

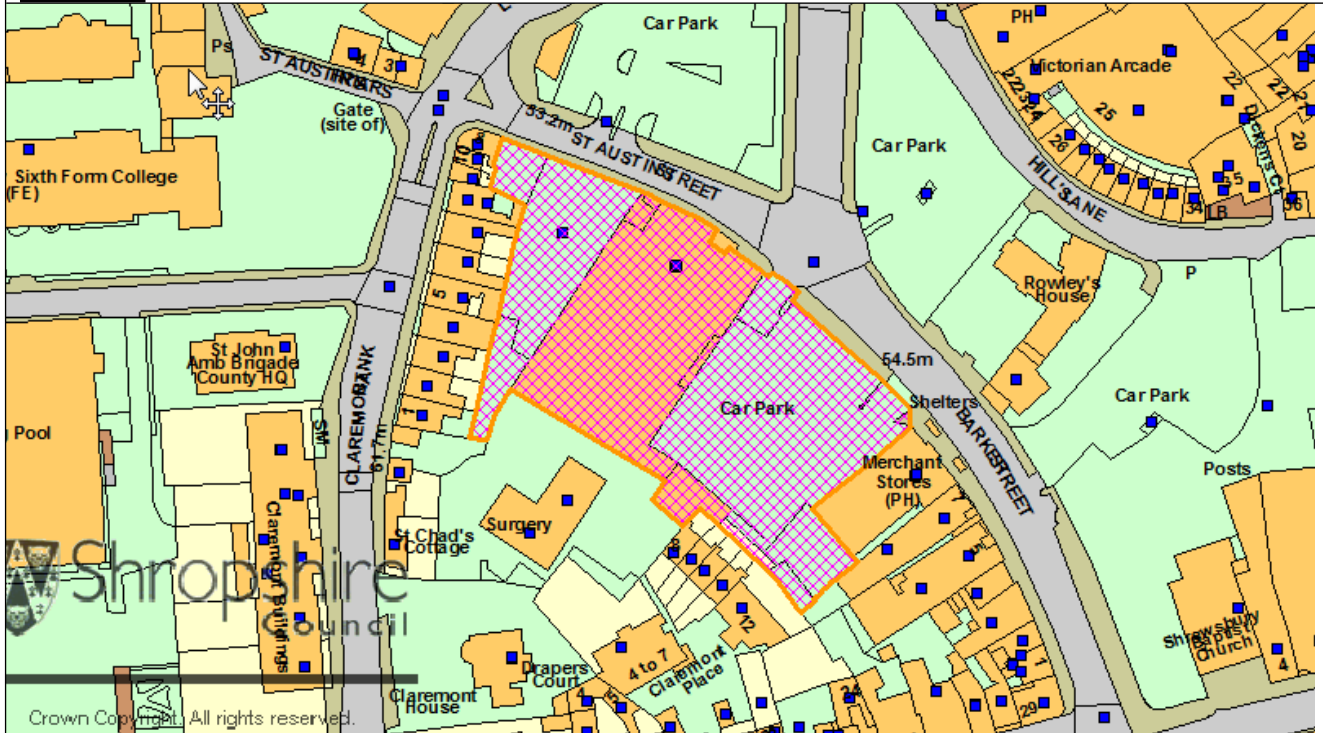
## Development Management Report

Responsible Officer: Tim Rogers  
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### Summary of Application

<b>Application Number:</b> 17/04172/DIS	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Discharge of condition 5 (in relation to Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works		
<b>Site Address:</b> Land at Barker Street, Shrewsbury		
<b>Applicant:</b> Morris Property Ltd		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 348900 312570



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**Recommendation:** Grant approval of partial discharge of condition 5.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The purpose of this application is to seek approval for the details required to be submitted by condition 5 attached to planning application 15/03580/FUL in relation to Block C only.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site faces St Austins Street and Barkers Street within the Town Centre Special Character Area, which makes up part of the larger Shrewsbury Conservation Area. The 20th Century building on the site of a former tannery (previously occupied by Shrewsbury Sixth Form College) has been demolished and there is vacant land either side. To the West of the site is 8 Claremont Bank that is a listed building and to the East is a Public House (Vodka Source Bar) that is unlisted.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the meeting of 28<sup>th</sup> September 2017 Members resolved that consideration of the application be deferred to a future meeting of this Committee to allow the architect to address the design issues raised and for the Committee to consider an application for the site as a whole.

