

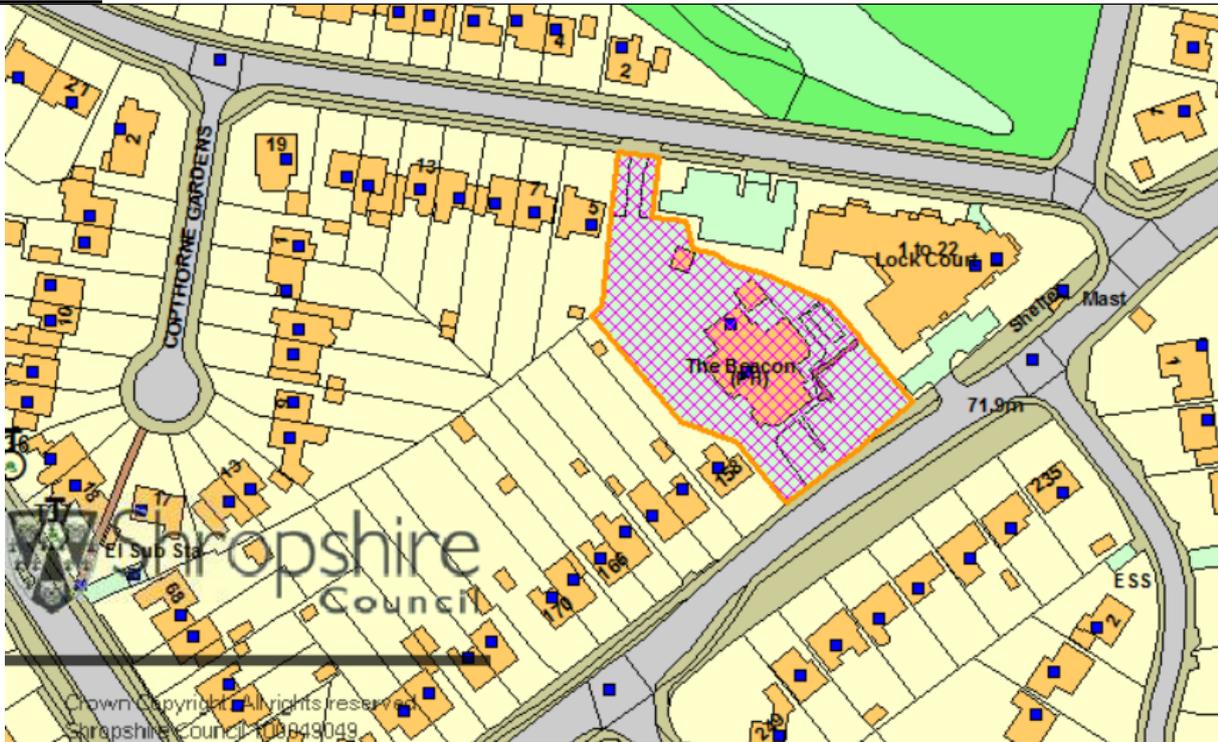
## Development Management Report

Responsible Officer: Tim Rogers  
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### Summary of Application

<b>Application Number:</b> 18/04372/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Installation of raised timber decking areas complete with balustrading and steps and erection of an open sided timber framed pergola structure (revised description).		
<b>Site Address:</b> Beacon Hotel 156 Copthorne Road Shrewsbury SY3 8LP		
<b>Applicant:</b> GREENE KING PLC		
<b>Case Officer:</b> Shannon Franklin	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 347534 - 312708



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## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the installation of raised timber decking areas complete with balustrading and steps and erection of an open sided timber framed pergola structure at the public house known as The Beacon Hotel within the Copthorne area of Shrewsbury.
- 1.2 The application is part retrospective as the works have already been undertaken. The application has been submitted following an enforcement enquiry at the site (Reference: 16/05014/ENF) which recommended no further action was taken subject to the receipt of an appropriate planning application.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located on the north side of the B48386 Copthorne Road with an access to the southern corner of the site which runs northwards through the associated bar park and exits onto Copthorne Park. The outdoor space associated with the public house, in which the works subject to the application will be located is to the south and east of the main building.
- 2.2 The wider site is bounded to the southwest and north by residential properties and their gardens. To the northeast the site is bounded by a retirement apartment complex.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers. While the Local Member does not consider a committee decision is necessary, the Chair and Vice Chair, in consultation with the Area Planning Manager and Principal Officer, consider that due to the Town Council's concerns, the decision is appropriate to be determined by Members at committee.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 - Consultee Comments

##### 4.1.1 Shrewsbury Town Council – 02.11.2018 – Objection

The Town Council considers the development of this outdoor space will have a detrimental impact on the neighbouring residential properties by intruding on their privacy and causing additional noise disturbance.

