



Committee and date

South Planning Committee

10 March 2015

## Development Management Report

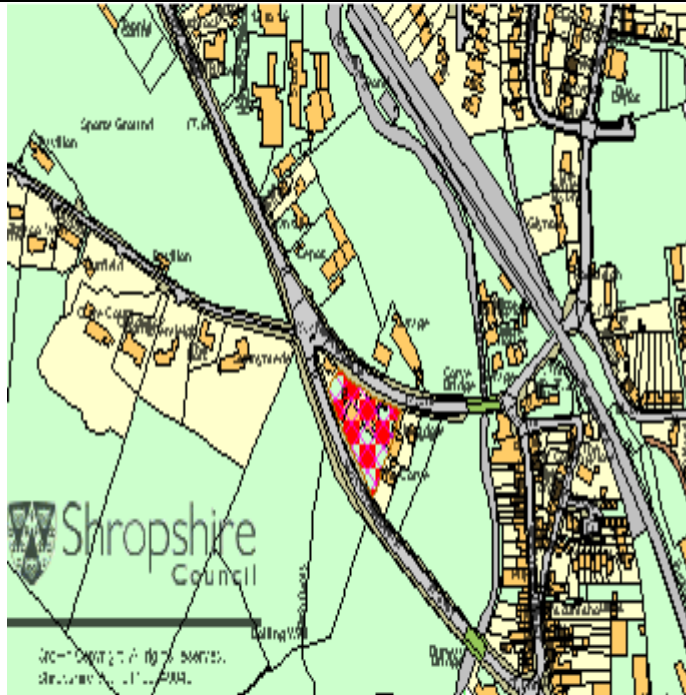
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/00563/FUL	<b>Parish:</b>	Ludlow Town Council
<b>Proposal:</b> 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)		
<b>Site Address:</b> Brian Mear (Bricks) Ltd Former Burway Abattoir Bromfield Road Ludlow Shropshire SY8 1DN		
<b>Applicant:</b> Mead House Pension Scheme C/O Garrabost Trustees		
<b>Case Officer:</b> Julie Preston	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 350913 - 275383



**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to a Section 106 Legal Agreement delivering off-site pedestrian improvement works.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the demolition of existing buildings and the construction of a petrol filling station and ancillary convenience store with parking on a 0.27 hectare site between Bromfield Road and Coronation Avenue in Ludlow. The filling station will face Coronation Avenue and a new entrance will be provided for customers and deliveries. A separate egress will be provided to Coronation Avenue for cars and deliveries will leave through an 'exit only' access to Bromfield Road. There would be 9 car parking spaces, 2 motorcycle parking spaces, 2 disability parking spaces and 4 cycle parking spaces. A further 8 spaces are available on the site to serve a proposed coffee shop at the adjoining Tollgate Cottage.
- 1.2 The proposed building is simple in architectural style, with a flat roof and expanses of stone wall, timber cladding and sheet glass. The overall height of the single storey building would be 4.5m. The total floor area of the proposed development would be 426 sq. m in size; of which the net retail floor space would be 279 sq. m. The canopy over the fuel pumps is split into three overlapping sections to add visual interest and avoid a single large flat roof.
- 1.3 A 'goal post' type price display sign is proposed on the forecourt adjoining Coronation Avenue. Advertising will be the subject of a separate application for Advertisement Consent. Under-canopy down lights and parking and perimeter bollard lights are proposed incorporating movement sensors and the energy saving devices.
- 1.4 It is envisaged that the proposal would result in the creation of 8 full-time and 10 part-time jobs. The garage would open 24 hours a day 7 days a week.
- 1.5 The application is accompanied by a Transport Statement, Flood Risk Assessment, Heritage Impact Statement, Design and Access Statement and Ecological Assessment. Further reports relating to a Risk Assessment of Underground Fuel Storage, Land Quality Assessment and a Sequential Test were submitted at the request of the Environment Agency.
- 1.6 The application follows an earlier submission (13/02760/FUL) for a petrol filling station which was withdrawn in October 2013 following concerns about the design and scale of the building. The proposal has been significantly revised and the building reduced in height and mass prior to resubmission.
- 1.7 The present application has been the subject of amendments to resolve objections by the Environment Agency (EA) to the position of the fuel tanks. They were initially located underground beneath the petrol pumps on the forecourt. The EA were concerned about the potential for contamination of the river and aquifer. Borehole tests were undertaken to establish the water table and the tanks have been relocated to a landscaped compound on to the west of the building. The tanks are now partially submerged underground. They each hold 45,000litres of fuel and are double skinned Convault tanks encased in concrete.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site occupies a triangular plot of land located between Bromfield Road and Coronation Avenue. The site was formerly an abattoir and is currently occupied by Brian Mear (Bricks) Ltd, a brick and paving merchant. The buildings to be demolished are pitched roof brick and block buildings with hard standings. Part of the site bordering Coronation Avenue has been cleared and is currently overgrown.
- 2.2 The site is bounded by the premises of the Marches Veterinary Group to the east, Coronation Avenue and agricultural land to the south, Tollgate Cottage immediately to the west of the site and Bromfield Road and A.E.Jones Haulage and Corve Bridge Garage to the north. There is an existing access to Bromfield Road. Planning permission was granted under 14/00651/COU and 14/00652/LBC on 2 September 2014 for the change of use of the Listed Tollgate Cottage adjoining the site to a café with residential accommodation above.
- 2.3 The site is in the Ludlow Conservation Area. Tollgate Cottage, a mid-19th Century tollhouse with later additions, is Grade II listed. The site is located within Flood Zone 2 and a small portion of the site is in Flood Zone 3 on the Environment Agency maps.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has made objections to the proposal and the local member, with the agreement of the Chairman, has requested that the application should be determined by the South Planning Committee.

## 4.0 COMMUNITY REPRESENTATIONS

### 4.1 Consultee Comments

#### 4.1.1 Shropshire Council Highways

##### Principle of Development

Shropshire Council as Highway Authority raise no objection to the proposed development [subject to planning conditions included in the recommendation].

##### Impact on the Highway Network

The submitted Transport statement provides an indication with regard to the number of additional vehicle movements that will be generated by the proposed development. It is assumed that 10% of passing traffic will stop and draw fuel; this figure includes some diverted trips from drivers in the immediate vicinity of the site. Based on the recorded traffic data the submitted transport statement assumes no more than 54 vehicles are expected to turn into the site.

