



Committee and date
South Planning Committee
19 May 2015

Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 14/00563/FUL	Parish:	Ludlow Town Council
Proposal: Demolition of existing buildings on former Burway Abattoir site and erection of proposed petrol filling station and ancillary convenience store with new vehicular access (revised scheme)		
Site Address: Brian Mear (Bricks) Ltd Former Burway Abattoir Bromfield Road Ludlow Shropshire SY8 1DN		
Applicant: Mead House Pension Scheme C/O Garrabost Trustees		
Case Officer: Grahame French	email: planningdmsw@shropshire.gov.uk	
Grid Ref: 350913 - 275383		



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Recommendation:- Grant Permission subject to:

1. The conditions set out in Appendix 1 of Annex 1;
2. The additional condition set out in Appendix 1;
3. A Section 106 Legal Agreement delivering off-site pedestrian improvement works.

REPORT

1.0 BACKGROUND

1.1 The application was considered at the meeting on 10th March 2015 and the original officer report is included as Annex 1 of this report. The Committee resolved that the application be deferred in order:

- 1) for the applicant to give consideration to the location and provision of an appropriate pedestrian crossing,
- 2) to provide more information on the sufficiency of the car parking, and
- 3) to review opening hours.

1.2 The application details are described in Annex 1. The 3 issues referred to are assessed below.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site comprises a triangular plot between Bromfield Road and Coronation Avenue which is currently occupied by Brian Mear (Bricks) Ltd. Members visited the site prior to the March meeting.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is referred back from the March 2015 committee meeting.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee and Public Comments are detailed in Appendix 1.

5.0 THE MAIN ISSUES

5.1 The main issues raised by the proposals are listed in Annex 1. The main issues which need to be assessed with respect to the current update report are as follows:

- Pedestrian improvements / suitability & deliverability;
- Adequacy of internal car parking arrangements;
- Appropriateness of proposed opening hours.

6.0 OFFICER APPRAISAL

6.1 Pedestrian improvements

6.1.1 Since the March committee meeting discussions have taken place with the

applicant regarding the proposed pedestrian improvements and the Council's Highway officer has met with the applicant on site. The applicant has made an improved financial offer to deliver the improvements which the applicant advises is contingent on a decision being reached at the May committee. Highway officers are satisfied that an effective scheme can now be delivered in the context of the proposed development. A draft of the improvement scheme is shown in plan 1 below. The following comments are taken from an email exchange between the Highways (Development Management) Officer and the local member Councillor Boddington and explain the current position:

6.1.2 Highways (Development Management) Officer:

- i. I have taken on board your comments and acknowledge that your preference would be that the developer provides two signalised crossings, one on Bromfield Road and another on Coronation Avenue to improve pedestrian safety within the vicinity of the site. Following the application being heard at Planning Committee, I spoke with the planning agent dealing with the site and asked if their client would be willing to provide a contribution that would secure the installation of the two signalised crossings. If we were seeking a contribution towards two crossing points we would need a contribution of approximately £150,000. The planning agent confirmed that if they needed to provide two signalised crossing at this location, the site would become unviable... I have now had an opportunity to visit the site with <the Divisional Surveyor>. We subsequently developed a list of improvements that we considered would improve pedestrian safety and would be suitable for the location, I have subsequently put forward the following suggestions to the developers planning agent:*
- 1) Zebra Crossing on Coronation Avenue: ... In order to introduce a Zebra Crossing we would need to reduce the vehicle approach speeds on Coronation Avenue, therefore it is also recommended that a set of speed cushions are provided on the approach, I have marked on the plan an approximate location.*
 - 2) Informal Crossing Point on Bromfield Road: ... This would include dropped kerb and tactile paving, and would tie up with the internal pedestrian route within the site. As per Coronation Avenue, <the Divisional Surveyor> has recommended that vehicle approach speeds should be reduced, possibly via speed cushions on the approach, these would be subject to consultation and would need to be located so the swept path of vehicles are not affected, but it is felt that traffic calming at this location would improve pedestrian safety. I would estimate that the above works would cost within the region of £30,000-£40,000. The Developers agent has spoken with their client and they have agreed to increase their contribution to £40,000. I would consider the proposals now being put forward are reasonable in relation to the scale of development...*
- ii. I think one of the issues that have come out of this consultation is that there is a number of existing child pedestrian movements within the vicinity of this site. Therefore, I think it might be worth considering raising this issue through*

