area at the rear of the units and delivery vehicles can be restricted to non-peak times to ensure that the potential for conflict between customer vehicles and deliveries is kept to a minimum. As such, although concern has been raised by objectors about the increase in congestion from delivery vehicles, the scale and type of development proposed would not result in a significant increase in delivery vehicle movements over the existing vehicle movements to the Sainsbury store.
- 6.7.19 In conclusion, it is acknowledged that the development of this site will reduce the availability of car parking in the town centre. However, the extant consent is a significant material consideration and that consent could be implemented and reduce the level of car parking available. Furthermore, the current proposal also proposes other mitigation measures which will, as a result, provide more car parking in the town than the extant consent and also provide for electric vehicles and better signage between car parks. Accordingly it is officer's opinion that the proposed scheme, subject to the S106 mitigation measures, is acceptable and overcomes the concerns regarding loss of parking on the site.
- 6.8 **Ecology and landscaping**
- 6.8.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist who has raised no objection subject to the provision of artificial nesting boxes.
- 6.8.2 An arboricultural report has also been submitted which includes a full tree survey, plan showing the trees, categorisation and root protection areas, arboricultural implications, method statement and tree protection plans. The site contains 65 individual trees of semi-mature broad leaf and coniferous species, some of which are in groups. The report acknowledges that groups of trees outside the site may also influence the development of the site. There are no category A trees, 4 category B trees are to be removed and the remainder are category C trees. All the trees within the site are to be removed, the groups on the edge of the site are to be retained. None of the trees within the site are considered to be of landscape merit to categorise them higher.
- 6.8.3 The application proposes mitigation planting of native evergreen species planted at large stock sizes. The applicant considers that the economic benefits of the

development of this site will outweigh the limited amenity impact of the trees being removed.

6.8.4 The Council Tree Officer's comments are detailed in full under section 4 above. The Tree Officer agrees with the tree survey, that the majority of the trees are of low quality, and does not object to their removal subject to protection measures for the retained trees and also mitigation planting.

6.8.5 Given the comments of the statutory consultees in relation to ecology and trees the development of the site as proposed is considered to comply with the requirements of policy CS17 of the Shropshire Core Strategy.

6.9 **Flooding, drainage and contamination**

6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity.

6.9.2 A drainage strategy has been submitted with the application which advises that the site currently has a surface water drainage system where the water is collected into gullies before discharging into the public sewer network. The applicant has acknowledged that the development will need a wholly new system but has commented that the ground conditions are not suitable for soakaways and therefore has proposed an attenuation tank to control the flows to the mains. This will allow the outflow to the mains to be reduced albeit that the level of permeability will also decrease. At present 80% of the site is impermeable and the proposal will result in 100% impermeable. However, the addition of storage tanks will allow attenuation which will reduce the overall flow of surface water discharging it over a longer period of time.

6.9.3 New foul drainage connections will be required and the proposal is to connect to the mains drainage system.

6.9.4 The Council Drainage Consultant has not raised any concerns or objections to the proposal and has recommended that the details can be required by condition. A condition is therefore recommended to ensure that the drainage systems for both surface water and foul water is submitted for approval by the Council to ensure that the development complies with policy CS18.

6.10 **Other matters**

6.10.1 The Council Archaeologist has advised that the proposed development site is deemed to have some archaeological potential and as such has recommended that a programme of archaeological work, to comprise a watching brief during any ground works associated with proposed development, be made a condition of any planning permission for the proposed development. This is in line with the archaeological report submitted with the application which notes the historic potential of the site and recommends a watching brief and monitoring.

6.10.2 The Council Public Protection Officer, in addition to commenting on traffic movements and associated air pollution, has also commented in relation to

contamination and asbestos noting the submitted report and advised that there is no further action required in regard to these matters. This is in response to the submitted geo-environmental report which advises that the site was historically part of the cattle market with animal pens and later a building (between 1960's and late 20th century). The site has previously been investigated for contamination during the previous applications and the results of the previous and current survey work is that there are no significant contamination sources. The Public Protection Officer has accepted this and advised that no further contamination surveys or conditions are required.

7.0 CONCLUSION

- 7.1 The proposed development has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of five retail units on the application site would not have a significant adverse impact on the vitality and viability of Bridgnorth town centre and that there are no sequentially preferable sites.
- 7.2 Furthermore it is considered that the layout, scale and design of the site is appropriate for the context of the surrounding site; the level of parking and service delivery space is acceptable taking into account the fall back position; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring land uses, ecology or drainage.
- 7.3 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS3, CS6, CS17 and CS18, and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Bridgnorth Town Centre. The scheme is also in accordance with the policies within the recently adopted Shropshire Site Allocations and Management of Development (SAMDev) policies MD10a, MD10 and S3 and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.



