

Development Management Report

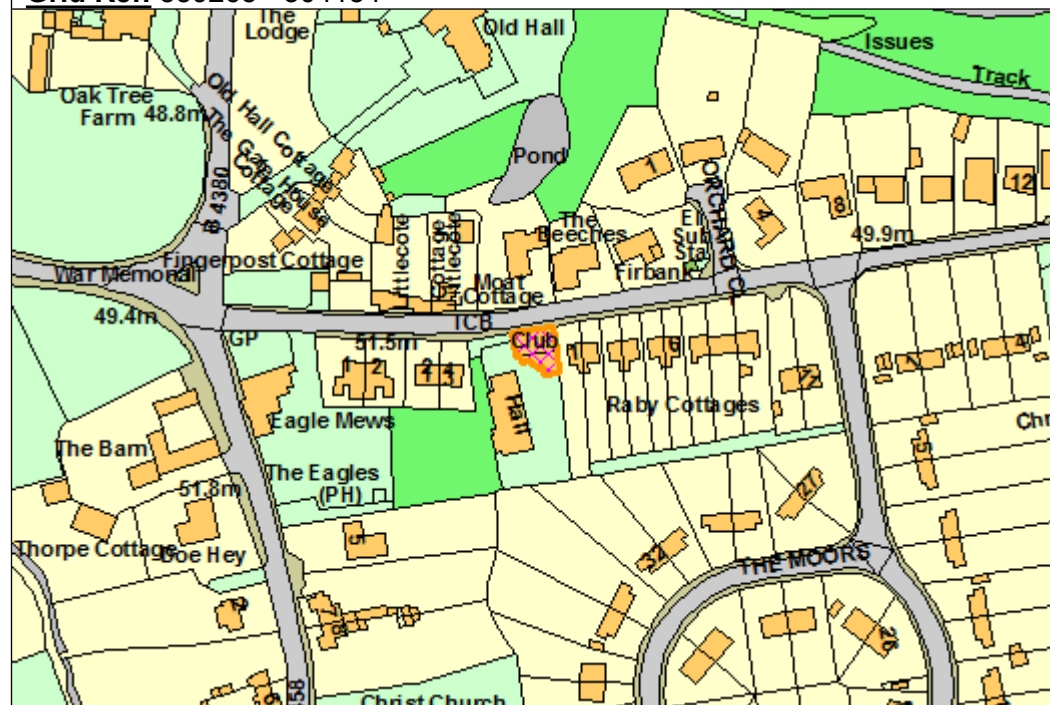
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 18/05041/FUL	<u>Parish:</u>	Cressage
<u>Proposal:</u> Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective)		
<u>Site Address:</u> Cressage Men's Club, Sheinton Road, Cressage, Shrewsbury, SY5 6BY		
<u>Applicant:</u> Cressage Social Club, Cressage Social Club		
<u>Case Officer:</u> Andrew Sierakowski		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 359265 - 304134



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

REPORT

1.0 THE PROPOSAL

- 1.1 This is a retrospective application under s.73A Town and Country Planning Act 1990 for the installation of a decked area on the western gabled end of the Cressage Social Club.
- 1.2 The decked area has already been completed and comprises a five-sided area of decking measuring 5.70m x 4.35m constructed on slightly rising ground so that it is 0.66m above ground level on the north side adjacent to the pavement along Sheinton Road and 0.20m high above ground level on the south side. It is constructed of standard unstained treated timber decking boards and posts and includes a handrail, constructed of boards at a height of 0.56m above the level of the decking. The sides are finished off with horizontally mounted boards. There are concrete steps up to the decking on the north side and a ramp on the south side, adjacent to entrance to the club. The purpose of the decking is to provide an outside seating area that accommodates benches.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises an area adjacent to the western gable end of the Cressage Social Club, on the south side of Sheinton Road, approximately 90m east of the junction of Sheinton Road, the B4380, Station Road, and the A458 Much Wenlock to Shrewsbury Road.
- 2.2 Cressage Village Hall is located behind the Social Club on the south side of Sheinton Road, with residential properties making up most of the other properties along the north and south side of Sheinton Road, including directly opposite the Club. The Village Hall includes a car park at the rear of the Social club, the access into which, is immediately adjacent to the area of decking.
- 2.2 The Social Club is a single storey red brick-built building with flat-roofed extensions to the side adjacent to the area of decking and to the rear.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The Parish Council have provided views contrary to the Officers recommendation. The Local Member has been consulted and has requested that the application be determined by the Committee. The Principal Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised require a committee determination of the application.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 Cressage, Harley & Sheinton Parish Council: The Parish Council has objected to the application as the structure is already in use and for the following reasons:

