

Development Management Report

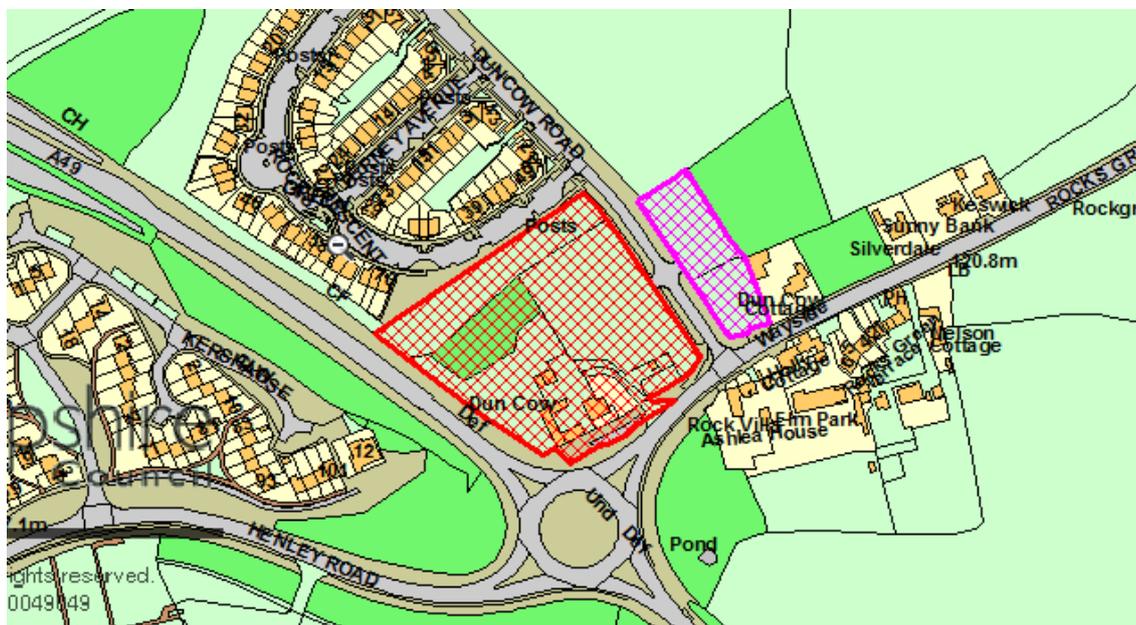
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Summary of Application

Application Number: 20/00840/REM	Parish:	Ludford
Proposal: Approval of reserved matters (appearance, landscaping, layout, scale) pursuant of 14/05573/OUT (access approved) for the erection of foodstore (Use Class A1) and petrol filling station; all ancillary works		
Site Address: Land At Rocks Green Ludlow Shropshire SY8 2DS		
Applicant: Blackfriars Property Group Ltd		
Case Officer: Richard Fortune	email : planning.southern@shropshire.gov.uk	

Grid Ref 352276 - 275636



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Recommendation:- Permit, subject to receipt of ecology comments and agreement on appropriate ecological mitigation measures, withdraw of the holding objection by Highways England and the conditions set out in Appendix 1. The delegated authority being given to the Area Planning Manager to adjust/add conditions as necessary following receipt of comments from those consultees.

REPORT

1.0 THE PROPOSAL

- 1.1 At the February 2017 South Planning Committee meeting it was resolved to grant outline planning permission for the erection of a new food store, associated petrol filling station, and associated car parking (to include access) at Dun Cow Farm, Rocks Green, Ludlow, subject to consultation with the Secretary of State (Ref. 14/05573/OUT). The Secretary of State decided not to call in the application and was content for the application to be determined by the local planning authority. The outline planning permission issued is dated 2nd March 2017.
- 1.2 The first three conditions on the outline permission decision notice relate to the time period for submission of matters reserved for later approval and the timescale for implementation. Further conditions on the outline planning permission address matters relating to levels and drainage; safeguarding protected species; construction hours; location of fuel tanks; approval of a construction traffic management plan; road and access construction and junction improvements; footpath and cycleway linkages; archaeological investigation; photographic survey of buildings to be demolished; installation of bat boxes; lighting plan; drainage works/impacts beyond site boundaries; Travel Plan; acoustic fencing; maximum percentage of comparison goods which may be sold and facilities which are not to be provided in the store. These conditions are outlined in more detail below:|

Condition 4 states that concurrently with the first submission of reserved matters details of the means of enclosure of the site; site levels before and after development and of the foul and surface water drainage of the site, in accordance with the standing advice from the Council Drainage Consultant shall be submitted to the local planning authority.

Condition 5 requires the development to be undertaken in accordance with the Protected Species Survey focusing on bats produced by Shropshire Wildlife Consultancy dated July 2014.

Condition 6 sets out the working hours for the demolition and construction phase of the development.

Condition 7 specifies that the fuel tanks associated with the filling station shall be located above ground, to overcome the objection raised by the Environment Agency.

Condition 8 requires the submission and approval of a construction traffic management plan prior to commencement by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road (Highways England).

Condition 9 requires details of the design and construction of new roads, footways

and accesses within the development, together with details of the disposal of highway surface water to be approved by the Local Planning Authority before any development takes place.

Condition 10 requires that prior to commencement full engineering details of the proposed junction improvements to the junction of the A4117 and Dun Cow Road to be submitted to and approved in writing by the Local Planning Authority (LPA) and for the approved works to be fully implemented before the supermarket and filling station are brought into operation.

Condition 11 states that prior to the commencement of development full engineering details of the proposed foot/cycleway linkages between Ludlow and the development site shall be submitted to and approved by the LPA, and fully implemented before the development is first occupied.

Condition 12 requires the implementation of a programme of archaeological work in accordance with a written scheme of investigation approved by the LPA.

Condition 13 requires a photographic survey of the buildings to be demolished to be carried out in accordance with English Heritage's (Now Historic England) guidance.

Condition 14 requires the installation of bat boxes/bat bricks in accordance with details to be approved.

Condition 15 requires the submission of a detailed lighting plan and for the details to be implemented as approved.

Condition 16 requires the submission of a detailed drainage scheme for approval by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, where that would alter the existing drainage of the site or surrounding land, and for the detailed drainage scheme to be implemented as approved.

Condition 17 requires that a Travel Plan shall be submitted to and approved by the LPA before the foodstore first opens and that it be implemented within one month of the first occupation of the development.

Condition 18 requires, prior to any petrol sales or deliveries to either the filling station or food store service yard that the specification for acoustic fencing shall be approved by the LPA to achieve specified noise reductions.

Condition 19 states that no more than 25% of the net sales floor area shall be used for the sales of comparison goods, and lists the categories which constitute such goods, in order to protect the viability of Ludlow Town Centre.

Condition 20 stipulates that the food store shall not contain a post office; a dry cleaners; a travel agents; an optician or a pharmacy, in order to safeguard the vitality and viability of Ludlow town centre.

