



Committee and date

Central Planning Committee

16 July 2015

Development Management Report

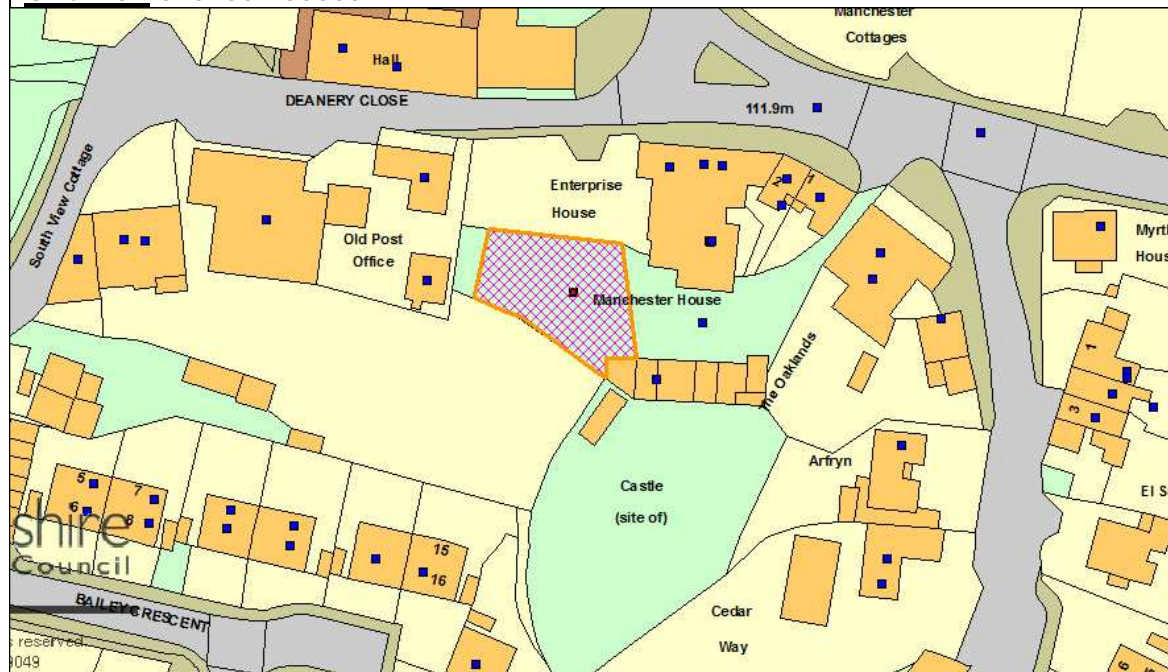
Responsible Officer: Tim Rogers

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

Summary of Application

| | | |
|---|--|------------|
| Application Number: 15/00999/FUL | Parish: | Pontesbury |
| Proposal: Erection of a dwelling | | |
| Site Address: Proposed Dwelling Rear Of Enterprise House Main Road Pontesbury Shrewsbury | | |
| Applicant: Mr Darren Haycock | | |
| Case Officer: Aileen Parry | email: planningdmc@shropshire.gov.uk | |

Grid Ref: 340100 - 306037



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Contact: Tim Rogers (01743) 258773

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC in accordance with the Councils adopted policy .