Committee and date

South Planning Committee

7 March 2017

Development Management Report

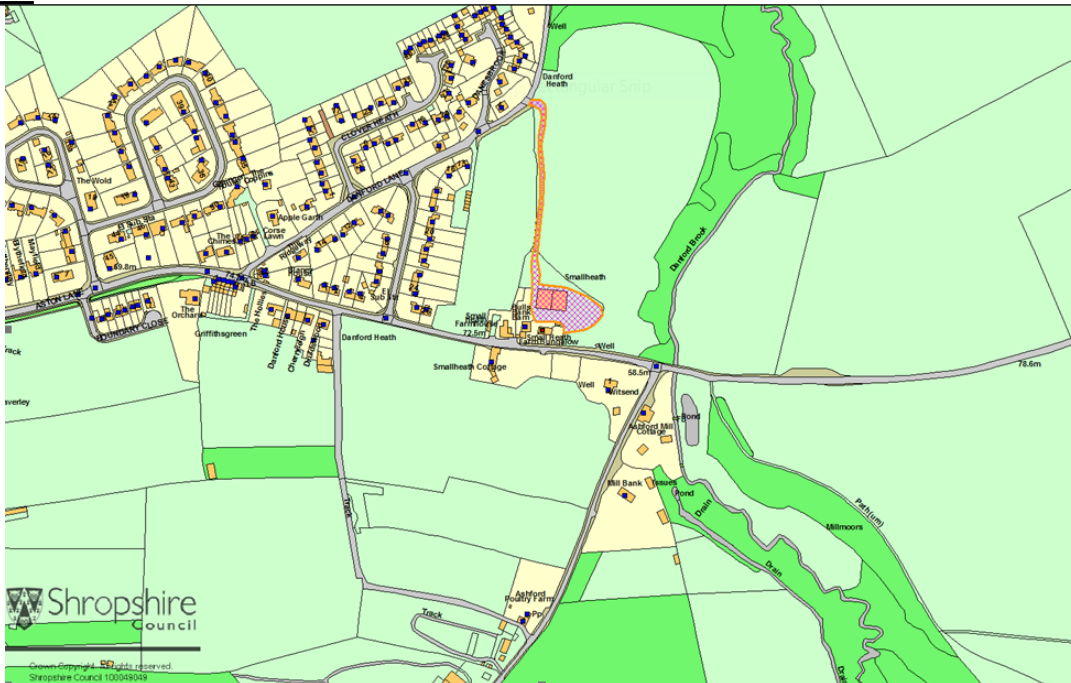
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 16/03673/COU	Parish: Claverley
Proposal: Change of use of redundant agricultural buildings Units 1, 2 & 3 to B1 (light industrial) and Units 4, 5 & 6 to B8 (storage and warehousing)	
Site Address: Buildings To The North Of Small Heath Farmhouse Ashford Bank Claverley Wolverhampton	
Applicant: Mr Robert Lee	
Case Officer: Elizabeth Attwood	email: planningdmse@shropshire.gov.uk

Grid Ref: 380036 - 293297



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is seeking full planning permission for a change of use of redundant agricultural buildings Units 1, 2 & 3 to B1 (light industrial) and Units 4, 5 & 6 to B8 (storage and warehousing). There are no planned changes to the elevations and the existing vehicular access will be utilised. The total floor area of the building is some 497 sqm which would be subdivided into six units. The original floor area split stated on the planning application form was 252 sqm class B1(c) and 245 sqm class B8 storage or distribution. Following discussions the balance of the floor area has changed to increase the proportion that would be Class B1(c) light industrial use and the applicant has agreed that the remaining Class B8 use areas would be for storage only, and not as distribution centre.
- 1.2 The application is part retrospective in that Units 4, 5 and 6 are currently used for the storage of a Car & Pick-up, Bicycle Equipment and a van and building supplies.
- 1.3 Unit 1 has been occupied by a car repairer since May 2015. Damaged cars are taken to the site, repaired and then offered for sale. This use which falls under B2 (General Industry) & *Sui Generis* respectively, this use is unauthorised and is considered inappropriate in this location. The matter is being dealt with separately by the Council as an Enforcement Case. It is not part of this application.
- 1.4 The site belongs to G H Lee Farms and was previously used for potato storage which has subsequently been moved to another part of the farm.
- 1.5 Planning application 16/00597/COU for retrospective planning permission to use the agricultural buildings for Class B2 (General Industrial) and/or Class B8 (Storage and Distribution) was withdrawn on 9th March 2016.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The buildings at Small Heath Farm are located at the eastern end of the village of Claverley. The site is accessed via a farm track off Danford Lane which is a residential area.
- 2.2 The site extends to 0.74 acres and comprises a hardstanding yard and circulation area and two agricultural buildings side by side. The buildings are a steel portal frame, concrete block and profile sheeting construction under duo pitched fibre cement sheet roofs and extend to 497 sq.m. There are roller shutter doors on the north and south elevations.
- 2.3 The western building is divided into 5 units with Units 2, 4, 5 & 6 being very modest

in size; Unit 3 is located in the centre of the building and is the full length of the building. The eastern building comprises Unit 1 and is the largest.

