



Committee and date

South Planning Committee

10 January 2017

Development Management Report

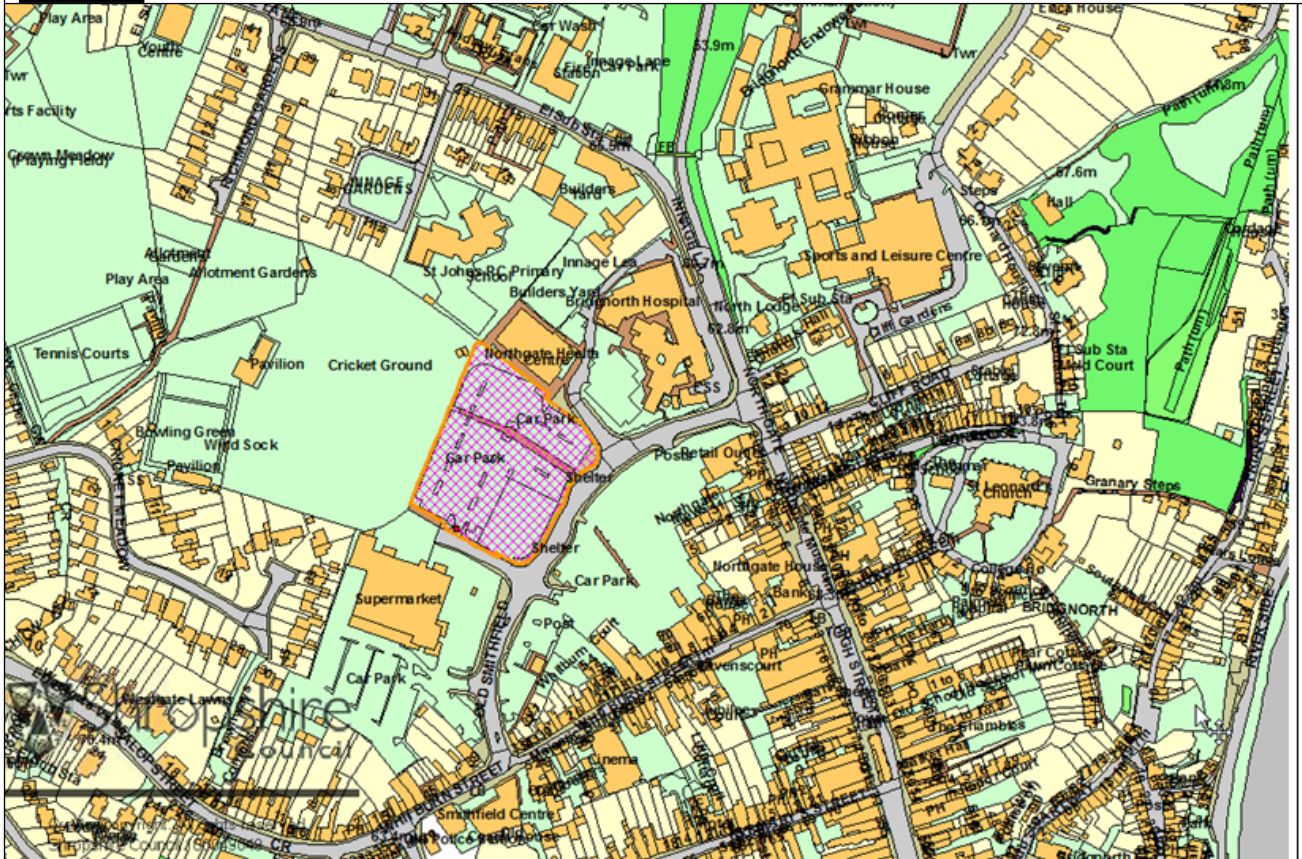
Responsible Officer: Tim Rogers

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



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

Contact: Tim Rogers (01743) 258773

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.

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 practicality 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 cardboard 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 a 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 tourist 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.

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 - 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.

8.2 **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.

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 1970.

9.0 **FINANCIAL IMPLICATIONS**

9.1 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.

10. **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

11. 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 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.