Shropshire Council has undertaken analysis to establish if the number of anticipated vehicle movements are accurate. Interrogation of the TRICS database indicates that based on the proposed change of use to 426sqm of A1 Classification, the number of vehicle movements likely to be generated in the peak hours are as follows;

AM Peak – 27.52 to 28.53 trips (two-way)

PM Peak – 28.55 to 33.36 trips (two-way)

In view of the above, it is therefore considered that the assumed associated vehicle

movements within the transport statement are worse-case scenario.

Based on the recorded vehicle flow on Coronation Avenue, it is considered that the number of vehicles movements generated by the proposed development, will not have a significant impact on the surrounding highway network and therefore a highway objection could not be sustained.

#### Access to the Development

The submitted highway statement indicates that a visibility splay of 2.4m by 63m is appropriate at this location based on the recorded vehicle speeds. As highway authority we would consider that the proposed visibility splay is appropriate.

Details of the access and exit on to the public highway shall be provided to and approved by the highways department for approval prior to the occupation of the development and these splays shall thereafter be kept free of any obstacles or obstructions.

#### Parking

All parking for the proposed development should be within the curtilage of the development site. In accordance with South Shropshire parking guidelines, a total of 22 spaces (excluding disabled) are required, based on the current layout 18 parking spaces are to be provided. However, the applicant has indicated that a revised layout can be submitted to increase the available parking spaces to 22 spaces. It is therefore recommended that a suitable worded condition is placed on any permission granted to ensure all details of parking are submitted and approved prior to commencement of the development. These should also include provision of motorcycle and cycle parking.

#### Pedestrian and cycle facilities

Concerns have been raised with regard to pedestrian and cycle safety within the vicinity of the development site, specifically pupils from the Secondary School walking and cycling to the site to use the shop. Site observations noted that there are two pedestrian crossings (Zebra) is located between the proposed development site and the local secondary school, which will provide an opportunity for pedestrians to cross the carriageway in advance of the development. Shropshire Council as Highway Authority have a responsibility to ensure that the existing Zebra crossing is fit for purpose and adequate lighting is provided to ensure pedestrian safety is not compromised.

Despite the above, it is acknowledged that due to the complexity of the junction of Bromfield Road/Coronation Avenue, pedestrians and cyclists may prefer to cross the carriageway opposite the proposed development site. It is therefore considered reasonable to mitigate the impact of development and make it acceptable in highway terms that the applicant provides off site highway works to ensure pedestrian safety within the vicinity of the site, this may include a pedestrian barrier to guide pedestrians to the most appropriate crossing point, as per Ludlow Town Councils request. These works can be undertaken with the consent of the highway authority and controlled by a Section 278 Agreement under the Highway Act 1980. A condition could be attached to any permission granted.

- 4.1.2 Shropshire Council Conservation - It is acknowledged that the scheme has been amended following previous comments and objections, the current scheme does have significantly less impact due to its minimal heights, lesser advertisement/lighting, toned down design and inclusion of local vernacular materials.

It is still felt that by opening up this area of the Conservation Area and the increased traffic flow upon the entrance to the town it will significantly change the character of this part of the Conservation Area and the views in to and out, specifically across to the Castle and Church Tower.

The scheme has been commented on previously and discussed at the Local Conservation Area Advisory Committee Meetings, they have provided their own comments however raise important issues, if the scheme is supported and likely be approved, then it is expected that:

- Samples of materials should be conditioned and approved prior to construction.
- Advertising and lighting should be kept to a minimum and have no negative impact on the surrounding sensitive area.
- No further works should be allowed once constructed, including additional advertising, extension to the buildings/forecourt/parking etc.

- 4.1.3 Shropshire Council Ecology – The application is accompanied by an ecological assessment of the site by Star Ecology. No evidence of bats in the buildings on the site were found and the report concludes the building structures do not provide scope for roosting bats. The vegetation on site may be used by bats for foraging and therefore Star Ecology (2014) recommends that lighting is controlled.

Star Ecology (2014) found swallow nests within the buildings on the site. It will be necessary to carry out works so as not to impact on nesting swallows and other birds and provide replacement nesting sites.

Suggested conditions and informatives are included in the recommendation.

- 4.1.4 Shropshire Council Drainage – No objection subject to a condition requiring further details of surface water drainage details, plan and calculations.

- 4.1.5 Shropshire Council Public Protection - There is the potential for contamination of the land due to past land use activities. Any new development may mobilise potential contaminants or be affected by the contaminants on site. As a result conditions are recommended to deal with contaminated land.

In addition, conditions are suggested to prevent burning on site and control the timing of deliveries.

The Council's Petroleum Licensing Officer has considered the application and requested additional information. She confirms that as a result of the additional information received, there are no planning reasons why the proposed scheme as amended should not be approved from a public protection stance.

If planning permission is granted full detailed plans will need to be supplied to the Petroleum Licensing Officer and the granting of planning permission will not mean that the petrol licence will automatically be granted.

- 4.1.6 Shropshire Council Archaeology – No comments on archaeological matters.

- 4.1.7 Environment Agency - The EA objected to the original application which proposed underground tanks due to inadequacy of information provided to demonstrate the protection of controlled waters. They commented:

*Controlled Waters:*

*Site Location:* The proposed new PFS is located within a sensitive area from a groundwater protection point of view. The proposed site is located on Raglan Mudstone Formation bedrock which is overlain by Bromfield Sand and Gravels. Both the solid geology and the superficial deposits are Secondary A aquifer which supplies private water abstractions and groundwater baseflows to local watercourses, such as the River Corve 80m to the east. The River Teme is 410m to the west of the site and other surface water features noted are Springs and Boiling well 150m to the south west of the application area.

No licensed groundwater abstractions are present within 500m of the site, however your Council should hold records to confirm whether there are private water supplies within the near vicinity.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

Paragraphs 120-121 of the NPPF state that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution. Planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented.

In addition, national guidance on the storage of potential pollutants is set out in our 'Groundwater Protection: Principles and Practice (GP3) (November 2012)' The GP3 guidance Policy D2 (underground storage) states we will agree to new and increased underground storage of hazardous substances on principal and secondary aquifers outside SPZ1 "...only if there is evidence of overriding reasons why:

- (a) the activity cannot take place on unproductive strata, and
- (b) the storage must be underground (for example public safety), in which case we expect the risks to be appropriately mitigated..."