- 2.4 The site is located in the open countryside Green Belt, with agricultural land to the north and east, a pony paddock to the west with houses beyond. Immediately to the south is a residential dwelling behind a timber panel fencing and a conifer hedge.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local Member has requested that the application is decided by Planning Committee. The Parish Council objects to the proposal. There are numerous representations objecting to the unauthorised use of Unit 1. The Principal Planning Officer, in consultation with the Chair of the Planning Committee, has agreed that the application should be decided by Committee.

4.0 Community Representations

- 4.1 Claverley Parish Council – Object:

- Considers that light industrial/storage/warehousing is a totally inappropriate use for the agricultural buildings situated so close to a residential area. This is having a very adverse impact on the neighbourhood. In the opinion of the Parish Council this type of business activity should be situated on an industrial estate and not near to a residential area in a rural village. Access to the site is via narrow country lanes and then through residential areas unsuitable for the many vehicles delivering and collecting from this site and posing an increased danger to pedestrians and children.

- Comment that use by agricultural vehicles was seasonal and did not cause the level of disturbance to local residents as do the present operations.

- Question if operating hours will be adhered to.

- 4.2 SC Highways Development Control - No objection in principle due to the limited use which is unlikely to have any greater impact than the previous agricultural use of the building.

- Note that within the submitted planning statement, the applicant has indicated that they might be willing to withdraw the B8 (Distribution) element, and from a highway safety standpoint this could be advantageous. Insofar as, it potentially removes the possibility of unsuitable HGV movements within the adjacent residential streets, should the building be let for some form of warehousing/distribution business. Albeit the size of the building is limited, but the surrounding land might-be used.

- 4.3 SC Ecology – No Objections:

Suggests condition in respect of the erection of two bird boxes and the submission of a lighting plan. Informatives in relation to nesting wild birds, storage of materials and trenches and pipework are also recommended.

Prior to the first occupation of the buildings hereby permitted, 2 nesting boxes suitable for starlings or house sparrows shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

Reason: To ensure the provision of nesting opportunities for birds in accordance with section 11 of the National Planning Policy Framework.

Lighting plan

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and Lighting in the U.K. guidance.

Reason: To minimise disturbance to bats, European Protected Species.

Informative: Ecology ' Nesting wild birds

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy and egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Informative: Ecology ' Storage of materials

The storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.

Informative: Ecology ' Trenches and pipework

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

- 4.4 SC Public Protection - No objection to the proposal since the car repair element has been removed from the application, and recommends that hours of use are conditioned.

(Public Protection comment that should the applicant bring forward an application to seek approval for B2 land use, which would include car repair works, it is likely that Public Protection would object given the close proximity of residential dwellings in this rural setting and the potential for noise to have a significant impact on the residential amenity of these residential dwellings. However these observations are not relevant to this application as the car repair element has been removed as noted above).

- 4.5 SC Drainage - No objections and recommends an informative in respect of a sustainable drainage scheme for the disposal of surface water from the development.

- Public Comments

- 4.6 A site Notice and two rounds of 65 direct neighbour letters have publicised the application. A total of 37 letters of objection have been received. However, these relate to the current unauthorised use of Unit 1 for car repairs which has resulted in a significant number of vehicular movements associated with the site, including; HGV's, car transporters, pickup trucks with trailers delivering damaged cars for repair and prospective purchasers visiting the site and not the current application for the B1 and B8 use.

The relevant comments received are;

- This is not a suitable site for light industrial use, this type of business should be situated where there is infrastructure in place to support it.
- It is a farm building in a farming area and should be kept for farming use
- Claverley is not a suitable location for an industrial operation of any sort.
- Road damage, noise and pollution from increased vehicle movements.
- Danger to pedestrians.
- Floodlighting would harm neighbour amenity.
- Site can be viewed from Danford Lane and is also visible from Aston Lane.
- Large number of cars and related activity will discourage wildlife.

- Existing activities on site not a light industrial use; should re-locate to an industrial site with correct infrastructure to support it.
- Pollution risk to brook.
- Not a suitable site for light industrial use.