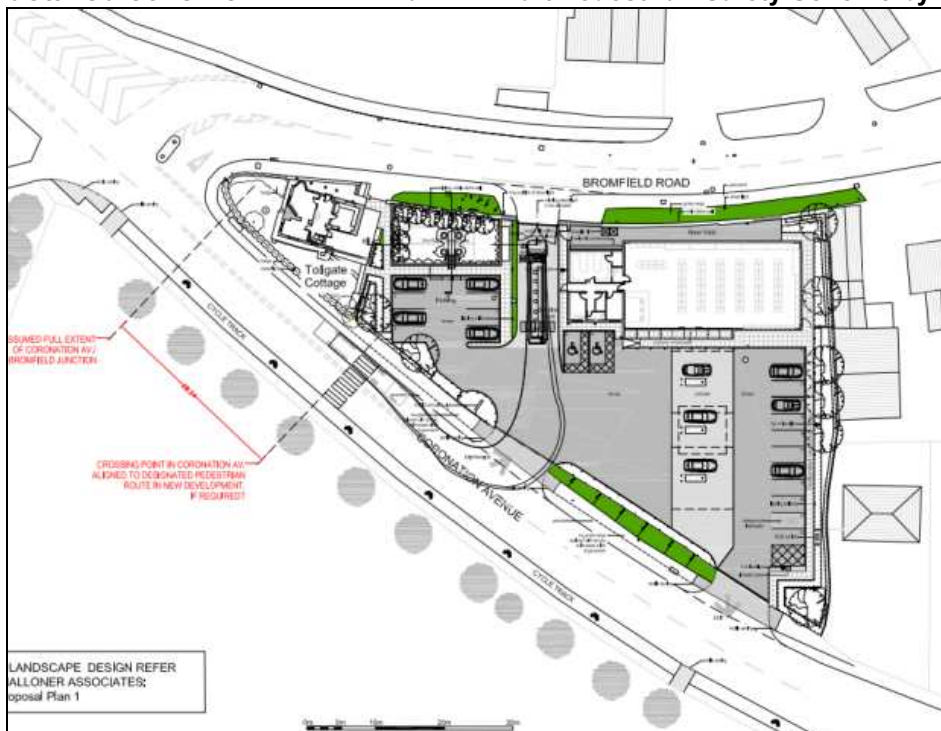
Shropshire Council's Road Safety policy, which as you may be aware gives Town and Parish Councils an opportunity to raise road safety issues within their area. The road safety policy does not fall within my remit, however If you feel it would be a useful exercise I would be willing to meet the Town Council and yourself to go through your list of priorities.

6.1.3 Councillor Boddington:

- i. ... It has always been the case that I think we need a signal crossing on Bromfield Road (where the brick yard is now) and a pedestrian refuge on Coronation Avenue. I told the South Planning Committee at its last meeting: "We need a secure crossing at the new store. On Bromfield Road, we need a lights controlled crossing but perhaps a zebra crossing would do. On Coronation Avenue, we need a pedestrian refuge."*
- ii.. The pedestrian traffic along Coronation Avenue is low compared to Bromfield Road. That's why the zebra should be in Bromfield Road. That will put it in the best place for school children to cross as well. The contribution from the developer is generous and welcome. If we can swap the crossing around and put a refuge on Coronation Avenue (which will act as traffic calming?)...*
- iii. Road safety: Thanks for the offer of coming to talk to the town council. We (unitary councillors) are reviewing pedestrian safety along the stretch from Ludlow School to Sandpits Road. This will take a few weeks to compile the basic pedestrian data and an outline set of concerns... We are also committed to a community safety survey of the entire town... with a view to collating results for the Ludlow and Clee LJC on 22 October...*

6.1.4 The Highways (Development Management) Officer has indicated that the draft scheme provides an acceptable basis to work with the Town Council to develop a suitable detailed scheme.