Also, *Policy D3 - Sub water table storage* states that "we will object to storage of hazardous substances below the water table in principal or secondary aquifers".

*Proposed Petrol Filling Station (PFS):*

In the first instance, with reference to the above, we would expect the applicant to demonstrate sequentially that this site is the most suitable for the proposed use in this sensitive location. At present, it is unclear if there is a recognised need for a PFS in this location or whether there may be more appropriate alternative sites elsewhere.

We would also require the applicant to fully justify that underground storage is essential through submitting a risk assessment appropriate to the local high risk hydro-geological setting, including the volume and type of pollutants being stored. Detailed quantitative risk assessments (DQRA) and an infrastructure design method statement that meets BAT/ modern engineering standards would be expected for storage within, and close to, vulnerable controlled waters receptors. Should the risk to groundwater be demonstrated to be unacceptable, we are likely to maintain our objection.

Adequate groundwater protection measures should be put in place to protect controlled waters from the possibility of any future underground fuel tanks (USTs) and associated fuel lines to dispensing pumps leaking and causing pollution. Leakage detection systems and ongoing independent recording during operation are expected.

Historically, USTs do leak and contaminate the underlying aquifer, supply wells and boreholes and nearby watercourses. The PFS should be designed to the highest of modern protection measures specification in order to protect the groundwater resource in the underlying aquifer(s) and the nearby watercourse.

Please note: if there is a recognised need for a PFS in this location, we would encourage the above ground storage of potentially hazardous fuel products which present a high risk to controlled waters. A detailed effective management system/s should also be put in place.

*Flood Risk:* Based on our 'indicative' Flood Map for Planning (Rivers and Sea) the proposed development site is predominately located within Flood Zone 2 ('medium risk', 0.1% annual probability of fluvial flooding) of the River Corve which is classified as Main River. The north-east corner of the site falls within Flood Zone 3 ('high risk', 1% annual probability of fluvial flooding).

Based on the scale and nature of the proposed development and in line with our 'West Area (Midlands) Development Consultation Guide', we will not be making bespoke comments in relation to flood risk.

We would recommend you refer to our West Area Flood Risk Standing Advice 'Development in Flood Zone 2 process note'.

The EA requested reports on the following:

- A Desk Study;
- Conceptual Model;
- Risk Assessment;
- Site Investigation;
- Remediation;
- Validation; and,
- Assessment of both former and proposed contaminative uses.

These reports were subsequently commissioned and submitted. They involved sinking boreholes to establish the position of the water table.

The EA comment as follows on the additional information:

Based on our records Ludlow is predominately located upon a Secondary A Aquifer; this is also apparent within the Aquifer Classifications outlined in the alternative sites assessed (Table 3 of the Report details). Whilst many of the alternative sites have estimated depths of groundwater greater than the proposed base of tank depth (4m below ground level), the Sequential Test (ST) Report confirms none of these are currently available to accommodate a Petrol Filling Station (PFS). Therefore it appears that the proposed site is the only available site for the proposed use in this sensitive location.

Aside from the ST consideration, the Risk Assessment confirms that the proposed fuel storage tanks will be (at least in part) beneath the watertable. Table 3 of the Report confirms that the estimated depth to Groundwater on the application site is 2.5m, and Section 4.1 confirms that the base of the tank would be 4m below ground level. As outlined within our previous response, given that the proposed development is on a secondary aquifer, in accordance with our Position Statement D3 'we will object to storage of hazardous substances below the water table in principal or secondary aquifers'.

In this instance, whilst we note the comments within Section 5.0 of the Risk Assessment Report, we recommend that the applicant considers a revision to the design to include above ground storage tanks as a way to overcome our objection. At this time the proposals are considered contrary to the National Planning Policy Framework and Policy CS18 of your Council's Adopted Core Strategy.

To meet the requirements of the EA the proposals were amended to propose partially submerged fuel tanks that are 4 m below the existing ground level.

The EA were re-consulted and comment as follows:

With reference to the Section of Proposed leak-proof partially submerged tanks Plan (dated 03.12.14, Drawing No. PA-71) we note that the partially submerged tanks are located appropriately above the identified groundwater level, in accordance with Policy D3 of our Groundwater Protection Guidance: Principles and Practice (GP3) (November 2012).

Whilst the proposed tanks are located above the groundwater level on site, as previously advised, in

addition our preference would be for 'above ground' storage tanks. GP3: Policy D2 states that tanks set completely above ground level and *"any tank that is partially set in the ground in secondary containment and is totally accessible and wholly visible will also be considered to be an above ground tank"*. This is within the interests of being able to visually inspect the tanks, in addition to the necessary leak detection methods.

Based on the Section Plan submitted (referenced above) whilst the proposed tanks are set partially within the ground, they do not appear to be totally accessible or wholly visible and we would therefore deem the tanks as 'below ground'.

Whilst the proposed tanks are set appropriately above the identified groundwater level, we recommend that your Council are satisfied that the tanks cannot be set 'above ground' (as defined above) or include tertiary containment system. In the absence of the tanks being set above ground or within tertiary containment, being pragmatic we are not minded to object to the proposed development based on the likely risk to groundwater, the proposed tank design and bearing in mind the site context.

4.1.8 English Heritage – Advise that conditions should be imposed requiring prior approval of all external details, materials and finishes. The application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

4.1.9 Ludlow Town Council, Comments: Members acknowledged that Ludlow needs an additional Petrol Station but this site remains unsuitable because the following concerns have not been addressed.

Members recognise the need for an additional petrol station in Ludlow and acknowledged there is a lack of suitable sites within the town and for this reason had no objection in principle to the applications. However, members raised a number of concerns detailed below.

In light of the interdependent nature of the applications, members would like their comments to be viewed in relation to all three planning applications above.

Members raised concerns over highway issues including safety, access and the potential for traffic build up on an already busy approach road into the town and the main pedestrian route to Ludlow Secondary School. Also the impact of lighting and deliveries required to run a 24 hour petrol station and convenience store.

Members requested that due to the complexity of the proposed site Shropshire Council's Planning Committee should undertake a visit. Members of Ludlow Town Council would also like to attend this meeting.

