

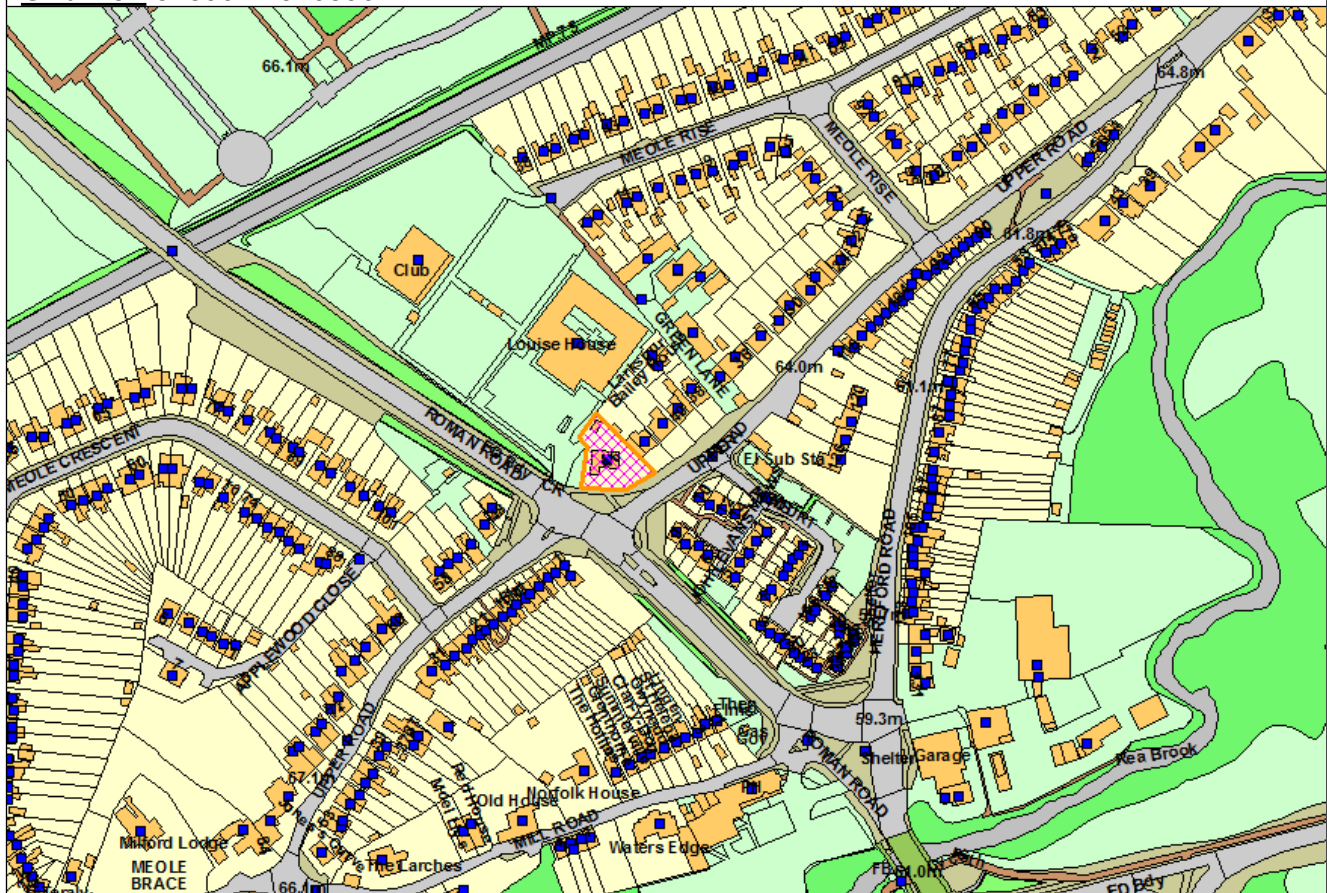
## Development Management Report

Responsible Officer: Tim Rogers  
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### Summary of Application

<b>Application Number:</b> 16/05264/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Change of use from Children's Care Home (C2) to 5 Bedroomed Care Home for Adults with learning Difficulties (C3(b)).		
<b>Site Address:</b> The Rowans 46 Upper Road Shrewsbury SY3 9JQ		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Cathryn Robinson	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 348907 - 310896



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks permission for the change of use of the property The Rowans from a Children's Care Home (C2) to 5 Bedroomed Care Home for Adults with learning Difficulties (C3(b)).

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 46 Upper Court is a sizeable detached property occupying a corner plot positioned to the intersection of Roman Road and Upper Road; currently occupied as a residential care facility, the property is located within a generally residential context with the rear garden backing onto Council owned facility Louise House. The development site sits approximately North-East of the Meole Brace Conservation area.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 This application is made by the Council; as per the adopted 'Scheme of Delegation' this type of application will be determined by the relevant planning committee.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 Shrewsbury Town Council**

The Town Council raised no objections to this application.

##### **4.1.2 SUDs**

We have no comment from the drainage and flood risk perspective, regarding the change of use from Children's Care Home (C2) to 5 Bedroomed Care Home for Adults with learning Difficulties (C3(b)).

#### **4.2 - Public Comments**

4.2.1 This application was advertised via notice at the site. Additionally twelve neighbouring properties were individually contacted by way of publicity.

4.2.2 At the time of writing this report, one representation had been received objecting to the scheme. The notable concerns raised are regarding the increase in occupancy and potential associated amenity compromises.

### **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of structure  
Impact on neighbouring amenity

### **6.0 OFFICER APPRAISAL**

#### **6.1 Principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all

planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Policy CS8 'Facilities, Services and Infrastructure Provision' aims to develop sustainable places in Shropshire and maintain and enhance existing services and facilities. CS13 'Economic Development, Enterprise and Employment' concerns Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. In doing so, particular emphasis will be placed on promoting Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life as unique selling points which need to be valued, conserved and enhanced.

6.1.3 This site has successfully operated as a Children's home for numerous years. It is now intended to utilize this property as assisted care accommodation for adults with learning disabilities. The required (minor) physical alterations to the building have been previously approved by application 16/04061/FUL, thus this application considers the use change only. Remaining as a residential care type use, the change of use as proposed is not overly significant its nature; thus the loss of the C2 residential institution is not of detriment.

## 6.2 **Impact on neighbouring amenity**

6.2.1 In terms of specific resident numbers and staffing issues, these are not material considerations required to be considered within this application; in regards to amenity, the Local Authority are required only to consider whether the use of this property as a C3(b) dwellinghouse would pose sufficient harm to neighbouring residents as to warrant the refusal of this application.

6.2.2 The nature of the proposed use is not entirely dissimilar from the existing thus, in terms of levels of daily activity at the property, it is unlikely that there shall be an increase significant enough to pose unacceptable harm in terms of amenity. The change to C3(b) use, in the long term, is likely to be of benefit to neighbouring residents due to the six-resident restriction imposed by this use class; the existing C2 use holds no cap on maximum occupancy.

## 7.0 **CONCLUSION**

7.1 The proposed use change is considered appropriate within this setting, and of no demonstrable harm in terms of residential amenity. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended.

## 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

CS8 - Facilities, Services and Infrastructure Provision  
CS13 - Economic Development, Enterprise and Employment  
Economic Development, Enterprise and Employment  
National Planning Policy Framework

### Relevant planning history:

16/04061/FUL Internal and External alterations GRANT 29th November 2016

## 11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Amy Liebich
Appendices APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings

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

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