Plan 1 – Draft Pedestrian Safety Scheme by Applicant



- 6.1.5 It is considered that the applicant's improved funding offer would be sufficient to allow any pedestrian safety concerns raised specifically by the current application to be fully addressed and to lead to some wider improvement for the local area. The funding would be sufficient in principle to facilitate a pedestrian crossing and a refuge on Bromfield Road and Coronation Avenue. The Highways (Development Management) officer has advised that the exact detail of the scheme including which road the crossing is put on can be agreed subsequently as part of a consultation with the Town Council. It is considered that the level of funding offered by the applicant is appropriate and proportionate to the scale and nature of the development. It therefore meets relevant legal tests relating to legal agreements.
- 6.1.6 The applicant has produced a draft legal agreement to deliver the funding for the pedestrian improvements. This would be completed in the event that planning permission is granted at the May committee and would provide an appropriate legal mechanism to secure the improvements.
- 6.1.7 It is recognised that there are wider pre-existing concerns regarding pedestrian safety in the local area, as referred to in the Town Council's consultation response. The Highways (Development Control) Officer has advised that there are other mechanisms for addressing these wider issues and Councillor Boddington has outlined works which are ongoing in relation to this matter, with a view to reporting to the appropriate Local Joint Committee in September. Other pedestrian improvements in the wider area referred to above relate to a pre-existing situation which is not related to the current application. It is considered that a condition requiring the current application to fund any such wider improvements would not meet relevant legal tests. As noted above, an alternative mechanism available to address this issue.

6.2 Adequacy of internal car parking

- 6.2.1 At the March committee meeting some concern was expressed about the adequacy of internal parking provision. The level of internal parking provision has been increased from 19 full parking spaces to 22 in an updated layout plan received after the previous committee. The Highways (Development Management) has confirmed that this level of provision is acceptable and Councillor Boddington has indicated that he is satisfied with this conclusion.

6.3 Proposed opening hours

- 6.3.1 At the March committee meeting some concern was expressed about the proposed hours of working for the facility which are 24/7 both for fuel sales and for the proposed convenience shop. The applicant has considered potential concerns regarding the proposed use of the petrol filling station 24 hours a day due to any loss of amenity it could cause to nearby residential occupiers. Activity on the petrol filling station forecourt would be screened from the nearest property on Bromfield Road by existing outbuildings to that property that border the eastern boundary and which physically separate the residential property from forecourt activity. At their nearest point, the petrol filling station pumps are approximately 30m from that nearest residential property (Meadow View).

6.3.2 The applicant has prepared a night-time operational management plan which covers a number of matters and which has identified anti-social behaviour as possible concern to local residents. The applicant summarises the management plan as followings:

- Litter collection in the surrounding area at least three times a day, the first at 6am and last at 11pm
- Shift managers provided with conflict resolution training so that they can deal with anti-social behaviour and advised to actively engage with customers who may be creating noise or displaying anti-social behaviour, or where health and safety is an issue to engage with the police for support
- To keep a log of any events
- Taking actions as a result of external complaints and looking for ways to tackle it; including liaising with the Council and Police and taking witness statements where necessary;
- Signage requesting customers are respectful
- Setting the intercom at a lower level at night time
- CCTV monitoring of the car park and monitoring any anti-social behaviour
- It is acknowledged that idling vehicles omit fumes from their exhausts which in certain environments can lead to significant pollution. The site is not in an air quality management zone and the levels of vehicle movement during the night would not be expected to generate any significant levels of pollution which could give rise to harmful levels of emission.
- Health considerations have been found elsewhere to be a material planning consideration, for example where the proposals are close to schools and the local authority have policies in place relating to this matter. In this case we are not aware of existing or emerging policies on the matter, the proposed hours are in any case outside the hours of operation of nearby schools.
- Any traffic movements associated with the use of the site between the hours of 11pm and 6am cannot be considered to be significant in the context of the existing hours of operation. Movements will be far less compared to peak traffic during the day and therefore the access is suitable and there are no significant concerns over highway safety. Deliveries would not take place during these hours.

6.3.3 Further clarification has also been provided on the delivery regime since the previous committee. This would be as follows:

- Fuel deliveries - 2 per week
- Ambient deliveries - 3 per week
- Fresh/chill produce deliveries - 1 per day
- News deliveries - 1 per day
- Local bread deliveries - 1 per day
- Other local supply deliveries - 1 per day

All deliveries/off-loading would take place in the designated off-loading bay.

6.3.4 Officers are satisfied that there is a need for a 24/7 fuel sales facility in Ludlow and note that the site is generally well contained and isolated from residential property. The night-time operational management plan is welcomed and provides additional

reassurance regarding the ability to protect local amenities. The site is relatively well separated from privately owned residential property, with the exception of Meadow Cottages to the east which is separated by 2 outbuildings (stables). Additional screening would be provided within the eastern boundary of the site and the main site entrances are on the opposite side of the site off Coronation Avenue.