- 1.3 The current application solely seeks approval for the reserved matters (design and external appearance, layout, scale and landscaping) specified in condition 1 of the outline permission, together with the specific details of means of enclosure, levels and drainage specified by condition 4 above as needing to be provided with the first submission for approval of reserved matters. All the other conditions which require the local planning authority approval of details will be the subject of future discharge of condition application(s).
- 1.4 At the time this reserved matters application was first submitted no occupier of the proposed premises had been identified. During the course of considering these proposals it has been established that Sainsbury's are likely to be the operator. A number of revisions were required to meet their operational requirements, as well as to respond to matters raised by the Planning Case Officer. This has resulted in amended drawings being submitted which have reduced the size of the proposed store from 3,156 sqm gross internal area (GIA) with a net sales area of 1,951 sqm, to 2,924 sqm GIA with a net sales area of 1,641 sqm. The reduced store footprint has allowed for the building to be pulled back from the northern site boundary and for the service yard access to be re-located to the opposite side of the store to the west, which is beneficial in terms of visual amenity both for users of the store and the residential dwellings to the north of the site. In comparison with the store size envisaged at the time of the outline submission, the current proposal is a 17% reduction in gross floor area and a 29% reduction in net floor area.
- 1.5 As originally proposed the store building would have been positioned tight against the north western site boundary with the adjacent housing and would have been close to the south western boundary with the A49, with a service area to the north east of the store building adjacent to Duncow Road. The revised proposal for the smaller store moves it away from the north western site boundary and closer to Duncow Road to the north east. A larger service area would be provided in the western corner of the site, adjacent to the A49, which would be accessed via a road running parallel to the north western site boundary and sloping down in the direction of the A49. The customer parking area for 169 vehicles would wrap round the south western corner of the store building to the south of the service area, with the bulk of the parking area being between the south east facing elevation of the store and the site boundaries with the A49 and A4117 roads. Four electric vehicle charging points would be provided. Access would be from a mini roundabout on Duncow Road which was approved as part of the outline planning permission, and which would also serve the site approved for the filling station.
- 1.6 The agent has advised that the amended store design has focussed on improving sustainability with improved energy efficiency by using natural materials including wood panelling and glazing, increasing daylight to reduce the internal lighting, and reducing the building height by 2.9 metres. The building form has also been altered to include a pitch to the roof to address comments on design.
- 1.7 The proposed south east elevation drawing shows the service yard enclosed by 3m high timber acoustic fencing. Insulated cladding panels with timber facing would be

incorporated into the shop front, defining the points of entry and exit and in areas above which there would be high level curtain wall glazing. Full height glazing would predominate on this elevation, set within dark grey aluminium framing under a deep dark grey metal fascia. Signage would be the subject of a separate advertisement consent application, but the drawing shows for illustrative purposes 'Sainsbury's' lettering position just above the fascia with a smaller signage panel positioned centrally below it and the upper component of the fascia.

- 1.8 The north east elevation to Duncow Road would appear shallower in comparison to the south east elevation, due to rising ground levels, but would continue the same predominantly glazed treatment, with some wood panelling, at its southern end before changing to full height insulated wall panelling coloured squirrel grey. The external plant area adjacent to this elevation would be in the form of a 3m high timber enclosure. There would be steel gates to the service yard, matching the 3m height of the timber acoustic fencing enclosing it. The north west elevation would contain no window or door openings, but would feature an area of high level louvres serving a plant well for cooling equipment incorporated into the roof structure. This elevation would be of full height insulated wall panelling coloured squirrel grey.
- 1.9 The south west elevation facing the A49 would have full height curtain wall glazing and full height timber cladding at its southern end, as a 'wrap around' detail to the shop front, with the remainder of this elevation in the squirrel grey coloured cladding panels. There would be low level windows to staff facilities, with door access from the service yard area within the fenced enclosure. The roof area would contain 28 rooflights.
- 1.10 The boundary treatment to the A49 would be a combination of retaining wall surmounted by the acoustic fence to the service yard area, with the concrete piled retaining wall continuing along the boundary to the roundabout. There would be a concentration of tree planting adjacent to the service yard area and the north western corner of the car park, with tree species including oak, wild cherry, field maple and hornbeam. Hedging (field maple, dog wood, hazel, thorn, holly and privet mix) would supplement the retaining wall and vehicle restraint barrier along this section. This retaining wall detail (At 0.5m height) and bump rail would be continued along the first section of the boundary with the A4117 in the vicinity of the roundabout with the same new hedging, then continuing as a 500mm high timber knee rail up to the junction with Duncow Road. New tree planting along the Rocks Green frontage would comprise three hornbeam trees.
There would be an open grassed area and tree planting (Seven oak trees, three lime and shrub planting) along the boundary with Duncow Road, with 3m high acoustic timber fencing for the bulk of the north western site boundary supplemented with 15 trees which would be a mix of field maple, common whitebeam, mountain ash and hawthorn. There would also be new tree planting within the car park area adjacent to the internal access road and between parking bays: These would be a mix of holm oak, london plane and hornbeam.
- 1.11 The Duncow Road frontage to the filling station area would also feature new native hedging and a mix of oak and lime trees, with two rows of native hedging along the

north eastern boundary.

- 1.12 The proposed layout of the filling station area would include the above ground storage tanks required as part of the outline permission, enclosed by 3m high ventilated screen fencing, to the north of the forecourt pump area. Staff parking would also be provided in this area. A row of three pump islands under a rectangular shaped canopy is proposed, which would be entered from the mini roundabout and exited by a simple junction on Duncow Road closer to the A4117. There would be an unmanned kiosk at the southern end of the filling station canopy. Immediately to the east of the canopy area would be the filling point for the fuel tanks, protected by a blast wall enclosure to the sides and rear of the fill point in an area to be kept clear for tanker deliveries. A location is shown for a totem sign at the junction of Duncow Road with the A4117, which would have to be the subject of a separate advertisement consent application.
- 1.13 Proposed site levels details are provided by the proposed elevation drawings incorporating sections with a vertical scale bar and an existing site survey drawing.
- 1.14 It is anticipated that some 150 jobs would be created by the proposed development.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site lies to the north of Ludlow on the junction of the A49 and A4117 with access off the A4117 via a new mini roundabout on Dun Cow Road. It is a 1.488 hectare site with 0.15 of that being for the filling station. It is currently occupied by a farm house and outbuildings which are redundant following the construction of the Rocks Green housing estate to the north of the application site.
- 2.2 A tall Leylandii hedge runs along the west and south boundaries of the site whereas the northern boundary, with the adjacent houses, is a post and wire fence. There is also housing to the west on the opposite side of the A49 with open fields to the east on the opposite side of Dun Cow Road.
- 2.3 The majority of Ludlow lies to the west of the A49 with the town centre lying on the opposite side of the railway line from the A49. However the existing Rocks Green housing estate and Ludlow Rural Enterprise employment site sit on the east side of the A49 and the allocated housing site shown in the adopted SAMDev is to the east of the A49 on the opposite side of the A4117 from the application site.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 While there is no trigger in the Council's current adopted scheme of delegation that requires this application to be brought to Committee, in 2017 when outline planning permission was granted for the development the South Planning Committee expressed a wish for the reserved matters application to be brought to Committee. The Planning Services Manager considers that, due to the minutes of this decision, that this reserved matters application should be determined by Committee.

4.0 Community Representations

- Consultee Comments

(Where consultees have submitted more than one set of comments, the latest comments are listed first in order to show whether any earlier concerns have been addressed. The full text of the comments received may be viewed on the Council's website and are summarised below).

4.1 Ludford Parish Council (09.08.2020) - Make comments neither objecting to or supporting the application:

Comment: Ludford Parish Council makes the following comments.

1. Access and provision for bus services. The bus route into the site should provide the nearest possible access point for both drop off and collections. This is of the utmost importance from the point of view of lessening reliance on the use of private transport, assisting families when shopping with young children or elderly family members and elderly or disabled customers.