- The visual impact of the decking;
- Because licensing rules state that a beer garden should not be within view of a bedroom, but it is;
- The noise impact which is made worse by the structure being raised like a stage and in summer when neighbours have windows open or when they are using their gardens;
- Proximity to adjacent and nearby dwellings given the above objections;
- Pedestrian safety in that there is no gating, inadequate barriers and the structure is adjacent to a narrow pavement and car park meaning there is a high risk of young children running into the path of traffic; and
- Because the open nature of the structure means it is used by members of the public who are not members of the working men's club with the potential to lead to anti-social behaviour and unregulated use of the structure.

4.2 The Parish Council also raises the following objections in relation to the licensing of the premises as the following need to be regulated were the structure to be permitted:

- Rules regarding the passage of alcohol outside area need to be complied with - e.g. where glasses are used;
- Measures need to be put in place to ensure members of the public are signed in or are bonafide members of the club carrying alcohol out;
- A litter safety policy is needed;
- Insurance implications of having such a structure and ensuring compliance with licensing.

4.3 Public Comments

4.4 There has been one letter of objection from a neighbour although the letter does not include an address. The letter expresses concern about noise and visual intrusion on the neighbouring residential properties, invasion of privacy, and the safety of families with young children on the decking area because of the close proximity to Sheinton Road and the lack of gate to prevent a young child running into the road.

4.5 Technical Consultees

4.6 SC SuDS: No objection.

5.0 THE MAIN ISSUES

- Residential Amenity; and
- Siting, scale and design.

6.0 OFFICER APPRAISAL

6.1 Residential Amenity

6.1.1 In terms of residential amenity, which is the primary concern of the Parish Council and the neighbouring objector, there is potentially an issue that noise and overlooking could have an impact on the adjacent properties. There are potentially two properties in

particular, that could be affected, these being the two immediately adjacent properties to the west and north of the Social Club. Both however are relatively well screened by the presence of fences, trees and hedges, so that there is unlikely to be any significant overlooking, and whilst the north side of the decked area is 0.66m high, this is not so high that it will have a major impact in terms of increasing overlooking or have any impact on noise. Because of the proximity of the decking to the adjacent pavement, the most significant impact is likely to be the slightly overbearing impact on passing pedestrians, albeit that this would only be transient.

- 6.1.2 Whilst it is understandable that there are concerns that use of the decking, particularly on summer nights could give rise to additional noise and disturbance, from a planning perspective there is currently no control over the use of the outside area adjacent to the Social Club for social gatherings. It is also already an area that will be frequented by visitors to the adjacent Village Hall and entering, leaving and attending events there that may similarly spill out on the outside area adjacent to the hall and the Social Club. In addition, the area of decking is relatively small and is not capable of accommodating a significant number of people, particularly compared with the number that may attend an event at the Village Hall. On the other hand, it may to some extent result in the presence of people and the noise of people talking and mingling resulting low level noise for longer periods of time and in a less transient way than is currently the case. Overall, however, it is difficult to argue that the area of decking would give rise to any more significant noise and disturbance, than the current activities in and around the Social Club and the Village Hall.
- 6.1.3 In response to the concerns raised by the Parish Council and the neighbouring objector, the Social Club has offered to limit the use of the area of decking to no later than 9pm at night and has indicated that it would be agreeable to the inclusion of a condition limiting its use up to this time. This will ensure that there is no late-night disturbance arising from the use of the decking in association with the activities at the Social Club. I have accordingly included a condition to this effect.
- 6.1.4 In terms of the safety concerns for children, it is not a structure that it is intended to be used as a play area for children, and whilst the concern is again understandable, it raises the question of how far the planning process can reasonably be used to ensure safety of children in a location and for a use where, if there are children present, it is essentially a matter for parental control and supervision. Given the proposed use this is essentially a matter for the Social Club to consider rather than being one for control through the planning system. Similarly, in relation to concerns about the decking attracting unsocial behaviour, whilst this is a possibility, it is not an issue that is likely to be so significant that additional controls or requirements could reasonably be placed on the Social Club to somehow prevent this.
- 6.1.5 In relation to the licensing issues, that are matter for the licensing authority, and cannot correctly be addressed through planning control. It is a matter for the Social Club to ensure that it obtains a licence and to comply with any of the requirements of the licence including any that may be relevant to the use of the area of decking.
- 6.1.6 As such whilst the concerns over noise and disturbance are understandable, in the context of the existing use and the location, I do not consider these are so significant to warrant refusal of consent. As such whilst Core Strategy (March 2011), Policy CS6,

