

Development Management Report

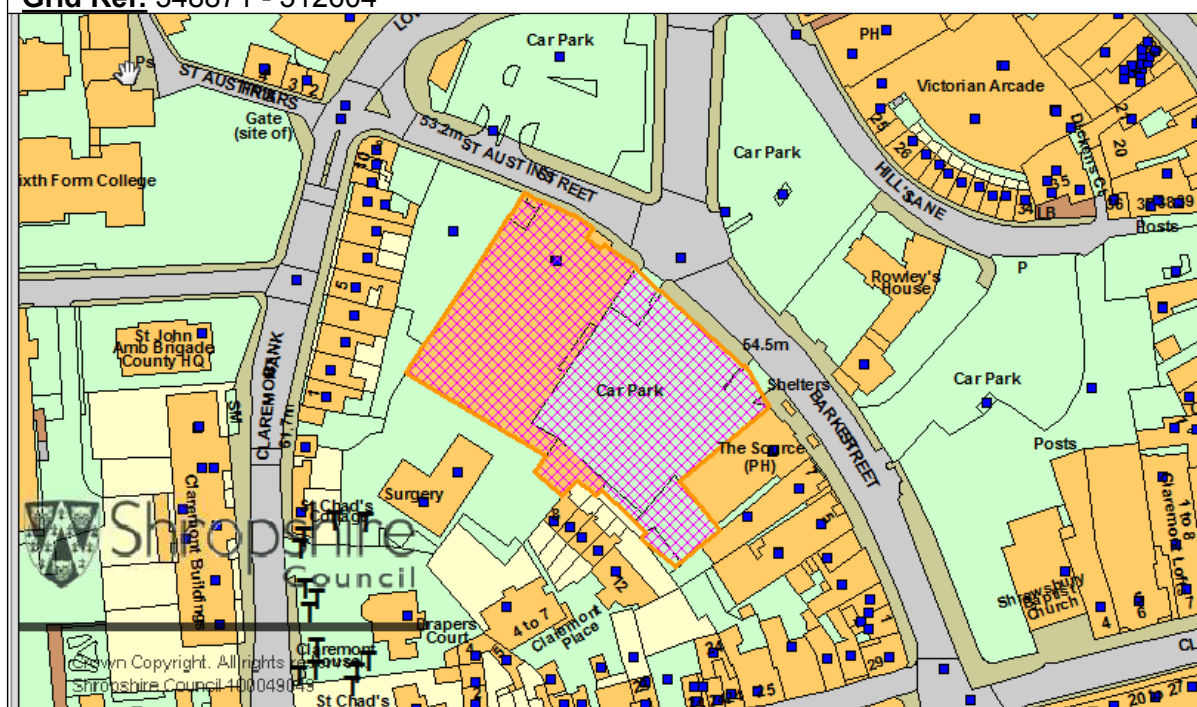
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Summary of Application

<u>Application Number:</u> 17/05171/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Application under Section 73A of the Town and Country Planning Act 1990 for the erection of two 4 storey blocks and a 3 storey infill block for mixed use including student accommodation, A1 (retail), A2 (professional and financial services), B1 (offices) and D1 (non-residential institutions such as crèches, day nurseries and premises for education and medical or health services) with ancillary cycle and bin storage areas, car parking and new vehicular access on to St Austin's Street (amended description)		
<u>Site Address:</u> Proposed Mixed Use Development Barker Street Shrewsbury Shropshire		
<u>Applicant:</u> Shropshire Council		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 348871 - 312604



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and that issuing of the decision notice be delegated to officers following expiry of the revised consultation period (providing that no new issues are raised).

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of two 4 storey blocks and a 3 storey infill block. The proposed buildings were initially proposed to be for student accommodation and offices only. However the description of development has recently been changed to a flexible mixed use including A1 (retail), A2 (professional and financial services), B1 (offices), D1 (non-residential institutions such as crèches, day nurseries, premises for education and medical or health services) and student accommodation. Neighbours were re-consulted and a site notice erected on 08 January 2018.
- 1.2 The proposal also includes cycle and bin storage areas, car parking and new vehicular access on to St Austin's Street.
- 1.3 It has been described as an application under Section 73A of the Town and Country Planning Act 1990 as it is part retrospective due to some of the development now proposed already partly under construction as approved under a previous permission (15/03580/FUL).