Figures taken from the 2011 Census indicate that Ludford Parish has a higher rate of residents above 65 years of age, at 23.3%, than the County (20.7%, regionally (16.9%) or nationally (16.3%). Ludford Parish Council considers that location for bus stops should be immediately outside the entrance to the store. It is to be hoped that the developer will liaise with companies servicing this route to provide suitable vehicles and will ensure that the layout of the site will be planned around this necessary requirement.

2. The reduction to the scale of the proposed building and the re-positioning towards the rear of the site are beneficial and sensitive to local residents and are welcomed. Ludford Parish Council recognises the limited opportunities for landscaping whilst retaining a clearly visible presence for the food store. However, it is to be hoped that the proposed landscaping will soften the extent of the development whilst recognising its rural setting. Rocks Green provides one of the three entry points into the town of Ludlow. All three of them are situated within Ludford Parish and the council consider it is vital to strike a balance between an acceptable level of presence for the store and a recognition of the location and its history. The selection of plants should also offer " .. a soft, green visual boundary to the site " throughout all 4 seasons, as far as possible. Ludford Parish Council trusts that the comments regarding this application are considered by The relevant officers at Shropshire Council.

4.1.1 Ludford Parish Council (03.04.2020) - Make comments neither objecting to or supporting the application:

The scale of the buildings and associated infrastructure is too large for this compact site.

How will the houses at the rear of the site be protected from noise and light pollution?

The poor quality of design presents an unimaginative entrance as a gateway to the historic town centre.

Clarification is required regarding which trees are to be felled and how they will be

replaced with appropriate mature planting.

Impoverishing the local environment, instead of enhancing it.

What limitations will be placed on working hours during the construction phase and delivery times for all aspects of the site when complete?

Considers that enhancing facilities for those using public transport, by the provision of a bus shelter, would be an appropriate community benefit.

4.2 Ludlow Town Council (12.08.2020) (Adjacent Parish/Town Council) - Support:
No Objection to amended drawings.

4.2.1 Ludlow Town Council (12.03.2020) - Object:

- The footprint of the Supermarket building has increased by 23%. Ludlow Town Council objected to the initial plans in 2017 as they felt it was already too big initially.

- The development threatens to undermine the strong Tourism based economy of Ludlow. The population of Ludlow has a finite amount of money to spend at the Supermarket and an unnecessarily large out of Town Supermarket poses significant threat to existing successful retail environment in the Town Centre

4.3 SC Highways Development Control (07.09.2020) (Amended Drawings) - No Objection:

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.

Further details have been submitted as part of the application due to an end user being identified. Amendments to the signing and lining proposed for Duncow Road have been made, which can be seen on drawing number 1085-BP-01=P1, which have not been detailed in the application.

The revisions to the parking layout are acceptable, especially given that the disabled bays are nearer to the entry/exit.

Highways comments made on 19/03/2020 are extant, and so repeated below, along with suggested conditions/informatives:

The application is for the approval of reserved matters (appearance, landscaping, layout and scale) pursuant to 14/05573/OUT, where access was approved.

An indicative layout was provided at outline that raised no highways objection. The layout of the foodstore and car park has been amended from the outline but is still acceptable from a highway's perspective.

Duncow Road has been formally adopted by Shropshire Council and therefore all works need to be constructed in accordance with traffic signs manual and to an adoptable standard.

A Construction Traffic Management Plan and a Travel Plan were conditioned at

outline stage.

Conditions recommended as set out in comments of 23.03.2020 below (4.3.1).
(Officer Comment - The drawing numbers would need adjusting to correspond with the amended drawings).

4.3.1 SC Highways Development Control (26.03.2020) - No Objection:

An indicative layout was provided at outline that raised no highways objection. The layout of the foodstore and car park has been amended from the outline but is still acceptable from a highways perspective.

Duncow Road has been formally adopted by Shropshire Council and therefore all works need to be constructed in accordance with traffic signs manual and to an adoptable standard.

A Construction Traffic Management Plan and a Travel Plan were conditioned at outline stage.

Conditions:

Prior to the development hereby permitted being brought into use, the highway alterations on Duncow Road as shown on drawing number 1085_BP_01 shall be constructed in accordance with full engineering details that shall have first been submitted to and approved in writing by the local planning authority.

Reason: To ensure a satisfactory means of access to the highway.

Prior to the development hereby permitted being open to trading/brought into use the access, car and cycle parking and HGV turning area shown on drawing number 1085_BP_01 has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use for the lifetime of the development.

Reason: To ensure an adequate means of access, the provision of adequate car and cycle parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

4.4 Highways England (07 and 10.09.2020) – Informally have proposed draft conditions to address matters which have resulted in the holding objection, subject to review by their legal team. At the time of writing this report (11.09.2020) Highways England were not in a position to withdraw their holding objection. Formal comments awaited.

4.4.1 Highways England (07.08.2020) - Holding Objection:

Site Layout Plan

The covering letter dated 20 July 2020 states that the layout of the proposed development has altered from the original layout, to suit the requirements of proposed end user (Sainsbury's). We note that the gross footprint of the store has been reduced to 17% over the outline consent, and as a result, the store is now proposed to be moved away from the western boundary with the A49. This space is now intended to be allocated for customer parking and the service yard. With the proposed alteration to the site layout, the service yard is now closer to a greater number of receptors. As such, we consider that these alterations will affect noise impact. We would require further information from the applicant if this case has

been considered, and if so, the mitigation measure required. Information is also required to understand if the proposed mitigation would affect the SRN interests.

Boundary Treatment

With reference to the layout alterations and the above stated point regarding noise impact, we note that a 3.0m tall acoustic fence is proposed along the north-western boundary of the development site. However, we would require additional information/ justification from the applicant regarding how this mitigation was determined and on what basis it was considered unnecessary to provide an acoustic barrier along the western boundary (adjacent to the A49).

In our previous holding recommendation response issued in March 2020, we recommended the applicant to provide clarity regarding the proposed building layout and design assumptions surrounding the foundations, retaining wall and ground stability in relation to Strategic Road Network (SRN) interests (as per DfT's Circular 02/2013 para. 49).

Whilst the applicant provided additional information in April 2020 regarding the boundary treatment concerns raised by Highways England, further information was necessary to demonstrate that there will be no structural impact on the A49 embankment, either through construction or once built. As such, the applicant was recommended through our email dated 1 May 2020 to provide a dimensioned cross-section showing the following, which would assist an initial discussion and form the basis of an agreed position.

1. Levels and gradient of the embankment
2. Retaining wall and indicative foundation design
3. Extent of vegetation clearance
4. Ground stability and loading assumptions

The applicant has now submitted the cross-section plan (*Drawing no. 1085_BT01 Rev C2*) which aims to address our concerns raised in the previous holding recommendation. Based on review of this, we note that the cross-section plan shows various sections along the western boundary with the A49. The plan shows the proposed installation of a retaining wall along the western and south-western boundary of the development site (details of which are provided on the cross-section plan). It is also noted that the service yard is set back from the highway boundary by approximately 11m. However, the majority of the customer parking area abuts the A49 boundary, with a retained height varying from 1.5m – 2.0m.

along the A49 boundary, so that we can comment on their appropriateness. The applicant should note that some species can be detrimental to highway safety, operation and maintenance.