- 6.3.5 The proposed shop has the potential to generate additional traffic and pedestrian movements which are not linked specifically to fuel sales. Notwithstanding the generally well contained nature of the site, customer movements to and from the shop could add to the general level of background activity in the area, particularly during the more sensitive night-time hours (2400hrs - 0600 hrs) when the current brick yard is not operating. It is also necessary to review whether there would be any undesirable social implications from operating a shop at late night hours in this location.
- 6.3.6 In view of this and having regard to the concerns previously expressed by the committee, officers are recommending an additional condition in appendix 1. This prohibits retail non-fuel sales between 2400hrs and 0600hrs unless a monitoring and mitigation scheme has first been submitted to and approved in writing by the Local Planning Authority. Subject to this it is considered that appropriate control measures are available to allow the site to operate as proposed, without any unacceptable adverse impact to the local amenities.

7.0 CONCLUSION

- 7.1 The application was deferred from the March committee so that further information could be provided on pedestrian safety, parking provision and working hours. Officers have negotiated an improved contribution from the applicant which will deliver an acceptable pedestrian improvement. Additional conditions have also been recommended to cover parking provision and provide safeguards for late night opening of the proposed shop. It is considered that these issues are capable of being satisfactorily addressed.
- 7.2 This proposal as a whole has been the subject of negotiations over several months and they have resulted in a scheme that Officers can support. The position, type and robust design of the fuel tanks are appropriate for the location and the risk of pollution is minimised to the satisfaction of the Environment Agency and the Council's Public Protection team. The design of the building, canopy and layout of the site is visually appropriate for the area. The impact of the proposal on the local highway has been thoroughly considered and the Highways Officer is satisfied that the development will not have an adverse impact on the safety of road users and pedestrians.
- 7.3 The development is in accordance with planning policies and is recommended for approval subject to conditions.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Part 1: Building a strong, competitive economy

Part 2: Ensuring the vitality of town centres

Part 4: Promoting sustainable transport

Part 7: Requiring good design

Part 8: Promoting Healthy Communities

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

..... Core Strategy Development Plan Document

CS3 The Market Towns and other Key Centres

CS6 Sustainable Design and Development Principles

CS8 Facilities, Services and Infrastructure Provision

CS13 Economic Development, Enterprise and Employment

CS15 Town and Rural Centres

CS17 Environmental Networks

CS18 Sustainable Water Management

RELEVANT PLANNING HISTORY:

13/02760/FUL Demolition of existing buildings on former Burway Abattoir site and erection of proposed new petrol filling station and convenience store with new vehicular access WDN 5th October 2013

09/01227/FUL Retention of existing portacabin for a further 5 years GRANT 27th August 2009

SS/1/03/15231/F Retention of existing portacabin for a further 5 years PERCON 30th January 2004

SS/1/99/009587/F Siting of a portacabin for office-showroom. PERCON 11th February 1999

SS/1983/376/P/ Use of land for the storage of scaffolding. PERCON 29th September 1983

11. Additional Information

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N0L8Y7TDHMJ00>

List of Background Papers: Planning file 14/00563/FUL

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Andy Boddington

Appendices: APPENDIX 1 – Conditions; ANNEX 1 – Officer report for March 2015 Committee

APPENDIX 1

Conditions

ADDITIONAL CONDITIONS TO BE ADDED TO THOSE RECOMMENDED IN THE ORIGINAL OFFICER REPORT (INCLUDED AS APPENDIX 1 OF ANNEX 1)

CONDITION THAT REQUIRES APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

13a. Subject to Condition 13b non-fuel retail sales to the public under the terms of this permission shall not take place outside of the following hours:

0600hrs – 2400hrs weekdays, weekends and Public Holidays

- b. Non-fuel retail sales to the public under the terms of this permission shall not take place outside of the hours specified in Condition 13a unless a scheme detailing the extended working proposals has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate the following details:
- i. Monitoring measures to allow the effect of the extended working proposals to be properly assessed;
 - ii. Mitigation measures to ensure that appropriate safeguards are put in place during the extended working period to protect the amenities of the local area.

The scheme shall be implemented in accordance with the approved details.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

Note: For the avoidance of doubt the sales of fuel to the public may take place 24 hours a day and 7 days a week under the terms of this permission