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. Part of the site has been in use as a temporary car park and the remaining part of the site was most recently occupied by a 20th Century building used by Shrewsbury Sixth Form College that has now been demolished.
- 2.2 To the West of the site is 8 Claremont Bank which is a listed building and to the East is a Public House that is unlisted.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as it is an application on land partly owned by the Council and is not in line with statutory functions.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Drainage:** Suggests a condition requiring a scheme of surface and foul water drainage being submitted for approval.
- 4.1.2 **SC Waste Management:** Provides advice on the storage of waste and recyclables.

- 4.1.3 **SC Regulatory Services:** It is noted that there is a change from previously approved plans to reduce the secure cycle storage from one bike per student to one bike for every two students. In addition the proposals introduce car parking which was not previously found on the site. The car parking is proposed for those working at the offices incorporated into the site. Shrewsbury is a congested town at peak times and sometimes off peak. This brings with it noise, air pollution and perception of accidents and as such a move to discourage vehicles from travelling into the town centre is advocated, particularly for the workforce who would generally be expected to be travelling to and from work at peak congestion times.

I would therefore recommend that the car parking proposed is removed to encourage the behaviours promoted by the Council to combat congestion related issues (e.g. promotion of the Park and Ride service, promote parking on the edge of town and walking the final short journey to the workplace e.g. park in Frankwell and walk to the site).

In relation to noise the application should include details of how noise into habitable rooms will be made suitable ensuring the ability for students not only to live but study in an environment conducive to learning.

Finally in relation to contaminated land the proposed development is on the site of a former tannery. A site investigation and risk assessment has been undertaken and remediation to protect human health is required. It was recommended and accepted that a clean cover system is required to break the associated pathways in soft landscaping areas only.

Details of the approved scheme and required validation are detailed in the 'Tier Environmental Ground Investigation Report, Issue 2, dated 14th September 2017' and a condition is recommended requiring works to be undertaken in accordance with this.

4.1.4 **SC Highways:**

Recommendation

No Objection – Subject to the development being undertaken in accordance with the approved details and the suggested conditions.

Observations/Comments:

In principle, the proposed development is considered acceptable from general highways and transport perspective.

It has been noted, that the previous proposals for this site were subject to the introduction of a Travel Plan to partially manage the reduced parking element of the scheme as well as encourage sustainable travel. Some form of Travel or site Management Plan may still be required to manage vehicular access to enable student moving in/out. As well as to encourage the prospective office and retail staff on the site to adopt more sustainable travel habits. It is considered that an appropriate Site Travel Plan, together with its continued use and evolution, should be secured through planning condition.

It is recommended that the proposed cycle storage facilities should be covered or fully enclosed, as well as being secure. The facility should be adequately lit and ideally have an open area for cycle maintenance and/or storage facilities for wet weather clothing or other cycling accessories/tools, etc. It has been found the open bike racks have limited appeal and won't be fully utilised or encourage general/occasional cycle use.

The application does not adequately deal with servicing the site, however there is potential to amend the bus stop to a loading/unloading area across the frontage of the site. On the basis that this cannot be secured through Section 106, I suggest this is covered as an informative with the following wording. i.e. In order to provide servicing facilities to the retail units the current bus stop Traffic Regulation Order (TRO) needs to be amended to allow the loading/unloading under a revised TRO.

4.1.5 **SC Rights of Way:** No comments to make on this application

4.1.6 **SC Conservation:** We would refer you to our recent consultee comments submitted on the Discharge of Conditions application related to the approved Tannery site scheme under application 15/03580/FUL, submitted to consider and secure improvements to the original design particularly with respect to main elevations of the student accommodation block. This current full planning application follows on from this and represents a new application to supersede the original 2015 scheme, incorporating the changes and improvements to the overall proposal as reflected in the DIS application granted approval recently, and expanding on this to include a retail element to the ground floor, a lower subservient infill link building between the higher main blocks, and adding an external parking area to the west extent of the site where Block A was shown on the original scheme. Block C remains student accommodation, while Block B will accommodate office use, resulting in a more mixed use development covering the site and a more active street frontage which responds much better in terms of this town centre gateway location.