- 3.2 The committee report of 28 September 2017 is attached at Appendix 1.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

- 4.1.1 **SC Conservation:** In response to concerns raised by the Town Council and the Civic Society and as raised during the Planning Committee's consideration of this application to discharge Condition 5 of the originally approved scheme for the Tannery site, the architects have now revised the proposal further. The scheme now incorporates asymmetrical pitched roofs to Blocks B and C rather than a flat roof element to provide a more interesting roofline which reflects much of the existing historic nearby town centre built form. This pitched roof form harmonizes well with buildings of particular historic interest nearby such as Rowley's Mansion, and breaks up the mass of the Blocks which was a specific concern raised on the architects first presented design. Other devices have been incorporated to further reduce the building mass including the separation of the front elevation of the blocks into two asymmetrical bays by way of a recessed downpipe. The window proportions have been more articulated by the introduction of glazed panels (rather than solid coloured ones) to the top and bottom of the windows. With these modifications, the strong industrial aesthetic of the proposal is still retained in reference to historic uses of the site however the wider built form context is now better referenced and responded to.

We have met with the architects on site to discuss the merits of this modulated roofline, and at the same time discussed external materials including brick samples

with the aim of further strengthening the visual relationship with Rowley's by reflecting similar brick texture, size, colour, bond, mortar mix and joint profile. The now proposed pitched roofs are intended to be finished in a non-reflective zinc standing seam which again reflects an industrial aesthetic.

Additional and enhanced visuals have now been submitted along with the elevation, section and plan form drawings to illustrate the revised proposal in context with the immediate and wider area. Our Team are supportive of these revisions and as noted in our earlier comments, subject to the further review and agreement of finer architectural details, materials and finishes, there is no objection raised to the discharge of Condition 5 based on these revised plans.

#### 4.2 - Public Comments

4.2.1 Shrewsbury Town Council: Awaiting comments – members will be updated in the additional letters schedule.

4.2.2 Shrewsbury Civic Society: Awaiting comments – members will be updated in the additional letters schedule.

#### 5.0 THE MAIN ISSUES

5.1 The principle of development and the layout, scale and design of the buildings have already been established by the original approval for full planning permission.

5.2 The main issue to consider is the proposed choice of external materials, detailing and finish submitted for approval in relation to a) – g) of condition 5 in relation to Block C and the impact on the character and appearance of the building, the street scene and wider Conservation area.

#### 6.0 OFFICER APPRAISAL

##### **Impact on the character and appearance of the building and the Conservation area.**

6.1. a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline

6.1.1 The lift core elements initially proposed for the rooftop have been omitted and will now be internal. It is considered that this will enhance the overall scale and appearance of the building and its impact on the Conservation area skyline.

6.2 b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure

6.2.1 The bulky cornice on the initial proposal has been removed and replaced with an asymmetrical pitched roof with a double gable to the street elevation. This provides a more interesting roofline that better reflects the existing historic built form of buildings nearby. In keeping with other buildings in the locality the verge and eaves

details will over-sail the brickwork. The roof will have a pre-weathered, zinc, standing seam that will have a blue-grey, non-reflective finish and will express a more refined industrial aesthetic. The revised proposals are considered to be an enhancement compared to the previous scheme and will help reduce the mass of the building.

- 6.3 c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block
- 6.3.1 As advised within the previous report the fenestration has been significantly altered and the transition between ground and upper floors is more clearly defined. This is due to the introduction of a shopfront at ground floor level that will help create a more active street frontage.
- 6.3.2 The apparent height of the windows on the upper floors was previously increased due to the introduction of a glazed panel above the opening light and a solid metal insert panel below the opening light. Within this latest amendment the window proportions have been more articulated by the introduction of glazed panels (rather than solid coloured ones) to the top and bottom of the windows. It is considered that the window disposition and proportion now better reflects an industrial warehouse aesthetic and the former historic industrial use of the site as a tannery.
- 6.4 d. 1:5 scale details of all lintels and sills and brickwork to include colour, bond mortar mix and joint finish
- 6.4.1 The choice of brick is a mix of light and dark reds with a charred surface to reflect that at Rowleys Mansion. The brickwork is proposed to be laid in a Flemish garden wall bond and a natural mortar used with a brushed, bucket handle joint, both details are again reflective of that used on Rowley's House. It is proposed that a 450mm height, stretcher bond, soldier course lintel will run across the top of the shopfronts and continue around the building. The introduction of the shopfronts at ground floor with the 450mm soldier course lintel responds to the wishes of the Civic Society that there be an active street frontage.
- 6.5 e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor
- 6.5.1 The ground floor brick piers to the frontage are proposed to be rusticated down to a plinth level to define them separately from the brickwork above. The string course above the plinths will provide a visual transition between the ground and upper floors and will help integrate the building within the street scene.
- 6.6 f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design
- 6.6.1 The submitted detail only relates to the Boundary treatment along the street frontage to the left of block C. The railings to the street frontage are proposed to be