seeks to safeguard amenity, the proposed installation of the decking would not itself have such a significant impact as to warrant being considered contrary to Policy CS6.

6.2 Siting, Scale and Design

- 6.1.1 In relation to siting, scale and design, the area of decking that has been constructed is slightly unusual for a street frontage and is essentially similar to an area of decking that might be constructed on the rear of a residential property or possibly attached to a pub. As such it seems a little incongruous in the street scene along Sheinton Road. However, the buildings along the adjacent section of the road, which include the Village Hall and residential properties, are of varying ages, designs, forms and material finishes including Victorian/Edwardian houses and mid and late 20th century properties with timber-framed, brick and rendered finishes. Some are located on the street front and others set back behind high hedges and walls. There is no coherent architectural style and there is a plethora of different material finishes although much of the length of the road is fronted by hedges, so that it feels quite green.
- 6.1.2 In terms of development plan policy, the Shropshire Local Development Framework Adopted Core Strategy (March 2011), Policy CS6 on Sustainable Design and Development Principles and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015), Policy MD2 on Sustainable Design seek to ensure new development is sustainable and appropriately designed in relation to its context.
- 6.1.3 In particular, the policies seek to ensure the design of new development responds appropriately to the form and layout of existing development and the way it functions, including the mixture of uses, streetscape, building heights and lines, scale and that it reflects locally characteristic architectural design and details including building materials, form, colour and the texture of detailing.
- 6.1.3 In the context of the mix of uses, architectural styles and material finishes along Sheinton Road, I do not consider that the area of decking, whilst constructed of off-the-shelf materials, looks so out of place, that planning permission should not be granted.

7.0 CONCLUSION

- 7.1 Although the concerns about potential noise and disturbance are understandable, these are not likely to be so significant, especially with a restriction on the hours of use to no later than 9pm, offered by the applicant, to warrant refusal of consent. Similarly, in the context of the mix of uses, architectural styles and material finishes along Sheinton Road, the siting, scale and design of the decking is not so out of place as to warrant refusal of consent. Accordingly, it can be considered to be acceptable in relation to Core Strategy Policy CS6 and SAMDev Policy MD2.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

- 8.1.1 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.

8.1.2 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

8.2.1 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.

8.2.2 First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

8.2.3 This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

8.3.1 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

9.1 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

10.1 Central Government Guidance:

- National Planning Policy Framework (2018).

10.2 Core Strategy and Saved Policies:

- Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011):
 - Policy CS6: Sustainable Design and Development Principles.
- Shropshire Council, Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015):
 - Policy MD2: Sustainable Design.

10.3 Relevant Planning History

- PREAPP/10/02487 Alterations to Village Hall REC;
- 18/05041/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective) PCO;
- SA/80/0653 Erection of a pitched roof rear extension to provide beer store, server lounge and WCs (as per amended plans received 1/10/80). PERCON 21st October 1980;
- SA/82/0345 Alterations and additions of 2 no. flat roofed extensions to provide lounge, beer store and servery at rear, and side entrance lobby. PERCON 25th May 1982;
- SA/87/0622 Alterations and additions to provide a single storey flat roof beer store extension. PERCON 30th July 1987; and
- SA/95/0577 Erection of a first-floor extension to provide a two-bedroom flat. REFUSE 26th July 1995

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)
<ul style="list-style-type: none"> • Cllr R. Macey
Local Member
<ul style="list-style-type: none"> • Cllr Claire Wild
Appendices
<ul style="list-style-type: none"> • 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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The decked area hereby approved shall not be used between 9.00pm and 9.00am.

Reason: To safeguard the residential amenity in compliance with the Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011), Policy CS6: Sustainable Design and Development Principles.