##### 4.1.2 SC SUDS – 15.10.2018 – No Objection

No objection has been raised to the application however the applicant should implement an appropriate sustainable drainage scheme. The relevant Guidance

provided by the council and within the Planning Practice Guidance should be adhered to and preference should be given to drainage measures which allow rainwater to soakaway naturally.

#### 4.1.3 **SC Regulatory Services – 30.10.2018 - No Objection**

Having considered the application it is noted that the premises license states a condition that: External area would be cleared by 23:00. As a result, this limits use of the external area to 2300 hours on any day. This is considered to be the latest that this area could be opened until given that there are residents in close proximity.

It is noted that by increasing the attraction to the external area that this may increase the number of people using the external area and in turn noise. As a result, the applicant should be advised that they will need to carefully manage the area. It is noted on the Sunday Jobs Summary that the lower decking areas will be cleared by 2100 hours. Please can the applicant inform me if this is to occur on all days or just Sundays. I would consider it a useful management technique for every night of the week and would suggest it is conditioned to ensure that noise is not likely to become an issue in the locality as mentioned above.

## 4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the residents of three neighbouring properties were individually notified by way of publication. At the time of writing this report, no representations had been received in response to this publicity.

## 5.0 THE MAIN ISSUES

- 5.1
- **Principle of development**
  - **Siting, scale and design of structure**
  - **Visual impact and landscaping**
  - **Residential amenity and conditions**

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area.

6.1.2 Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

6.1.3 Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring design policies to reflect local aspirations ensuring developments are sympathetic to local character, visually attractive and establish a strong sense of place.

- 6.1.4 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.
- 6.1.5 Policy CS8 Facilities, Services and Infrastructure Provision also aims to develop sustainable places in Shropshire and maintain and enhance existing services and facilities. The provision of outdoor recreation spaces in association with an established public house use is acceptable and would contribute to improving the functioning and facilities for local residents, therefore the proposals meet the above policy aims in principle.

## **6.2 Siting, scale and design of structure**

- 6.2.1 The application relates to works within the garden of The Beacon Hotel, a public house within the area of Copthorne. The outdoor area has been renovated to include a terraced seating area to the southern elevation fronting Copthorne Road, and a raised timber decking area to the west, with a children's play area at a lower level. Currently the raised timber decking area has a covered pergola on it however, following amendments, the application seeks permission for an open sided structure without a roof.
- 6.2.2 The landscaping and associated structures are all to be utilised by patrons of the public house and as such their siting within the existing area used for outdoor seating is acceptable. Similarly, no concern is raised over the scale of the proposals; the timber fences are of an appropriate height which does not detrimentally affect the visual appearance of the locality and the pergola structure is set back from the road frontage and the principal elevation of the public house and is of an appropriate height and scale.
- 6.2.3 It is recognised that the proposal introduces additional structures into the garden area however, they are of a design suited to a residential area and constructed of appropriate materials. Landscaping is proposed to screen some of the proposal and resultantly no concerns over the design are raised.

## **6.3 Visual impact and landscaping**

- 6.3.1 The proposals utilise timber fencing; both close boarding panels and picket, timber sleepers at ground level to form terraces, timber decking and the pergola is also constructed out of timber. The majority of the timber is untreated and has been left to weather naturally. It is considered that the proposed materials are acceptable for their intended use and the wider locality.
- 6.3.2 Following the advice of Officers, the proposal includes provision of a landscaping buffer to the site's eastern boundary with the nearest residential neighbour. The buffer, which is up to approximately 2.0m in width, will be planted with mixed native species to be agreed by condition. The purpose of the buffer zone is to improve the visual appearance of the site together with assisting to reduce any noise associated with the development; firstly, by ensuring children do not play immediately adjacent to the boundary and secondly by assisting to dissipate noise from any users of the decking area once the planting has established.

