



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Wednesday, 18 October 2017

**Committee:
Central Planning Committee**

Date: Thursday, 26 October 2017

Time: 2.00 pm

Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Dean Carroll
Ted Clarke (Chairman)
Nat Green (Vice Chairman)
Nick Hignett
Pamela Moseley
Tony Parsons
Alexander Phillips
Ed Potter
Kevin Pardy
Keith Roberts
David Vasmer

Substitute Members of the Committee

Peter Adams
Roger Evans
Hannah Fraser
Ioan Jones
Jane MacKenzie
Alan Mosley
Harry Taylor
Dan Morris
Lezley Picton
Claire Wild

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 257718

Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 28th September 2017.

Contact Shelley Davies on 01743 257718.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 p.m. on Monday 23rd October 2017.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Land at Barker Street, Shrewsbury - 17/04172/DIS (Pages 7 - 22)

Discharge of condition 5 (in relation to Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works.

6 Land At 117/125 Wenlock Road, Shrewsbury - 16/04590/FUL (Pages 23 - 80)

Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description).

7 Cathedral Church, Town Walls, Shrewsbury - 17/02075/FUL (Pages 81 - 88)

Installation of cast iron automatic gates, wall mounted railings and brick piers for the rear access from Belmont to include in a reduction in height of entrance walls.

8 Cathedral Church, Town Walls, Shrewsbury - 17/02076/LBC (Pages 89 - 96)

Works to Listed Building(s) to facilitate the installation of replacement gates, railings and piers to include a reduction in the height of existing wall.

9 42 Rothley Close, Shrewsbury - 17/03276/FUL (Pages 97 - 108)

Erection of a two storey; single storey and first floor extensions.

10 116 Underdale Road, Shrewsbury - 17/03906/FUL (Pages 109 - 116)

Alterations to conservatory to form garden room; new detached outbuilding; alterations to existing driveway and installation of fence to front.

11 Schedule of Appeals and Appeal Decisions (Pages 117 - 118)

12 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 23rd November 2017 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

26th October 2017

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 28 September 2017

2.00 - 4.10 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Ted Clarke (Chairman)

Councillors Nat Green (Vice Chairman), Pamela Moseley, Tony Parsons, Alexander Phillips, Ed Potter, Kevin Pardy, Keith Roberts and David Vasmer

52 Apologies for absence

Apologies for absence were received from Councillors Dean Carroll and Nick Hignett.

53 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 31st August 2017 be approved as a correct record and signed by the Chairman.

54 Public Question Time

There were no public questions or petitions received.

55 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

With reference to planning application 16/02395/FUL – Land off Manor Lane, Longden, Shrewsbury – Councillor Keith Roberts stated that he was a Member of Longden Parish Council and he would leave the table, take no part in the consideration of, or voting on, this item.

56 Stanford Farm, Stanford, Halfway House, Shrewsbury - 16/05541/FUL

Councillor Ed Potter, the local ward Councillor left the table and did not take part in the consideration of, or voting on, this item.

The Area Planning Manager introduced the application under Section 73A of the Town & Country Planning Act for the retrospective change of use of existing farm buildings, in addition to the conversion of an existing barn, use of existing toilet/shower facilities, creation of an informal car parking area, associated and ancillary works to allow weddings and events at Stanford Farm and confirmed that the Committee had undertaken a site visit on 25 May 2017 to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Area Planning Manager explained that at the Central Planning Committee meeting held on 25th May 2017, Members resolved to defer the application to allow Shropshire Council Highways the opportunity to comment on the traffic management plan submitted by the applicant.

The Area Planning Manager drew Members' attention to the Schedule of Additional Letters which included representations from the applicant, neighbouring property owner, Shropshire Council Highways and the case officer. He explained that the conditions as detailed in the Officer's report and the Schedule of Additional Letters had been revisited by Officers and advised Members that if they were minded to grant permission Conditions 1, 6, 9, 10 and 13 should be reworded as follows:

1. The use hereby permitted shall be for a limited period ending on the 31st December 2019 and the use hereby approved shall permanently cease on that date.

Reason: To enable the local planning authority to give further consideration to the acceptability of the proposed use.

6. Prior to the hosting of any further events at Stanford Farm, full details of the location and sizing of the existing and proposed means of foul drainage shall be approved in writing by the LPA, including appropriate percolation tests to ensure that it can cater for the new development. The sizing of the drainage solution should be designed to cater for 200 persons and in accordance with the Building Regulations H2. The development shall thereafter be carried out strictly in accordance with the details agreed.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

9. Prior to the hosting of any further events at Stanford Farm a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to hosting any further events at Stanford Farm and complied with thereafter for the lifetime of the permission.

Reason: In the interests of residential and visual amenity.

10. Within 6 months of the date of this permission, the following access/highway works shall be completed in accordance with full engineering details which shall first be submitted to, and approved in writing by, the local Planning Authority: -
- (i) The resurfacing/reconstruction of the highway crossing within the junction bellmouth serving the site from the County road.
 - (ii) The provision of two vehicle passing bays within the highway verge between the site access and the junction with Pecknall Lane,
 - (iii) A scheme of direction signing for the proposed events, including sign content, precise locations along with any necessary permissions or consents.

Reason: In the interests of highway safety.

13. The use of the buildings labelled 'Bull Barn', 'The Stables' and 'Cow House' and the associated land edged in red on the approved block plan shall be used for the purposes of events and functions, inclusive of weddings, only. A maximum of 20 functions/events per calendar year shall take place during calendar years 2018 and 2019.

Reason: To preserve the amenities of the area and highway safety/ free flow of traffic.

Mr David Richards, on behalf of the neighbouring property owner and local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Rob Price, on behalf of the Applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In response to Members concerns in relation to the impact of the proposal on the amenity of local residents, the Area Planning Manager referred to Condition 8 and explained that if complaints were received in relation noise, the premises would be monitored and enforcement action would be taken if it was found that the condition had been breached.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to concerns and in order to protect the amenity of local residents Members considered that the length of the temporary permission should be reduced to 2 years and 3 months, that the number of events be limited to 20 per calendar year and the timescale for the completion of the highway/access works be reduced from 9 months to 6 months.

RESOLVED:

That as per the Officer's recommendation temporary planning permission be granted but for a reduced period of 2 years and 3 months subject to:

- The Conditions as set out in Appendix 1 of the report;
- The rewording of Conditions 1, 6, 9,10 &13 as detailed by the Area Planning Manager;
- An additional amendment to Condition 10 to reduce the timescale for the completion of the highway/access works from 9 months to 6 months; and
- An amendment to Condition 13 to limit the number of events from 28 to 20 per calendar year only.
-

57 Proposed Residential Development Opposite The Crescent, Nesscliffe, Shrewsbury - 16/03413/REM

Councillor Ed Potter, the local ward Councillor left the table and did not take part in the consideration of, or voting on, this item.

The Area Planning Manager introduced the reserved matters application pursuant to outline planning application 13/04757/OUT (landscaping, scale, appearance and layout) for residential development of 30 dwellings and confirmed that the Committee had undertaken a site visit on 27 July 2017 to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Area Planning Manager explained that at the Central Planning Committee meeting held on 27 July 2017, Members resolved to defer the application to ask the developer to reduce the number of dwellings and increase the amount of public open space and drew Members' attention to the Schedule of Additional Letters which included representations from 2 objectors.

Having considered the submitted plans the majority of Members expressed their support for the Officer's recommendation.

RESOLVED:

That planning permission be granted as per the Officer's recommendation subject to the Conditions as set out in Appendix 1 of the report.

58 Land Off Manor Lane, Longden, Shrewsbury - 16/02395/FUL

In line with his declaration at Minute 55, Councillor Keith Roberts left the table during consideration of this item, took no part in the debate and did not vote on this item.

The Technical Specialist Planning Officer introduced the application for the erection of 5 bungalows and associated infrastructure (amended description) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Technical Specialist Planning Officer drew Members' attention to the Schedule of Additional Letters which included a number of representations in relation to this application and explained that as it had been established that the proposed works to protect the veteran Oak Tree would impact on a neighbouring property, the Officer's recommendation had been amended to deferral of the application to allow the applicant the opportunity to investigate an alternative solution to protect the rooting

area of the veteran Oak Tree. It was added that if no acceptable solution was found delegated powers be given to officers to refuse the application.

Members unanimously expressed their support for the amended recommendation.

Members unanimously expressed their support for the Officer's recommendation.

RESOLVED:

That consideration of the application be deferred to a future meeting of this Committee to allow the applicant the opportunity to investigate an alternative solution to protect the rooting area of the veteran Oak Tree and if no acceptable solution was found delegated powers were given to officers to refuse the application.

59 Land at Barker Street, Shrewsbury - 17/04172/DIS

The Planning Services Manager introduced the application for the partial discharge of condition 5 (design, details, materials and fenestration of Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Planning Services Manager drew Members' attention to the Schedule of Additional Letters which included representations from the Town Council and the Civic Society and he referred to a statement from the Client which had been circulated to Members.

Mr Mike Carter, on behalf of the Civic Society spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Nat Green addressed the Committee as the local ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement, a number of points were raised including the following:

- He questioned why Members were being pressured to agree a scheme for part of the development when an application for the whole site was to follow;
- If the design of this block was agreed today the Committee would be held hostage to this as the future application would have to follow this design;
- Reservations had been expressed by the Town Council in relation to the design of the development;
- The design should be right regardless of the delay this would cause;
- A heritage statement was required for Rowley's House; and
- The application should be deferred until an application for the whole site was submitted.

Mr Nathan Cowper, Architect for the applicant spoke in support of the proposal in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees.

In response to the point raised regarding the need for a heritage statement for Rowley’s House, the Planning Services Manager explained that the advice received from Historic England stated that if the Design and Access statement included the necessary information a separate heritage statement was unnecessary.

In the ensuing debate having considered the submitted plans and noted the comments of all speakers, Members explained that they were underwhelmed with the design of the proposal, in particular the flat roof element and expressed the view that the application should be deferred until an application for the whole site was submitted.

RESOLVED:
That consideration of the application be deferred to a future meeting of this Committee to allow the architect to address the design issues raised and for the Committee to consider an application for the site as a whole.

60 Schedule of Appeals and Appeal Decisions

RESOLVED:
That the Schedule of Appeals and Appeal Decisions for the Central area as at 28th September 2017 be noted.