5.0 THE MAIN ISSUES

Principle of development in the Green Belt

Visual impact and landscaping

Highway Safety

Residential Amenity

Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development in the Green Belt

6.1.1 The site is located within the Green Belt where Part 9 of the National Planning Policy Framework (NPPF) applies. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

6.1.2 The NPPF weighs in favour of approval of all sustainable development unless there are specific policies within the Framework that indicate development should be restricted. Part 9 of the NPPF specifically relates to development in the Green Belt and attaches great importance to protecting it. Therefore the presumption in favour of sustainable development does not apply here, as stated in paragraph 14 of the NPPF. However, paragraph 90 of the NPPF advises that the re-use of buildings that are of permanent and substantial construction, in a manner which preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt, is not inappropriate development in Green Belt areas.

6.1.3 With respect to Shropshire Councils Core Strategy policy CS5 supports small scale economic development /employment generating development in the countryside including the conversion or replacement of suitably located buildings; this is subject to the additional controls which apply to Green Belt areas. In explanation it states that the emphasis of the policy is on sustainability and rural rebalance linking with objectives for rural renaissance. The policy seeks to support appropriate land and resource based uses and economic diversification.

6.1.4 Policy CS13 supports these objectives recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of activity associated with agricultural and farm diversification amongst others. This over-arching policy on economic development

seeks to address the key issues and challenges that face the Shropshire economy, however, in rural areas, in countryside away from settlements, it is important to recognise that small scale economic development, agricultural and non-agricultural farm diversification schemes are areas of economic activity for which policy provision needs to be made.

- 6.1.5 Paragraph 28 of the NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.
- 6.1.6 Policy CS6 confirms that there is a need to consider the scale and design of proposals, where development is most appropriately sited, environmental and other impacts. MD2 requires development to respect locally distinctive or valued character.
- 6.1.7 Policy MD6 states that development must be able to demonstrate that it does not conflict with the purposes of the Green belt and supports development of previously developed sites, which would not have a greater impact upon the openness of the Green belt than the existing development, providing *inter alia*, the development is for employment or economic uses.
- 6.1.8 The proposal involves the reuse of an existing agricultural building which is no longer required for farming operations as these are carried out at other sites belonging to the applicant. There will be no alteration to the existing buildings. Therefore there will be no greater impact upon the openness of the Green Belt.
- 6.1.9 Accordingly, the proposed reuse of an otherwise redundant building is considered to represent appropriate development in the green belt, as there will be no demonstrable impact upon the openness of the green belt, and a new rural enterprise will be created.

6.2 Visual impact and landscaping

- 6.2.1 Policy CS6 aims to protect the natural environment taking into account local context and character, and policy CS17 seeks to ensure that all development does not adversely affect Shropshire's visual assets and landscape.
- 6.2.2 As noted previously there are no alterations proposed to the existing buildings, and all manner of farm vehicles, machinery and agricultural paraphernalia could be stored on the site, and this would not look out of place or incongruous in the context of the site.
- 6.2.3 However, the site occupies a relatively isolated, prominent location and there is no screening to the north or east. Therefore, it is considered necessary to restrict the external storage of goods associated with a B1 and B8 Use of the site, which extends to 0.74 acres, as this would have an adverse impact upon the openness of the Green Belt as well as having a detrimental effect upon the visual amenity of the

rural area.

- 6.2.4 Furthermore, policy MD7b states that; *Where proposals for the re-use of existing buildings require planning permission, if required in order to safeguard the character of the converted buildings and/or their setting, Permitted Development Rights will be removed from any planning permission.*
- 6.2.5 With the above in mind it is considered that the use of the site can be suitably controlled via the imposition of suitably worded conditions to ensure that there would be no adverse impact upon the visual quality of the site.

6.3 Highway Safety

- 6.3.1 Paragraph 32 of the NPPF states that; *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 6.3.2 The extant use of the site as a farm yard and agricultural buildings means that the HGV (tractor and trailer) movements are unlimited. It is appreciated that this may have historically been seasonal only. However, this could change without the need for planning permission to 24hrs a day 365 days a year.
- 6.3.3 The total size of the building is only 497sq.m. The traffic associated with Class B1 Business Uses is unlikely to generate a significant amount of HGV vehicle movements, or to exceed the equivalent type of movements that a resumption of agricultural use of the buildings could generate. The proposed limited Class B8 Storage Use, excluding use as a distribution centre, would also ensure that any potential vehicular movements is acceptable from a highways and transport perspective; bearing in mind the fallback position noted above.
- 6.3.4 The existing access is suitable and the surrounding road network, although narrow, is not heavily trafficked and it is considered the traffic associated with the proposed development would be adequately accommodated by the local road network. There would not be severe residual cumulative impacts from the development that would justify a refusal on highway safety grounds.