6.3.3 No concerns are raised regarding the visual appearance or proposed landscaping included within the scheme.

#### **6.4 Residential amenity and conditions**

6.4.1 The primary concern of the application is the impact upon residential amenity which is also the reason the Town Council have objected to the scheme. The use of the outdoor space for recreation associated with the public house is acceptable and permitted and the Council cannot reasonably prevent patrons from using this area, for drinking and eating in connection with the pub. It is however noted that the outdoor space has previously been used to televise sports events on outdoor screens which has resulted in excess noise disturbance.

6.4.2 The nearest residential neighbours are No.158 Copthorne Road to south west whose boundary is 9.5m from the edge of the beer garden and Lock Court; a 22 unit retirement apartment complex, the boundary of which immediately adjoins the beer garden although the buildings itself is 5.5m from the boundary. With regards to No.158 Copthorne Road the carpark and vehicle access associated with the public house is located between the beer garden and the property and mature trees and hedging form the boundary. As such it is not considered that the proposal will result in increased noise or impact upon the privacy of this property. With regards to the residents of Lock Court it is considered that the proposal as amended would not result in a substantial impact upon their residential amenity. Firstly, due to the minimal windows in the Lock Court's southwest elevation and the ground level differences between the sites, there are no direct views into these windows at eye level as a result of the proposal. Additionally, the lawful use of the garden area for recreation associated with the public house is existing and therefore the scheme offers an opportunity to reasonably control its use and potentially improve the existing scenario in terms of the times at which the outdoor space can be used, limiting noise and light disturbance. The imposition of appropriate conditions would suitably limit any perceived impact upon the neighbours in this direction.

6.4.3 It is necessary to recognise that the external space at present can be utilised for outdoor eating and drinking in connection with the public house use without any restrictions; save for those imposed via the premise's alcohol license under an alternate regime. Additionally, there are currently no restrictions on the use of the outdoor space for screening televised sports or events, amplified music or live music, nor opening times. As such Officers must consider whether the proposal would sufficiently increase the impact upon neighbouring residential amenity; through a combination of overlooking, negative impact on privacy and nuisance caused by noise and light pollution, above the existing lawful use thereby, constituting a significant impact worthy of refusing the application.

6.4.4 As part of the application the applicant has removed the outdoor televisions and projector screens and agreed to the imposition of a condition preventing their reinstatement and future use of external televisions screens or amplified music. The applicant has also agreed to remove the roof to the pergola structure to further discourage late night outdoor drinking, thereby reducing noise. Additionally, a daily task sheet has been submitted for the outdoor space, restricting the uses to the following times, seven days a week:

- Children's Play Area opening hours - 12:00 to 21:00
- Lower Deck Seating Area opening hours - 12:00 to 21:00

- Upper Deck and Beer Garden opening hours - 12:00 to 23:00

which will be included within a condition imposed on any approval.

- 6.4.5 Resultantly, it is considered that subject to the imposition of conditions regarding the implementation of a landscaping scheme, use of the outdoor space for televisions and music, the opening hours of the outdoor spaces, the impact upon neighbour residential amenity through overlooking and privacy would be limited and through nuisance incorporating noise and light disturbance, would be neutral and therefore not sufficient to warrant refusal of the scheme.

## 7.0 CONCLUSION

- 7.1 The works are judged to be in scale and character with the existing public house building and its associated outdoor space, and of no demonstrable harm in terms of visual impact. Subject to the imposition of appropriate conditions concerns over the impact of the scheme on neighbouring residential amenity are not sufficient to warrant refusal of the scheme. The application therefore accords with the principal determining criteria of the relevant development plan policies including CS6 and MD2 and approval is recommended.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

### **9.0 Financial Implications**

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## **10. Background**

### Relevant Planning Policies

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

CS8 - Facilities, Services and Infrastructure Provision

National Planning Policy Framework

### RELEVANT PLANNING HISTORY:

11/01001/FUL Erection of a timber smoking canopy to north east elevation GRANT 3rd May 2011

PREAPP/12/00625 Re-development of redundant overflow car park to nineteen retirement apartments PREAIP 18th January 2013

13/02251/FUL Residential development comprising 21 retirement apartments with communal facilities; formation of vehicular and pedestrian accesses, associated car parking and landscaping GRANT 4th April 2014