61 Date of the Next Meeting

RESOLVED:
That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 26th October 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:



Committee and date
 Central Planning Committee
 26 October 2017

Item
5
 Public

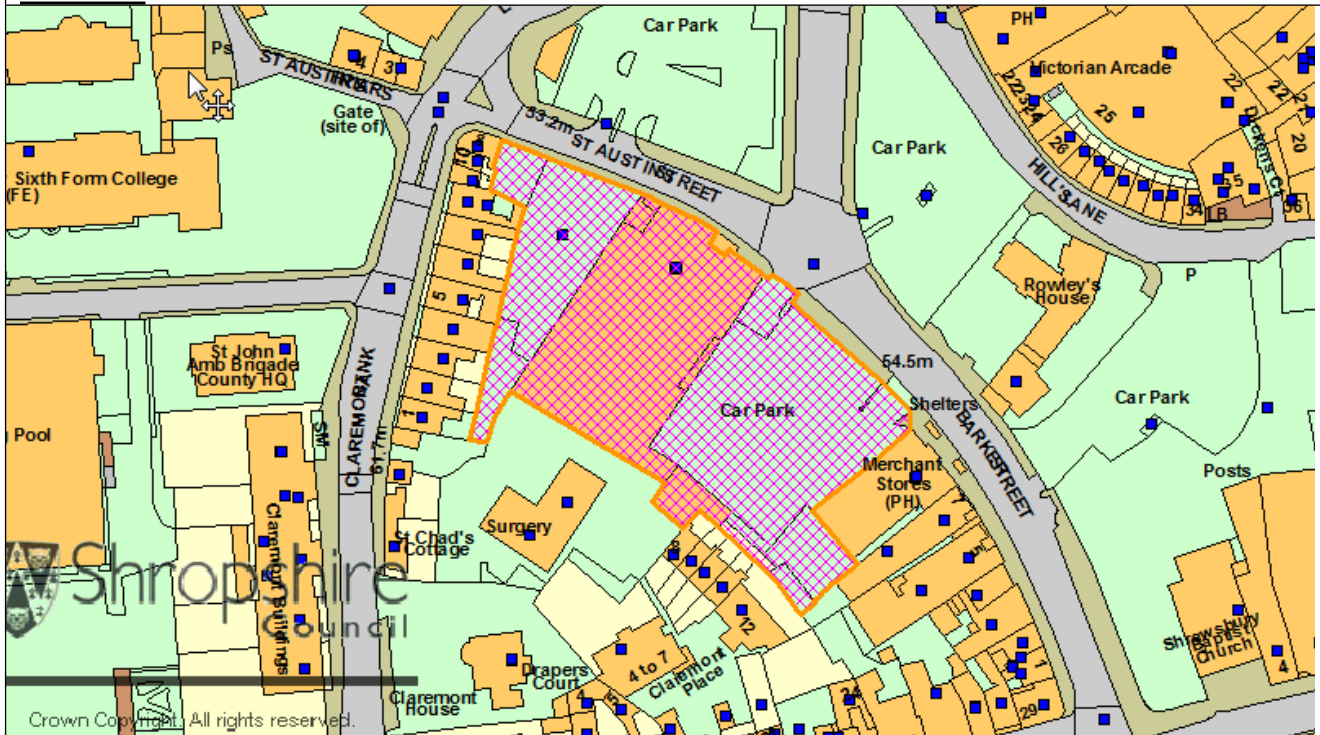
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 17/04172/DIS	Parish:	Shrewsbury Town Council
Proposal: Discharge of condition 5 (in relation to Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works		
Site Address: Land at Barker Street, Shrewsbury		
Applicant: Morris Property Ltd		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348900 312570



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Recommendation: Grant approval of partial discharge of condition 5.

REPORT

1.0 THE PROPOSAL

- 1.1 The purpose of this application is to seek approval for the details required to be submitted by condition 5 attached to planning application 15/03580/FUL in relation to Block C only.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site faces St Austins Street and Barkers Street within the Town Centre Special Character Area, which makes up part of the larger Shrewsbury Conservation Area. The 20th Century building on the site of a former tannery (previously occupied by Shrewsbury Sixth Form College) has been demolished and there is vacant land either side. To the West of the site is 8 Claremont Bank that is a listed building and to the East is a Public House (Vodka Source Bar) that is unlisted.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the meeting of 28th September 2017 Members resolved that consideration of the application be deferred to a future meeting of this Committee to allow the architect to address the design issues raised and for the Committee to consider an application for the site as a whole.

- 3.2 The committee report of 28 September 2017 is attached at Appendix 1.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Conservation:** In response to concerns raised by the Town Council and the Civic Society and as raised during the Planning Committee's consideration of this application to discharge Condition 5 of the originally approved scheme for the Tannery site, the architects have now revised the proposal further. The scheme now incorporates asymmetrical pitched roofs to Blocks B and C rather than a flat roof element to provide a more interesting roofline which reflects much of the existing historic nearby town centre built form. This pitched roof form harmonizes well with buildings of particular historic interest nearby such as Rowley's Mansion, and breaks up the mass of the Blocks which was a specific concern raised on the architects first presented design. Other devices have been incorporated to further reduce the building mass including the separation of the front elevation of the blocks into two asymmetrical bays by way of a recessed downpipe. The window proportions have been more articulated by the introduction of glazed panels (rather than solid coloured ones) to the top and bottom of the windows. With these modifications, the strong industrial aesthetic of the proposal is still retained in reference to historic uses of the site however the wider built form context is now better referenced and responded to.

We have met with the architects on site to discuss the merits of this modulated roofline, and at the same time discussed external materials including brick samples

with the aim of further strengthening the visual relationship with Rowley's by reflecting similar brick texture, size, colour, bond, mortar mix and joint profile. The now proposed pitched roofs are intended to be finished in a non-reflective zinc standing seam which again reflects an industrial aesthetic.

Additional and enhanced visuals have now been submitted along with the elevation, section and plan form drawings to illustrate the revised proposal in context with the immediate and wider area. Our Team are supportive of these revisions and as noted in our earlier comments, subject to the further review and agreement of finer architectural details, materials and finishes, there is no objection raised to the discharge of Condition 5 based on these revised plans.

4.2 - Public Comments

4.2.1 Shrewsbury Town Council: Awaiting comments – members will be updated in the additional letters schedule.

4.2.2 Shrewsbury Civic Society: Awaiting comments – members will be updated in the additional letters schedule.

5.0 THE MAIN ISSUES

5.1 The principle of development and the layout, scale and design of the buildings have already been established by the original approval for full planning permission.

5.2 The main issue to consider is the proposed choice of external materials, detailing and finish submitted for approval in relation to a) – g) of condition 5 in relation to Block C and the impact on the character and appearance of the building, the street scene and wider Conservation area.

6.0 OFFICER APPRAISAL

Impact on the character and appearance of the building and the Conservation area.

6.1. a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline

6.1.1 The lift core elements initially proposed for the rooftop have been omitted and will now be internal. It is considered that this will enhance the overall scale and appearance of the building and its impact on the Conservation area skyline.

6.2 b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure

6.2.1 The bulky cornice on the initial proposal has been removed and replaced with an asymmetrical pitched roof with a double gable to the street elevation. This provides a more interesting roofline that better reflects the existing historic built form of buildings nearby. In keeping with other buildings in the locality the verge and eaves

details will over-sail the brickwork. The roof will have a pre-weathered, zinc, standing seam that will have a blue-grey, non-reflective finish and will express a more refined industrial aesthetic. The revised proposals are considered to be an enhancement compared to the previous scheme and will help reduce the mass of the building.

- 6.3 c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block
- 6.3.1 As advised within the previous report the fenestration has been significantly altered and the transition between ground and upper floors is more clearly defined. This is due to the introduction of a shopfront at ground floor level that will help create a more active street frontage.
- 6.3.2 The apparent height of the windows on the upper floors was previously increased due to the introduction of a glazed panel above the opening light and a solid metal insert panel below the opening light. Within this latest amendment the window proportions have been more articulated by the introduction of glazed panels (rather than solid coloured ones) to the top and bottom of the windows. It is considered that the window disposition and proportion now better reflects an industrial warehouse aesthetic and the former historic industrial use of the site as a tannery.
- 6.4 d. 1:5 scale details of all lintels and sills and brickwork to include colour, bond mortar mix and joint finish
- 6.4.1 The choice of brick is a mix of light and dark reds with a charred surface to reflect that at Rowleys Mansion. The brickwork is proposed to be laid in a Flemish garden wall bond and a natural mortar used with a brushed, bucket handle joint, both details are again reflective of that used on Rowley's House. It is proposed that a 450mm height, stretcher bond, soldier course lintel will run across the top of the shopfronts and continue around the building. The introduction of the shopfronts at ground floor with the 450mm soldier course lintel responds to the wishes of the Civic Society that there be an active street frontage.
- 6.5 e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor
- 6.5.1 The ground floor brick piers to the frontage are proposed to be rusticated down to a plinth level to define them separately from the brickwork above. The string course above the plinths will provide a visual transition between the ground and upper floors and will help integrate the building within the street scene.
- 6.6 f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design
- 6.6.1 The submitted detail only relates to the Boundary treatment along the street frontage to the left of block C. The railings to the street frontage are proposed to be

simple flat metal railings consisting of panels of 50 x 8mm vertical flats and it is agreed that these are appropriate and will be in keeping with the nature and industrial warehouse aesthetic of the main blocks. The revised application to be submitted for the wider site eliminates the need for boundary treatment between the blocks and the infill now proposed will create a continuous street frontage.

6.7 g. Details and location of the bin storage enclosures

6.7.1 The bin storage enclosure is indicated to be 2.1m high rusticated brickwork to match block C with a pair of double leaf timber gates. The location of the bin store is indicated to be immediately behind the front railings and access gate. The details and location of the bin store are both considered acceptable.

7.0 **CONCLUSION**

7.1 The principle of development and the layout, scale and form of the buildings have already been established by the full planning permission. It is considered that the details submitted to discharge condition 5 in relation to block C are acceptable and will enhance the character and appearance of the building and the street scene compared to the previously approved scheme and would not adversely impact on the character and appearance of the locality and the Conservation area or the setting of nearby listed buildings.

7.2 It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, and MD13 and the aims and provisions of the NPPF. Special regard has to be given to the desirability of preserving or enhancing the character and appearance of the Conservation area and the setting of listed buildings as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and SAMDev Policies: CS6, CS17, MD2, and MD13

RELEVANT PLANNING HISTORY:

15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works GRANT 18 October 2015.