Members would also like to propose some potential solutions for the concerns they have raised. Members suggest that the developer should pay for i) and ii) in full:

- i) To create a mini roundabout at the entrance to Burway Lane as a traffic calming measure and to assist traffic flow.
- ii) A roundabout on the northern bypass (A49) approach into Ludlow to enable delivery lorries to exit Ludlow from the north with the option to then travel south as this is currently only possible if vehicles exit via Corve Bridge, New Road Bank and Henley Road or through the town and over Ludford Bridge.
- iii) Pedestrian barriers to ensure the safety of pedestrians particularly the school children.
- iv) Restrictions to the hours of business to 7am - 10pm and restrictions to the hours of deliveries to be outside school start and finish times in order to protect the amenity



of the local community.

Highway safety, access and the potential for traffic build up on an already busy approach road into the town and the main pedestrian route to Ludlow Secondary School.

4.1.10 Ludlow Conservation Area Advisory Committee - The Committee recognises the efforts made to respond to earlier criticisms and to undertake a sound historic assessment of the site and the proposal's potential impacts on the setting of the conservation area. Consequently the Committee has no fundamental opposition to the proposal but would like the following points to be taken into consideration and conditioned and/or built in to any subsequent application or scheme of details.

1. A sample panel of stonework (which should be of local stone) before full acceptance of this material.
2. Careful attention to quality in construction this is a prominent site and the development should be a showcase for Ludlow and the quality of its visual environment.
3. Advertising to be low key. We would not wish to see a proliferation of ad-hoc A-boards and banners.
4. A lighting scheme that ensures the minimum amount of lighting when the site is closed

## 4.2 **Public Comments**

4.2.1 The local Member, Cllr A Boddington has objected to the application as follows:

The application is fatally flawed by its location in Flood Zone 2, which creates an environmental risk this town cannot accept. Ludlow needs a second petrol station. The existing station at Harry Tuffins is overcrowded. I do not think that Ludlow needs a further convenience store. A coffee shop will bring no benefits to the town and will draw trade away from the town centre.

The applicant suggests that the convenience store is very unlikely to be a destination in its own right. This is amplified in the Heritage Impact Statement, which states:  
The PFS and associated convenience store will not be a traffic generator in its own right. The customer base will with minimal exceptions be from existing traffic travelling along Coronation Avenue, hence there will be no significant extra traffic associated with the proposed development. There is no reason why traffic along Corve Street will increase as a result of this proposal. These comments do not pass muster. The Coronation Avenue store will be commensurate in size with Harry Tuffins, which has proved to be a very busy convenience store. With 25 car parking spaces, the proposed development will prove more convenient than Harry Tuffins or the East Hamlet One Stop for many motorists. With a coffee shop attached, it will undoubtedly become a destination taking trade from elsewhere.

I have no objections to the design of the building or the site layout.

The Transport Statement states that the highway in the vicinity of the application site has a good road safety record. As noted above, the petrol station is likely to attract extra traffic. This is of considerable concern given the number of young school children that walk nearby, especially in the morning when traffic is at a peak. The pedestrian crossing a short way north of the site is heavily used and visibility approaching the crossing is poor.

The fatal flaw for this planning application is that it lies in Flood Zone 2. The Flood Risk Assessment for this scheme states:

Less vulnerable development is appropriate in Flood Zones 2 and 3a. The proposed development is therefore considered appropriate for the Site in a flood risk planning context. Less vulnerable development is defined in the Technical Guidance to the National Planning Policy Framework, Table 2 and Table 3 (replaced and retained in the new online guidance). These tables aim to ensure essential infrastructure is not knocked out during flooding events, and that emergency facilities and procedures operate in a flood event. They do not aim to deal with the environmental consequences that might happen if a site, such as a petrol station, floods. It is notable, and not helpful, that the guidance fails to mention petrol fuel stations. National planning guidance does not give a carte blanche for allowing development in Zone 2 regardless of the consequences.

This scheme should be rejected on the grounds of traffic and flood risk.

4.2.2 10 residents have objected to the application and a further 3 expressed concerns on the grounds summarised below. These mainly relate to the location of the site within an area prone to flooding and the associated risks of contamination. Full comments are available on file.

#### 4.2.3 Flooding

- Concerns regarding increasing hard surfaces in an area already prone to flooding which would exacerbate the problem, given the location of the site within Flood Zone 2.
- Concerns regarding potential contamination of nearby watercourses and groundwater following flooding or potential spills or leaks from underground storage tanks containing hydrocarbons.
- Inaccurate assertions regarding the frequency of flooding on the site. There have been 3 significant flood events of the River Corve documented in the previous century as severe or more so than the June 2007 event. Recorded flood incidents occurred in 1924, March 1947, and June 2007, meaning that the 2007 incident was more like a 1 in 30 year event and thus the proposed development site is within and not, as the SLR July 2013 flood risk assessment report states, outside the 1% AP (1 in 100 years).
- Opposition to further development on the flood plain until there is a holistic national flood plan in place. Local flood defences do not and cannot take into account what affect local containment and management will have on properties in surrounding areas and downstream.
- Houses on Lower Corve Street have flooded to a height of 1.7m in June 2007 and again in July 2007 causing substantial structural damage and again in September 2008. The community has not yet fully recovered from these flood events.
- Detrimental impact of further development on the frequency of flooding Lower Corve Street and on the locality's historic fabric with its vulnerable Grade 2 listed buildings.
- The meadow adjacent to the proposed development floods frequently, to the extent where animals have to be relocated. This happened 12 times during 2012 and the general perception is that small-scale flooding is becoming more frequent on this particular flood plain.
- As recently as 23 December 2013, the River Corve reached a high of 3.36m, this being 1.6m below the 4.98m it reached on 26 June 2007 and very close to a level when homes could expect water ingress. Those homes with cellars flood quite often.
- Recently I commissioned Ambiental to produce a mini Flood Risk Assessment for my property. This shows the property is classified as HIGH 1:100 risk of flooding with inundation from the River Corve likely to exceed 1.0m depth; and an even higher 1:75 risk of flooding from surface water, 0.1m to 0.25m deep. Concerns

regarding the impact on insurance cover for residents in Lower Corve Street, especially where the Council has approved building on a flood plain post the 2007/08 experience

- There are concerns over fuel spillages and their effect on aquatic life in the River Corve and Teme. In 2007 the flood waters came up as far as, and into, the Tollhouse Cottage at the junction of Coronation Avenue and Bromfield Road and would have covered the Filling Station forecourt flushing any spillage (especially diesel) straight into the river system.
- The subterranean fuel tanks and electricity supply would be vulnerable when flooding occurs at the site, with the petrol presenting a pollutant to the properties in the area.