Drainage

In our holding recommendation response issued in March 2020, the applicant was requested to confirm if the proposed sewer connections have been approved by STW. In the additional information submitted through your Council in April 2020, the applicant has confirmed that the discussion with STW will be conducted post determination of the application. The proposal intends to make use of a timber clad

contiguous pile retaining wall with a timber Vehicle Restraint System (VRS); however, no geotechnical/structural information or VRS calculations have been presented to demonstrate the acceptability of the proposal. It is to be noted that the levels involved will require assessments in accordance with the DMRB requirements (i.e. CD 622 and CG 300), to be undertaken by a suitably qualified Engineer(s). The VRS will require use of a risk assessment tool to identify the appropriate containment level required (please refer DMRB CD 377). However, we do not consider the use of timber VRS to be compliant with DMRB/MCHW. In addition to the above and with reference to the comments associated with the acoustic fence around the service yard, if a fence is found required on the western boundary (on top of the retaining wall), this will need to be identified and accounted for in the assessments.

Landscaping

The tree survey report (Issue 2 – dated October 2013) currently submitted by the applicant is the same version provided in support of the outline application. The covering letter confirms the existing trees along the A49 boundary (Leyland cypresses) will be felled and replaced with (unspecified) native species and wildflower planting.

We recommend the applicant to produce an updated report to reflect the proposed layout and landscaping, and any changes in arboriculture requirements and best practice. In addition to this, we recommend the applicant to identify the native species (pre-development) and that a suitably worded condition could be placed (requiring the developer to obtain agreement with STW to accept the drainage connections to the public sewers). This was acceptable to Highways England in principal and was informed to the applicant through our email response in May 2020.

Regarding our concern related to the proposed outfall to Fishmore Brook and the nature and status of culverted crossings of the A49, please note that discussions are on-going. However, the outstanding drainage related matters as outlined in our previous holding recommendation issued in June 2020 are given below.

Additional information was provided by the applicant in April 2020; however, it was considered to be inadequate in demonstrating the compliance with DfT Circular 02/2013 para. 50 and the principles set out in DMRB CG 501 Chapter 6.

In addition to the above, the applicant's consultant contacted Highways England on 11 May 2020, requesting more clarity/detail be provided relating to our requirement regarding the A49 culvert. In our response (dated 3 June 2020) we have clarified our rationale (given below).

Fishmore Brook watercourse is considered to be an 'Ordinary Watercourse'; however, when such a watercourse passes over land, the landowner has rights and responsibilities for that section of the watercourse. This is referred to in Common Law as Riparian Owner's rights and responsibilities. It follows that, under Common Law, a downstream landowner is only required to accept water in its natural state (*Natural state refers to water that either runs off the land, percolates into ground water or emerges as a spring without interference*). The fact that water from the proposed development is being managed (albeit to mimic green field run-off) suggests that the water is not in its natural state. It appears that Fishmore Brook watercourse crosses the A49 via a culvert. However, we are unable to establish the

nature and status of this culvert, and as such we request the applicant to confirm this.

We suspect that the culvert is a Highways England asset and have assumed that it is integral to the A49 drainage system. However, without further information, we are unable to confirm this. On the above assumptions, Highways England (as landowner) would be responsible for a section of the watercourse that receives the proposed development's water discharge, and, as such, we consider that the proposal to discharge water into Fishmore Brook would be contrary to DfT Circular 02/2013 par. 50 and DMRB CG 501 Chapter 6.

The applicant has provided additional information intending to address the above concerns as raised by Highways England in the form of a response letter dated 8 July 2020 and has now stated in the covering letter that "*the proposed development will not pose any risk of flooding since the proposed drainage will be restricted to greenfield runoff rates, and that the surface water flows to the Fishmore Brook will be managed by STW*". As this is subject to on-going review, we are not currently in a position to provide our comments. We will be providing our comments to the applicant and the Council once the review is completed.

Conclusions

In light of the above, we advise the applicant to provide further information and clarification in relation to our above stated concerns regarding the boundary treatment matters. In summary, we request the applicant to provide the below listed matters.

1. Noise impact assessment which informed the proposed use of acoustic fence along the north-western site boundary
2. DMRB assessment for the proposed retaining wall and VRS (*We suggest that the applicant is recommended to contact us to scope out the assessment requirements*)
3. An updated tree survey report together with the proposed native species along the A49 boundary

Based on the above, it is recommended that these reserved matters should not be approved. The current holding recommendation is dated 19th June 2020, in order to allow the applicant the necessary time to submit the details requested it is recommended that this remains in place.

4.4.2 Highways England (19.06.2020) - Holding objection:

We advise the applicant to provide further information and clarification in relation to our stated concerns regarding the drainage and boundary treatment matters. Based on the above, it is recommended that these reserved matters should not be approved for a further period of up to 3 months from the date of this response, in order to allow the applicant the necessary time to submit the details requested.

4.4.3 Highways England (01.05.2020) -

In our holding recommendation response issued in March 2020, confirmation from the applicant was requested if the proposed sewer connections have been approved by STW. In the below email, the applicant has confirmed that the

discussion with STW will be conducted post determination of the application (pre-development) and that a suitably worded condition could be placed (*requiring the developer to obtain agreement with STW to accept the drainage connections to the public sewers*). In principle, we consider this to be suitable.

With regard to the second point concerning the proposed outfall to Fishmore Brook and the nature and status of culverted crossings of the A49, the response provided by the applicant does not give the assurance required by Highways England i.e. demonstration of compliance with DfT Circular 02/2013 para. 50 and the principles set out in DMRB CG 501 Chapter 6.

We consider that the response regarding the erection of the small retaining wall has not provided the assurance as required by Highways England and therefore, further information is necessary to demonstrate that there will be no structural impact on the A49 embankment, either through construction or once built. We recommend the applicant to provide a dimensioned cross-section showing the following, which would assist initial discussion and form the basis of an agreed position.

1. Levels and gradient of the embankment
2. Retaining wall and indicative foundation design
3. Extent of vegetation clearance
4. Ground stability and loading assumptions

In light of the above, we would require further information from the applicant (as originally requested through our holding recommendation response in March 2020).

- 4.4.4 Highways England (19.03.2020) - Holding Objection:
Confirmation from the applicant is required whether the proposed sewer connections have been permitted by STW and also regarding nature of the A49 crossing accommodating Fishmore Brook.

Require clarification from the applicant regarding the proposed building layout and design assumptions surrounding the foundations, retaining wall and ground stability in relation to Strategic Road Network (SRN) interests (as per DfT's Circular 02/2013 para. 49).

- 4.5 SC Ecology - Comments awaited at time of writing report on submitted mitigation strategy and amended landscaping scheme to address favourable conservation status test.

- 4.5.1 SC Ecology (18.08.2020) - Comment:
A bat roost was recorded in 2018 and works will have to take place under a European Protected Species licence.

The Local Planning Authority is a 'competent authority' and has a statutory duty under Regulation 9(5) of The Conservation of Habitats and Species Regulations 2017. All competent authorities, when 'exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.'

Since a planning decision is going to be made (exercising a competent authority function), Shropshire Council must consider the Habitats Regulations '3 derogation tests' for protected species.

In order to answer the 'favourable conservation status' (FCS) test, further information is required, as set out below.

Section 4.1 of the Preliminary Ecological Appraisal sets out some mitigation measures that will form part of the licence application. Further details are required to allow SC Ecology to consider the FCS test, e.g.:

- Any timing restrictions;
- Details of the replacement roosting opportunities in buildings and trees, including locations;
- A pre-commencement check by the ECW; and
- What to do if bats are found during the demolition.

A lighting scheme should be submitted to ensure that the FCS can be maintained, e.g. by ensuring that areas of bat foraging and commuting (boundary hedgerows and trees and ornamental planting) and the locations of the bat boxes (or other roosting opportunities) are not illuminated.