11. Additional Information

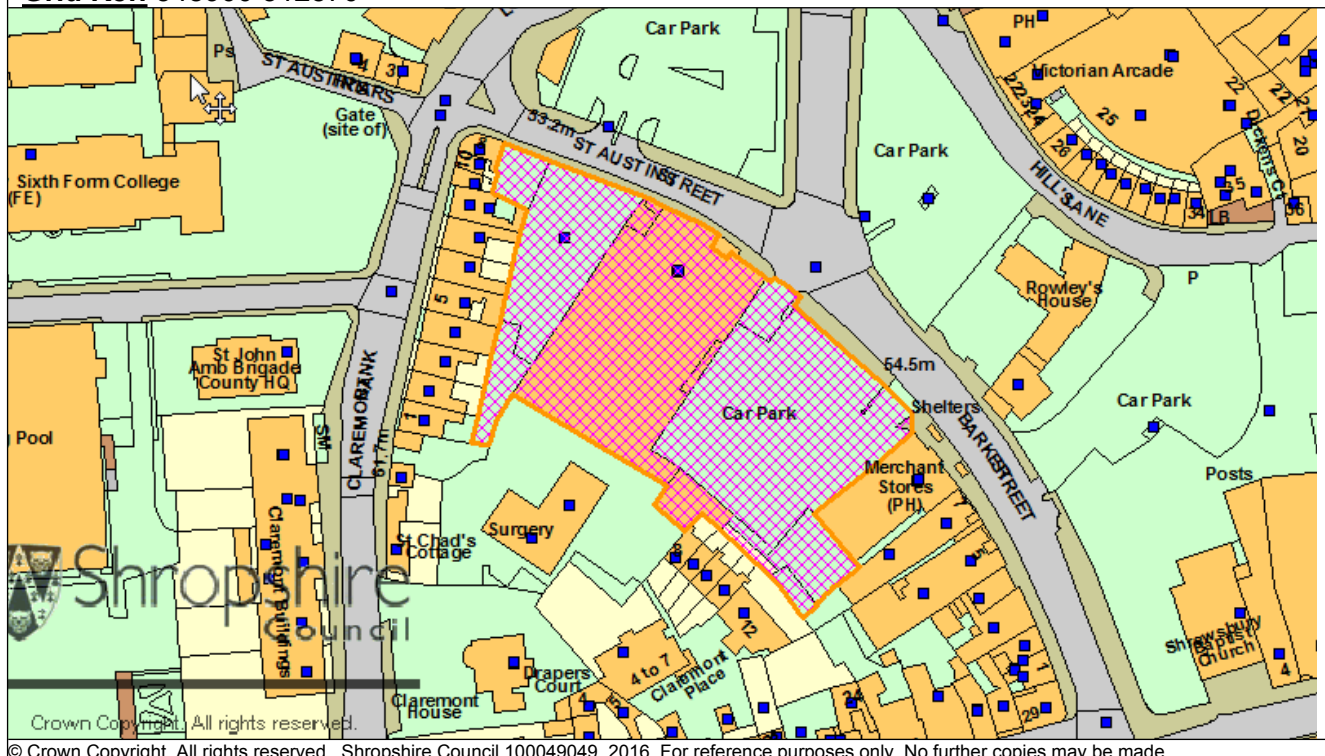
List of Background Papers: File 17/04172/DIS
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Nat Green
APPENDIX 1: 28 September Committee Report

APPENDIX 1: 28 September Committee Report**Development Management Report**

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

Application Number: 17/04172/DIS	Parish:	Shrewsbury Town Council
Proposal: Partial discharge of condition 5 (design, details, materials and fenestration of Block C) on Planning Permission 15/03580/FUL for the erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works		
Site Address: Land at Barker Street, Shrewsbury		
Applicant: Morris Property Ltd		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348900 312570**Recommendation: Grant approval of partial discharge of condition 5.**

REPORT

1.0 THE PROPOSAL

- 1.1 The purpose of this application is to seek approval for the details required to be submitted by condition 5 attached to planning application 15/03580/FUL:

5. Notwithstanding the submitted details the front (Barker Street & St Austins Street) elevations are not approved. The following design elements shall be submitted for approval prior to commencement of the relevant parts of the works:

- a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline;*
 - b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure;*
 - c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block;*
 - d. 1:5 scale details of all lintels and cills and brickwork to include colour, bond mortar mix and joint finish;*
 - e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor.*
 - f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design;*
 - g. Details and location of the bin storage enclosures*
- Reason: To ensure a satisfactory appearance of the development in the interests of preserving and enhancing the character and appearance of the conservation area.*

The application only seeks partial approval of this condition in relation to Block C so that work can continue on site with a target date for completion by September 2018 ready for the next intake of students.

- 1.2 This application is not an opportunity to re-consider the layout, scale, shape and size of the buildings, which have already been approved by the application for full planning permission. However it should be noted that this application has been submitted to enable work to progress on Block C but with the knowledge that a new full application for a revised scheme will be submitted shortly.
- 1.3 This application only relates to Block C but initial drawings have been submitted for the likely appearance of the proposed new scheme so that Block C can be viewed in context. The proposed new scheme will include Block C and Block B of the originally approved plans but with a two-storey infill. Retail use is proposed for the ground floor to be occupied as one space by a single retailer. The upper floors of Block C and the infill block will be Student accommodation and a flexible mixed use for Block B is proposed with office use initially and use as student accommodation as and when the demand arises.

- 1.4 The revised scheme will not include Block A of the original approval and the design for this and the three -storey block of management and post-graduate accommodation will come forward at a later date. The space is proposed to be used as car parking until a later application is submitted.
- 1.5 Drawings and details to discharge condition 5 were initially submitted on 25 August but amended details and additional information were received on 14 September and the Conservation comments and officer appraisal relate to this latest submission.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site faces St Austins Street and Barkers Street within the Town Centre Special Character Area, which makes up part of the larger Shrewsbury Conservation Area. The 20th Century building on the site of a former tannery (previously occupied by Shrewsbury Sixth Form College) has been demolished and there is vacant land either side. To the West of the site is 8 Claremont Bank that is a listed building and to the East is a Public House (Vodka Source Bar) that is unlisted.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 When the application for full planning permission was considered by committee, members resolved that further consideration be given to the detail of the front elevation by the imposition of a condition and that the discharge of this condition be brought back to Committee.

4.0 **Community Representations**

4.1 **- Consultee Comments**

- 4.1.1 **SC Conservation:** This Discharge of Conditions application relating to the former Tannery site on Barker Street is being formally circulated to relevant consultees for comments. While the application was granted full planning permission in October 2015 for the erection of three student accommodation blocks, the then submitted details particularly with respect to the front elevations as they related to Barker and St Austin's Streets were not approved, with Condition 5 of the Decision Notice including a list of design elements which required further consideration and approval prior to commencement of the relevant above ground works of the scheme.

Our Team has lately been working with Planning Team colleagues, the applicant and the new team of architects to develop improvements to the architectural detailing, fenestration pattern, materials and finishes as well as the overall street scene presentation and wider-view aesthetic of the scheme, and while the current scheme reflects the basic linear block form of the original approved proposal, many important design improvements have been added so that the scheme now far better reflects the historic industrial use of the site as a former tannery, responds to the local architectural context of the area, and incorporates a much more active frontage with the introduction of articulated attractive infill sections between the main blocks, with a continuous retail shop space running along the full street

frontage of the buildings. These improvements address many of the concerns raised during the formal public consultation process on the design of the initial scheme, and those particularly raised by Historic England, the Shrewsbury Civic Society, among a number of others.

Along with this current Discharge of Conditions application, a concurrent full planning application will be submitted to address modifications to the original scheme such as the introduction of a ground floor retail use and the infill section between the main blocks. As noted in the submitted Design Statement, the third, most westerly block will not be commenced at this time and in its place will be a parking area to facilitate the office portion of the blocks, and this is indicated on the site and elevation plans provided and illustrated on the street scene views prepared by the architects.

In referencing the specific design elements included in Condition 5 that required further consideration, we would comment as follows:

- a) The former roof top lift core element of the initial scheme has been removed from the current scheme as the elements are now incorporated internally to the building – this leaves a clean roofscape and less impact on the existing town skyline;
- b) The bulky cornice element of the initial scheme has been removed in favour of enhanced decorative brickwork; this coupled with the removal of the rooftop elements reduces the visual mass of the blocks;
- c) The fenestration pattern has been fully reconsidered in this new design and the window disposition and proportion reflects an industrial warehouse aesthetic while including elements of interest such as coloured glazed and copper panels. At ground floor the shop front windows are set well back from the face of the building and the shop front features heavy rusticated piers across the frontage again reflecting the former industrial context of the site.
- d) The brick work on this current scheme will reflect the brickwork of Rowley's House nearby which is a mix of light and dark red with charred bricks, and will be expressed as a diaper pattern for visual interest within the street scene.
- e) Ground floor elements have been more fully considered as noted above and now includes robust rusticated piers and a lintel zone of soldier brickwork across the retail openings which would wrap around the building;
- f) Boundary treatments are more integrated with the public realm and consist of simple flat metal railings, brick boundary walls and traditional timber gates;
- g) Bin storage enclosures have been repositioned to an appropriate location on the site.

Overall, subject to the further review and agreement of material samples, this revised scheme is considered to fully address concerns raised on design matters relevant to the earlier scheme, and there is no objection to the discharge of

Condition 5 based on this revised scheme.

- 4.1.2 **Historic England:** We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

4.2 - Public Comments

- 4.2.1 Shrewsbury Town Council: Awaiting comments – members will be updated in the additional letters schedule.

- 4.2.2 Shrewsbury Civic Society: Awaiting comments – members will be updated in the additional letters schedule.

5.0 THE MAIN ISSUES

- 5.1 The principle of development and the layout, scale and design of the buildings have already been established by the original approval for full planning permission.
- 5.2 The main issue to consider is the proposed choice of external materials, detailing and finish submitted for approval in relation to a) – g) of condition 5 and the impact on the character and appearance of the building, the street scene and wider Conservation area.
- 5.3 To help understand the rationale behind the proposal as now submitted extracts from the submitted supporting design statement is repeated here for information:

The current proposals seek to address the comments and concerns of the approved scheme submitted by the previous Architects. These relate to the Barker Street & St Austins Street façade of the blocks and the lack of response to local context, in terms of both architectural aesthetic and active frontage.

It was considered the scheme poorly reflected the conservation area context of the site, (bearing in mind the adjacency to Rowley's House) and presented a disjointed and sterile frontage to the streetscape and public realm.