simple flat metal railings consisting of panels of 50 x 8mm vertical flats and it is agreed that these are appropriate and will be in keeping with the nature and industrial warehouse aesthetic of the main blocks. The revised application to be submitted for the wider site eliminates the need for boundary treatment between the blocks and the infill now proposed will create a continuous street frontage.

#### 6.7 g. Details and location of the bin storage enclosures

6.7.1 The bin storage enclosure is indicated to be 2.1m high rusticated brickwork to match block C with a pair of double leaf timber gates. The location of the bin store is indicated to be immediately behind the front railings and access gate. The details and location of the bin store are both considered acceptable.

### 7.0 **CONCLUSION**

7.1 The principle of development and the layout, scale and form of the buildings have already been established by the full planning permission. It is considered that the details submitted to discharge condition 5 in relation to block C are acceptable and will enhance the character and appearance of the building and the street scene compared to the previously approved scheme and would not adversely impact on the character and appearance of the locality and the Conservation area or the setting of nearby listed buildings.

7.2 It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, and MD13 and the aims and provisions of the NPPF. Special regard has to be given to the desirability of preserving or enhancing the character and appearance of the Conservation area and the setting of listed buildings as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 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: NPPF

Core Strategy and SAMDev Policies: CS6, CS17, MD2, and MD13

### RELEVANT PLANNING HISTORY:

15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works GRANT 18 October 2015.

**11. Additional Information**

List of Background Papers: File 17/04172/DIS
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Cabinet Member (Portfolio Holder): Cllr R. Macey
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Local Member: Cllr Nat Green
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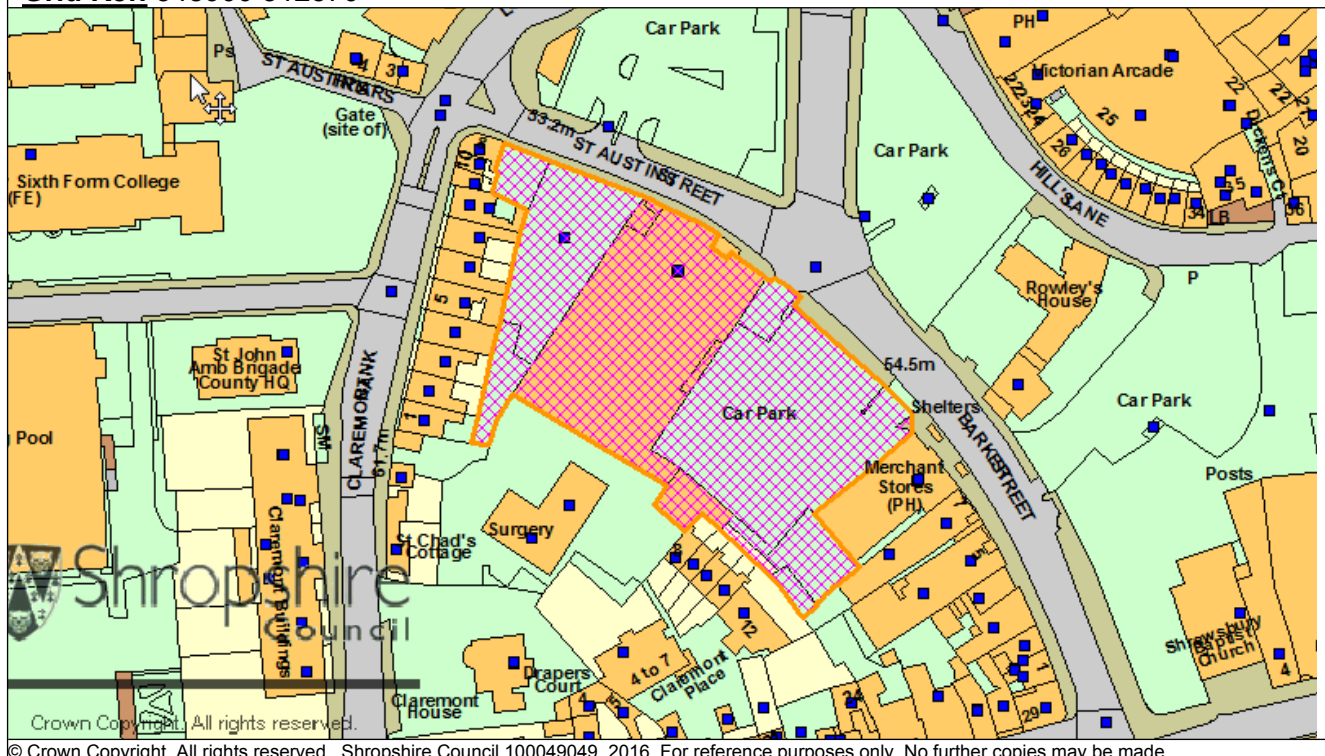
APPENDIX 1: 28 September Committee Report
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**APPENDIX 1: 28 September Committee Report****Development Management Report**