As noted in the D and A Statement the principle of the original 2015 scheme remains in terms of the location, size and positioning of the main blocks of the scheme however, and the original application extensively addressed issues of impact on the immediate and wider historic built environment and the Conservation Area as required by the relevant local and national policies, guidance and legislation in terms of historic environment matters. As illustrated in recent presentations to Planning Committee and in response to concerns raised on the initial scheme, the current revised design improves on this and incorporates asymmetrical pitched roofs to the higher blocks to provide a more interesting roofline which reflects much of the existing historic nearby town centre built form and 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 earlier schemes. Other devices have been incorporated to further reduce the buildings' bulk, for example the blocks are split into two asymmetrical bays separated by means of a downpipe, the infill elements are kept low to maintain a broken skyline, an individual shop front rhythm is incorporated across the frontage at street level, etc. The strong industrial aesthetic of the proposal is still however retained in reference to historic uses of the site, but over

the whole site the wider built form context is now better referenced and responded to. As noted in the D and A Statement, the current proposal has been developed over several meetings with the planning and historic environment team, with input from the Civic Society, Central Planning Committee and the Town Planning Committee, and we consider that the overall proposal represents a very positive scheme for this prominent town centre site.

The detailed elevations and site plan submitted with this application include side notes which in most cases denote specific building and surface materials and methods of execution, finishes and decorative paint colours which historic environment and planning officers have discussed and preliminarily agreed with the applicants; in other cases some of the finer architectural detailing, finishes and colours will still need to be discussed and agreed, and relevant conditions to address these details should be included in the Decision Notice in this regard (including window and door details, roof details, etc). This should also include a condition to agree the detail on any external advertisement signage for the various elements/uses of the buildings along with a landscaping plan to ensure these details are appropriate to the scheme and within the wider public realm. It is also recommended that the specific details of the proposed roof based solar panel array are conditioned to ensure this is of a low profile nature with a matte black finish.

- 4.1.7 **SC Archaeology:** As the Archaeological Mitigation Report by Clwyd-Powys Archaeological Trust that has been submitted with the application indicates, the proposed development site was subject to a full programme of archaeological desk top assessment, evaluation and mitigation under Condition 4 of the previous planning permission ref. 15/03580/FUL. Whilst post-excavation analysis remains ongoing under this permission, all on-site archaeological work has now been completed. Consequently, it is advised that an archaeological condition is not required in relation to the current application (17/05171/FUL). We therefore have no further comments to make on this application with respect to archaeological matters.
- 4.1.8 **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:** Raises no objection to this application.
- 4.2.2 **West Mercia Constabulary:** Provides advice with regards to 'Secured by Design'.
- 4.2.3 **Shropshire Fire And Rescue Service:** Provides advice with regards to Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications'.
- 4.2.4 **Shrewsbury Civic Society:** Considers that the application represents the best option proposed. Their planning committee had mixed views but hopes the following points are considered:
1. The pitched roofs are welcomed (although somewhat high for the site).

2. The infill with retail street-frontage is greatly welcomed.
3. There were mixed views about the flat roof of the infill.
4. Some architects felt that a small degree of setback (at least for the ground floor) of the “infill” would provide further articulation and a more interesting street facade.
5. There was interest in the metal-clad links between the Infill and the Blocks. The colour and form of these was critical and should therefore be Conditioned.
6. Some concerns about ‘overlooking’ were noticed and we trust that planners will evaluate this respectfully for all parties.
7. There have been concerns about bright blue as a cladding colour and so the details of the rear cladding of the infill section should also be conditioned.

4.2.5 **8 letters of objection summarised as follows:**

- ❑ The application fails to respect the adjacent listed buildings or incorporate features characteristic of Shrewsbury architecture.
- ❑ It will do nothing to enhance the town in anyway.
- ❑ No attempt has been made to consider the future of the open spaces surrounding Rowley's House and the future road pattern when hopefully the area is pedestrianized and transformed into well designed and landscaped public open spaces.
- ❑ Four storeys are too large for the site and the height and volume provides an unacceptable chunk of brickwork as seen by the listed buildings of Claremont Place.
- ❑ The addition of the pitched roof now takes the two main blocks above existing rooflines and will make them out of keeping with the area and will dominate and be over-bearing.
- ❑ The buildings will be at least a storey higher than the adjacent Albert's Shed and it would be less obtrusive if the new building were to be three storeys, in which case the pitched roof would be at a similar level to that of Albert's Shed.
- ❑ The rear of the buildings under construction are much too close to the cottages in Claremont Place.
- ❑ The roofline should be parallel to the street and not at right-angles to it.
- ❑ A pitched roof is far more appropriate than the original flat roof but should be a single gable on each of the two blocks.
- ❑ The failure to introduce some variety in the street facade means that the result is a boring brick wall pierced by a boring pattern of boring fenestration. Some decoration is essential to provide some relief and interest in the street scene.
- ❑ Loss of light and loss of privacy for the cottages and houses in Claremont

Place.

