

Development Management Report

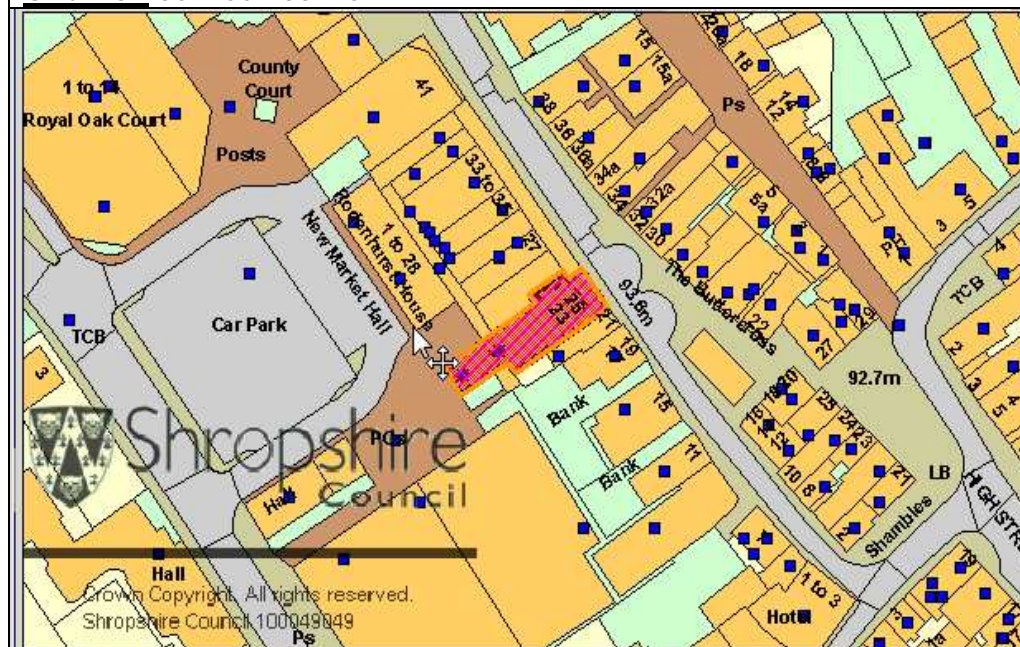
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 14/03427/FUL	<u>Parish:</u>	Market Drayton Town
<u>Proposal:</u> Change of use from A1 retail to mixed A1/A3 coffee shop with an area of outdoor seating and installation of associated air conditioning equipment		
<u>Site Address:</u> 23-25 Cheshire Street Market Drayton Shropshire TF9 1PH		
<u>Applicant:</u> Costa Ltd		
<u>Case Officer:</u> Alison Groom	<u>email:</u> planningdmne@shropshire.gov.uk	

Grid Ref: 367466 - 334201



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal seeks full planning approval for the change of use from A1 retail to mixed A1/A3 coffee shop with an area of outdoor seating and installation of associated air conditioning equipment. Associated applications have also been submitted reference: 14/03559/FUL 'Proposed shop front modifications' and for the 'display of two fascia signs' reference: 14/03560/ADV

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the town centre of Market Drayton and lies within the Market Drayton Conservation area. Cheshire Street is north of the main high street and contains a mix of retail outlets and to the rear of Cheshire Street, is the town centre car park. The unit was, until recently, occupied by Stead and Simpson (A1 retail). The unit is now vacant; the upper floors of the building are in residential use.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The site to which the application relates to is owned by Shropshire Council.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 SC Conservation

No objection following the submission of information showing the position of the extraction system.

4.1.2 SC Public Protection 11.09.14

No objection following the submission of the noise assessment

Recommend that a condition is applied to the approval to ensure that the external mechanical plant shall be installed or any other replacement equipment as stated in manufacturer's literature, and the approved plans.

Reason: to protect the health and wellbeing of closest residents.

4.1.3 SC Rights Of Way

Does not affect a recorded public right of way

4.1.4 SC Building Regulation

No comments received

4.1.5 SC Licencing

No formal comments received

- 4.1.5.1 Informal discussions with licencing team have taken place, they have no objection to the proposal, however the applicant will have to apply for a pavement permit for the proposed outdoor seating area.

4.2 Public Comments

- 4.2.1**
- Oversupply of A3 use in the town centre
 - Detract from the towns vitality and viability
 - Possible loss of small providers and local businesses within the vicinity
 - Use of the covered walkways on a Wednesday when the market stalls are in place.

4.2.2 Parish Council

To raise no objection providing that the outside seating area on a Wednesday is not permitted. The seating area in the tunnel would be obstructive and that also is not permitted at any time.

5.0 THE MAIN ISSUES

Principle of development

Character and appearance of the Conservation Area

Amenity impact on neighbouring units

Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1** Core Strategy Policy CS15 recognises the need for development to maintain and enhance the vitality and viability of Shropshire's network of town and rural centres, and support the delivery of appropriate comparison and convenience retail; office; leisure; entertainment and cultural facilities, it also identifies Market Drayton to act as a principal centre to serve local needs and the wider service and employment needs of the communities within their spatial zone. Appropriate convenience and comparison retail, office, and other town centre uses will be permitted to support these roles.