6.4 Residential Amenity

- 6.4.1 Core Strategy policy CS6 seeks to ensure that residential amenity is safeguarded as this contributes to the health and wellbeing of communities.
- 6.4.2 A B1 (Business) Use comprises;
- ☐ Offices, not within A2, (A2 includes banks, building societies, estate and employment agencies, professional and financial services);
 - ☐ Research and development studios, laboratories, high tech;
 - ☐ Light industry

- 6.4.3 A B1 is a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Therefore, it is appropriate in this location as it will not adversely impact upon the residential amenity of the adjacent residential property or the villagers.
- 6.4.4 A B8 comprises wholesale warehouse, distribution centres and repositories. A large scale B8 use would not be appropriate in this location due to the potential for a significant number of vehicular movements including vans and HGV's. However, the B8 element will be restricted to three of the small units (4, 5 & 6) and limited to storage use. Therefore, any impact will be limited due to their size. Furthermore, Permitted Development (PD) which allows B1 to change to B8 and vice versa (subject to certain limitations) would be removed on any planning permission issued.
- 6.4.5 SC Public Protection have no objections and hours of use will be controlled via the imposition of a condition. Suggested hours are:
- Monday – Friday 08.00 – 18.00;
 - Saturday 08.00 – 13.00
 - No operations on Sundays and Bank Holidays.

6.5 Ecology

- 6.5.1 Paragraph 109 of the NPPF states that; The planning system should contribute to and enhance the natural and local environment. Policy CS17 seeks to protect and enhance Shropshire's environmental assets and policy MD12 seeks to avoid harm to Shropshire's natural assets.
- 6.5.2 Therefore, as suggested by the Council's Ecologist conditions in respect of the erection of bird boxes and the submission of a lighting plan will be imposed.

7.0 CONCLUSION

- 7.1 The proposal comprises the reuse of buildings and therefore there will be no adverse impact upon the openness of Green Belt with a condition restricting outside storage. The proposal would represent appropriate development and support economic growth in the rural area creating job opportunities and prosperity. The use of the site will be limited to the buildings only with no external storage and therefore there will be no adverse impact upon the character and appearance of the site and its rural setting. There would be no undue adverse impact upon residential amenity, highway safety or harm to the biodiversity of the site. The proposed development is therefore considered to be compliant with to the adopted Core Strategy policy CS5, CS6, CS13 & CS17 and SAMDev policies MD2, MD6, MD7b & MD12 and the guidance set out in the National Planning Policy Framework.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However, their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore, they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

NPPF: National Planning Policy Framework

NPPG: National Planning Practice Guidance

Core Strategy Policies:

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS13: Economic Development, Enterprise and Employment

CS17: Environmental Networks

SAMDev Plan:

MD2 Sustainable Design

MD6 Green Belt & Safeguarded Land

MD7b General Management of Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY:

16/00597/COU Application under Section 73a of the Town and Country Planning Act 1990 for change of use of redundant agricultural buildings to B2 (general industrial) and/or B8 (storage and warehousing) - (Retrospective) WDN 9th March 2016

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Supporting Statement
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Tina Woodward

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

3. Prior to the first occupation of the buildings hereby permitted, 2 nesting boxes suitable for starlings or house sparrows shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

Reason: To ensure the provision of nesting opportunities for birds in accordance with section 11 of the National Planning Policy Framework.

4. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and Lighting in the U.K. guidance.

Reason: To minimise disturbance to bats, European Protected Species and to safeguard neighbour amenity.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 7 class F and H; shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

6. No storage of goods or materials of any description shall take place outside the buildings as identified on the Location and Block Plans.

Reason: To ensure that the proposed development will not prejudice either the enjoyment by neighbouring occupiers of their properties or the general appearance of the locality and openness of the Green Belt.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 3 Class I; shall be carried out.

Reason: To maintain the scale and character of the development and to safeguard residential and highway safety.

8. The use hereby permitted shall not be carried out on Monday - Fridays between 08.00 and 18.00 and Saturdays 08.00 and 13.00, and at no time on Sundays , Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

9. No deliveries shall arrive or goods be dispatched from the site outside the following times:
a) 08.00 am and 18.00 pm on Monday- Friday;
b) 08.00 am and 18.00 pm on Saturdays; and
c) no deliveries shall arrive or goods be dispatched from the site on Sundays, Bank or Public Holidays.

Reason: To minimise noise disturbance to neighbouring residents.

10. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any Order revoking and re-enacting that Order with or without modification, the Class B8 Use shall be restricted to units 4, 5 and 6 shown on the approved building floor plan drawing and shall not include use as distribution centres.

Reason: In the interests of highway safety.

11. The use of units 1, 2 and 3 shall be restricted to Class B1 Business as defined by the Town and Country Planning (Use Classes) Order 1987, as amended.

Reason: To define the permission for the avoidance of any doubt.