Once these elements have been submitted, SC Ecology will complete the FCS test then the planning officer will complete the other two tests (overriding public interest and no satisfactory alternative). A record of the consideration of the three tests is legally required.

Landscaping

There is a lack of connectivity along the south-western and south-western boundaries. This is an Environmental Network corridor and needs to be protected. The hedgerows need to be continuous – there are currently gaps – with a native species buffer (wildflower grassland or shrubs) between the hedgerow and hardstanding. There must be no illumination of the hedgerows.

The makes, models and locations of the bat and bird boxes need to be shown on the plan.

- 4.5.2 SC Ecology (28.07.2020) - Comment:
Shropshire Council must consider the Habitat Regulations '3 derogation tests' for protected species (bats in this case).
Further information sought on timing restrictions; replacement roosting opportunities; action to be taken if bats found during demolition; improvements to landscaping scheme; provision of bird boxes.
- 4.5.3 SC Ecology (26.03.2020) - Comment:
Demolition of barn will need to take place under a European Protected Species Licence. Since a planning decision is going to be made (exercising a competent

authority function), Shropshire Council must consider the Habitats Regulations '3 derogation tests' for protected species.

In order to answer the 'favourable conservation status' (FCS) test, further information is required

4.6 SC Trees (10.08.2020) - Comment:

Unable to significantly modify comments 19.03.2020 and maintain concerns that the layout and detail for the provision of compensatory tree planting is such that the likelihood of the new trees becoming significant or valuable features at the site is low without further agreement on measures and costing for ground preparation and ongoing after care.

The introduction of a boundary wall and removal of the majority of tree planting along the south facings of the site mean that it will be highly prominent in the landscape as seen from the A49 at the gateway to Ludlow.

RECOMMENDED CONDITION:

GROUND PREPARATION, TREE PLANTING AND AFTRE CARE

No site works or development (including demolition, ground works/re-profiling and tree felling / vegetation clearance) shall take place until specifications and details for ground preparation tree planting and after care have been approved by the local planning authority., this to include:

- a. Measures for soil protection and improvement, or the introduction of fresh topsoil that provides appropriate volumes of healthy de-compacted topsoil appropriate to the mature needs of the trees being planted. The details of soil amelioration will meet the minimum standard set out in the recommendations in BS3882:2015 specification for topsoil; or provision of new de-compacted topsoil that meets as a minimum the same standard.
- b. Where trees are to be planted in or close to hard standing and roots are to be expected to exist wholly or in part under that hardstanding the details for the inclusion of an appropriate soil cell system to contain and protect the growing medium will be provided.
- c. Details for ground preparation, tree procurement, planting and after care that demonstrate an understanding of the good practice guidance offered in BS 8545:2014 trees from the nursery to independence in the landscape recommendations.
- d. A programme of maintenance and measures for replacing dead damaged diseased or failing trees with funding for regular aftercare for a minimum of 5 years after planting including measures for watering during draught periods.

REASONS: To ensure that the tree planting proposed in the approved landscape plan is capable of achieving the best possible development and health in order to contribute to the character and amenity of the area for the life span of the proposed development.

4.6.1 SC Trees (19.03.2020) - Comment:

Whilst in principle the Tree Team see no specific arboricultural objection to some

form of development at this site, we consider that the proposed layout and landscape do not represent the best possible sustainable design, in that the development fails to effectively protect restore and enhance the natural assets that are key to the character and amenity of the area, as such the tree team are unable to support the proposal as submitted.

Recommend conditions if the application is put forward for approval without modifications relating to tree protection; specification for all new tree planting; details of soft and hard landscape design; and landscape implementation.

- 4.7 SC Regulatory Services (31.07.2020) - Comment:
-Previous comments about above ground tanks still stand.
- Petrol station layout has changed with the manned kiosk being removed and there appears to be more space for customers to drive around the forecourt.
-It seems that fuel is to be pumped off the tanker into the tanks vis offset fills so a pressurised system which the industry seems to have moved away from in more recent times.
(Officer Comment: The filling station is also subject to separate licensing regulations in terms of safety of operation).
- 4.7.1 SC Regulatory Services (19.03.2020) - Comment:
Understand that the EA has requested that above ground tanks are installed here, however cannot see what has been proposed to ensure site safety and the safety of the public using the site.
Full comments set out the advantages and disadvantages of both above ground and below ground tank installations, along with similarities.
- 4.8 SC Drainage (04.80.2020) - Comment:
The proposed surface water drainage is acceptable.
- 4.8.1 SC Drainage (21.07.2020) - Comment:
The Proposed Block Plan of the site has been amended. The amended proposed drainage, plan and calculations should be submitted for approval.
- 4.8.2 SC Drainage (09.03.2020) - No Objection:
The proposed surface water drainage is acceptable.
- 4.9 SC Economic Development - No Objection.
- 4.10 Severn Trent Water - Comment:
Require the use of soakaways to be investigation before considering a surface water connection to the public sewer.
(Officer comment -Ground conditions report at the outline stage confirmed that the ground is not suitable for soakaways).
- 4.11 Environment Agency (11.03.2020) - No Objection to the details submitted to address condition 7 of 14/05573/OUT relating to the location of fuel tanks above ground, as specified by that condition, and the details of their position and means of preventing fuel spillages and incidents submitted with this application.

Public Comments

4.12 Site notice displayed 05-03-2020; Press notice published 10-03-2020. 243 notification letters sent out. (Includes parties who commented on the outline application).

4.12.1 8 Objections prior to receipt of amended drawings::

Adverse impact on town centre.

Proposed petrol station is unnecessary.

If a major supermarket is interested in coming to Ludlow they should acquire the old Budgen site and build a low rise multi-storey car park and add footfall to the town.

Will drive local trades people out of business.

Would exacerbate recent flooding on land in this area and on A49.

No client has come forward; talk of 100-150 quality jobs being created spurious.

Design out of place and a classic example of over-development.

No provision for electric car charging, or cycle parking, or any space where a bus could safely stop.

Inappropriate and unsuitable given the need to reduce dependence on petrol/diesel cars.

Loss of trees and hedges and bat habitat; detailed survey has failed to cover the whole of the development site; if the reserved matters and landscaping plan were to be approved Shropshire Council would be in breach of the Habitats Directive and could be taken to court.

Pedestrian access for those coming from houses across the A4117 not clearly shown; should be provision for a pedestrian way and a crossing so that the houses to the northwest of the roundabout can access the supermarket without crossing three roads.

No provision for archaeological excavation of farmhouse site.

Landscaping area should be much larger with more trees retained.

Should incorporate solar panels and/or a green roof; should be a plan to install 100% electric charging points by 2050.

4.12.2 1 Neutral Comment prior to receipt of amended drawings:

Should incorporate measures to conserve and enhance wildlife, including swift boxes/swift bricks.

4.12.3 2 Support Comments prior to receipt of amended drawings:

Will be easily accessible from the A49 and will ease traffic congestion and parking issues around the existing supermarkets in Ludlow.

Is a well situated site that does not impose on its rural environment with attractive landscaping and sympathetic design.

Will be in walking distance of their home and lovely to have this facility near them.

4.12.4 3 Objections received following receipt of amended drawings:

-Revised plans would appear to show fewer trees and shrubs screening the car park.