- 6.1.2** The main principle of the development is for the change of use from A1 retail to mixed A1/A3 coffee shop with an area of outdoor seating and installation of associated air conditioning equipment.

- 6.1.3** The property is located within the main commercial area of Market Drayton, the proposal would add to the choice of facilities available to the local community and will also provide employment to the local area, and this will also assist in improving the diversity and vitality of Market Drayton.

6.2 Character and appearance of conservation area

- 6.2.1** Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the high quality and local character of Shropshire built and historic environmental and that it should not adversely

affect the visual or heritage values and functions of these assets. This is reiterated in policy 12 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework which supports the desirability of sustaining and enhancing the significance of heritage assets and putting them to a viable uses consistent with their conservation.

- 6.2.2 The installation of the external extraction system will have a slight impact on the character of the building, following consultation with Public Protection and Conservation Team, revised plans have been submitted to reduce the impact to a minimum and therefore it would appear that there is unlikely to be an visually harmful impact on the Conservation Area. Given the properties location within the centre of Market Drayton, it is considered that the proposed change of use would not significantly alter the character of the conservation area and will put the building to a viable use consistent within the area.

6.3 Amenity impact on neighbouring units

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The proposal is for the change of use to an existing retail unit of use class A1, to include use class A3, the unit has been previously occupied until recently, and therefore it is deemed that the proposal will not have any additional overbearing impact with regards to noise or loss of privacy to the local amenity.
- 6.3.3 There are some residential properties mixed in with the commercial uses. The occupiers of these residential properties should expect a higher level of disturbance compared to if located within a purely residential estate or isolated rural location. In view of the nature of the proposed change of use it is considered the scheme would not significantly increase levels of noise or unduly harm the existing levels of residential amenity.
- 6.3.4 It has been identified that the local market, carried out on every Wednesday plays a large part in the community and deliveries a popular retail service. There have been concerns raised by the local parish council and the market management company with regards to the outdoor seating area proposed located under the covered walkway, the applicant respects the concerns of the parish council and the local surrounding business, and are happy for a condition to be imposed restricting the outdoor seating area under the covered walkway being laid out and occupied on a Wednesday.

6.4 Other Matters

Core Strategy Policy CS15 recognises the need for development to maintain and enhance the vitality and viability of Shropshire's network of town and rural centres, and support the delivery of appropriate comparison and convenience retail; office; leisure; entertainment and cultural facilities.

- The property is located within the main commercial area of Market

Drayton; the proposal will promote a competitive town centre and provide customer choice and a diverse retail offer which will reflect the individuality of town centre.

- Officers acknowledge the concerns with regards to the potential affect the proposal may have on the local businesses within the vicinity; however the proposal is to retain a commercial use within the town centre on the active street frontage, and the affect that '**May**' happen or '**Might**' take place can not be considered as a planning matter.
- The proposal will provide employment to the local area.
- **Covered Walkway** - It is clear to see that there is not enough space to accommodate both the seating area and the market stalls under the covered walkway on Wednesday. There is however more than sufficient space for the three proposed tables to be in place during the weeks days when the market stalls are not in place.
- **Archway Seating area** - There are three proposed tables under the archway area, the area is more than sufficient to accommodate the proposed seating without having a impact on the surrounding amenities, this area is not used by the market stalls on a Wednesday, as the stalls are placed in front of the archway and this was confirmed following a site visit being carried out on market day. It is understood that the previous occupants Stead & Simpsons also used this area to display shoes on stands and this was never identified an issue)

Taking into account the above, a condition will be applied in relation to the covered walkway if the proposal is approved, this will restrict the seating area being in place under on a Wednesday.

7.0 CONCLUSION

The proposed change of use would not compromise the character of the area and would not harm the appearance of this part of the Market Drayton. The character and appearance of the conservation area would be preserved. Further the levels of residential amenity would not be unduly harmed. The proposal will serve local needs and the wider service and employment needs of the communities within Market Drayton which is identified as a principal centre under the Core Strategy Policy. As such it is considered that the proposal complies with the main objectives of relevant development plan policy and it is recommended that planning permission is granted subject to conditions.

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 three months 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:

National Planning Policy Framework
Planning Practice Guidance

Core Strategy and Saved Policies:

CS6 – Sustainable Development and Development Principles
CS15 – Town and Rural Centres
CS17 – Environmental Networks

11. ADDITIONAL INFORMATION

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 M. Price

Local Member
Cllr Roger Hughes
Cllr David Minnery

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. Prior to the first use of the development hereby permitted the mechanical plant shall be fully installed in complete accordance with the details contained within the noise assessment document reference 11218.03.v1 dated September 2014 and Mechanical Services Layout drawing number 140674/M01 B. The external plant shall be located and oriented as shown in the Mechanical Services Layout drawing number 140674/M01 B and an enclosure as detailed in section 4.3 and 4.4 of the noise assessment shall be installed prior to the external plant first being brought into use and all plant installed shall thereafter be maintained for the lifetime of the use.

Reason: to protect the health and wellbeing of closest residents.

4. The proposed outdoor seating area located on the walkway link between Frogmore Road Public Car Park and Cheshire Street as shown on proposed layout plan 1.2B received on the 31st July 2014 shall not be used at any time on a Wednesday.

Reason: To safeguard the surrounding amenities and protect the area occupied by the local market.