15/01495/DIS Discharge of Condition 6 (Parking) on Planning Application 13/02251/FUL for the residential development comprising 21 retirement apartments with communal facilities; formation of vehicular and pedestrian accesses, associated car parking and landscaping DISAPP 11th May 2015

15/02080/TEL The replacement of an existing 11.8 metre monopole for a new 15 metre replica telegraph pole and 2 no. equipment cabinets ancillary thereto PNR 9th June 2015

18/04372/FUL Installation of raised timber decking areas complete with balustrading and steps and erection of an open sided timber framed pergola structure (revised description). PCO SA/92/0505 Construction of fixed play equipment. For Ansells Retail Ltd. PERCON 8th July 1992

SA/90/0793 Erect and display various illuminated and non-illuminated signs (retrospective). PERCON 1st August 1990

SA/90/0018 Erect and display various illuminated and non-illuminated signs. PERCON 14th February 1990

SA/89/1533 Erection of an extension to front elevation to provide an entrance lobby. PERCON 4th January 1990

SA/80/0989 Erection of a detached flat roof double garage to replace existing timber garage and bottle store. PERCON 18th November 1980

SA/76/0564 Erection of a building to be used as sub-store and workshop. PERCON 2nd September 1976

SA/86/0452 Alterations and additions to provide a new entrance porch. PERCON 25th June 1986

SA/74/0734 Display of two illuminated projecting box signs (20" x 18"). PERCON 11th December 1974

SA/90/1287 Siting of bottle bank. OBJECT 22nd April 1991

SA/91/0013 Erect and display a non illuminated freestanding "V" sign (1700mm x 600mm). PERCON 20th February 1991

SA/98/0519 Erection of a single storey flat roof extension within yard area of existing public house. PERCON 9th July 1998

SA/07/1034/F Erection of two timber shelters and associated timber decking in Public House garden REFUSE 13th September 2007

SA/02/1004/ADV Erect and display 2 no. double sided externally illuminated freestanding sign (mounted on same post), 1 no. wall mounted Q sign, 1 no. front fascia sign and 1 rear fascia sign, 5 new floodlights, 4 no. internally illuminated amenity boards and 1 non-illuminated entrance sign (amended description). PERCON 2nd October 2002

## 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 Peter Nutting

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. **Within 3 months of the date of this permission a written specification clearly describing the species, sizes, densities and planting numbers of the landscaping buffer as shown on approved plan referenced 2420-02 Rev C, received 4th February 2019, shall be submitted to the local planning authority for approval.**

**The landscaping scheme as approved shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time any trees, shrubs or other plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.**

Reason: To preserve and enhance the quality of the environment.

4. **Within three months of the date of this permission, the roof cover and sides to the pergola structure identified within the submitted plans will be removed in accordance with the approved plans. The roof cover and sides shall not be reinstalled at any point.**

Reason: In order to comply with the approved plans and limit the impact upon neighbouring residential amenity.

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

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

5. No televisions, live entertainment, public address system or other amplified sound equipment shall be permitted in the pergola and shall not be sited internally to provide entertainment to patrons in all external areas indicated on the approved plan.

Reason: To protect the amenities of the occupiers of nearby residential properties.

6. The decking, pergola and outdoor space, identified within the approved plan referenced 2420-02 Rev C received 4th February 2019, shall be managed in accordance with the submitted Daily Task Sheet received 4th February 2019. Details of the site operating in accordance with this Daily Task Sheet shall be maintained and made available at all reasonable times to the local planning authority.

In accordance with the details of the Daily Task Sheet, the area edged blue on plan referenced 2420-02 Rev C, incorporating the Upper Deck Area and Beer Garden shall not be open for customers and no customers shall remain within this area Monday to Sunday, outside the following hours 12:00 to 23:00. The area edged red on plan referenced 2420-02 Rev C, incorporating the Lower Deck Area and Children's Play Area shall not be open for customers and no customers shall remain within this area Monday to Sunday, outside the following hours 12:00 to 21:00

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

7. The decking, pergola and outdoor areas shown in the approved plan shall only be used by visitors to the Beacon Hotel public house and shall not be used outside the authorised opening hours of the establishment.

Reason: In the interest of the amenity of nearby residents.

**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. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

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