Informatives

1. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National planning policy Framework paragraph 187.
5. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

NPPF: National Planning Policy Framework

NPPG: National Planning Practice Guidance

Core Strategy Policies:

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS13: Economic Development, Enterprise and Employment

CS17: Environmental Networks

SAMDev Plan:

MD2 Sustainable Design

MD6 Green Belt & Safeguarded Land

MD7b General Management of Development in the Countryside

MD12 Natural Environment

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Committee and date

South Planning Committee

7 March 2017

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS

AS AT 7 MARCH 2017

LPA reference	15/03170/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Andrew Maiden
Proposal	Outline application (access, layout, scale not reserved)for residential development
Location	Proposed Residential Development Land East Of Bridgnorth Road Highley Shropshire
Date of appeal	27/09/2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	31/01/2017
Costs awarded	
Appeal decision	Dismissed

LPA reference	16/02842/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Ms Carly Smith
Proposal	Erection of 1No dwelling, parking and formation of vehicular and pedestrian access
Location	Proposed Dwelling South East Of 1 Foster Road Bridgnorth Shropshire WV16 4LS
Date of appeal	24.11.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	1/2/2017
Costs awarded	
Appeal decision	Dismissed

LPA reference	16/00719/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	David Jewson
Proposal	Erection of one dwelling and formation of vehicular access
Location	Land Adj India House 1 Hilton Bridgnorth Shropshire WV15 5PJ
Date of appeal	13.02.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeal Decision

Site visit made on 6 December 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 January 2017

Appeal Ref: APP/L3245/W/16/3157466

Land east of Bridgnorth Road, Highley, Shropshire WV16 6BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Maiden (FH Maiden & Sons) against the decision of Shropshire Council.
 - The application Ref15/03170/OUT, dated 23 July 2015, was refused by notice dated 1 March 2016.
 - The development proposed is residential development to include access, layout and scale on land east of Bridgnorth Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is in outline only with approval sought for access, layout and scale but with appearance and landscaping reserved. I have considered the appeal on that basis.

Main Issues

3. The main issue is whether the proposed development would be in a suitable location, given that the appeal site lies outside the development boundary.

Reasons

4. The appeal proposal is to erect nine bungalows on land to the east of Bridgnorth Road. The site is pasture land and although bounded by residential housing to the west and south it is outside, albeit adjacent to, the development boundary for the village of Highley. Further open countryside lies to the north and east. It is accessed from a track, which is also a public bridleway, off the B4555.
5. There is an up-to-date Shropshire Council Site Allocations and Management of Development (SAMDev) Plan¹ with, by virtue of Paragraph 15 of the National Planning Policy Framework (the Framework), policies based upon and reflecting the presumption in favour of sustainable development. It is designed to help to deliver the vision and objectives of the Shropshire Local Development Framework: Adopted Core Strategy (CS).² Amongst other things, the SAMDev

¹ Adopted 17 December 2015

² March 2011

- aims to achieve a 'rural rebalance' to make rural areas more sustainable as set out in CS Policies CS4 and CS5.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that proposals must be determined in accordance with the development plan unless material considerations indicate otherwise.³ Paragraph 14 of the Framework states, therefore, that proposals which are in accord with the development plan should be approved without delay. However, the proposed development conflicts with the development plan because it is outside the development boundary for Highley.
 7. Policy CS1 of the CS adopts a strategic approach which focusses development on Shrewsbury, market towns and other key centres as well as rural areas. It is a hierarchical settlement strategy, a methodology common to many local plans. Whilst Highley is identified as a 'key centre' in Policy CS3 of the CS, the appeal site is outside the development boundary as defined in Policy S9 of the SAMDev and is, therefore, open countryside. Policy CS3 says that in market towns and other key centres balanced housing and employment development will take place within development boundaries and on sites allocated for development.
 8. Development is strictly controlled in the countryside by Policy CS5 of the CS and Policy MD7a of the SAMDev and limited to, for example, dwellings for essential rural workers, market residential conversions and affordable housing to meet a local need, none of which are applicable in this appeal.
 9. The Council advises that it has a 5.97 year housing land supply and has recently undertaken a Full Objective Assessment of Housing Need (FOAHN) as part of an upcoming Local Plan Review for the period 2016-2036. It shows that the current housing requirement set out in policy CS1 of the CS continues to meet defined needs and is up-to-date against the requirements of the Framework, a position that has not been disputed.
 10. Policy S9 of the SAMDev also details the strategy for Highley setting out a plan for its development. It anticipates some 200 dwellings being provided in the plan period of 2006 to 2026. Some have already been delivered whilst others are planned via an allocated housing site at Rhea Hall and developments at Jubilee Drive and the Cedars, alongside additional small-scale infill and windfall development within the development boundary.
 11. Notwithstanding the restrictions on development in the countryside, the appellant holds that Policy MD3 of the SAMDev provides some latitude and allows for other sustainable development both within settlements and in the countryside on greenfield sites. However, MD3 says that such windfall opportunities must still have regard to Local Plan Policies, including CS5 and MD7a, where a conflict has already been established.
 12. Point 2 of Policy MD3 states that the settlement housing guideline is a significant policy consideration. Point 3 makes clear that it is only where that housing guideline appears unlikely to be met that additional sites outside the settlement development boundary may be acceptable.