The Planners, Civic Society and other complainants were unhappy with the pastiche design of the elevations including mock loading bays and applied steelwork, projecting coloured 'banner' brise soleil and heavy cornice detail. The treatment of the railings required consideration also.

In response to these comments, the revised proposals seek to rationalize and de-clutter the facades to produce a more honest reflection of the industrial warehouse aesthetic of the former tannery works on the site.

The intent has been to develop a contemporary design response that is honest to the original concept of reference to the previous Tannery warehousing, and to portray this in a robust manner common to this building type. The brickwork, detailing and decoration make reference to the local context and enhance the elevations from the wider perspective. The introduction of retail to the ground floor

has positively contributed to the scheme in terms of amenity and response to the public realm.

6.0 OFFICER APPRAISAL

Impact on the character and appearance of the building and the Conservation area.

6.1. a. The design, materials and finishes and colour scheme for the lift core elements that project above the roofline

6.1.1 The lift core elements initially proposed for the rooftop have been omitted and will now be internal. It is considered that this will enhance the overall scale and appearance of the building and its impact on the Conservation area skyline.

6.2. b. The profile, design, materials and finish of the cornice treatments to include 1:5 scale sections - these shall be designed so as to reduce the bulk of the cornice and apparent mass of the structure

6.2.1 The bulky cornice on the initial proposal has also been removed and replaced with decorative brickwork. It is considered that this is an enhancement compared to the previous scheme and will help reduce the apparent mass of the building.

6.3. c. The fenestration disposition, proportion and materials and finishes for all windows to include 1:5 scale elevations and sections - this shall have regard to the context of this historic town centre location and give consideration to varying the treatment to each block

6.3.1 The fenestration has been significantly altered and the transition between ground and upper floors is more clearly defined. This is due to the introduction of a shopfront at ground floor level that will help create a more active street frontage.

6.3.2 The apparent height of the windows on the upper floors have been increased due to the introduction of a glazed panel above the opening light and a solid metal insert panel below the opening light. It is considered that the window disposition and proportion now better reflects an industrial warehouse aesthetic and the former historic industrial use of the site as a tannery. It therefore better responds to the context of the site compared to the former pastiche design of the façade initially proposed.

6.4. d. 1:5 scale details of all lintels and sills and brickwork to include colour, bond mortar mix and joint finish

6.4.1 The choice of brick is a mix of light and dark reds with a charred surface to reflect that at Rowleys Mansion. It is proposed that a 450mm height, stretcher bond, soldier course lintel will run across the top of the shopfronts and continue around the building. Above this lintel the bricks are proposed to be laid in a Flemish garden wall bond to include a darker brick to create a diaper pattern. It is considered that this will add visual interest to the front façade.

- 6.5 e. Details of projecting string courses and materials, finishes and design of the ground floor elements for each block to consider rustication in brick/stone or render to the ground floor
- 6.5.1 The ground floor brick piers to the frontage are proposed to be rusticated down to a plinth level to define them separately from the brickwork above. The string course above the plinths will provide a visual transition between the ground and upper floors and will help integrate the building within the street scene.
- 6.6 f. 1:20 details of the boundary treatment between each block to illustrate continuity to the street frontage and an integrated landscape design
- 6.6.1 The submitted detail only relates to the Boundary treatment along the street frontage to the left of block C. The railings to the street frontage are proposed to be simple flat metal railings consisting of panels of 50 x 8mm vertical flats and it is agreed that these are appropriate and will be in keeping with the nature and industrial warehouse aesthetic of the main blocks. The revised application to be submitted for the wider site eliminates the need for boundary treatment between the blocks and the infill now proposed will create a continuous street frontage.
- 6.7 g. Details and location of the bin storage enclosures
- 6.7.1 The location of the bin stores is not being considered as part of this partial discharge of conditions. The revised proposal for the wider site will include the detail and siting of the bin storage enclosures in an appropriate location within the site.
- 7.0 **CONCLUSION**
- 7.1 The principle of development and the layout, scale and form of the buildings have already been established by the full planning permission. It is considered that the details submitted to partially discharge condition 5 are acceptable and will enhance the character and appearance of the building and the street scene compared to the previously approved scheme and would not adversely impact on the character and appearance of the locality and the Conservation area or the setting of nearby listed buildings.
- 7.2 It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, and MD13 and the aims and provisions of the NPPF. Special regard has to be given to the desirability of preserving or enhancing the character and appearance of the Conservation area and the setting of listed buildings as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 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

Core Strategy and SAMDev Policies: CS6, CS17, MD2, and MD13

RELEVANT PLANNING HISTORY:

15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works GRANT 18 October 2015

11. Additional Information

List of Background Papers: File 17/04172/DIS
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Nat Green



<u>Committee and date</u>
Central Planning Committee
26 October 2017

<u>Item</u>
6
Public

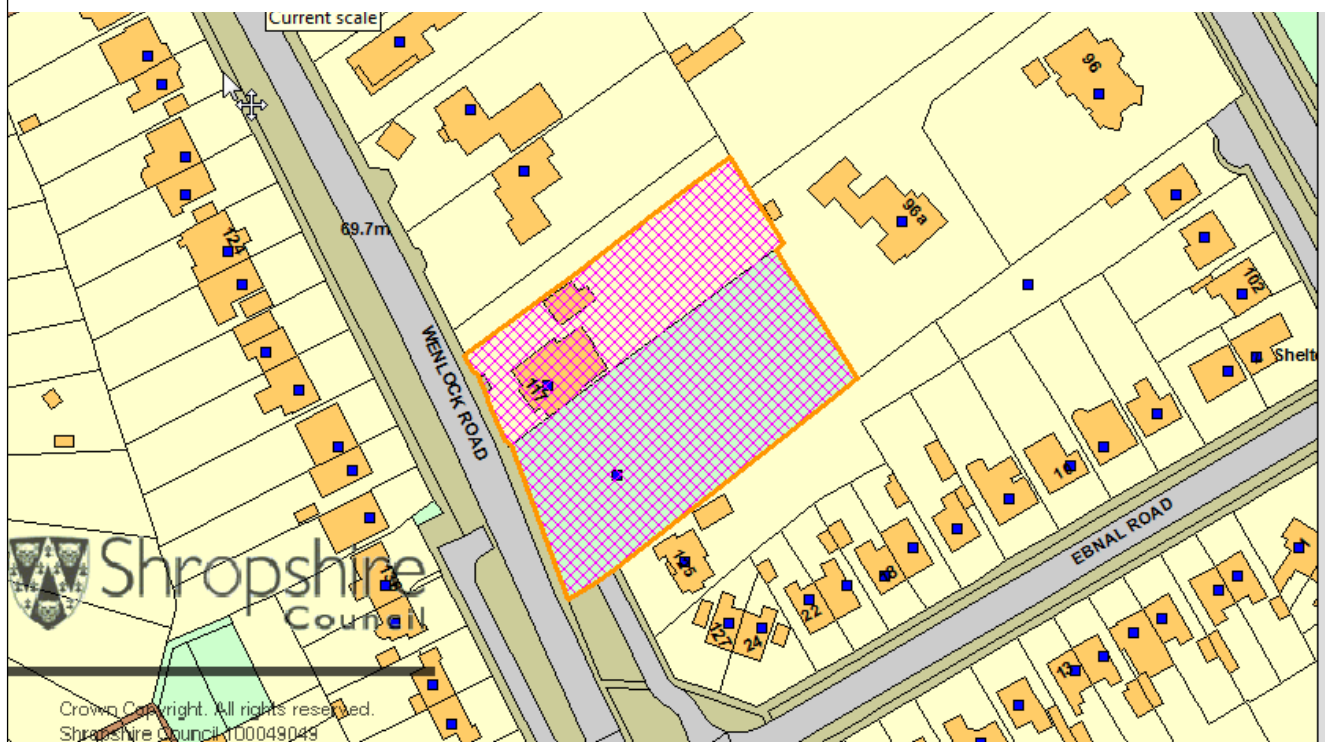
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 16/04590/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description)		
<u>Site Address:</u> Land At 117/125 Wenlock Road Shrewsbury Shropshire		
<u>Applicant:</u> McCarthy & Stone Retirement Lifestyles Ltd		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 350957 - 311340



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure a financial AHC of £177,877 and a financial highways contribution of £7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of 32 retirement living apartments including communal facilities, vehicular access, landscaping, car parking and mobility scooter parking following demolition of existing building.

1.2 The committee report of 31 August 2017 in respect of 16/04590/FUL is attached as Appendix 3

2.0 SITE LOCATION/DESCRIPTION

2.1 The site comprises the house and part of the garden of 117 Wenlock Road and the vacant field/paddock adjacent to No. 117 that is proposed to be demolished.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 At the meeting of 27th July 2017 Members resolved to approve the application in accordance with the officer's recommendation, subject to:

- The conditions set out in Appendix 1;
- The final detail of the Section 106 legal agreement in relation to affordable housing being brought back to this Committee for approval
- An additional condition for the developer to provide electric vehicle charging points; and
- An additional condition to restrict occupancy of the apartments to people over the age of 55.

At the meeting of 31 August 2017 members resolved that consideration of the application be deferred to seek clarification on the figures in paragraph 5.6 of the report regarding the size of the plot and the threshold land value calculations.

4.0 THE MAIN ISSUES

4.1 Assessment of the viability appraisal including clarification regarding the size of the plot and the threshold land values and agreement to the amount of financial AHC to be secured by a S106 in lieu of on-site provision of affordable housing.

5.0 OFFICER APPRAISAL

5.1 Core Strategy CS11 (Type and affordability of housing) seeks to ensure that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing

target rate, set using the Shropshire Viability Index and the viability of developments taking into account Policy CS9 in respect of infrastructure contributions.