#### 4.2.4 Potential Contamination

- The site sits on a well-established fluvioglacial terrace which extends down the right bank (western side) of the River Corve to the meadows beyond Coronation Avenue. Within the meadows is a historic sacred groundwater spring, the Boiling Well, which is a natural spring issuing from the same fluvioglacial terrace as the proposed development is sited. There does not appear to have been an assessment by the applicant of the potential risk of contamination of the 'Boiling Well'.
- Risks of spillage of fuel/overflowing by customers or suppliers leading to run-off or otherwise contamination of agricultural land/ground water/and particularly the River Corve which is only 100m away. Possibility of leaks from underground pipework and tanks, again so near to the River.

#### 4.2.5 Traffic

- The main users of the site are likely to be school students visiting the shop. The site is near to the busy three way junction of Burway/Coronation Avenue/Bromfield Road and so would pose a road safety hazard.
- Arguments are presented that this facility is needed because there is only one other fuel source in Ludlow and because driving distances to fuel are an issue owing to a reduction in the number of fuel stations. On the other hand, it is argued that the facility will attract only passing trade. If there is a need for the fuel station, then it seems likely that the former argument is true - in which case the following concerns are valid:
  - 1) The development is hazardous for all road users and pedestrians because of
    - a) the close proximity of junctions with Bromfield Road and Burway Lane and
    - b) poor visibility for vehicles exiting the development due to the bend in Coronation Avenue.
  - 2) Without compromising the existing well-used cycle lane and necessary wide pavement (see point 3), the road has limited capacity for additional lanes. Therefore, the significant increase in traffic that can be anticipated will create further hazard particularly at peak times.
  - 3) Very large numbers of school children use the west side of the route at peak times for walking to the school on Bromfield Road and the extra traffic will be a significant additional hazard for them. This is especially the case as they will no doubt be attracted to cross the road to use the retail facilities. At the very least, the 20mph limit needs to be extended and enforced.
- There will undoubtedly be an increase in traffic using Coronation Avenue usage of the road during Ludlow School opening and closing times due to the collection and delivery of students.
- There is concern over possible fuel spillage on the carriageway of Coronation Avenue, possibly due to overflowing fuel tanks or failing to fasten fuel filler caps properly thereby possibly causing a skid risk especially for powered two wheelers

and cyclists.

- The PFS and associated convenience store will not be a traffic generator in its own right. The customer base will with minimal exceptions be from existing traffic travelling along Coronation Avenue, hence there will be no significant extra traffic.
- The store will be commensurate in size with Harry Tuffins, which has proved to be a very busy convenience store. With 25 car parking spaces, the proposed development will prove more convenient than Harry Tuffins or the East Hamlet One Stop for many motorists. With a coffee shop attached, it will undoubtedly become a destination taking trade from elsewhere.
- What measures are being taken by the council to ensure that Lower Corve Street is not used as a vehicle 'rat run'?

#### 4.2.6 Highway Safety

- Increased traffic will adversely affect road safety.
- The proposed entrance and exit to the forecourt on Coronation Avenue is located on a bend in the road, there are concerns about traffic access and the visibility of oncoming vehicles. Although the speed limit is 30mph many road users exceed this limit along this stretch of road. There are additional safety concerns over any vehicles turning right either entering or exiting the development (in November 2012 there was a collision on Coronation Avenue with two vehicles one of which was entering or exiting the vets bungalow) with additional traffic using the filling Station the likelihood of further accidents will increase.
- There are also concerns over Ludlow School students who walk or cycle down Coronation Avenue and would be likely to call at the convenience store with ensuing problems with crossing the road especially as the development is very near to the busy junction with Bromfield Road and Burway Lane, the expected increase in traffic would add to the dangers of crossing the road.
- Because of the close proximity of the road junction between Coronation Avenue, Bromfield Road and Burway Lane if there were any fuel shortages, strikes or similar occurrences that caused panic buying of fuel any tailbacks would foul the junction.
- It will create traffic hazards at the junction between Coronation Drive and Bromfield Road where a previous request for a roundabout has been turned down. A roundabout would now be essential.

#### 4.2.7 Noise

- There may well be an increase in noise especially in the evenings with the convenience store likely to be open until 11pm or so, this would have a detrimental effect on the quality of life of the inhabitants of nearby properties more so in the summer time due to windows being kept open.
- Objection to the proposed filling station being open 24 hours a day 7 days a week as this will be a serious source of noise pollution for neighbours in Lower Corve Street. Apart from noise from the site, there is a likelihood of more traffic movements (and therefore noise, as well as safety considerations) along Lower Corve Street, which is a narrow residential street with many Listed buildings.

#### 4.2.8 Nature Conservation

- The meadow is an important component of the urban environment, adjacent to the town's conservation area. The River Teme immediately downstream is an SSSI partly because of its river environment.
- This is a key "rural" entry to the town with good wildlife, amenity and habitat lost should this development go ahead.
- Investigations should be carried out to determine the extent of the nesting activities of swallows and swifts in the old abattoir, which it is believed is widely used for this purpose, also no doubt there will be bats in this location as it has remained only in

light commercial use and it is understood special measures need to be taken to protect these species.

#### 4.2.9 Design, Appearance and Materials

- Such a facility would be an inappropriate visual curtain-raiser in the historic town of Ludlow.

#### 4.2.10 Effect on Listed Building and Conservation Area

- The development will compromise existing buildings, the Marches vet clinic and Tollgate Cottage.
- We understand there is a proposal to convert the adjoining Toll House Cottage into a café. The proposed rear extension does nothing to enhance the building; indeed it devalues the Victorian structure within the town's Conservation Area.
- Is this development suitable as it is within the Ludlow conservation area? Would a housing development be more suitable for this site as it is bordered by residential properties, the cottage on one side the farmers house on the other and the vets bungalow?