- Concerned about the proposed signage and there is no artists impression or indication of size in the application.
- Detrimental impact on businesses in the town centre, particularly food business including the market which is vital for the town character and tourists.
- If a store is required for people who live nearby it could be smaller.
- A fuel station is not required as there are two within a just over a mile and another within 5 miles; diesel and petrol cars are on their way out and the area could be used for green landscaping and a seating area.
- Whole perimeter line of parking should be given over to green landscaping
- Conifers should be surveyed for what wildlife uses them and nest boxes provided.
- If development goes ahead it should be made as "green" as possible.
- Design should be better but an attractive design should not be used as an excuse to remove the tree screen.
- Should not rely on major supermarket chains and should be investing all our energy in supporting local entrepreneurs and building community capacity and resilience for the future.

- 4.12.5 1 Neutral comment received following receipt of amended drawings:
- Concerned that if the promised native replacements are to be viable in the long term - the proposed replacement of existing Leylandii trees and hedges with native species will require prior de-acidification and re-fertilization of the soil to replace the nutrients typically removed by Leylandii, and to restore the soil pH to required alkalinity, as Leylandii are notorious for creating impoverished, dry soil of high acidity in which little else can grow. If compliance is not ensured, the site will be a barren eyesore.
- 4.12.6 1 Letter of support received following receipt of amended drawings:
- This will be a welcome addition to the town, providing much needed jobs and shopping.

5.0 THE MAIN ISSUES

Principle of development
 Appearance, scale and layout
 Landscaping
 Drainage
 Boundary treatments and retaining structures
 Ecology
 Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The principle of a food store and filling station on this site, which is split by Duncow Road, has been accepted through the grant of outline permission 14/05573/OUT and cannot be re-visited in the consideration of this reserved matters application.

6.2 Appearance, scale and layout

- 6.2.1 Shropshire Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character. It also seeks to achieve safe developments with good accessibility and to include within developments appropriate landscaping and car parking provision. Site Allocations and Management of Development (SAMDev) Plan policy MD2 builds upon the criteria in Policy CS6, advising among matters listed that opportunities for contemporary design solutions will be embraced, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoiding reproducing these characteristics in an incoherent and detrimental style. Section 12 of the National Planning Policy Framework (NPPF) also emphasises the importance of achieving well-designed places.
- 6.2.2 The appearance of the proposed food store, as described in paragraphs 1.6 to 1.9 above would be of a contemporary form combining the use of some traditional materials (timber cladding) which would not be out of keeping with this site context and the residential development to the north of the site in particular. The low-set form of the building, set into the land which rises in a north-easterly direction as shown by the levels on the site section and elevations drawings, would also assist in assimilating the building into the immediate surroundings and not make it unduly prominent from long distance views. The location for the filling station is on higher land and a more exposed location. However the built form proposed for the filling station, comprising of a simple flat roofed canopy open on all sides, small ancillary and low kiosk building and a close board fencing enclosure to conceal the above ground fuel tanks from view, allows for the retention of views out to the surrounding countryside from Duncow Road and would be seen against the back drop of built development when viewed from the north and north east. There would be landscaping (Discussed below) to the boundary with open countryside and it is considered that the appearance of this part of the development would be acceptable.
- 6.2.3 The scale of the proposed development as amended, in terms of floor space, is reduced in comparison with that envisaged at the outline stage and in the original drawings submitted with this reserved matters application. This reduction has been beneficial in terms of integrating the proposed development into the built surroundings and allowing the store building to be positioned away from the north western site boundary with residential development. Shropshire Council has no adopted parking standards, with Core Strategy policy CS6 stating that appropriate car parking provision should be made. The Council's Highways Consultants have raised no concerns about the quantity of on-suite parking proposed or the vehicle circulation space within the site and this is considered to be adequate for the size of store proposed. With respect to the provision of electric charging points to every parking space by 2050 as suggested in correspondence received, this is not a condition of the outline permission granted and could not be secured through a reserved matters approval.
- 6.2.4 With respect to the site layout, the basic configuration with the food store on the northern part of the site and the parking on the southern part, is similar to the illustrative layout provided with the outline application. In the report of the outline

application Officers advised at paragraph 5.2.2 of the final report that they were of the view that a different site layout could be achieved which moves the store and service yard further from the existing dwellings and also retains existing landscaping along the A49. This layout issue has been explored again in assessing the reserved matters proposals. It is now accepted that, having regard to the site topography, shape, access arrangements approved as part of the outline permission and to make the most efficient use of the land available in terms of the amount of parking to be provided and store servicing in a safe manner, that the proposed site layout is appropriate to meet these objectives. It also accords with the NPPF objective at paragraph 122 of supporting development that makes efficient use of land. The combination of the revised site layout and the planning condition on the outline permission relating to acoustic fencing would ensure no undue harm to neighbour amenity as a result of the layout.

6.3 Landscaping

6.3.1 Core Strategy policies CS6 and CS17 seek to achieve appropriate landscaping in developments for their visual and ecological value, with SAMDev Plan policies MD2 and MD12 looking to schemes to reinforce the character and context of a site. Policy MD12 advises that in situations where is no satisfactory alternative there may be social or economic benefits to outweigh the harm, to seek mitigation. The proposed landscaping scheme to accommodate the proposed layout of the food store and parking would involve the removal of a row of substantial leylandii trees along the boundary with the A49, together with some trees along the A4117 and a small plantation within the site. There would be a reduction in tree cover adjacent to the road frontages in the proposed scheme that would create a more open site. However the principle of the proposed development has been accepted and there would be significant limitations on the developable area that would result from retaining the existing trees, even with the slightly reduced scale of development in the amended reserved matters submission compared to that envisaged at the outline application stage. Amendments have been to the proposed landscaping in response to comments made by the Council's Trees Team, and the scheme of new planting is outlined at paragraphs 1.10 and 1.11 above. While that team maintains it concerns about the layout and detail of the compensatory tree planting, this does not amount to an objection that would warrant refusal of the proposed reserved matters when weighed against the social and economic benefits accepted with the grant of outline permission. The proposed new planting would arguably be more attractive visually than the leylandii trees in this site context. The Tree Team's recommended condition relating to ground preparation for the tree planting and aftercare would be attached to an approval of reserved matters.

6.4 Drainage

6.4.1 The on-site drainage details which condition 4 of the outline planning permission required to be submitted with the first submission of reserved matters are considered acceptable by the Council's Drainage Consultants, following their appraisal of the additional technical details supplied. Highways England have raised concerns about the potential impact of drainage arrangements on the strategic road network (A49) infrastructure and lodged a holding objection for further information to be submitted in response to their queries. It is considered that this is a matter which can be properly addressed through the submission of a

discharge of condition application in respect of condition 16 of the outline planning permission which states:

"A detailed drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, prior to the commencement of any works that would alter the existing drainage of the site or surrounding land. The detailed drainage scheme shall be implemented as approved.

Reason: To ensure the site does not drain onto the strategic road network and that the proposed method of drainage does not affect the interests of Highways England, in accordance with paragraph 50 of DfT Circular 02/2013."

Following lengthy correspondence between Highways England and the agent, Highways England have advised informally that it may be possible (Subject to confirmation by their own legal team) for their holding objection relating to drainage to be addressed by a condition stating that within 3 months of the date of the permission (reserved matters approval and prior to the commencement of development revised plans for a sustainable drainage design in accordance with paragraph 50 of DfT Circular 02/2013 and DMRB CG 501 (Chapter 6) shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England, and the drainage works be carried out in accordance with the approved details. This condition would be a partial duplication of condition 16 which already forms part of the planning permission but does clarify the specific design criteria to be addressed.