- ☐ A request that any windows with views towards the terrace of properties on Claremont Place are fitted with opaque glass to protect privacy.
- ☐ A request to swap Block A and C and therefore have the offices closest to the residents and the students closest to the car parking.
- ☐ Loss of a view of the rooftops of Shrewsbury from Claremont Place.
- ☐ A restrictive covenant must be put in place to prevent at any time, now or in the future, these buildings being used in part or in whole for restaurant, nightclub or music venues and activities and that no licences for nightclubs and restaurants or loud music be awarded to these premises.
- ☐ Noise issues late at night as the entrance is quite close to the back of properties in Claremont Place.
- ☐ Devaluation of existing properties.
- ☐ Considers that the building that is now being constructed does not have planning permission for this amended design.
- ☐ It is good that car-parking is part of the current plans, but it is essential that a restriction is made on further development so this is not later lost. The proposed offices will otherwise put even more pressure on town-centre parking.
- ☐ A request to allow local residents to have permit-parking in the proposed car park.

4.2.6 **One letter of support summarised as follows:**

- ☐ Of the three designs that have been presented for this development this is the most successful.
- ☐ The two residential blocks together with the lower infill adds a dignified frontage to Barker Street as well as continuing the rhythm of the buildings along the street.
- ☐ Not only does it clearly suggest the character of the industrial type buildings that were formerly on the site but its height and bulk help to hide the rather cluttered skyline to the rear.
- ☐ The materials used are good, the gables and pitched roofs are both appropriate and responsive to their neighbours.
- ☐ The introduction of retail on the lower floor is also to be welcomed as bringing life and activity throughout most of the day.
- ☐ One jarring note is the decorative brickwork on the gable ends of the street

facade which is quite unnecessary and whilst understandable as a reflection of Rowley's House is simply a distraction.

- ❑ Considers that this group can make an impressive addition to this part of the town, an area which, although centred on one of Shrewsbury's most iconic buildings - Rowley's House, is somewhat run-down.

5.0 THE MAIN ISSUES

- ❑ Principle of development
- ❑ Scale, design and appearance and impact on the character and appearance of the conservation area and the setting of nearby listed buildings.
- ❑ Impact on residential amenity
- ❑ Access, parking and cycling provision
- ❑ Contaminated land
- ❑ Archaeology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of development of this site for student accommodation has already been established by the previous permission for three blocks of student accommodation. This revised scheme relates to a flexible mixed use to include student accommodation, offices, retail, professional and financial services and non-residential institutions such as crèches, day nurseries and premises for education and medical or health services. These are all main town centre uses considered to be appropriate development within the town centre.

6.1.2 The proposal therefore accords with CS2 that identifies Shrewsbury as the primary focus for residential, retail and commercial development and also with the principles of the NPPF representing sustainable development on a previously developed site in a Town Centre location.

6.2 Scale, design and appearance and impact on the character and appearance of the Conservation area and the setting of nearby listed buildings.

6.2.1 The proposed site is situated within Shrewsbury Conservation Area and there are listed buildings nearby and the proposed development has the potential to impact on these heritage assets. The proposal needs to be considered against Shropshire Council policies MD2, MD13, CS6 and CS17 and with national policies and guidance including section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.2 Planning permission (15/03580/FUL) has already been granted for three blocks of four storey student accommodation (labelled block A, B and C) and this established the layout, scale and form of the buildings. Work has commenced and the frame of

block C (that is also part of this current application) has been erected. The details of the proposed choice of external materials, detailing and finish required to be submitted for approval under a) – g) of condition 5 attached to this permission have already been submitted and approved in relation to block C of the original approval. These details included removal of the bulky cornice that was on the initial proposal which is now replaced with an asymmetrical pitched roof with a double gable to the street elevation. It is considered that this provides a more interesting roofline that better reflects the existing historic built form of nearby buildings.