#### 4.2.11 General Objections

- It will create unwanted light pollution near residential properties.
- Concerns about 24hr opening attracting late or all night loitering by groups of young people both on the premises and nearby. Such facilities are usually staffed late at night by one person who would be unable to act to inhibit any related noise or other disturbance. If shoppers have an urgent need for items, Tesco is nearby and staffed to cope with late night retail. Opening should be restricted to 10pm at the latest.
- Is there a need for this Petrol Filling Station at all as two have closed in Ludlow over the last few years. Would not a site nearer to or on the A49 be more appropriate?
- There are already three food/grocery outlets all within less than half a mile, a further one is planned should the housing development go ahead further up Bromfield Road.
- It would infringe on regulations regarding the proximity of retail outlets to schools.
- Ludlow needs a second petrol station. The existing station at Harry Tuffins is overcrowded. I do not think that Ludlow needs a further convenience store. A coffee shop will bring no benefits to the town and will draw trade away from the town centre.

4.2.12 Two letters of support have been received from local residents stating that as the flooding issues have been resolved, they have no objection to a much needed new petrol filling station in the town.

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design
- Visual impact on the approach to the town and the Conservation Area
- Access, parking and Highway Safety
- Flood risk and Pollution Management
- Surface Water Drainage
- Impact on the amenity of neighbours
- Ecology

## 6.0 OFFICER APPRAISAL

**6.1 Principle of development**

6.1.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development and Local Planning Authorities are advised to take a positive approach to economic development. The NPPF does not contain policies specific to Petrol Filling Stations but states in paragraph 31 that the primary function of roadside facilities for motorists should be to support the safety and welfare of road users. Other relevant sections stress the need for good design and conservation of heritage assets, encourage the use of 'brownfield' land, require authorities to prevent unacceptable risks from pollution and take account of flood risk.

6.1.2 At a more local level, the Core Strategy contains policies relevant to considering the proposal. Policy CS3 identifies Ludlow as a market town with a major role in providing facilities and services for the local population. Policy CS6 sets out design and sustainability criteria for new development and policies CS17 and CS18 seek to protect and enhance the built and natural environment. Policies CS8 and CS13 aim to improve local facilities and support economic development.

6.1.3 There is one petrol filling station in Ludlow at the Co-operative Store on Sheet Road (formerly Harry Tuffins). Two filling stations have closed in the town over recent years and the need for a second filling station is generally accepted. The site is 'brownfield' land on one of the main approaches to the town. It is in the Conservation Area and adjacent to a Listed Building. The presence of the River Corve to the south of the site and an important aquifer beneath the site are additional constraints that have to be considered. The policy background suggests that in principle planning permission should be granted unless there are significant adverse impacts that outweigh the benefits of the development. The issues relevant to making a decision are discussed below.

**6.2 Siting, scale and design**

6.2.1 The site of the proposed petrol station is a triangular parcel of land at the apex of Coronation Avenue and Bromfield Road. Coronation Avenue is part of the B4361 and connects to the A49 to the north of the town. The site was formerly an abattoir and some original buildings of no architectural merit remain. Part of the site is currently occupied by a Brick Merchant's yard with external storage of bricks and paving materials.

6.2.2 The petrol filling station will face Coronation Avenue and have a frontage of 84 m. The single storey store is set back towards Bromfield Road with a canopy over the pumps. The store has been reduced in size since the first submission and is now the size of a neighbourhood store. Materials for the convenience store would be stone split faced grey/blue walling, a glazed shop front, a glass canopy with louvres over and horizontal Western Red Cedar timber cladding. The roof would be grey single ply membrane with four ventilation shafts. Window frames would be grey powder coated aluminium.

6.2.3 Parking is located towards the south east boundaries of the site enabling cars to fill and move forward to park, if required. A car park of 8 spaces is also located in the north west corner of the site. This car park will primarily serve the adjacent Tollgate Cottage café. The landscaped compound containing the tanks and filling equipment is situated to the north of the car park. Deliveries will be made in the area between the tanks and the store with an exit to Bromfield Road.

6.2.4 Parking and service bay lighting would be 75W with low level illuminated bollard lighting around the perimeter. Under canopy lighting would be 125W. The lighting system incorporates controls to reduce the impact on the adjacent Tollgate Cottage and the street scene. Under canopy lighting will dim in 'off peak' twilight hours when individual lights respond to activity. Flood lighting is similarly controlled to respond to activity or where there

is a need to comply with Health and Safety requirements.

6.2.5 Planning conditions are recommended to retain control over materials and the detailed lighting scheme. Subject to these conditions, Officers are satisfied with the appearance and layout of the development and consider that the proposal will meet the relevant criteria set out in policy CS6 of the Core Strategy.

6.3 **Visual impact on the approach to the town and the Conservation Area**

6.3.1 The site is located at the western most edge of the Ludlow Conservation Area and a comprehensive Heritage Impact Statement (HIS) by Richard K Morriss has been submitted with the application. The report notes that the character and use of the site and immediate area is historically commercial and, laying to the west of the River Corve, the site has a distinct separate character to the area east of the river. In terms of the current use and buildings, it is evident that the site does not make any positive contribution to the character and appearance of the locality or the approach to into Ludlow.

6.3.2 A detailed assessment is provided of the impact of the petrol filling station on the Lower Corve Street area. The proposed development will be partially visible from the rear of some of the listed Corve Street properties but the HIS states that there will only be a negligible impact and that it can be argued that this impact is more positive than negative given the existing use and appearance of the site.

6.3.3 The historic approach to Ludlow was along Bromfield Road. This has now been bypassed by Coronation Avenue. In approaching Ludlow along Coronation Avenue, the HIS considers that the proposed development will improve the semi derelict state of the site and replace a variety of very poor buildings with the Toll Keeper's Cottage providing the "*accidental focal point at the junction of the old and new approaches*" with the proposed PFS partially screened by that Cottage. The main views from the Coronation Avenue approach into the historic heart of Ludlow over the fields are not altered in any way by the proposed development. The Bromfield Road frontage of the site will be improved by repairing the rubble stone wall.

6.3.4 Para 8.2.4 of the HIS considers the impact of the proposed development on the character and views within the wider conservation area and notes that the site is at some distance from the heart of the town. The HIS it concludes that the proposed development will have no significant impact on the character or setting of the wider conservation area at day or night.