³ And s70(2) of the Town and Country Planning Act 1990 Paragraph and Paragraph 11 National Planning Policy Framework

13. The Council advise that the latest available housing figures for Highley of 86 completions, 92 commitments and a recent consent for 30 dwellings give a total of about 208 dwellings for the plan period to 2026 compared with the guideline figure of 200 dwellings. Therefore, the settlement housing guideline appears likely to be met. On that basis the windfall provision in Policy MD3 does not take effect.
14. Furthermore, whilst the housing guideline figure does not represent a maximum or a cap, the Council states that there is no reason to suppose that more infill and windfall development sites may not become available within the development boundary. In addition, the appellant accepts that the Council can demonstrate a five year housing land supply. In that context, there is not sufficient justification for a proposal beyond the development boundary on a greenfield site.
15. The appellant refers to point 3.18 of the explanatory text of Policy M3, which does refer to windfall development on other sites beyond those identified in Policy S9, both within settlements and in the countryside. However, that is still subject to the stated content of the Policy, as already described, and the explanation re-emphasises that such decisions should still have regard to the policies of the Local Plan and the settlement housing guidelines.
16. The appellant accepts that the proposal is in conflict with Policy CS5 because it is outside the settlement boundary but says that is outweighed by the need to boost the supply of housing, as set out in Paragraph 47 of the Framework. However, the method of delivery propounded by the Framework is through the local plan and as there is a demonstrable five year housing land supply, the conflict with the development plan, acknowledged by the appellant, is not outweighed by the need to boost housing supply.
17. Much reliance is placed by the appellant on a previous apparently identical planning application for the same site.⁴ It was refused on appeal because of the lack of an affordable housing contribution. As such a contribution is now offered, though the Council accepts that it is no longer required, the appellant maintains that the appeal should be allowed. The previous appeal is also cited as confirming that the development was acceptable in principle and sustainable.
18. However, the SAMDev was not part of the development plan at the time of that appeal decision, which was in part determined on saved policies from the now replaced Bridgnorth District Council Local Plan. The SAMDev performs an important role in allocating specific sites and providing policies for future development, putting flesh on the strategic policies of the CS. Therefore, policies for the supply of housing are now comprehensive and up-to-date in contrast to the position at the time of the previous appeal.
19. The appellant suggests that the then emerging SAMDev would always have been given significant weight in that decision. However, the examining Inspector's report on the SAMDev was not published until October 2015 and at the time of the decision in July 2015, it could not, therefore, have been given the full weight that it now commands as part of the adopted development plan. Therefore, the policy context has materially changed since that previous decision was issued.

⁴ APP/L3245/W/14/3002052

20. The appellant also refers to a number of appeal decisions, including sites at Park View, Broseley and Teal Drive, Ellesmere.⁵ As the parties are aware, the Teal Drive appeal decision has recently been quashed in the High Court.⁶ Many of those decisions are in part predicated on questions about whether the Council could evidence a five year housing land supply or a sufficiently clear one. That position has changed as the Council can now demonstrate a five year housing land supply.
21. A number of recent appeal decisions, referred to by the Council, have found that proposals outside development plan boundaries conflict with the SAMDev and the CS, which has been a factor in the dismissal of some of those appeals.⁷ I am more persuaded by the policy analysis of the hierarchical settlement strategy as a delivery mechanism for sustainable development in those recent appeal decisions than in the decisions referred to by the appellant. In any event, I have decided the appeal on its own merits.
22. Given a housing land supply of 5.97 years and that the housing settlement guideline for Highley is due to be exceeded, I find that there is no substantive basis for departing from the development plan to allow a proposal on a greenfield site. Therefore, I conclude that the proposal would not be in a suitable location, given that it is outside the development boundary.
23. It follows that it would conflict with policies CS3, CS4 and CS5 of the CS, which amongst other things seek to manage development in rural areas in a strategic manner by focussing it in market towns and other key centres, community hubs and clusters and only allow development outside settlements in limited circumstances.
24. The proposal would also be contrary to policies MD1, MD3, MD7a and S9 of the SAMDev, insofar as they deliver that strategic approach seeking to respect development boundaries and limiting new dwellings in the countryside to exceptions.