REPORT

1.0 THE PROPOSAL

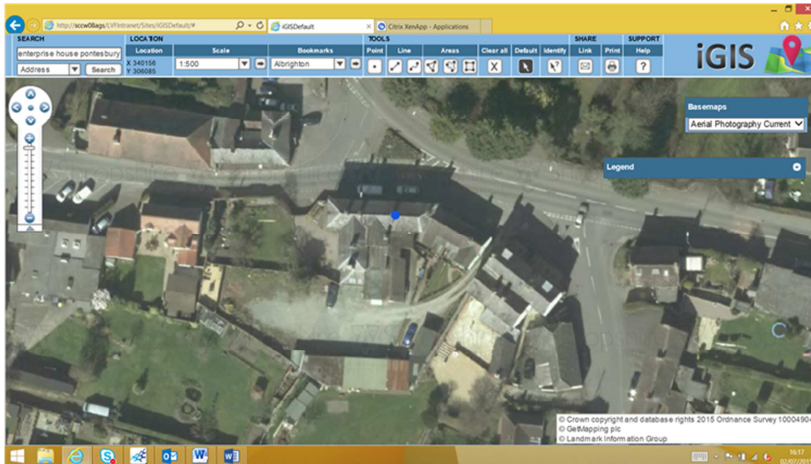
- 1.1 The application seeks full planning permission for the erection of a single storey, two-bed dwelling of contemporary design with access via the existing access off Main Road, Pontesbury.
- 1.2 The application form outlines that the walls would be constructed of render and timber cladding with a profile metal roof with timbers windows and doors. The existing brick wall and timber fence boundary treatment will be retained with a rolled stone vehicular access and block paved hard standing lit with LED lighting. The application form indicates that the site currently provides 10 car parking spaces with two spaces retained for the proposed dwelling. The proposal will connect to the existing mains sewer with surface water discharged to a proposed soakaway.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is situated in the village of Pontesbury, approximately 10 kilometres south west of Shrewsbury. There are no conservation areas within Pontesbury.
- 2.2 The proposal site lies as far north as possible in the site to the north west of the Ringwork and tower keep castle Scheduled Ancient Monument and to the west of the grade II listed The Oaklands on Main Road and to the east is the grade II listed South View Cottages. The curtilage of South View Cottages extends to the boundary of the site, which is to the south of the proposal site. Other buildings along Main Road and Deenery Close also constitute non-designated heritage assets.
- 2.3 The applicant has advised in his supporting statement that the site was last used as a parking area for a former electrical company and that the site is bounded on all sides by residential properties. The single storey design has been chosen to remove overlooking issues and to minimise the impact on neighbouring properties and their gardens. The applicant is not currently a homeowner and intends to build the house for his own family to live in. Also the property has been orientated south with windows at low level, this is to maximise solar gain and to avoid issues with neighbouring properties.
- 2.4 Site photos for current application:



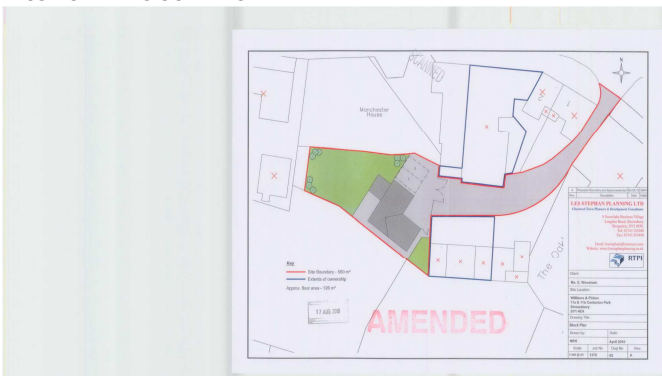
Aerial view taken from SC iGIS system:



2.5 Site History

SA/98/0047 - Change of use of land to car park (part retrospective). **Permitted.**

10/02243/OUT - Outline application for the erection of a dwelling to include means of access. **Refused** on grounds that the proposed site will be subject to overlooking from adjacent residential properties to the detriment of the occupiers of the proposed dwelling and would be contrary to Policy GP1 of the Shrewsbury and Atcham Local Plan.

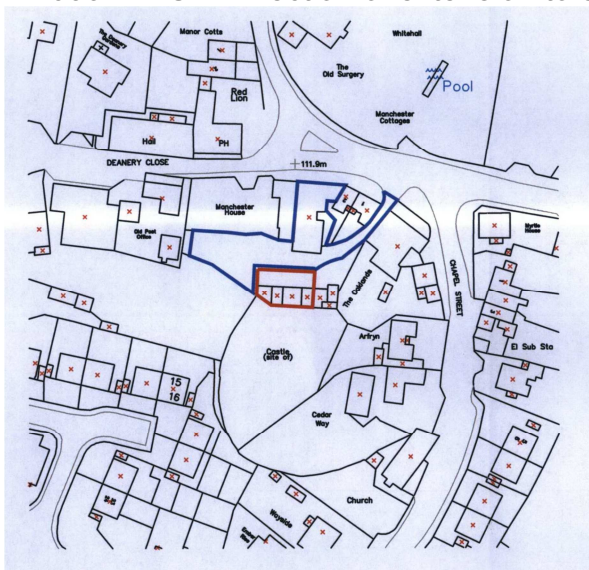


Proposed plan for 10/02243/OUT showing proposal sited to the centre of the site and nearer the Scheduled Ancient Monument as well as nearby neighbours.