6.3.5 The site adjoins the Listed Tollgate Cottage which is a 19th century replacement for the original toll house. The historical context of the building has changed since its construction as the area has been built up with commercial enterprises and the construction of the new main route into Ludlow from the north of Coronation Avenue in the 1930's. The proposed development will have an impact on the setting of the building but in many ways this will be a positive change by removing the existing buildings and replacing them with a low building faced with a palette of local materials and good landscaping. In para 8.1 in the HIS the conclusion is that "*a well-designed garage will be a better neighbour than a series of rather unattractive structures, many derelict, the open storage of building materials.....*". There is also a transport connection between the historical infrastructure of a different age and a modern filling station.

6.3.6 Officers are satisfied that the proposals will not adversely affect the character and appearance of the Conservation Area and satisfactorily preserve the setting of listed buildings. As a result the development is in accordance with the duties of the local planning authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 and

relevant planning policies.

#### 6.4 **Access, parking and Highway Safety**

6.4.1 Public access to the Petrol Filling Station will be from Coronation Avenue only with a western access providing the entrance and the eastern access the egress. Coronation Avenue is subject to a 30 mph speed limit. There will be an entrance from Bromfield Road for service vehicles and emergency vehicles only. Satisfactory visibility splays can be achieved for traffic speeds in the locality.

6.4.2 The planning application is accompanied by a Transport Statement (TS) which assesses the current and proposed traffic flows and the impact of the proposed use on the safety of highway users. The Statement is based on a traffic survey undertaken in October 2013. The Statement considers that the filling station and associated convenience store will not be a significant traffic generator in its own right. The customer base will, with minimal exceptions, be from existing traffic travelling along Coronation Avenue and turning movements at peak times will be in the order of 54 vehicles entering the site in any one hour. The TS concludes that even at peak times the traffic accessing and egressing from the filling station will not affect the free flow of traffic on the adjacent roads. The roads in the vicinity of the site have a good safety record and the report concludes that there are no material highway reasons why planning permission should not be granted. The Council's Highways Officer has analysed the TS and is satisfied, subject to planning conditions relating to the access and parking, that the development will not have a detrimental impact on highway safety in the vicinity of the site.

6.4.3 Ludlow Town Council is concerned about safety, access and the potential for traffic build up on an already busy approach road into the town and the main pedestrian route to Ludlow Secondary School. They go on to suggest that a mini roundabout and other measures are required and should be paid for by the developer.

6.4.4 Section 203 of the National Planning Policy Framework ( NPPF) states the following regarding planning obligations, which is applicable to off-site highway works.

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

204. Planning obligations should only be sought where they meet all of the following tests:

The tests are:

- 1) necessary to make the development acceptable in planning terms
- 2) directly related to the development and;
- 3) fairly and reasonably related in scale and kind to the development.

Taking into account the existing use of the land and the associated potential vehicle movements that could be generated by the existing use if it is operating at optimum capacity, compared to the number of additional trips associated with the proposed development, it is not considered that a request for junction improvements works would meet the required legal tests. However, the developer is willing to fund or provide pedestrian improvements which could include barriers of a design appropriate for a Conservation Area. This would be secured by means of a legal agreement

#### 6.5 **Flood risk and Pollution Management**

6.5.1 The location of the site close to the River Corve and above an aquifer has understandably



drawn a number of objections. The location of the fuel tanks and risk of pollution has been a major consideration in dealing with the application. Initially the tanks were proposed to be located under ground beneath the pumps. The Environment Agency (EA) objected due to the inadequacy of information provided to demonstrate the protection of controlled waters.

- 6.5.2 The agent commissioned further reports as requested by the EA. Tanks above ground were considered but Officers were concerned about the significant visual impact of the large containers and the fact that such tanks are vulnerable to impact by vehicles or acts of sabotage. The only way forward was to locate the tanks below ground level but above the water table. Further work was undertaken including the sinking of boreholes to confirm the depth of the ground water level. Amended plans were subsequently submitted and cross sections produced.
- 6.5.3 The two tanks are proposed to be installed in the ground at a depth of 1.0m above the ground water level. They sit on a concrete slab at a depth of 4 m below ground level. They are in consequence partially submerged tanks and will be a 'Convault' System incorporating secondary containment. The agent states that they are designed principally for above ground installations and were designed initially for the American Government. The system is bomb proof and has been approved by the London Fire Brigade.
- 6.5.4 The area around the tanks will be contained by stone walls, back filled and the ground level raised by 1.3 m. A landscape plan has been provided by John Challoner Associates to demonstrate how it will be planted with shrubs with access to the manhole covers. The tank compound is screened from Bromfield Road by the existing stone wall and adjoins the car parking area set aside for the café. The visual impact is satisfactory.
- 6.5.5 The EA advise that in the absence of the tanks being set above ground or within tertiary containment, being pragmatic they are not minded to object to the proposed development based on the likely risk to groundwater, the proposed tank design and bearing in mind the site context.
- 6.5.6 The siting of tanks above ground has been discounted due to the significant visual impact. The need for tertiary containment has been discussed with the agent. He advises that tertiary containment is not necessary because the tanks are double skin construction with a void between two 5mm thick steel plates. The void is filled with non-corrosive liquid (mono glycol) and provides continuous monitoring of both the fuel and the secondary containment system allowing alarm on the failure of either and time for action before fuel can escape the system. The proposed Convault system complies with these requirements and provides the additional protection of the reinforced concrete jacket that is explosion proof, bullet proof and impact resistant from vehicles. The Council's Petroleum Licensing Officer and Public Protection Officers have confirmed that the proposed design, location and type of tanks proposed are acceptable.
- 6.5.7 The applicant has provided a Flood Risk Assessment (FRA). Based upon the EA Flood Map the site is shown to lie almost entirely in Zone 2 flood risk area and the very north-eastern corner of the site falling within Zone 3a. However, the best available information, namely modelled Corve No.3 (Burway) Bridge Replacement Flood Assessment data provided by Shropshire Council, demonstrates that the site lies outside of the 1% AEP flood extent of the River Corve, taking into account climate change over (and beyond) the lifetime of the development. Flood risk vulnerability and flood zone 'compatibility' of NPPF Technical Guidance indicates that the proposed 'less vulnerable' development land use is entirely appropriate in this location in flood risk terms. Finished floor levels of the proposed building will be elevated in order to provide flood protection. No functional or active flood storage or conveyance capacity will be displaced

as a result of the proposed development. This meets the requirements of the EA's standing advice.

- 6.5.8 The site has previously been used as an abattoir and there is the potential for the land to be contaminated. Ground disturbance and new development may mobilise potential contaminants or be affected by the contaminants on site. As a result conditions are recommended to require a report on the ground conditions and remediation methods, if required.

## 6.6 **Surface Water Drainage**

- 6.6.1 At present the site is partly developed. Rainfall falling on hard surfaces drains to the public sewer system located in Bromfield Road and the undeveloped section of the site discharges through infiltration to the sub-soils. The total impermeable area of the site will increase as a result of the proposed development with a potential associated increase in the volume and rate of off-site runoff.

- 6.6.2 The Flood Risk Assessment (FRA) sets out proposals for surface water management including a Sustainable Drainage Systems (SuDS). Existing drainage connections will be retained where possible and adequate surface water attenuation storage capacity will be provided on site to ensure that 'post development' runoff rates are in line with Shropshire Council guidance (a reduction in run off of 50% is required on 'brownfield' sites) including the 1% annual probability storm event to account for climate change.

- 6.6.3 Surface water runoff from the site will receive treatment using pollution control measures such as catchpits, trapped gullies and oil/grit separators prior to discharge into the existing surface water network.

- 6.6.4 The Council Flood Risk Management team have considered the FRA and are satisfied that suitable surface water drainage can be achieved in accordance with policy CS18. A condition is recommended to ensure that the final design is submitted and agreed before development commences.

## 6.7 **Impact on the amenity of neighbours**

- 6.7.1 There is one property in close proximity to the site. This is a detached house on the south side of Bromfield Road. The house is about 17m from the side of the store and there is a stable block located on the boundary between the site and the dwelling. The resident is concerned about noise and maintenance of his boundary. The proposed landscaping scheme includes trees and native hedge planting along the eastern boundary of the site. The stables will provide a buffer between the house and the filling station. Any existing rights to maintain the wall would be retained and the appearance of a hedge is preferable to the present appearance of the walls and fences. The applicant is aware of the concern and has confirmed that they will honour any legal rights that their neighbour has to maintain walls/fences, and that any legal requirement to manage the hedge to maintain access will be met. Ultimately, this is a private issue between the parties concerned.

- 6.7.2 The next nearest residents are over 100 m distant on Burway Lane and Lower Corve Street and it is not anticipated that the amenity of these properties will be adversely affected by the development.

## 6.8 **Ecology**

- 6.8.1 The ecological assessment of the existing buildings on the site and surrounding land showed that none of the buildings are used by bats. There was, however, evidence of swallows nesting. The County Ecologist has no objection to the proposal subject to a condition controlling external lighting and the provision of artificial nests. The requirements

of policy CS 17 to protect and enhance habitats are met.

## 7.0 CONCLUSION

This proposal 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. 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/simpleSearchResults.do?action=firstPage>

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

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the deposited plan numbers PA61A, PA63D, PA64, PA65, PA66, PA71 and Landscaping Scheme LA3393 dwg. 1.

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

3. Notwithstanding the details contained on the application form, no built development shall commence until samples of all external materials have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building occupied.

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

5. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials

- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species and to limit light pollution

8. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

9. No development shall commence until details are submitted to and agreed in writing with the Local Planning Authority demonstrating how fuel spillages from the forecourt will be prevented from entering the surface water system.

Reason: To ensure no pollution of the water table or watercourses takes place.

10. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

11. The petrol filling station shall not commence trading until the proposed pedestrian improvement along Coronation Avenue and Bromfield Road has been fully implemented in accordance with the approved details defined by the legal agreement accompanying this permission.

Reason: In the interest of highway safety.

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

12. Prior to the first occupation of the new building, details of 8 woodcrete artificial nests suitable for swallows and 3 for other small birds such as robin, blackbird, tit species and sparrow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the building.

Reason: To ensure the provision of nesting opportunities for wild birds

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

13. No construction and/or demolition work shall commence outside of the following hours; Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and Bank Holidays.

Reason: In order to protect the health and well being of residents in the area.

14. All hard and soft landscape works shall be carried out in accordance with the approved details (John Challoner Associates plan reference LA3393 drawing no. 1) and to a reasonable standard in accordance with the relevant recommendations of appropriate



British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, 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.

15. No deliveries shall occur outside of the following times; Monday to Friday 07:00-22:00, Saturday 08:00-17:00, Sunday and Bank holidays 08:00-13:00.

Reason: To protect the amenity of local residents

16. No burning shall occur on site at any time

Reason: to protect the amenity of local residential properties

### **Informatives**

1. Works within the highway (S.50 License)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The applicant should apply to the Coordination Manager at the appropriate Area Office: - Bridgnorth.

Bridgnorth.highways@Shropshire.gov.uk

Who shall be given at least 3 months notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an appropriate licence, approved specification for the works together and a list of approved contractors, if required

<http://www.shropshire.gov.uk/hwmaint.nsf/open/D8DAF1CB579FD61380256E2A004908E>

2. Bats

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and a licenced ecologist should be contacted for advice.

Nesting birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

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

### 3. Surface Water Drainage

As stated in the FRA, the use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change. Full details, calculations and location of the percolation tests and the proposed soakaways and overall drainage layout should be submitted for approval.

If soakaways are not feasible, the storage volumes and discharge rates as stated in the FRA are acceptable.

The submitted surface water drainage details should include a contoured plan of the finished road levels together with confirmation that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

If further information is required on drainage, please contact Shropshire Council's Flood and Water Management Team, The Shirehall, Abbey Foregate, Shrewsbury SY2 6ND or [floodriskconsultation@shropshire.gov.uk](mailto:floodriskconsultation@shropshire.gov.uk)

### 4. Environment Agency Advice

The construction of the petrol filling station infrastructure must be in line with current best practice, in particular: DEFRA Groundwater Protection Code 'Petrol stations and other fuel dispensing facilities that involve underground fuel storage tanks'; 'The Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations (Third Edition)' by APEA and Energy Institute; and our Pollution Prevention Guidance 7 on Refuelling Facilities.

5. Advertisement Control

Notwithstanding submitted drawing no. PA 69 showing a proposed price display goal post sign, an application for Consent to Display Advertisements is required for all advertisements and directional signs on the site. The submitted drawing has been treated as an illustrative plan and approval is not granted by this planning permission for a sign of the size and height proposed.

- 6 Statement of Compliance with paragraph 187 of the National Planning Policy Framework  
In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

In determining this application the Local Planning Authority gave consideration to the following 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