6.5 **Boundary Treatments and Retaining Structures**

6.5.1 The proposed boundary treatments comprising of new planting, fencing and retaining structures have been described in section 1 of this report and are considered visually acceptable for the reasons explained in sections 6.2 and 6.3 above. The Highways England Holding objection has also been on the basis of requiring further information to assess the impact of the proposed landscaping and retaining structures on the strategic highway network. They are now indicated that the proposed landscaping scheme would not prevent to A49 Trunk Road continuing to serve its purpose as part of a national system of routes for through traffic. With respect to retaining structures Highways England has advised that the following conditions may enable this remaining element of their holding objection to be withdrawn, subject to confirmation by their own legal team:

Condition: *Prior to changing the site levels or erecting any retaining structure within 10m of the strategic highway boundary, the developer shall submit details of the proposed retaining wall, including (but not limited to) dimensions, materials, design calculations and a construction method statement. The retaining wall shall be designed in accordance with the BS EN 1997 (Eurocode 7), BS PD 6694-1 (traffic loads on structures) and CIRIA guide 760 (Embedded Retaining Walls) and shall comply with the maintenance standards as required under Annex A (paragraph A1) of DfT Circular 02/2013. The design of any retaining wall structure required shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England. The retaining wall structure shall*

be implemented in accordance with the approved design.

Condition: *Prior to the commencement of construction of the retaining wall, the developer shall undertake a Road Restraints Risk Assessment Process (RRRAP). This is to determine whether a Vehicle Restraint System (VRS) is required on the Strategic Road Network (SRN) side of the retaining wall as well as determining an acceptable form of VRS at the top of the retaining wall within the car park to protect against vehicles falling from the car park towards the SRN. The design of any VRS determined to be required shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England. Any VRS determined to be required shall be implemented in accordance with the approved design.*

Reason for Conditions: *To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.*

The above conditions are currently subject to discussions between Highways England and the agent at the time of writing this report and may be subject to further amendment. It would be possible to attach them, in their final form, to an approval of reserved matters in this case, along with the landscape implementation condition requiring the work to be carried out in accordance with the approved scheme.

6.6 Ecology

6.6.1 Ecological impacts were considered in detail at the time the outline application was under consideration. It was established that there were no ecological reasons for withholding a grant of outline permission 14/05573/OUT and condition 5 on that decision notice requires all development, demolition or site clearance procedures to be carried out in line with the Protected Species Survey Focusing on Bats by Shropshire Wildlife Consultancy dated July 2014. Condition 14 also requires the provision of a minimum of three bat boxes or bat bricks in the development. There is an obligation on all parties in carrying out development to ensure that development proposals do not cause harm to protected species and that, where needed, appropriate mitigation is incorporated in developments. Most ecological data is considered to be up-to-date for a period of two years, after which the ecological impacts of proposals should be reviewed. An updated ecological appraisal and a protected species survey has been submitted with the current reserved matters application. This has identified the presence of a bat roost (A non-maternity summer roost for a single common pipistrelle bat) that was not present in 2014 in the barn which would be demolished. The proposed works would therefore have to take place under a European Protected Species licence.

6.6.2 The Local Planning Authority is a 'competent authority' and has a statutory duty under Regulation 9(5) of The Conservation of Habitats and Species Regulations 2017. All competent authorities, when 'exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.' The Council's Ecology Team requested further information on the proposed mitigation measures set out in the Preliminary Ecological Appraisal and the proposed landscaping scheme. A Bat Mitigation

Statement has now been submitted setting out a timetable for the works, supervision by a licensed bat ecologist and actions to be taken should a bat be encountered. The associated landscape scheme details show the proposed positions for bat boxes and bird boxes. In terms of wider ecology mitigation and enhancement the Statement comments that locally native trees would replace the existing mature Leyland cypress hedges which are of low wildlife value. It comments that the trees will develop into significant habitats and as the base of food chains and there is space for them to develop mature crowns. The native hedging would be planted as double rows where possible to quickly achieve a good density of twigs and foliage as a high-quality habitat. The ground cover planting would reinforce the value of the hedges. The bat boxes, mounted on telegraph poles would be located on the north western and the north western end of the south western boundary, between the service yard and the A49 before any demolition commences. Five sparrow terraces and five swift boxes would also be provided in these locations. Ten log pile refugia would be provided on the proposed meadow at the north western end of the south western boundary, using logs arising from the felling of the Leyland cypresses on site.

6.6.3 With respect to the three European Protected Species tests, the grant of outline planning permission has shown that the Local Planning Authority considers that there is an overriding public interest in terms of the economic benefits and job creation that the development would deliver. The grant of outline permission also demonstrates the acceptance that there is no satisfactory alternative to this site (A sequential site assessment was carried out for the outline planning application). The comments of the Council's Ecology Team on the adequacy of the proposed compensatory works to mitigate for the loss of the single non-maternity bat roost is awaited and it is hoped to receive them in time for the Committee meeting.

6.7 Other Matters

6.7.1 The Parish Council has made comments neither objecting to or supporting the planning application but have made some observations about access and provision for bus services. They comment that they would wish to see a bus service into the site to assist families with young children when shopping, and state that Ludford Parish has a higher rate of residents above 65 years of age than the county, regional and national averages. They hope that the developer will liaise with (bus) companies servicing this route to provide suitable vehicles and to ensure the layout of the site is planned around this requirement.

6.7.2 There are existing bus stops and a pedestrian crossing on the A4117 road immediately adjacent to the application site. There is also the option for bus stops on Duncow Road to the north of the roundabout serving the store car park and filling station, which would keep pedestrians away from the bulk of traffic movements. It is not a requirement of the outline planning permission that a bus service be provided into the site, or that bus laybys be provided as part of the development and is not one which can be introduced at the reserved matters stage. Condition 11 of the outline permission relates to the proposed foot/cycleway linkages between Ludlow and the site, and condition 17 requires the submission and approval of a Travel Plan to promote the use of sustainable modes of transport.

6.7.3 The conditions recommended by the Council's Highways Consultants in respect of highway alterations on Duncow Road would be a duplication of conditions 9 and 10 on outline permission 14/05573/OUT which included access, not reserving it for later approval. The recommended condition in relation to the construction access, car parking and HGV turning area within the site is pertinent in relating to the layout reserved matter details of the proposed development.

7.0 **CONCLUSION**

7.1 The principle of a food store and filling station on this site has been accepted through the grant of outline permission 14/05573/OUT and cannot be re-visited in the consideration of this reserved matters application.

7.2 The appearance of the proposed food store would be of a contemporary form combining the use of some traditional materials (timber cladding) which would not be out of keeping with this site context. The built form proposed for the filling station allows for the retention of views out to the surrounding countryside from Duncow Road and would be seen against the backdrop of built development when viewed from the north and north east. The proposed development would not detract from the visual amenities of the area, or from the setting of any designated heritage asset.

7.3 The quantity of on-suite parking proposed and vehicle circulation arrangements within the site are considered adequate for the size of store proposed. The residential amenities of nearby residential properties would not be unduly harmed by the proposed site layout and appearance of the buildings.

7.4 It is acknowledged that the proposed landscaping scheme would require the removal of the existing trees and the dense row of tall Leyland Cypress trees and would lead to more open views of the site from the A49 road. However the proposed new planting would arguably be more attractive visually than the leylandii trees in this site context, and of potentially greater ecological value as it becomes established.

7.5 The drainage and boundary treatment/retaining structure matters raised by Highways England are likely to be matters which can be addressed satisfactorily through planning conditions, allowing them to withdraw their holding objection. (Were the local planning authority proposing to approve the application and issue the decision without a Highways England objection being removed, the application would have needed to be referred to the Secretary of State. The approval recommendation is therefore subject to the Highways England holding objection being removed).