Preapp10/02243 – advice provided that a contemporary designed dwelling on this site would be acceptable as there are no public views of the site and is not seen

along a traditional street scene. Preferred option of two - single storey with no windows provided on north and west elevations. Full application invited.

11/03542/FUL - Erection of extension to existing garage block. **Permitted.**



3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Pontesbury Parish Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 SC Historic Environment Conservation

No general objection to the scheme subject to consideration of the response from the Archaeology Officer and inclusion of detail conditions.

4.1.2 SC Affordable Housing

No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.1.3 SC Drainage

No objection. The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

4.1.4 SC Historic Environment Archaeology

No objection. If planning permission is granted it is recommended that English Heritages advice regarding the siting of the building is followed in full. Recommend

that a phased programme of archaeological work be made a condition of any planning permission for the proposed development.

4.1.5 SC Ecology

No comment for this application. No triggers have been met for comments to be provided.

4.2 Pontesbury Parish Council

The Parish Council opposes this application. The reasons of privacy and overlooking which led to the refusal of previous applications on this site are equally valid today. Also, we share the views of neighbours, that the design plans lack sufficient detail to make a fair assessment of the impact on neighbouring listed buildings.

4.3 English Heritage

If the Local Planning Authority is minded to grant permission the proposed building should be sited as far north in the plot as possible, thus retaining as far as possible an open area immediately around the monument.

The advice of the Local Planning Authorities archaeological adviser should be sought, and implemented in full, regarding non-designated heritage assets.

4.4 Public Comments

12 neighbours have been consulted and a site notice forwarded for display. Four objections have been received. The main points include:

- Lack of the required detailed information
- Privacy & View
- Design, Layout and density of building
- Drainage
- Archaeology
- Planning history
- Future occupancy
- Visual impact
- Noise and privacy
- Effect on listed building and conservation area
- Landscaping
- Utility services
- Impacts on neighbouring properties lower ground levels

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Impact on setting of heritage asset
- Impact on neighbouring amenities

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination sessions in November & December and these are being published for a 6 week consultation. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications. Given the stage of advancement of this Plan, it is considered that some weight can be given to the proposed policies within it.

6.1.2 Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the 'Revised Preferred Options' stage and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where significant weight can be attached.

6.1.3 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

6.1.4 With regards to housing development paragraph 49 of the NPPF states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

and that:

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’

- 6.1.5 However, following the submission of the SAMDev Final Plan to the Planning Inspectorate in August 2014, the Council’s position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years’ supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as the document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply, remains a material consideration.

However, with a 5 years’ supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications. The NPPF sets out that the priority is therefore to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so.

- 6.1.6 Minsterley and Pontesbury are coming forward as key centres and as such it is important to assess any potential impacts from edge and out of centre proposals. This site is within Pontesbury and therefore complies with the emerging SAMDev principles in this respect. In S12 Pontesbury is to continue to provide facilities and services to the wider rural hinterland and new housing is to be delivered through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites.

There is currently a ‘presumption in favour of sustainable development’ and the need to boost the housing supply (a government priority) is a significant material consideration when determining planning applications for housing. It is considered that the key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Pontesbury.

- 6.1.7 The application site is situated in the village of Pontesbury, approximately 10 kilometres south west of Shrewsbury and is within the Pontesbury Development Boundary as shown on the Inset Map attached to the SABC Local Plan. The principle of residential development within the village boundary is acceptable under saved SABC Local Plan Policy H3: Housing in villages with development boundary. It is therefore considered that the site is situated in a sustainable location with regard to both accessibility and proximity to essential day to day services without having an over reliance for long journeys by private motor car.