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

<b>Application Number:</b> 17/04172/DIS	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Partial discharge of condition 5 (design, details, materials and fenestration of Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works		
<b>Site Address:</b> Land at Barker Street, Shrewsbury		
<b>Applicant:</b> Morris Property Ltd		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 348900 312570**Recommendation: Grant approval of partial discharge of condition 5.**



## REPORT

### 1.0 THE PROPOSAL

- 1.1 The purpose of this application is to seek approval for the details required to be submitted by condition 5 attached to planning application 15/03580/FUL:

*5. Notwithstanding the submitted details the front (Barker Street & St Austins Street) elevations are not approved. The following design elements shall be submitted for approval prior to commencement of the relevant parts of the works:*

- a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline;*
  - b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure;*
  - c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block;*
  - d. 1:5 scale details of all lintels and cills and brickwork to include colour, bond mortar mix and joint finish;*
  - e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor.*
  - f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design;*
  - g. Details and location of the bin storage enclosures*
- Reason: To ensure a satisfactory appearance of the development in the interests of preserving and enhancing the character and appearance of the conservation area.*

The application only seeks partial approval of this condition in relation to Block C so that work can continue on site with a target date for completion by September 2018 ready for the next intake of students.

- 1.2 This application is not an opportunity to re-consider the layout, scale, shape and size of the buildings, which have already been approved by the application for full planning permission. However it should be noted that this application has been submitted to enable work to progress on Block C but with the knowledge that a new full application for a revised scheme will be submitted shortly.
- 1.3 This application only relates to Block C but initial drawings have been submitted for the likely appearance of the proposed new scheme so that Block C can be viewed in context. The proposed new scheme will include Block C and Block B of the originally approved plans but with a two-storey infill. Retail use is proposed for the ground floor to be occupied as one space by a single retailer. The upper floors of Block C and the infill block will be Student accommodation and a flexible mixed use for Block B is proposed with office use initially and use as student accommodation as and when the demand arises.

- 1.4 The revised scheme will not include Block A of the original approval and the design for this and the three -storey block of management and post-graduate accommodation will come forward at a later date. The space is proposed to be used as car parking until a later application is submitted.
- 1.5 Drawings and details to discharge condition 5 were initially submitted on 25 August but amended details and additional information were received on 14 September and the Conservation comments and officer appraisal relate to this latest submission.

## 2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site faces St Austins Street and Barkers Street within the Town Centre Special Character Area, which makes up part of the larger Shrewsbury Conservation Area. The 20th Century building on the site of a former tannery (previously occupied by Shrewsbury Sixth Form College) has been demolished and there is vacant land either side. To the West of the site is 8 Claremont Bank that is a listed building and to the East is a Public House (Vodka Source Bar) that is unlisted.

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

- 3.1 When the application for full planning permission was considered by committee, members resolved that further consideration be given to the detail of the front elevation by the imposition of a condition and that the discharge of this condition be brought back to Committee.

## 4.0 **Community Representations**

### 4.1 **- Consultee Comments**

- 4.1.1 **SC Conservation:** This Discharge of Conditions application relating to the former Tannery site on Barker Street is being formally circulated to relevant consultees for comments. While the application was granted full planning permission in October 2015 for the erection of three student accommodation blocks, the then submitted details particularly with respect to the front elevations as they related to Barker and St Austin's Streets were not approved, with Condition 5 of the Decision Notice including a list of design elements which required further consideration and approval prior to commencement of the relevant above ground works of the scheme.

Our Team has lately been working with Planning Team colleagues, the applicant and the new team of architects to develop improvements to the architectural detailing, fenestration pattern, materials and finishes as well as the overall street scene presentation and wider-view aesthetic of the scheme, and while the current scheme reflects the basic linear block form of the original approved proposal, many important design improvements have been added so that the scheme now far better reflects the historic industrial use of the site as a former tannery, responds to the local architectural context of the area, and incorporates a much more active frontage with the introduction of articulated attractive infill sections between the main blocks, with a continuous retail shop space running along the full street

frontage of the buildings. These improvements address many of the concerns raised during the formal public consultation process on the design of the initial scheme, and those particularly raised by Historic England, the Shrewsbury Civic Society, among a number of others.

Along with this current Discharge of Conditions application, a concurrent full planning application will be submitted to address modifications to the original scheme such as the introduction of a ground floor retail use and the infill section between the main blocks. As noted in the submitted Design Statement, the third, most westerly block will not be commenced at this time and in its place will be a parking area to facilitate the office portion of the blocks, and this is indicated on the site and elevation plans provided and illustrated on the street scene views prepared by the architects.

In referencing the specific design elements included in Condition 5 that required further consideration, we would comment as follows:

- a) The former roof top lift core element of the initial scheme has been removed from the current scheme as the elements are now incorporated internally to the building – this leaves a clean roofscape and less impact on the existing town skyline;
- b) The bulky cornice element of the initial scheme has been removed in favour of enhanced decorative brickwork; this coupled with the removal of the rooftop elements reduces the visual mass of the blocks;
- c) The fenestration pattern has been fully reconsidered in this new design and the window disposition and proportion reflects an industrial warehouse aesthetic while including elements of interest such as coloured glazed and copper panels. At ground floor the shop front windows are set well back from the face of the building and the shop front features heavy rusticated piers across the frontage again reflecting the former industrial context of the site.
- d) The brick work on this current scheme will reflect the brickwork of Rowley's House nearby which is a mix of light and dark red with charred bricks, and will be expressed as a diaper pattern for visual interest within the street scene.
- e) Ground floor elements have been more fully considered as noted above and now includes robust rusticated piers and a lintel zone of soldier brickwork across the retail openings which would wrap around the building;
- f) Boundary treatments are more integrated with the public realm and consist of simple flat metal railings, brick boundary walls and traditional timber gates;
- g) Bin storage enclosures have been repositioned to an appropriate location on the site.

Overall, subject to the further review and agreement of material samples, this revised scheme is considered to fully address concerns raised on design matters relevant to the earlier scheme, and there is no objection to the discharge of

Condition 5 based on this revised scheme.

- 4.1.2 **Historic England:** We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

## 4.2 - Public Comments

- 4.2.1 Shrewsbury Town Council: Awaiting comments – members will be updated in the additional letters schedule.
- 4.2.2 Shrewsbury Civic Society: Awaiting comments – members will be updated in the additional letters schedule.

## 5.0 THE MAIN ISSUES

- 5.1 The principle of development and the layout, scale and design of the buildings have already been established by the original approval for full planning permission.
- 5.2 The main issue to consider is the proposed choice of external materials, detailing and finish submitted for approval in relation to a) – g) of condition 5 and the impact on the character and appearance of the building, the street scene and wider Conservation area.
- 5.3 To help understand the rationale behind the proposal as now submitted extracts from the submitted supporting design statement is repeated here for information:

*The current proposals seek to address the comments and concerns of the approved scheme submitted by the previous Architects. These relate to the Barker Street & St Austins Street façade of the blocks and the lack of response to local context, in terms of both architectural aesthetic and active frontage.*

*It was considered the scheme poorly reflected the conservation area context of the site, (bearing in mind the adjacency to Rowley's House) and presented a disjointed and sterile frontage to the streetscape and public realm.*

*The Planners, Civic Society and other complainants were unhappy with the pastiche design of the elevations including mock loading bays and applied steelwork, projecting coloured 'banner' brise soleil and heavy cornice detail. The treatment of the railings required consideration also.*

*In response to these comments, the revised proposals seek to rationalize and de-clutter the facades to produce a more honest reflection of the industrial warehouse aesthetic of the former tannery works on the site.*

*The intent has been to develop a contemporary design response that is honest to the original concept of reference to the previous Tannery warehousing, and to portray this in a robust manner common to this building type. The brickwork, detailing and decoration make reference to the local context and enhance the elevations from the wider perspective. The introduction of retail to the ground floor*

*has positively contributed to the scheme in terms of amenity and response to the public realm.*

## 6.0 OFFICER APPRAISAL

### **Impact on the character and appearance of the building and the Conservation area.**

#### 6.1. a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline

6.1.1 The lift core elements initially proposed for the rooftop have been omitted and will now be internal. It is considered that this will enhance the overall scale and appearance of the building and its impact on the Conservation area skyline.

#### 6.2 b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure

6.2.1 The bulky cornice on the initial proposal has also been removed and replaced with decorative brickwork. It is considered that this is an enhancement compared to the previous scheme and will help reduce the apparent mass of the building.

#### 6.3 c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block

6.3.1 The fenestration has been significantly altered and the transition between ground and upper floors is more clearly defined. This is due to the introduction of a shopfront at ground floor level that will help create a more active street frontage.

6.3.2 The apparent height of the windows on the upper floors have been increased due to the introduction of a glazed panel above the opening light and a solid metal insert panel below the opening light. It is considered that the window disposition and proportion now better reflects an industrial warehouse aesthetic and the former historic industrial use of the site as a tannery. It therefore better responds to the context of the site compared to the former pastiche design of the façade initially proposed.

#### 6.4 d. 1:5 scale details of all lintels and sills and brickwork to include colour, bond mortar mix and joint finish

6.4.1 The choice of brick is a mix of light and dark reds with a charred surface to reflect that at Rowleys Mansion. It is proposed that a 450mm height, stretcher bond, soldier course lintel will run across the top of the shopfronts and continue around the building. Above this lintel the bricks are proposed to be laid in a Flemish garden wall bond to include a darker brick to create a diaper pattern. It is considered that this will add visual interest to the front façade.

6.5 e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor

6.5.1 The ground floor brick piers to the frontage are proposed to be rusticated down to a plinth level to define them separately from the brickwork above. The string course above the plinths will provide a visual transition between the ground and upper floors and will help integrate the building within the street scene.

6.6 f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design

6.6.1 The submitted detail only relates to the Boundary treatment along the street frontage to the left of block C. The railings to the street frontage are proposed to be simple flat metal railings consisting of panels of 50 x 8mm vertical flats and it is agreed that these are appropriate and will be in keeping with the nature and industrial warehouse aesthetic of the main blocks. The revised application to be submitted for the wider site eliminates the need for boundary treatment between the blocks and the infill now proposed will create a continuous street frontage.

6.7 g. Details and location of the bin storage enclosures

6.7.1 The location of the bin stores is not being considered as part of this partial discharge of conditions. The revised proposal for the wider site will include the detail and siting of the bin storage enclosures in an appropriate location within the site.

## 7.0 CONCLUSION

7.1 The principle of development and the layout, scale and form of the buildings have already been established by the full planning permission. It is considered that the details submitted to partially discharge condition 5 are acceptable and will enhance the character and appearance of the building and the street scene compared to the previously approved scheme and would not adversely impact on the character and appearance of the locality and the Conservation area or the setting of nearby listed buildings.

7.2 It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, and MD13 and the aims and provisions of the NPPF. Special regard has to be given to the desirability of preserving or enhancing the character and appearance of the Conservation area and the setting of listed buildings as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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: NPPF

Core Strategy and SAMDev Policies: CS6, CS17, MD2, and MD13

### RELEVANT PLANNING HISTORY:

15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works GRANT 18 October 2015

### **11. Additional Information**

List of Background Papers: File 17/04172/DIS
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Nat Green