7.6 With respect to the three European Protected Species (EPS) tests, the grant of outline planning permission has shown that the Local Planning Authority considers that there is an overriding public interest in terms of the economic benefits and job creation that the development would deliver. The grant of outline permission also demonstrates the acceptance that there is no satisfactory alternative to this site (A sequential site assessment was carried out for the outline planning application).

It is hoped to receive the comments of the Council's Ecology Team on the mitigation proposed to address the third EPS test in time for the Committee meeting. Any additional planning conditions deemed necessary to safeguard ecological interests to supplement conditions 5 (Work in accordance with recommendations of protected species survey), 14 (Provision of bat boxes) and 15 (External lighting) of the outline permission would be attached to the approval of reserved matters in these circumstances.

7.7 This reserved matters application is recommended for approval for the reasons set out above.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:

CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD12 - Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

14/05573/OUT Outline application for the erection of a new foodstore (Use Class A1), associated petrol filling station, and associated car parking to include access GRANT 2nd March 2017

14/04052/SCR EIA Screening Request for Proposed superstore and Petrol Filling Station EAN 5th November 2014

10/05641/VAR Variation of condition No.8 attached to planning permission reference

1/06/18517/F dated 24th August 2006 to allow for a number of smaller play spaces instead of a single play space GRANT 21st April 2011

13/04457/SCR Screening Opinion for proposed superstore and Petrol Filling Station NPW 7th November 2013

20/03175/AMP Non-material amendment to planning application number 14/05573/OUT. PCO
 SS/1/6874/P/ Use of barns as steak house/restaurant and car parking for 40 cars. PERCON
 25th July 1996
 SS/1/4568/K/ Erection of an open sided agricultural barn. REFUSE 11th May 1994
 SS/1/4702/X/ Erection of an open sided agricultural building. REFUSE 21st July 1994
 SS/1/2521/P/ Change of use from disused farm building to retail sales. REFUSE 21st July 1992
 SS/1/1019/P/ Conversion of barns to a steak house restaurant with car parking for 40 cars.
 PERCON 27th June 1991
 SS/1983/81/P/ Use of land for the sawing, peeling and storage of timber and stakes. REFUSE
 8th April 1983
 SS/1979/574/P/ Formation of an agricultural vehicular access. PERCON 23rd October 1979
 SS/1/01/12418/F Renewal of Planning Permission 1/06874/P dated 25th July, 1996 for change
 of use of barns to steakhouse/restaurant and car parking for 40 cars. PERCON 27th November
 2001
 SS/1/03/14950/F Conversion of agricultural buildings to hotel and restaurant; formation of
 vehicular and pedestrian access; installation of a septic tank PERCON 29th April 2004
 SS/1/06/18794/F Erection of an agricultural tool and equipment store. REFUSE 7th December
 2006

Appeal

SS/1/4702/X/ ERECTION OF AN OPEN SIDED AGRICULTURAL BUILDING. DISMIS 10th
 April 1995

Appeal

SS/1/2521/P/ CHANGE OF USE FROM DISUSED FARM BUILDING TO RETAIL SALES.
 ALLOW 15th March 1993

11. Additional Information

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

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning Statement Design and Access Statement Ecological Appraisal Bat Survey Tree Survey Bat Mitigation Statement
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Vivienne Parry
Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development shall be carried out in accordance with the amended drawings received by the Local Planning Authority and listed in the Approved Drawings Schedule on this decision notice.

Reason: To define the approval for the avoidance of doubt.

2. No site works or development (including demolition, ground works/re-profiling and tree felling / vegetation clearance) shall take place until specifications and details for ground preparation tree planting and after care have been approved by the local planning authority., this to include:

- a.Measures for soil protection and improvement, or the introduction of fresh top soil that provides appropriate volumes of healthy de-compacted top soil appropriate to the mature needs of the trees being planted. The details of soil amelioration will meet the minimum standard set out in the recommendations in BS3882:2015 specification for topsoil; or provision of new de-compacted topsoil that meets as a minimum the same standard.
- b.Where trees are to be planted in or close to hard standing and roots are to be expected to exist wholly or in part under that hardstanding the details for the inclusion of an appropriate soil cell system to contain and protect the growing medium will be provided.
- c.Details for ground preparation, tree procurement, planting and after care that demonstrate an understanding of the good practice guidance offered in BS 8545:2014 trees from the nursery to independence in the landscape recommendations.
- d.A programme of maintenance and measures for replacing dead damaged diseased or failing trees with funding for regular aftercare for a minimum of 5 years after planting including measures for watering during draught periods.

REASON: To ensure that the tree planting proposed in the approved landscape plan is capable of achieving the best possible development and health in order to contribute to the character and amenity of the area for the life span of the proposed development.

3. Prior to changing the site levels or erecting any retaining structure within 10m of the strategic highway boundary, the developer shall submit details of the proposed retaining wall, including (but not limited to) dimensions, materials, design calculations and a construction method statement. The retaining wall shall be designed in accordance with the BS EN 1997 (Eurocode 7), BS PD 6694-1 (traffic loads on structures) and CIRIA guide 760 (Embedded Retaining Walls) and shall comply with the maintenance standards as required under Annex A (paragraph A1) of DfT Circular 02/2013. The design of any retaining wall structure required

shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England. The retaining wall structure shall be implemented in accordance with the approved design.

Reason: To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

4. Prior to the commencement of construction of the retaining wall adjacent to the A49, the developer shall undertake a Road Restraints Risk Assessment Process (RRRAP). This is to determine whether a Vehicle Restraint System (VRS) is required on the Strategic Road Network (SRN) side of the retaining wall as well as determining an acceptable form of VRS at the top of the retaining wall within the car park to protect against vehicles falling from the car park towards the SRN. The design of any VRS determined to be required shall be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England. Any VRS determined to be required shall be implemented in accordance with the approved design.

Reason: To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

5. Prior to occupation of the development, the Landscape Planting hereby permitted shall be implemented in accordance with the Detailed Landscape Planting Plan (Drawing no. 2170/2020/B/1F). Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs, to ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

6. Within 3 months of the date of this permission and prior to the commencement of the development revised plans for a sustainable Drainage Design in compliance with paragraph 50 of DfT Circular 02/2013 and DMRB CG 501 (Chapter 6) shall be submitted to and agreed in writing with the Local Planning Authority in consultation with Highways England. A sustainable Drainage Design shall be implemented in accordance with the approved design.

Reason: To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

7. The external facing materials for the buildings and structures and the hard surfacing materials shall be as specified on the approved drawings unless an alternative schedule of materials has been submitted to and approved in writing by the Local Planning Authority prior to their first use in the development. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area.

8. Prior to the development hereby permitted being open to trading/brought into use the access, car and cycle parking and HGV turning area shown on drawing number 1085_LP0309 Rev P7 and shall have been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use for the lifetime of the development.

Reason: To ensure the provision of adequate parking, in the interests of public safety, to avoid congestion on adjoining roads, and to protect the amenities of the area.

Informatives

1. In arriving at this decision Shropshire 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 38.

2. Section 278 Agreement No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND to progress the agreement. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 278 of the Highways Act 1980 entered into.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

construct any means of access over the publicly maintained highway (footway or verge) or

carry out any works within the publicly maintained highway, or authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or

undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team.

This link provides further details:

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application->

Contact: Tim Rogers (01743) 258773

forms-and-charges/

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

3. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan policies:
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks
CS18 Sustainable Water Management
MD2 Sustainable Design
MD12 Natural Environment
MD13 Historic Environment