- 6.1.8 However ‘sustainable development’ isn’t solely about accessibility and proximity to

essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

and

- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of one additional house will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes creates a stimulus to the economy and addresses the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.
- 6.1.10 Social role – Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations.
- 6.1.11 Environmental role – The site forms part of a car park at the rear of Enterprise House. Its proposed siting is such that it is as far north in the plot as possible, which helps to retain as far as possible an open area immediately around the Scheduled Ancient Monument. SC Ecology has confirmed that the site does not meet any triggers and officers therefore consider that the proposal would have no adverse impact on wildlife. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Shrewsbury, Minsterley and Bishops Castle.

6.1.12 Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development.

6.2 Siting, scale and design of structure

6.2.1 It is considered that the site is an appropriate location for one additional dwelling as it is situated adjacent to existing houses and within Pontesbury. And as stated in 6.1.7 above, the site is within the Pontesbury Development Boundary.

6.3 Impact on setting of heritage asset

6.3.1 SC Historic Environment Archaeology has raised no objection to the proposal and neither has English Heritage providing that the siting of the building is as provided by English Heritages response. The applicant has positioned the proposal within the site as far north as is practicable without impeding on neighbouring properties or the Scheduled Ancient Monument. A phased programme of archaeological work will be made a condition of any planning permission granted for the proposal so that any archaeological features and deposits associated with the castle that survive are recorded.

6.4 Impact on neighbouring amenities

6.4.1 Officers consider that the reasons for refusal of a previous application on the grounds of overlooking from neighbouring properties to the proposed dwelling, as detailed in section 2.4 above, do not apply as the proposal is of a different and modern design and its orientation is such that any overlooking will be minimal therefore maintaining the privacy and amenity of the proposed dwelling and that of neighbouring properties.

6.5 Affordable Housing

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council’s unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the

judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council's position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kellsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue.

The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council's current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self-interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council's position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non-compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

It is appreciated that by approving this proposal for full planning permission for the erection of a single dwelling would be contrary to the Parish Councils wishes. The NPPF sets out that the priority is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is an appropriate location for one additional dwelling as it is situated adjacent to existing houses. The proposal would also have no adverse environmental or ecological implications and would not impact on residential amenity of neighbours.

It is considered that the proposal represents sustainable development as the site is within Pontesbury and therefore considered as infill. It is within the centre of Pontesbury where there are a range of local services within easy walking distance and a regular bus service to Shrewsbury and Bishops Castle. The development will therefore not result in an over reliance on the private motor car. It will provide an

additional dwelling and will help support existing facilities and services therefore promoting 'strong, vibrant and healthy communities'. The existing infrastructure is considered sufficient to support the proposed development and the proposal will provide an Affordable Housing Contribution (AHC) and will be liable for the required CIL payment.

It is therefore recommended that members support this application and grant planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure an AHC in accordance with the Councils adopted policy.

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

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies: CS4, SABC H3

RELEVANT PLANNING HISTORY:

SA/83/0965 Formation of new vehicular access. PERCON 20th March 1984

SA/82/0191 Alterations and additions of a flat roof store and the erection of a flat roof first floor kitchen above existing store. PERCON 16th April 1982

SA/96/0772 Installation of new shopfronts in connection with alterations to existing retail unit. PERCON 23rd October 1996

SA/96/0257 Change of use to a hot food take away. REFUSE 25th April 1996

SA/79/0636 Formation of vehicular access WDN 28th January 1981

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 M. Price

Local Member

Cllr Tudor Bebb

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 approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

4. Details of the roof construction including details of eaves, undercloaks ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

5. No windows or doors shall be installed on the development without detailed plans and sections at a scale of 1:20 having been first submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To protect and enhance the appearance of the building and the area.

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls 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.

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

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

7. The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Reason: To minimise the risk of groundwater flooding.

8. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system/ existing small pool should be designed so that storm events of up to 1 in 100 year + 20% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

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

9. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

2. The applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Greywater recycling system

3. Consent is required from the service provider to connect into the foul main sewer.