- 6.2.3 In addition to the two pitched roof four storey blocks (C and B) that already have approval, this revised proposal includes a flat roof three storey infill block with retail proposed for the whole of the ground floor. This will provide a more active and continuous street frontage. The lower flat roof infill will also provide a broken skyline providing a more interesting façade to the street in common with the variety of street frontages in Shrewsbury. Conditions are recommended to require the detail and colour of the material for the infill block to be submitted for later approval.
- 6.2.4 It is considered that the details submitted to discharge condition 5 in relation to block C and that is now also proposed for block B and forms part of this revised proposal are acceptable and will enhance the character and appearance of the buildings and the street scene compared to the previously approved scheme. The provision of the infill block and the continuous street frontage and the variety in the roof heights will further enhance the proposal.
- 6.2.5 Both planning officers and the Conservation officer consider that the proposed scale, design and layout of the buildings now proposed is acceptable and would enhance the character and appearance of this part of Shrewsbury Conservation area and would have no adverse impact on the setting of nearby listed buildings. It is therefore considered that the proposal accords with MD2, MD13, CS6 and CS17.
- 6.2.6 It is considered that any 'less than substantial harm' to the setting of nearby listed buildings is outweighed by the public benefits of the proposal including the benefit of bringing a vacant site and unsightly gap within the Conservation area back into use and the significant social and economic benefits of the proposal. It is considered that the requirements of both paragraph 133 and 134 of the NPPF and section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 have been met.

6.3 Impact on residential amenity

- 6.3.1 Now that block C (that already has approval) is under construction more objections have been received from the residents in Claremont Place situated to the rear concerned with the proximity and height of the building and the potential loss of light, loss of privacy, overbearing impact, loss of a view and devaluation of properties.
- 6.3.2 At the time when the original application was determined an overlooking study was submitted to assess the views between windows of the rear of existing properties in Claremont Bank and Claremont Place and the windows in the proposed development, and focused on those windows where there would be a distance of less than 18 metres between windows serving habitable rooms. There were only 7

existing windows serving habitable rooms where the distance would be less than 18 metres from windows in the proposed development (2 in Claremont Place and 5 in Claremont bank). The distances ranged from 15.67m up to 17.97 m and it was considered that as the existing windows would only be impacted by indirect views (as the windows would all be at an oblique angle and not directly facing each other) the proposal would not result in significant unacceptable levels of overlooking and loss of privacy.

- 6.3.3 This revised proposal omits the originally approved block A and therefore will not impact on the occupiers of the dwellings in Claremont Bank. The approved block C under construction is situated directly in front of numbers 8, 9 and 10 Claremont Place, which are three properties at the end of a terrace situated on higher ground to the rear of the site. With regards to overlooking the nearest windows will be the three proposed in the rear elevation of block C (one each at first, second and third floor level). The applicant is willing for these windows to have restricted opening and be obscure glazed. The imposition of a condition requiring this, and that no additional windows will be added, will ensure that the proposal does not result in overlooking and a loss of privacy.
- 6.3.4 Building C as now approved with a pitched roof instead of a flat roof is obviously higher to the ridge and will obscure the views previously enjoyed across the roof-scape of this part of Shrewsbury. However there is no right to a view and the impact on property value is not a material planning consideration. Although the proposal will appear as a large building in front of the properties of Claremont Place and that the outlook from the windows will be towards the rear wall of the new building it is not considered that the new buildings would appear significantly overbearing or obtrusive that would justify refusal of the application. It is also considered that the proposal would not result in a significant loss of light.
- 6.3.5 Some residents have raised concern about the potential noise from students around the building and particularly at night at the entrances to the building. The entrance is situated to the side of the building and not the rear, and the site is situated within a busy part of town centre where external ambient noise levels are already high. It is therefore considered that the occupation and use of the buildings by students would not add significantly to the noise and activity that already exists in the area.
- 6.3.6 Public Protection has requested details of how noise into habitable rooms will be made suitable to live and study. The detail of the windows now proposed is the same as previously approved and it was advised that all student bedrooms would be provided with a means of background ventilation negating the requirement for the windows to be opened but that the windows will be provided with opening restrictors. This will help restrict both outside noise being heard from within the building and vice versa.
- 6.3.7 Residents in Claremont Place have also requested that the use of the blocks are swapped so that the block nearest to them is used as offices. However although the proposal currently indicates offices to be within Block A the proposal is for a flexible mixed use to include offices, retail, professional and financial services and non-residential institutions such as crèches, day nurseries, premises for education and medical or health services. This will enable flexibility of the use of all of the

buildings within use class A1, A2, B1 and D1 in addition to student accommodation. This is designed to provide flexibility and to enable all of the buildings to be used for any of the uses within these use classes without the need for planning permission for change of use. It is considered that the use of the buildings for the mix of use classes indicated would have no adverse impact on residents in the vicinity of the site.

- 6.3.8 Residents have also requested that a restrictive covenant be put in place to prevent the buildings being used in part or in whole for restaurant, nightclub or music venue. This is not required as these uses would all require a planning application for change of use and the implications of a different use of the buildings would be fully considered if and when such an application were submitted.

6.4 Access, parking and cycling provision

- 6.4.1 The proposal provides for separate vehicular and pedestrian access to the site to serve the offices and student accommodation but there is no provision for servicing the retail aspect of the proposal. A Traffic Regulation Order will be required to amend the bus stop to a loading/unloading area across the frontage of the site. Highways have no objection to this and the proposed access arrangements.
- 6.4.2 The proposal includes a surface car park in place of the previously approved Block A. Public Protection have requested that this aspect of the proposal is removed to discourage vehicles (and particularly the future occupiers of the offices) from travelling into the river loop by private car and to encourage the promotion of the Park and Ride service, and parking on the edge of town and walking the final short journey to the workplace e.g. park in Frankwell and walk to the site, in order to combat congestion related issues such as noise and air pollution.
- 6.4.3 This aspect of the proposal has been discussed with the applicant and as a compromise (to provide flexibility with regards to the future use and development of the site) a condition is recommended restricting the use of the part of the site as a carpark for a temporary period of 5 years. This has the added benefit of ensuring that an alternative application for development of the site would hopefully come forward in a timely manner as the provision of a carpark (however well landscaped) and the gap in the street scene has a negative impact on the character and appearance of the Conservation area.
- 6.4.4 Public protection has also noted that there is a change from the previously approved plans to reduce the secure cycle storage from one bike per student to one bike for every two students. This is considered acceptable with the site being within Shrewsbury Town Centre and all services and facilities (including the train station, bus station and the University buildings) being within walking distance of the site. However a condition is recommended to ensure that cycle storage provision is increased as the number of students increases and the demand arises.

6.5 Contaminated land

- 6.5.1 Due to its previous uses a contaminated land condition was imposed on the previous permission. Site investigation and risk assessment has been undertaken and the proposed remediation required to protect human health has been

approved. The details of the approved remediation scheme and required validation are detailed in the submitted Tier Environmental Ground Investigation Report and a condition is recommended to be imposed requiring works to be undertaken in accordance with this.

6.6 Archaeology

- 6.6.1 As the site had the potential to hold archaeological interest the previous approval secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). Prior to work commencing a WSI was submitted and approved and the proposed site has been subject to a full programme of archaeological desk top assessment, evaluation and mitigation. The Councils Archaeologist has advised that post-excavation analysis is still ongoing but all on-site archaeological work has now been completed and therefore no archaeological condition is required.

6.7 Other Matters

- 6.7.1 Shropshire Fire and Rescue, West Mercia Constabulary, SC Waste Management and SC Drainage have all made recommendations and provided advice and information. The applicant will be made aware of this advice and information by the informatives recommended to be imposed on any planning approval.
- 6.7.2 The proposed development will be subject to Building Regulation approval and also the Management of HMO Regulations and this will ensure that the standard and maintenance of the student accommodation aspect of this proposal is acceptable. Building Regulations approval would be required to satisfy the requisite fire safety, acoustic and sustainability standards (including drainage, insulation, heating and ventilation). The Management of HMO Regulations sets out various responsibilities which landlords should comply with, including the provision of safety measures (e.g. fire escapes, firefighting equipment), a duty to provide waste disposal facilities and essential services such as water, gas and electricity and a general duty to maintain the living accommodation to an adequate standard.

7.0 CONCLUSION

- 7.1 It is considered that the proposed development is acceptable in principle in this sustainable location within Shrewsbury Town Centre making efficient and effective use of this brownfield site. It is considered that the proposed scale, design and layout of the buildings now proposed is acceptable and would enhance the character and appearance of this part of Shrewsbury Conservation area and would have no harmful impact on the setting of nearby listed buildings.
- 7.2 It is also considered that the proposal would have no significant adverse impact on residential and local amenity. The proposal is therefore considered to accord with the NPPF and Shropshire LDF policies CS2, CS6, CS17, MD2 and MD13, and regard has been given to 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 Saved Policies: CS2, 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/alterd vehicular access; cycle parks; and ancillary works GRANT 18th October 2015

17/02439/DIS: Discharge of condition 3 (Contaminated Land) (in relation to block C only) and 4 (WSI) attached to planning permission 15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/alterd vehicle access; cycle parks; and ancillary works DISAPP 20th October 2017

17/04172/DIS: 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/alterd vehicular access; cycle parks; and ancillary works DISAPP 27th October 2017

11. Additional Information

List of Background Papers: File 17/05171/FUL (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder): Cllr R. Macey
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Local Member: Cllr Nat Green

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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. 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
- a construction traffic management plan and/or HGV routing plan

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

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

4. a) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy within the Tier Environmental Ground Investigation Report, Issue 2, dated 14th September 2017..

b) 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.

c) 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which 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. The remediation proposal is subject to the approval in writing by the Local Planning Authority.

Reason: to protect the health of future users.

5. Notwithstanding the details indicated on the submitted drainage layout plan prior to completion of the buildings and the landscaping of the site (including hard surfacing) a scheme of surface and foul water drainage shall be submitted to and approved in writing by the Local

Planning Authority. The approved scheme shall be fully implemented before any part of the development is first occupied and/or brought into use.

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

6. Notwithstanding the landscaping indicated on the approved layout plan prior to completion of the buildings and the landscaping of the site (including hard surfacing) full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') shall be submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. 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 upon written notification from the local planning authority 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

7. Notwithstanding the details of the external materials indicated on the approved plans (including external walls, roofing materials, proposed roof based solar panels, and windows and doors), prior to the relevant parts of the works commencing on any part of the development (other than Block C) full details and/or samples of the relevant materials including architectural detailing, finishes and colours shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details. The external materials and detailing for block C shall be carried out in complete accordance with the details submitted and approved under discharge of conditions application 17/04172/DIS or in accordance with alternative details to be submitted for approval.

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

8. Prior to the development hereby permitted being first brought into use, the vehicle and cycle and pedestrian entry access points and visibility splays shall be completed fully in accordance with the approved details, and covered and secure (residential) cycle storage shall be provided in accordance with details to be first submitted and approved in writing by the Local Planning Authority. Secure and covered cycle parking provision shall be increased as student numbers increase to provide at least one space per every two students.

Reason: To ensure a satisfactory means of access to the development in the interests of highway and pedestrian safety, and to ensure that there are suitable cycling facilities available to support and encourage sustainable travel movement.

9. A total of 3 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species and sparrow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

10. Prior to the development being first occupied/brought into use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall remain in force for the lifetime of the development.

Reason: To promote sustainable travel to the site, promote health benefits and reduce carbon emissions.

11. Prior to the development being first occupied/brought into use the proposed footway alterations along the St Austin's Street site frontage shall be constructed in accordance with full engineering details to be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure a satisfactory means of pedestrian access to the highway.

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

12. The surface car parking area indicated on the approved plan shall cease use as a car park within 5 years from the date of this permission.
Reason: The provision of car parking in this location would encourage additional cars within the river loop (impacting on congestion and air quality) and does not encourage alternative sustainable means of transport to the town centre. It is also considered that the car park would not enhance the character and appearance of the Conservation area. The temporary period of 5 years is considered to be an appropriate length of time for a proposal for an alternative development of the site to be submitted

13. The windows in the rear South West facing elevations shall be permanently formed with restricted opening and glazed with obscure glass and shall thereafter be retained as such. No further windows or other openings shall be formed in the South West facing rear elevation.
Reason: To preserve the amenity and privacy of adjoining properties.

14. No construction and/or demolition work shall be undertaken 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: to protect the health and well being of residents in the area.

15. Notwithstanding the details of any signage indicated on the approved plan no advertisement material shall be erected within the site or on any of the buildings hereby approved without the relevant advert consent first being obtained.

Reason: To ensure a satisfactory appearance to the development.