Other Matters

25. The appellant has submitted a Unilateral Undertaking to make a contribution towards affordable housing. The Council considers that in light of the Court of Appeal judgement of the 11 May 2016,⁸ which restored the status of the Written Ministerial Statement of 28 November 2014, an affordable housing contribution would not be due. I agree with that view. The appellant maintains that their continued commitment to making a contribution should be considered. I give that some weight but it is not sufficient to outweigh the conflict with the development plan that I have identified and does not lead me to alter my decision.
26. In addition to the matters already dealt with, the Parish Council and some local residents have expressed concerns including the location of the development in an area of high landscape value, incursion into the countryside, poor access, highway safety, effects on the bridleway, pressure on local amenities, loss of

⁵ APP/L3245/W/15/3006489 & APP/L3245/W/15/3067596

⁶ Shropshire Council v SSCLG & BDW Trading Ltd trading as David Wilson Homes (Mercia) [2016] EWHC 2973 (Admin)

⁷ APP/L3245/W/15/3035687, APP/L3245/W15/3127978, APP/L3245/W/15/3133018, APP/L3245/W/15/3136404, APP/L3425/W/15/3134229

⁸ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

privacy, overlooking, water and sewerage arrangements, poor employment opportunities and limited transport services. Whilst I have considered those matters, I note that the particular concerns are not shared by the Council, and in any event, I have dismissed the appeal on other grounds.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

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Appeal Decision

Site visit made on 11 January 2017

by **Elizabeth Pleasant DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 February 2017

Appeal Ref: APP/L3245/W/16/3161162

1 Foster Road, Bridgnorth WV16 4LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Carly Smith against the decision of Shropshire Council.
 - The application Ref 16/02842/FUL, dated 24 June 2016, was refused by notice dated 4 October 2016.
 - The development proposed is the erection of one x two bedroom dwelling and parking.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect on the living conditions of the occupants of No 77 Dunval Road, with particular regard to outlook.

Reasons

3. The appeal site forms part of the existing rear/side garden area of No 1 Foster Road which is partially enclosed by a brick wall. It lies within a residential estate characterised by a mix of both detached and semi-detached dwellings. The proposed dwelling would front onto Foster Road and its rear garden would have a common boundary with No 77 Dunval Road which lies to the rear of the site.
4. No 1 Foster Road and Nos.79 and 77 Dunval Road are located where Dunval Road and Foster Road converge. Consequently, there is a close relationship between these properties, including their garden areas, and this is reinforced by the difference in ground levels between them.
5. The proposed site sections¹ show that the finished ground floor level of the proposed dwelling would be approximately three and a half metres higher than the ground floor level of No 77. Whilst a difference in ground floor level is common between the neighbouring properties on these two roads, in this case the separation distance between the rear elevation of No 77 and the proposed dwelling would be much more constrained. Consequently, although I recognise that the proposed dwelling has been designed to help minimise its impact by the introduction of a catslide roof and by staggering its rear elevation, the

¹ Site Sections, Drawing No. 015

- development would still dominate the outlook from the rear of No 77 and its garden area, which has been terraced to take account of rising ground levels.
6. Furthermore, the outlook from the rear of No 77 is already enclosed to the west by the proximity of No 1 Foster Road. The proposed dwelling would further enclose the rear garden area of No 77, and its position elevated above No 77 would in my view have a materially harmful overbearing and oppressive impact on the outlook for the occupants of No 77.
 7. I accept that the common boundary fence would provide screening of the proposed ground floor elevation and indeed the proposed fenestration arrangement would ensure that no overlooking would occur. However, the first floor, its roof and the overall bulk of the proposed dwelling would be clearly visible. Sited in such close proximity to No 77 the proposed dwelling would dominate the outlook from the rear of this property.
 8. I conclude that the proposed dwelling would have a harmful effect on the living conditions of the occupants of No 77 Dunval Road, with particular regard to outlook. The proposal does not therefore accord with the development plan, and in particular I find conflict with Policy CS6 of the Shropshire Local Development Framework, Adopted Core Strategy, and Policy MD2 of the Site Allocations and Management of Development Adopted Plan which seek to ensure that new development, amongst other things, contribute to existing amenity by responding to the form and layout of existing development and safeguard residential and local amenity. I also find conflict with one of the Core Planning Principles of the National Planning Policy Framework which seeks to ensure a good standard of amenity for all existing occupants of land and buildings, and conflict with the Council's Type and Affordability of Housing, Supplementary Planning Document 2012 which requires new development to not have unacceptable consequences for neighbours.

Other Matters

9. I visited Sydney Cottage Drive to view the recent development that has taken place and which has been brought to my attention by the Appellant. However, I do not consider that this proposal to be directly comparable; in particular as the neighbouring development on Sydney Cottage Drive is on a level plane. In any event, each application must be considered on its own merits.
10. Whilst I accept that the site has some sustainability credentials in terms of its location and contributing towards housing needs, these considerations do not outweigh the harm I have identified to the living conditions of neighbouring residents on Dunval Road.

Conclusion

11. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR