

Development Management Report

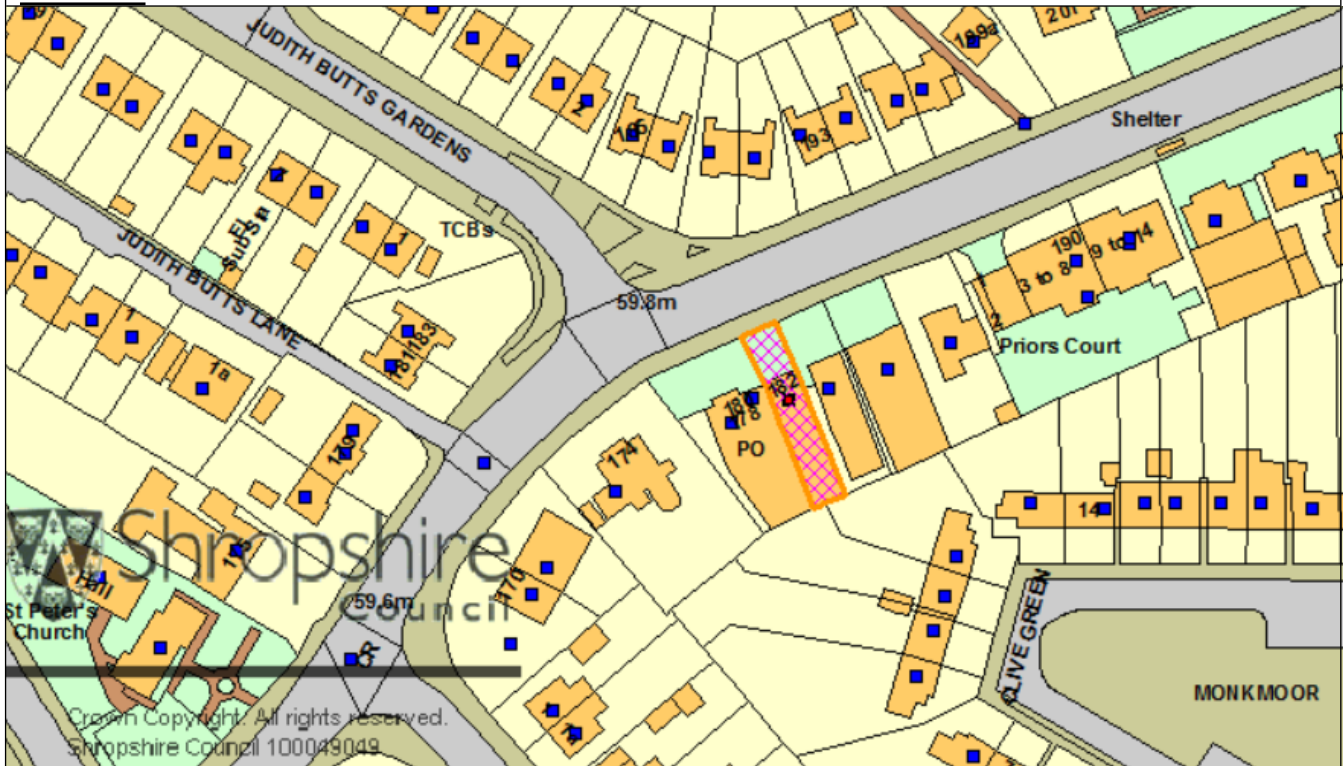
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

| | | |
|---|--|-------------------------|
| Application Number: 18/05121/FUL | Parish: | Shrewsbury Town Council |
| Proposal: Alterations to existing retail unit to form a hot food premises and takeaway premises including flue & ventilation system to include change of use | | |
| Site Address: 182 Monkmoor Road Shrewsbury SY2 5BH | | |
| Applicant: Mr Ozturk | | |
| Case Officer: Toby Cowell | email: planningdmc@shropshire.gov.uk | |

Grid Ref: 350887 - 313387



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 Planning permission is sought for alterations to the existing retail unit to form a hot food premises and takeaway including flue and ventilation system to facilitate a change of use from retail to a takeaway.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site comprises a vacant retail unit (The Tile Shop) on the southern side of Monkmoor Road, Shrewsbury, within close proximity to The Monkmoor public house (north-east), and is set within a row of existing commercial units comprising a post office/corner shop, Tandoori Cottage (restaurant/takeaway) and a Co-operative food store. Realistic parking for 4 vehicles is provided to the immediate front of the existing unit. The application site, albeit within a row of existing commercial units, is located within what primarily comprises a residential area. In particular, residential properties are located on the opposite side of Monkmoor Road, with further properties to the rear within Clive Green whereby their respective gardens back onto the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given that a recommendation for approval is submitted contrary to the objection received from the Town Council.

4.0 Community Representations**4.1 - Consultee Comments****4.1.1 Shrewsbury Town Council**

The Town Council does not object to the opening of the hot food premises but has concerns about the impact this will have on the parking arrangements. Parking is already a problem here as there is an insufficient allocation of spaces, and although it is well lit at night, the location is close to a bend. Many motorists already abandon their vehicles on the pavement and currently the parking spaces of the tile shop are used by customers visiting the Tandoori next door which will effectively be lost by opening a hot food establishment. This application will only exacerbate these parking problems.

4.1.2 SC SuDs

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. No comments to make.

4.1.3 **SC Highways**

The development proposes alterations to an existing retail unit to form a hot food and takeaway premises at 182 Monkmoor Road, Shrewsbury. The property is part of a row of four, long established, retail units. Monkmoor Road is governed by a 30mph speed limit and waiting restrictions are in force in the vicinity. The local situation which is known to be of concern to the community is not ideal, however the retail units have been in existence for a long time without any recorded incident and it is unlikely that the situation will be exacerbated by this development.

It is acknowledged that off street parking spaces are limited and operate under a first come first served basis, however given the extant use of the property, it is considered that a highway refusal to the development could not be sustained. Should enforcement of existing traffic regulation orders be required to better control the situation this could be considered as part of the general operation of the highway, either by the council or the police. However, any future enforcement would treat all patrons of these units equally and cannot be applied to the newest development only.

No objection; subject to informatives.

4.1.4 **SC Regulatory Services**

Prior to any works associated with establishing A3/A4 use at the premises, details of the extraction system, including noise information of any components (e.g. fans) and odour and noise abatement mitigating components, shall be submitted in writing to the planning authority for approval. The approved system shall be installed in full and maintained according to the manufacturer's instructions in perpetuity. Approval shall be sought upon each significant change to the type of food being prepared and therefore this condition shall stand as long as A3 or A4 use is permitted on this site. The information must show where the extraction system will run including elevation drawings to show termination height. It must include details of the odour abatement technologies to be included and, given the proposed times will be until 2am and there are residential properties to the rear of the site the maximum noise emissions predicted from the complete extraction system including fan noise and air movement noise must be submitted.

Reason: To protect the amenity of the area and nearby residential properties

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site. Additionally, the residents of 16 neighbouring properties were individually notified by way of publication. At the time of writing this report, 4 letters of representation had been submitted objecting to the proposed, with 2 further objections having been received from the Local Member. A summary of their comments are as follows:

- Lack of parking;
- Parking is currently shared with Tandoori Cottage, this is manageable as premises don't operate at the same time;
- Impact on traffic and congestion, will lead to parking on side roads;
- Increase in litter;
- Noise impact on local residents and will encourage anti-social behaviour;

- Odour associated with cooking from takeaway will spoil enjoyment of local residents;
- No other premises open until 2am and could set a precedent for existing premises;
- No turning areas within site for vehicles;
- Impact on road safety for pedestrians and vehicular users

In addition, 2 letters of representation have also been received supporting the proposals, a summary of their comments are as follows:

- Improvement to community;
- Proposals would provide more jobs and money for the economy;
- Traffic implications won't increase dramatically to dangerous levels;
- Most people walk to the local shops;
- Parking area is not for Tandoori Cottage to use – not responsibility of new owners to accommodate this parking;
- It's everyone's responsibility to dispose of their rubbish accordingly and business venture should not be punished for people's actions or inactions;
- Potential should not go to waste with premises remaining close.

Further to the above, a petition has been submitted supporting the proposed development with a total of 269 signatories.

5.0 THE MAIN ISSUES

5.1 Principle of development Character and appearance Neighbouring amenity Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Core Strategy Policy CS13 (Economic Development, Enterprise and Employment) supports the positive development and diversification of the Shropshire economy and specifically supports the principle of raising the profile of Shrewsbury, developing its role as the county town, growth point and the main business, service and visitor centre for the Shropshire sub-region,
- 6.1.2 CS15 (Town and Rural Centres) seeks to ensure that development maintains and enhances the vitality and viability of Shropshire's town centres. Shrewsbury, the strategic centre, will be the preferred location for major comparison retail, large scale office and other uses attracting large numbers of people. The policy encourages the creation of appropriate convenience and comparison retail, office, and other town centre uses to support this role.
- 6.1.3 At the national level, this is further supported by Paragraph 80 of the NPPF which states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

6.1.4 Shrewsbury town centre is identified within the Council's SAMDev Plan as a 'Category C' town centre. The proposal site is located in neither the primary or secondary retail frontage and as such the introduction of an A5 food takeaway use would be acceptable in principle subject to other planning considerations.

6.2 Character and appearance

6.2.1 Policy CS6 of the Core Strategy requires development to be designed to a high quality using sustainable design principles, which should be responsive to the local character and context of existing development and its wider surroundings. Likewise, SAMDev Policy MD2 requires development to respond positively to local design aspirations, and be reflective of locally characteristic architectural design and details.

6.2.2 The proposed development would involve minimal external alterations, aside from the erection of a steel flue which would project just above the ridge height of the existing building and set back from the principle elevation. Details pursuant to new signage for the premises are to be covered by a separate advertisement consent application and are therefore not for consideration at this stage.

6.2.3 The proposals, namely the erection of a steel flue, are considered to be acceptable from a design and visual impact perspective, and in accordance with Policies CS6 and MD2.

6.3 Neighbouring amenity

6.3.1 Core Strategy Policy CS6 requires that development safeguards residential and local amenity. It is noted that a number of residential properties within Clive Green are located to the immediate rear of the site, with the resultant activities to take place from the premises, namely the cooking of food, would likely generate an increase in noise and odour emitting from the premises in the absence of appropriate mitigation.

6.3.2 The proposals would therefore necessitate the installation of mechanical ventilation and an extraction system. The Council's Regulatory Services response has advised that such information, together with odour and noise abatement mitigating components, should be submitted in writing to the LPA for approval prior to the commencement of works.

6.3.3 Noting the adjacent restaurant/takeaway, Tandoori Cottage, it is considered that the presence of an additional takeaway establishment would unlikely result in a significant material impact upon neighbouring amenity, provided such recommended mitigation procedures are put in place. It is therefore considered that such measures could satisfactorily be controlled via condition and should not preclude the granting of planning permission should all other considerations be considered acceptable.

6.3.4 Aside from the above, it is further noted that the applicant seeks opening hours for the premises to range from 3pm to 12am for customers to visit the premises, with additional operational hours of 3pm to 2am with respect to deliveries (7 days a week). Considering that the adjacent restaurant/takeaway operates until 12am, it is considered reasonable to allow the proposed premises to also operate until

this time. Such hours of operation are not considered to result in any greater disturbance to the amenities of neighbouring properties than would currently be present in connection with the adjacent restaurant/takeaway; Tandoori Cottage. Moreover, the extended operational hours to facilitate deliveries until 2am is not considered to result in a further material impact upon neighbouring amenity, given that such activities associated with deliveries would be limited to the occasional coming and going of vehicles from the premises. Notwithstanding this however, a condition would be attached ensuring that the abovementioned opening hours would be adhered to in perpetuity should planning permission be forthcoming.

- 6.3.5 Such works to facilitate the change of use could not be completed until sufficient information has been submitted to and approved by the Council's Regulatory Services, in order to fully safeguard the amenities of neighbouring residents. It is therefore considered that the proposals comply with Policy CS6.

6.4 Highways

- 6.4.1 SC Highways acknowledge that the local situation, which is known to be of a concern to the community with respect to parking, is not ideal. However, the existing retail units have been established within the locality for a long time, without any recorded highway incident. Highways consider it unlikely that the situation would be exacerbated by the proposed development.
- 6.4.2 It is further acknowledged that off-street parking spaces are limited within the vicinity and operate on a first come served basis. However, given the extant use of the property, it is considered that a refusal of planning permission from a highways perspective could not be sustained. It is noted that concerns have been raised with respect to an informal parking arrangement operating between the existing premises and the adjacent property of Tandoori Cottage, whereby both premises generally operate at different times of the day and customers of each premises utilise the parking of the other.
- 6.4.3 Notwithstanding this however, the area of parking present to the immediate front of the existing tile shop is under the ownership of the premises, and therefore such a parking area should not be relied upon by the adjacent restaurant/takeaway in perpetuity. Furthermore, the cessation of such an informal parking arrangement should not preclude the change of use of the premises to a takeaway in planning terms, and it is noted that realistic provision for 4 parking spaces exists directly in front of both premises.
- 6.4.4 In light of the above, and noting the extant use of the existing premises which could lawfully be utilised as a retail unit (A1) at any time; it is not considered that a reason for refusal in highway terms could be reasonably sustained – in particular based on a lack of parking provision. The proposals are therefore considered to be acceptable from this perspective.

7.0 CONCLUSION

The proposed development and associated change of use is considered to be acceptable in principle, with minimal external alterations proposed which would not result in a material impact upon the visual amenities of the locality. Such development, subject to appropriate mitigation measures being agreed by the

Council prior to the commencement of works, are not considered to result in a material impact upon the amenities of adjacent residential occupiers, nor give rise to highways safety issues.

Officers therefore recommend that the application be approved, subject to conditions as set out in Appendix 1.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS8 - Facilities, Services and Infrastructure Provision

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS15 - Town and Rural Centres

MD2 - Sustainable Design

MD10A - Managing Town Centre Development

RELEVANT PLANNING HISTORY:

18/05122/ADV Erect and display 1no internally illuminated fascia sign PCO

12/03659/FUL Installation of a roller shutter GRANT 15th October 2012

SA/90/1021 Demolition of lean to store, extension of existing showroom and provision of larger store. PERCON 28th November 1990

SA/75/0455 To change use from retail grocery shop to wholesale and retail sale of haberdashery. PERCON 1st July 1975

SA/76/0224 Erect single storey flat roof extension to provide store. PERCON 27th April 1976

11. Additional Information

[View details online:](#)

| |
|--|
| 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 R. Macey |
|---------------|

| |
|--------------|
| Local Member |
|--------------|

| |
|------------------|
| Cllr Pam Moseley |
|------------------|

| |
|------------|
| 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.

3. The external materials shall be as those specified within the submitted application form and plans.

Reason: To ensure a satisfactory external appearance.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. Prior to any works associated with establishing the A5 use at the premises, details of the extraction system, including noise information of any components (e.g. fans) and odour and noise abatement mitigating components, shall be submitted in writing to the planning authority for approval. The approved system shall be installed in full prior to the occupation of the premises as a takeaway (Use Class A5) and maintained according to the manufacturers instructions in perpetuity. Approval shall be sought upon each significant change to the type of food being prepared and therefore this condition shall stand as long as A5 use is permitted on this site. The information must show where the extraction system will run including elevation drawings to show termination height. It must include details of the odour abatement technologies to be included and, given the proposed times will be until 2am and there are residential properties to the rear of the site, the maximum noise emissions predicted from the complete extraction system including fan noise and air movement noise must be submitted.

Reason: To protect the amenity of the area and nearby residential properties

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

5. The resultant takeaway premises (Use Class A5) hereby approved shall only operate within the hours of 3pm to 2am, Monday to Sunday. Between the hours of 12am to 2am, activities shall be restricted to the cooking of hot food and delivery away from the premises to customers, with no public access to the premises to be permitted during the hours of 12am to 2am, Monday to Sunday.

Reason: In the interests of neighbouring amenity.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

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

3. The applicant is advised that this planning permission does not grant consent for the proposed advertisements/signage to the front of the premises. Such signage will be considered by a separate advertisement consent application.