- 5.2 The Type and Affordability of Housing Supplementary Planning Document (SPD) provides detailed guidance to assist in implementing Core Strategy CS11. To provide a balance between flexibility and certainty, the current prevailing target rate for affordable housing is set for a period of twelve months at a time reassessed annually in December each year, for the following financial year. The current prevailing target rate for this area is 20% and for a development of 32 homes this would provide 6 affordable houses on site with the balance as a financial contribution of £25,500.
- 5.3 The SPD advises that affordable housing should normally be provided on site unless there are unusual and exceptional circumstances where it is agreed with the Housing Enabling Officers that provision may be made off-site. In these circumstances the calculation of the off-site financial contribution is based on the full cost of provision of affordable housing elsewhere including land acquisition and the SPD provides a formula. Using this formula and for a development of 32 homes with an average floor area of approximately 70 sqm and build costs of £1,155 per square metre the off-site contribution would be approximately £515,000.
- 5.4 The SPD also outlines circumstances where due to viability a reduced amount of AHC may be negotiated and states the following:
- Where a development can demonstrate to the satisfaction of the Housing Enabling Officer that it is not viable at the level of contribution required, negotiations will determine what would be a viable contribution. An open book accounting approach will be used to assess the financial aspects of the development including land acquisition costs, finance costs, 'abnormal' development costs, professional fees, prevailing market conditions and level of risk.*
- The open book accounting approach will expect land prices to reflect current market conditions, current alternative land use value and current policy requirements.*
- 5.5 The applicant (McCarthy and Stone) have submitted a viability assessment and this indicates that the scheme is not viable with either on site provision or the full financial AHC in lieu of off-site provision and indicates a surplus of £49,447 available for an AHC.
- 5.6 Members were previously advised that the main reason why the McCarthy & Stone viability appraisal demonstrates that a surplus of only £49,447 is viable as an AHC (in addition to a CIL payment of £125,647) compared to the policy compliant 6 affordable houses on site (or the equivalent financial AHC of £515,000) is the value of the existing land. In the August report to committee members were advised the following:

- *The first property (No. 117 Wenlock Road) comprises a detached house on*

a site of 0.28 acres and has an existing value of £600,000.

- *The second property (Land between 117 and 125 Wenlock Road) is a residential development site 0.6 acres and has a value of £460,000.*

There was clearly an error in the quoted site areas as No.117 is greater than half the size of the land adjacent and therefore the figures were incorrect. The correct site area for the land associated with 117 Wenlock Road that forms part of this application is 0.34 acres.

5.7 Using the methodology outlined in the previous report and the threshold land value of £525,000 per acre that the Council has determined as being the level at which a landowner would release their land for redevelopment (and at which a 20% affordable housing provision would be viable) the threshold land values for this site are as follows:

- No. 117 Wenlock Road – 0.34 acres = threshold land value of £178,500 (i.e. £421,500 less than the market value of £600,00)
- Land between 117 and 125 Wenlock Road – 0.6 acres = threshold land value of £315,000 (i.e. £145,000 less than the market land value of £460,000)

The market land value has been assessed and agreed with the Housing Enabling team and the total market land value figure of £1,060,000 is £566,500 more than the total threshold land value of £493,500. It is the high market land value that contributes to the scheme only being viable with an affordable housing contribution of £49,447 instead of the policy compliant figure of £515,000.

5.8 The actual market value of the land is higher than the threshold land value for two reasons. Firstly the development site consists of an existing dwelling and the viability testing that has been done by Shropshire Council to try to ensure the policy is viable does not consider this scenario. Secondly the adjacent land has consent for 4 detached open market houses and is valued at £460,000. This equates to £766,666 per acre based on the site area (0.6 acres). This is higher than the £525,000 per acre at which Shropshire Council's Affordable Housing policy should be viable and this is expected as developments of less than 10 houses are now not usually required to make an affordable housing contribution.

5.9 In addition to the land values adding to the costs of developing this site the viability assessment also includes the costs of marketing the site and the housing enabling team had previously advised the following:

Developers of this type of housing claim that there are significant extra marketing and sales costs attributable to the particular demographics of their customers and the particular product they offer. This level of marketing (6% of GDV) has been accepted on 2 Appeal decisions as appropriate, and means that up to £555,000.00 could be offset to sell these 32 apartments. The marketing of these homes is through McC&S's own internal marketing business. McC&S have agreed to lower

their marketing rate to £470,800.00. (5.5%), to reflect local circumstances.

However since the previous committee the Council has been defending refusal of a similar application (16/00720/FUL) made by Churchill Retirement Living where the Inspector has asked for an assessment of the submitted viability appraisal. The assessment considers that a marketing figure of 4% is appropriate on the Churchill site.

- 5.10 The difference between 4% and 5.5% marketing costs for this McCarthy and Stone proposal would yield an additional £128,400. The applicant has been asked if they would agree to a reduced marketing rate of 4% and the resulting reduction in development costs of £128,400 and whether they would therefore agree to an AHC of £177,877 (£49,477 + £128,400) and have responded as follows:

'We have contacted Churchill this afternoon and they have confirmed that this matter is still in disagreement and is to be considered at the upcoming appeal.

McCarthy & Stone contend that their marketing costs figure proposed is fully justifiable and do not accept that 4% would be appropriate. However, given that a refusal and subsequent appeal would lead to further delay, McCarthy & Stone in this instance on a without prejudice basis will meet the contribution of £177,877 for commercial expediency reasons.

Accordingly, to summarise the applicant want to make it perfectly clear that they do not agree to the 4% marketing costs.

Please note that this figure is only proposed for this committee meeting and should the application not be approved any appeal or deferral would revert back to a figure of £49,477'.

The viability appraisal has been fully reviewed by the Housing Enabling team and officers accept the offer by the applicant of an AHC of £177,877.

- 5.11 The SPD outlines that where a developer demonstrates (to the satisfaction of the Council) that a scheme is not viable at the affordable housing target rate and the Council agrees a reduced contribution rate, the section 106 agreement may include an overage or claw-back clause to enable a further assessment based on achieved development values and actual development costs. This allows for a full "open book" appraisal of the completed schemes finances to assess whether the developer actually achieved in excess of a 20% profit on the GDV. If the development has, the Council seeks to reclaim the excess up to the level of the original policy compliant amount. The applicant has confirmed that they would not accept a S106 agreement with an overage clause as this would be contrary to the guidance contained within the PPG regarding single phase development and would not accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF. They have submitted numerous appeal decisions that support their view that an overage clause should not be included in the S106 for a single-phase development. In light of this evidence Officers agree that it would not be defensible to refuse the

application due to the applicant not being willing to include an overage clause in the S106 agreement.

- 5.12 Members queried at the July committee why the affordable housing was not being provided on site. However that report outlined that it is unlikely that the amount of affordable contribution would be sufficient to provide on-site provision. Now that the offer has been increased to £177,877 this has the potential to provide one or two units on site instead of using the sum for off-site provision.
- 5.13 The applicant as part of the original submission provided information and justification for the contribution being off site in lieu of on-site provision. This was not reported to members as the McCarthy & Stone viability appraisal demonstrated that a surplus of only £49,447 is viable as a financial AHC and this would not be sufficient to provide a whole affordable unit on site.
- 5.14 The applicant has provided justification as to why on site provision of any amount of affordable housing would not be appropriate within this development and this was reported to members in the August committee report. The Housing Enabling team have considered the justification provided and they have confirmed that the Appeal decisions submitted by McCarthy and Stone support their view that it is not appropriate to include affordable housing units within their developments siting potential tensions between their open market customers and Registered Providers (RP's) and tenants, and also siting the physical and practical differences created by the schemes design and differing management regimes.
- 5.15 The Housing enabling team have also confirmed that whilst as a matter of policy the Council would oppose such segregation, there are several practical issues relating to design and management highlighted by Registered Providers when on site provision creates very small numbers of affordable housing (1 or 2 units). In those circumstances, the Council may consider an offsite contribution appropriate. It is considered that the provision of one or two affordable units on this site would not be practical within this development and would be difficult to manage by a registered provider. A financial contribution for off-site provision of affordable housing in lieu of the on-site provision of one or two affordable dwellings is considered acceptable in this instance.
- 5.16 Officers therefore recommend that the application is approved subject to a S106 to secure the agreed financial AHC of £177,877 in lieu of onsite provision and a financial highways contribution of £7,500.00.

6.0 OTHER MATTERS

6.1 ECOLOGY

- 6.1.1 The previous report to members advised that the submitted ecological report indicated that it was likely that the loft space of the house (proposed to be demolished) was used by a single or small number of Pipistrellus sp. during summer 2015 and concluded that the roosting features identified are not currently in use. The Councils Ecologist advised that the existing bat roost cannot

legitimately be regarded as no longer legally protected and that the works will need to take place under a European Protected Species licence from Natural England.

- 6.1.2 Since the committee the applicants Ecologist has had discussions with the Councils Ecologist regarding the need for a condition requiring an EPS licence being submitted before the work commences. The Councils Ecologist has now advised the following:

It is ultimately up to the ecologist and those involved to decide if their actions/the proposals would result in an infringement of the legislation and hence, whether a licence is required or not. Natural England do not provide 'precautionary' licences. Due to this, SC Ecology will not be recommending the EPS licence condition goes onto this planning decision notice.

- 6.1.3 The suggested condition is now not included within the list of suggested conditions within Appendix 1 to this report. However the 'three tests' must still be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful. Shropshire Council's role is to consider if an offence under the Habitats Regulations is likely, and if so, would a licence be obtainable from Natural England, by considering the 'three tests'. Failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 6.1.4 The completed EPS three tests matrix is attached as appendix 2 to this report and should be noted by members. This confirms that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the recommended conditions are imposed and complied with. It is for the developer (McCarthy and Stone) to decide whether the proposed development would result in an infringement of the legislation and whether a licence is required or not. If work is carried out which affects bats or roosts without a license the law will be broken and an offence is punishable by up to a £5000 fine per individual animal impacted and potentially up to 6 months in prison.

6.2 **CONDITIONS**

- 6.2.1 Members requested two additional conditions regarding the provision of electric vehicle charging points and a restriction of the occupancy of the apartments to people over the age of 55. These conditions are now included in the recommended conditions in appendix 1.

7.0 **CONCLUSION**

- 7.1 The submitted viability assessment, the enhanced offer of £177,877 and the justification for why this should not be used to provide one or two units of affordable housing on-site has been assessed by officers and the housing enabling team and

it is agreed that the offer should be accepted. It is considered that in light of the evidence submitted the refusal of this application, due to the applicant being unwilling to enter into an agreement to secure the full policy compliant on-site provision (or the full financial AHC of £515,000 in lieu of this) or their unwillingness to enter into a S106 agreement with an overage clause included would not be defensible at appeal.

- 7.2 The proposal will boost housing supply in a sustainable location providing 32 purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution of £177,877 towards affordable housing (an offer of almost £70,000 higher than when members considered this in August) and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses.
- 7.3 Officers therefore recommend approval subject to the conditions within Appendix 1 and a S106 to secure a financial AHC of £177,877 and a financial highways contribution of £7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.
- 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

Core Strategy Policies: CS2, CS6, CS11 and CS17

SAMDev Policies: MD2 and MD13

RELEVANT PLANNING HISTORY:

16/03635/FUL Erection of 4 no. detached dwellings with 3 no. garage blocks GRANT 3rd November 2016

11. Additional Information

List of Background Papers: File 16/04590/FUL
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member : Cllr Ted Clarke, Cllr Jane Mackenzie, Cllr Tony Parsons
Appendices APPENDIX 1 – Conditions APPENDIX 2 – EPS 3 Tests APPENDIX 3 – 27 July Committee report

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 shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a construction/operative/visitor Traffic Management and HGV Routing Plan

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Japanese Knotweed management plan has been submitted to and approved

in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure the safe eradication of Japanese Knotweed from the site and to ensure that it does not spread

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

5. All demolition, site clearance and development shall occur strictly in accordance with the Soft Strip Method Statement (Environmental Services, December 2016), unless an alternative Method Statement is submitted to and approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

6. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan Ian Keen Ltd drawing 9178/o2 and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

7. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

9. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 4 artificial nests suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).

The boxes shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path, and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

10. No above ground works shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

11. No above ground work shall take place until details for the parking , turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

12. No above ground works shall take place until details of the measures to be taken to provide adequate access and facilities for disabled people have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

Reason: To ensure adequate facilities for the disabled, in accordance with adopted policy

13. No above ground works shall take place until a scheme of surface water drainage (including a proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility for future maintenance) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use and maintained for the lifetime of the development.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and to ensure that the drainage system remains in good working order throughout its lifetime.

14. 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.

15. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery (including the glazed walkway) shall be submitted to and

approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

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

16. Prior to the first occupation of the development hereby approved a scheme outlining the provision of electric vehicle charging points shall be submitted to and agreed in writing with the Local Planning Authority. The electric vehicle charging points shall be implemented in accordance with the agreed scheme.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help protect and exploit opportunities for the use of sustainable transport modes as required by paragraph 35 of the NPPF.

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

17. Any gates provided to close the proposed access shall be set a minimum distance of 5.5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

18. No further windows or other openings shall be formed above ground floor level in the North East facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

19. The occupation of the development hereby approved shall be limited to persons who (a) have reached the age of 55 or over, or (b) have taken early retirement due to infirmity or incapacity, or (c) a widow or widower or partner of a person falling within (a) or (b), or (d) a dependant of a resident falling within (a), (b) or (c) residing with him/her.

Reason: The parking provision provided in the development does not make sufficient provision for general occupation.

APPENDIX 2: EPS 3 Tests matrix**EUROPEAN PROTECTED SPECIES – Consideration of the three tests****Application reference number, site name and description:**

16/04590/FUL
Land At 117/125 Wenlock Road Shrewsbury Shropshire
Erection of 32 retirement living apartments including communal facilities,
landscaping and car parking; formation of vehiucalar access following demolition
of existing property

Date:

30th January 2017

Officer:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Test 1:

Is the development **'in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

The proposal will boost housing supply in a sustainable location providing 32 purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution to affordable housing and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses. The proposal will provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site (including eradication of Japanese Knotweed) with no adverse environmental impacts.

Test 2:

Is there **'no satisfactory alternative?'**

The alternative is not to develop the site or alternatively not demolish the house and implement the previously approved scheme on part of the site. However this would not provide the boost to housing supply numbers in Shropshire, would

not make effective use of the land and would not provide an affordable housing contribution or CIL. This would therefore not provide the social and economic benefits of the proposal and the ecological enhancements of the site including the eradication of Japanese Knotweed to be secured by conditions attached to this planning permission.

Test 3:

Is the proposed activity '**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

A bat survey between July and August 2016 identified a common pipistrelle roost in the building, used in 2015 by a single or small number of bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be demolished.

The Soft Strip Method Statement (Environmental Services, December 2016) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.
- 'Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.'
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be 'installed in to the fabric of the [new] building in groups of two.'
- 'All external lighting during construction to be angled downwards and away from any bat sensitive areas.'
- 'All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Jane Raymond (dated 30th January 2017) are included on the decision notice and are appropriately enforced. The

conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence; and
- Lighting plan.

APPENDIX 3: 31 August Committee Report

Development Management Report

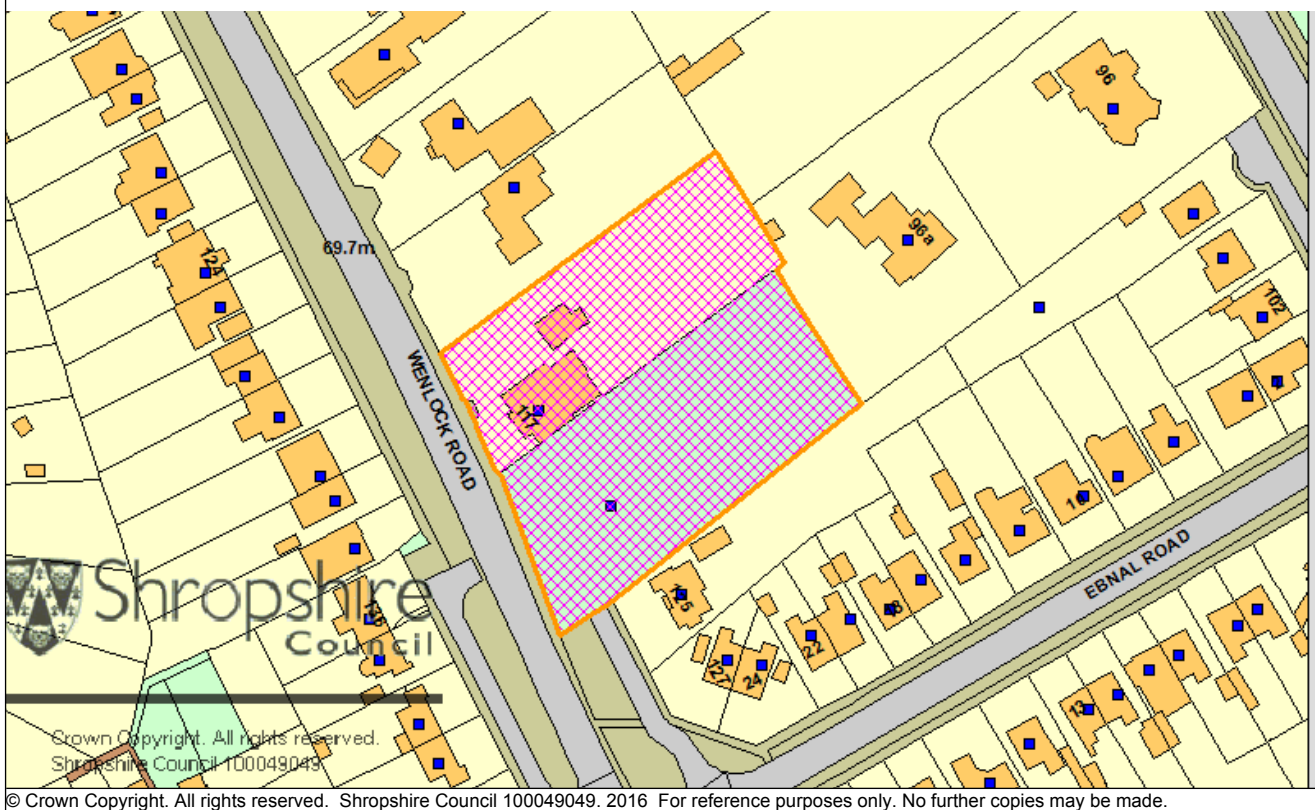
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/04590/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description)		
Site Address: Land At 117/125 Wenlock Road Shrewsbury Shropshire		
Applicant: McCarthy & Stone Retirement Lifestyles Ltd		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 350957 - 311340



Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the agreed financial AHC of £110,000 and a financial highways contribution of

£7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of 32 retirement living apartments including communal facilities, vehicular access, landscaping, car parking and mobility scooter parking following demolition of existing building.
- 1.2 The committee report of 27th July 2017 in respect of 16/04590/FUL is attached as Appendix 3

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises the house and garden of 117 Wenlock Road and the vacant field/paddock adjacent to 117 that is proposed to be demolished.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the meeting of 27th July 2017 Members resolved to approve the application in accordance with the officer's recommendation, subject to:
- The conditions set out in Appendix 1;
 - The final detail of the Section 106 legal agreement in relation to affordable housing being brought back to this Committee for approval
 - An additional condition for the developer to provide electric vehicle charging points; and
 - An additional condition to restrict occupancy of the apartments to people over the age of 55.

4.0 THE MAIN ISSUES

- 4.1 Agreement to the amount of financial AHC to be secured by a S106 in lieu of on-site provision of affordable housing.

5.0 OFFICER APPRAISAL

- 5.1 Core Strategy CS11 (Type and affordability of housing) seeks to ensure that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index and the viability of developments taking into account Policy CS9 in respect of infrastructure contributions.
- 5.2 The Type and Affordability of Housing Supplementary Planning Document (SPD)

provides detailed guidance to assist in implementing Core Strategy CS11. To provide a balance between flexibility and certainty, the current prevailing target rate for affordable housing is set for a period of twelve months at a time reassessed annually in December each year, for the following financial year. The current prevailing target rate for this area is 20% and for a development of 32 homes this would provide 6 affordable houses on site with the balance as a financial contribution of £25,500.

- 5.3 The SPD advises that affordable housing should normally be provided on site unless there are unusual and exceptional circumstances where it is agreed with the Housing Enabling Officers that provision may be made off-site. In these circumstances the calculation of the off-site financial contribution is based on the full cost of provision of affordable housing elsewhere including land acquisition and the SPD provides a formula. Using this formula and for a development of 32 homes with an average floor area of approximately 70 sqm and build costs of £1,155 per square metre the off-site contribution would be approximately £515,000.
- 5.4 The SPD also outlines circumstances where due to viability a reduced amount of AHC may be negotiated and states the following:

Where a development can demonstrate to the satisfaction of the Housing Enabling Officer that it is not viable at the level of contribution required, negotiations will determine what would be a viable contribution. An open book accounting approach will be used to assess the financial aspects of the development including land acquisition costs, finance costs, 'abnormal' development costs, professional fees, prevailing market conditions and level of risk.

The open book accounting approach will expect land prices to reflect current market conditions, current alternative land use value and current policy requirements.

- 5.5 The applicant (McCarthy and Stone) submitted a viability assessment (that was still being assessed by the Housing Enabling team at the time of the July committee) and this indicated that the scheme was not viable with either on site provision or the full financial AHC in lieu of off-site provision and indicated an AHC of £49,447. McCarthy and Stone have recently made the following statement regarding the financial AHC they are willing to offer:

McCarthy & Stone are willing to offer a financial contribution to go forward for the planning committee on 31st August of £110,000 towards off-site affordable housing. This offer is made on a without prejudice basis for commercial expediency. This figure is obviously in excess of the £49,447 detailed in the Alder King viability appraisal.

- 5.6 The main reason why the McCarthy & Stone viability appraisal demonstrates that a surplus of only £49,447 is viable as a financial AHC (in addition to a CIL payment of £125,647) compared to the policy compliant 6 affordable houses on site (or the equivalent financial AHC of £515,000) is the value of the existing land:

- The first property (No. 117 Wenlock Road) comprises a detached house on a site of 0.28 acres and has an existing value of £600,000.
- The second property (land between 117 and 125 Wenlock Road) is a residential development site 0.6 acres and has a value of £460,000.

To help in understanding why this land value is the main reason that the viability assessment demonstrates that a full policy compliant AHC is not viable the following explanation has been provided by Alder King:

Shropshire Council produced a 'Shropshire Viability Study Final Report – May 2013' which viability tested their proposed affordable housing policy. Within Area A (in which the property sits) the recommended target for Affordable Housing is 20%. In arriving at that figure, the report reviewed a number of different 'benchmark' or 'threshold' land values – simply put, the price that would be necessary to incentivise a landowner to sell their land for redevelopment. Agricultural land values were considered as were development site values in high value areas. A 'threshold land value' of £525,000 per acre has been determined by Shropshire Council as being the level at which a landowner would release their land for redevelopment and at which a 20% affordable housing provision would be viable.

A threshold land value of £525,000 per acre would equate to the following:

- *No. 117 Wenlock Road – 0.28 acres = £147,000 (i.e. £453,000 less than market value)*
- *Land between 117 and 125 Wenlock Road – 0.6 acres = £315,000 (i.e. £145,000 less than market value)*

The 'Shropshire Viability Study Final Report' did not consider the situation we have at Wenlock Road whereby McCarthy & Stone are buying an existing dwelling house. The market value of £600,000 for No. 117 Wenlock Road equates to in excess of £2million per acre (although existing residential houses are rarely analysed in this way). For Shropshire Council's Affordable Housing policy to work, the owner should only expect to receive £147,000 for their property. Clearly it is wholly unrealistic for any homeowner to dispose of their property for significantly less than market value in order for the Council to gain their full Section 106 demands.

A homeowner would not be incentivised to sell their house for £147,000 to a developer, when they could sell their house for £600,000 to another homeowner. Thus, immediately there is a shortfall of £453,000 between the level at which Shropshire Council's affordable housing policy is viable and the level that McCarthy and Stone have to pay in order to secure the site.

Secondly, in Land between 117 and 125 Wenlock Road, McCarthy & Stone are purchasing a small site that is unencumbered by the Shropshire Council Affordable Housing Policy. The land has consent for 4 detached open market houses and is valued at £460,000. This equates to £766,666 per acre based on the site area (0.6

acres). Again, that is higher than the £525,000 per acre at which Shropshire Council's Affordable Housing policy should be viable, but that is to be expected from a small exclusive development site which does not factor in affordable provision.

Thus the land value is the key factor in this particular instance that results in Shropshire Council's affordable housing targets not being met. The landowners are entitled to a 'competitive return' and this is enshrined within the NPPF. They are not required to release their land at less than market value and indeed are entitled to be sufficiently incentivised. Cases where existing residential houses are purchased for redevelopment are not the norm, and the viability testing that has been done by Shropshire Council to try to ensure their policy is viable, has not considered this scenario.

- 5.7 Officers have reviewed this statement and consider that McCarthy and Stone have satisfactorily justified why the difference between the actual value of 117 Wenlock Road) £600,000 and its threshold land value of £147,000 leaves a shortfall of £453,000. It is the value of the existing detached 7 bedroomed home that results in this scheme not being viable if the policy compliant affordable housing is expected to be provided on site or an off-site contribution of £515,000 is accepted in lieu of this.
- 5.8 McCarthy and Stone have made an offer (on a without prejudice basis for commercial expediency) of a financial contribution of £110,000 towards off-site affordable housing. This figure is more than double the £49,447 detailed in the Alder King viability appraisal. McCarthy and Stone have advised that if this application is refused because the offer of £110,00 is considered to be unacceptable they would revert to the fully evidenced figure of £49,447 for any subsequent appeal.
- 5.9 The Housing Enabling team have reviewed the viability assessment that indicates that the Gross Development Value (GDV) of the scheme, minus Gross Development Costs (GDC) that includes site purchases, and profit (20% of the GDV), leaves only £49,477 towards affordable housing. They have provided the following advice regarding how GDV, GDC and profit are calculated.

Gross Development Value (GDV)

The GDV of the site is predicated upon anticipated sale values of all the 32 apartments and has assumed that all the appt's are for open market sale. The values used in the appraisal are considered by the Council to be reasonable and are in fact slightly higher than those provided by 2 local agent's.

Gross Development Costs (GDC)

These are the total scheme costs and include the land purchase, all construction costs, professional fees and finance costs. The construction costs are based upon nationally compiled figures by the Royal Institute of Chartered Surveyors (RICS) for this type of development. Although the Council would prefer to see the level of construction costs McC&S actually achieves on the 44 new developed schemes they aim to build this financial year, the use of the RICS generated figures is a

recognised source for viability appraisals.

Developers of this type of housing claim that there are significant extra marketing and sales costs attributable to the particular demographics of their customers and the particular product they offer. This level of marketing (6% of GDV) has been accepted on 2 Appeal decisions as appropriate, and means that up to £555,000.00 could be offset to sell these 32 apartments. The marketing of these homes is through McC&S's own internal marketing business. McC&S have agreed to lower their marketing rate to £470,800.00. (5.5%), to reflect local circumstances.

Profit

A 20% profit on the GDV is widely accepted as a current industry norm and a necessary return for national/regional house builders in order to satisfy their lenders and level of borrowing. This level of profit has again been accepted on Appeal and is also a policy complaint figure used when an overage clause is used by the Council when varying a s106 affordable housing contribution.

- 5.10 The SPD outlines that where a developer demonstrates (to the satisfaction of the Council) that a scheme is not viable at the affordable housing target rate and the Council agrees a reduced contribution rate, the section 106 agreement may include an overage or claw-back clause to enable a further assessment based on achieved development values and actual development costs. This allows for a full “open book” appraisal of the completed schemes finances to assess whether the developer actually achieved in excess of a 20% profit on the GDV. If the development has, the Council seeks to reclaim the excess up to the level of the original policy compliant amount. The applicant has confirmed that they would not accept a S106 agreement with an overage clause as this would be contrary to the guidance contained within the PPG regarding single phase development and would not accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF. They have submitted numerous appeal decisions that support their view that an overage clause should not be included in the S106 for a single-phase development. In light of this evidence Officers agree that it would not be defensible to refuse the application due to the applicant not being willing to include an overage clause in the S106 agreement.
- 5.11 Members queried at the July committee why the affordable housing was not being provided on site. However that report outlined that it is unlikely that the amount of affordable contribution would be sufficient to provide on-site provision. Now that the offer has been increased to £110,000 this has the potential to provide one unit on site instead of using the sum for off-site provision.
- 5.12 The applicant as part of the original submission provided information and justification for the contribution being off site in lieu of on-site provision. This was not reported to members as the McCarthy & Stone viability appraisal demonstrated that a surplus of only £49,447 is viable as a financial AHC and this would not be sufficient to provide a whole affordable unit on site.
- 5.13 The applicant provided the following justification to why on site provision of any

amount of affordable housing would not be appropriate within this development:

Off-Site Provision of Affordable Housing

There are very real and fundamental difficulties in accommodating affordable housing on-site with private sheltered housing of the type detailed within this application. Although government advocates the encouragement of mixed communities, it does not state that this should be accommodated on each and every site. Paragraph 50 of the NPPF states that "...where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed and balanced communities in the local authority area." (my emphasis).

My Client would argue that the provision of Category II Sheltered accommodation on small urban sustainable sites such as this itself contributes to mixed communities.

McCarthy & Stone assert that the provision of on-site affordable housing units within specialised housing for the elderly is both problematic and unviable and that an off-site contribution would be more suitable in this instance. However, in order to clearly understand the difficulties that will arise from trying to mix affordable housing alongside private sheltered housing, it is important to understand what sheltered housing is and how it operates.

The specialised communal living environment provided by private Category II Sheltered Housing results in the payment of a service charge by the residents, which covers the upkeep and maintenance of all internal communal areas, the external building fabric and the external grounds, including the gardens and car-parking. In addition, the service charge also covers the salary and accommodation costs of the resident house-manager. Following completion of construction the overall management of the development is passed on to a specialist management company and a further resident's association is generally set up by the residents to facilitate liaison with the management company.

When mixing low-cost / heavily subsidised sheltered housing with open market sheltered housing, one must bear in mind the significant use of the shared communal facilities within private sheltered housing. The level of services provided to the residents of private sheltered housing result in the level of service charge being a significantly larger proportion of total living costs than would apply to other forms of accommodation. It would be very difficult to set the service charge at a level that would cover the costs of the type of management that private purchasers expect, yet still be affordable to residents of affordable housing. It would also be difficult for the affordable housing provider to guarantee payment of a service charge in perpetuity that would be liable to change on an annual basis.

Another consequence of trying to mix private sheltered housing with low cost/ subsidised housing would be the significant potential for friction and animosity between those residents who pay a significant annual service charge for premium services after purchasing a property and those who would occupy low cost or

heavily subsidised apartments, but have use of the same services. It is not unreasonable to assume that some residents would resent the fact that their neighbours are enjoying the same level of services for a fraction of the cost, or that they may perceive themselves to be subsidising others. This situation would only serve to exacerbate management problems and disputes between neighbours and would ultimately undermine the success of the housing development.

If attempts are made to try to overcome management, maintenance and service charge issues by splitting the site to have separate blocks for the sheltered and affordable accommodation, this introduces further issues. The proposed development site is relatively small at 0.39 hectares and its physical constraints are such that a separate block of affordable housing, with the necessary access, parking and amenity space, would reduce the size of the sheltered block by such a degree to make it unviable and inefficient. A further loss of units would derive from the separation of the blocks and provision of sufficient amenity area. The significant reduction in sheltered units would mean that fewer elderly purchasers would have to share the fixed cost of the necessary communal facilities associated with sheltered housing and make the market sheltered scheme unviable. The commuted sum for the provision of off-site affordable housing would lead to more appropriate and acceptable housing layouts for both the sheltered and affordable provision.

Thus an attempt to shoehorn affordable housing within the same site would result in a likely loss of private units leading to an unviable level of provision for both sheltered and affordable accommodation.

The inherent difficulties of attempting to integrate other forms of housing within private sheltered housing for the elderly that are detailed above are generally accepted and have been consistently accepted by Inspectors when this matter has been assessed at appeal.

As a result of the above it is clearly not feasible to meet the Council's affordable housing requirement on-site. The proposed development therefore clearly meets the "exceptional circumstances" requirement detailed in the Affordable Housing Supplementary Planning Guidance and that an off-site financial contribution is accordingly the most appropriate option in this instance.

- 5.1.4 The Housing Enabling team have considered the above and have confirmed that the Appeal decisions submitted by McCarthy and Stone support their view that it is not appropriate to include affordable housing units within their developments siting potential tensions between their open market customers and Registered Providers (RP's) and tenants, and also siting the physical and practical differences created by the schemes design and differing management regimes.
- 5.1.5 The Housing enabling team have also confirmed that whilst as a matter of policy the Council would oppose such segregation, there are several practical issues relating to design and management highlighted by Registered Providers when on site provision creates very small numbers of affordable housing (1 or 2 units). In those circumstances, the Council may consider an offsite contribution appropriate. It is considered that the provision of one affordable unit on this site would not be

practical within this development and would be difficult to manage by a registered provider. A financial contribution for off-site provision of affordable housing in lieu of the on-site provision of one affordable dwelling is considered acceptable in this instance.

- 5.1.6 Officers therefore recommend that the application is approved subject to a S106 to secure the agreed financial AHC of £110,000 in lieu of onsite provision and a financial highways contribution of £7,500.00.

6.0 OTHER MATTERS

6.1 ECOLOGY

- 6.1.1 The previous report to members advised that the submitted ecological report indicated that it was likely that the loft space of the house (proposed to be demolished) was used by a single or small number of *Pipistrellus* sp. during summer 2015 and concluded that the roosting features identified are not currently in use. The Councils Ecologist advised that the existing bat roost cannot legitimately be regarded as no longer legally protected and that the works will need to take place under a European Protected Species licence from Natural England.
- 6.1.2 Since the committee the applicants Ecologist has had discussions with the Councils Ecologist regarding the need for a condition requiring an EPS licence being submitted before the work commences. The Councils Ecologist has now advised the following:

It is ultimately up to the ecologist and those involved to decide if their actions/the proposals would result in an infringement of the legislation and hence, whether a licence is required or not. Natural England do not provide 'precautionary' licences. Due to this, SC Ecology will not be recommending the EPS licence condition goes onto this planning decision notice.

- 6.1.3 The suggested condition is now not included within the list of suggested conditions within Appendix 1 to this report. However the 'three tests' must still be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful. Shropshire Council's role is to consider if an offence under the Habitats Regulations is likely, and if so, would a licence be obtainable from Natural England, by considering the 'three tests'. Failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 6.1.4 The completed EPS three tests matrix is attached as appendix 2 to this report and should be noted by members. This confirms that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the recommended conditions are imposed and complied with. It is for the developer

(McCarthy and Stone) to decide whether the proposed development would result in an infringement of the legislation and whether a licence is required or not. If work is carried out which affects bats or roosts without a licence the law will be broken and an offence is punishable by up to a £5000 fine per individual animal impacted and potentially up to 6 months in prison.

6.2 **CONDITIONS**

- 6.2.1 Members requested two additional conditions regarding the provision of electric vehicle charging points and a restriction of the occupancy of the apartments to people over the age of 55. These conditions are now included in the recommended conditions in appendix 1.

7.0 **CONCLUSION**

- 7.1 The submitted viability assessment, the enhanced offer of £110,000 and the justification for why this should not be used to provide a single unit of affordable housing on-site has been assessed by officers and the housing enabling team and it is agreed that the offer should be accepted. It is considered that in light of the evidence submitted the refusal of this application, due to the applicant being unwilling to enter into an agreement to secure the full policy compliant on-site provision (or the full financial AHC in lieu of this) or their unwillingness to enter into a S106 agreement with an overage clause included would not be defensible at appeal.

- 7.2 Officers therefore recommend approval subject to a S106 and the conditions within 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: NPPF

Core Strategy Policies: CS2, CS6, CS11 and CS17

SAMDev Policies: MD2 and MD13

RELEVANT PLANNING HISTORY:

16/03635/FUL Erection of 4 no. detached dwellings with 3 no. garage blocks GRANT 3rd November 2016

11. Additional Information

List of Background Papers: File 16/04590/FUL
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member : Cllr Ted Clarke, Cllr Jane Mackenzie, Cllr Tony Parsons
<p>Appendices</p> <p>APPENDIX 1 – Conditions</p> <p>APPENDIX 2 – EPS 3 Tests</p> <p>APPENDIX 3 – 27 July Committee report</p>

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 shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a construction/operative/visitor Traffic Management and HGV Routing Plan

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Japanese Knotweed management plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure the safe eradication of Japanese Knotweed from the site and to ensure that it does not spread

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

5. All demolition, site clearance and development shall occur strictly in accordance with the Soft Strip Method Statement (Environmental Services, December 2016), unless an alternative Method Statement is submitted to and approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

6. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan Ian Keen Ltd drawing 9178/o2 and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

7. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

9. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 4 artificial nests suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).

The boxes shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path, and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

10. No above ground works shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

11. No above ground work shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

12. No above ground works shall take place until details of the measures to be taken to provide adequate access and facilities for disabled people have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

Reason: To ensure adequate facilities for the disabled, in accordance with adopted policy

13. No above ground works shall take place until a scheme of surface water drainage (including a proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility for future maintenance) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use and maintained for the lifetime of the development.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and to ensure that the drainage system remains in good working order throughout its lifetime.

14. 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.

15. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery (including the glazed walkway) shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

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

16. Vehicle charging condition

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

17. Any gates provided to close the proposed access shall be set a minimum distance of 5.5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

18. No further windows or other openings shall be formed above ground floor level in the North East facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

19. The occupation of the development hereby approved shall be limited to persons who (a) have reached the age of 55 or over, or (b) have taken early retirement due to infirmity or incapacity, or (c) a widow or widower or partner of a person falling within (a) or (b), or (d) a dependant of a resident falling within (a), (b) or (c) residing with him/her.

Reason: The parking provision provided in the development does not make sufficient provision for general occupation.

APPENDIX 2: EPS 3 Tests matrix

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application reference number, site name and description:

16/04590/FUL
Land At 117/125 Wenlock Road Shrewsbury Shropshire
Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehiucular access following demolition of existing property

Date:

30th January 2017

Officer:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Test 1:

Is the development **'in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

The proposal will boost housing supply in a sustainable location providing 32 purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution to affordable housing and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses. The proposal will provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site (including eradication of Japanese Knotweed) with no adverse environmental impacts.

Test 2:

Is there **'no satisfactory alternative?'**

The alternative is not to develop the site or alternatively not demolish the house and implement the previously approved scheme on part of the site. However this would not provide the boost to housing supply numbers in Shropshire, would not make effective use of the land and would not provide an affordable housing contribution or CIL. This would therefore not provide the social and economic benefits of the proposal and the ecological enhancements of the site including the eradication of Japanese Knotweed to be secured by conditions attached to this planning permission.

Test 3:

Is the proposed activity **'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

A bat survey between July and August 2016 identified a common pipistrelle roost in the building, used in 2015 by a single or small number of bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be demolished.

The Soft Strip Method Statement (Environmental Services, December 2016) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.
- 'Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.'
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be 'installed in to the fabric of the [new] building in groups of two.'
- 'All external lighting during construction to be angled downwards and away from any bat sensitive areas.'
- 'All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Jane Raymond (dated 30th January 2017) are included on the decision notice and are appropriately enforced. The conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence; and
- Lighting plan.

APPENDIX 3: 27 July Committee Report



Committee and date
27 July 2017

Item
Public

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/04590/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description)		
Site Address: Land At 117/125 Wenlock Road Shrewsbury Shropshire		
Applicant: McCarthy & Stone Retirement Lifestyles Ltd		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 350957 - 311340

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Recommendation: That members resolve to approve the application but give officers delegated authority to agree the amount of Affordable Housing Contribution (AHC) and issue the decision notice subject to a S106 to secure the agreed AHC and a financial highways contribution of £7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of 32 retirement living apartments including communal facilities, vehicular access, landscaping, car parking and mobility scooter parking following demolition of existing building.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site comprises the house and garden of 117 Wenlock Road and the vacant field/paddock adjacent to 117 which is proposed to be demolished.

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 and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Conservation (comments following receipt of amended plans):

Background

We had previously noted at the formal planning application stage that the proposal would need to demonstrate that a development would be of a required standard to justify the loss of 117 Wenlock Road, deemed to be a non-designated heritage asset. A heritage assessment was subsequently submitted and revised plans prepared.

Assessment

The main dwelling currently on the site, albeit not present at the time of the first edition OS mapping, is felt to be representative of the period of early 20th century development on the site and in the vicinity, and has a strong connection with the large Edwardian property known as Woodville, which faces London Road. The boundary walls and garden features are believed to be contemporary with the building of Woodville, and should be protected and restored as part of the scheme. Whilst it is believed that the dwelling itself is worthy of recording prior to any demolition, it has been extended significantly and its historic form has been largely subsumed by modern extensions.

It has been emphasised that the design of the development should minimize any harmful impact on the character and appearance of the area and the street scene in particular, making a positive contribution to ensure compliance with policies on design and the protection of the historic environment.

The amendments to the plans in terms of scale, design, stepping back the footprint of the central atrium, and varying gables and chimneys to enhance traditional design and detailing, generally reflect the context and local vernacular of the area. In order to further enhance this, the scheme will be expected to deliver a high standard of construction, which should be addressed through a series of conditions ensuring the selection of materials and finishes are appropriate to its context. With regard to this, there are some refinements and clarifications on materials and finishes, which would be welcomed; these are largely in terms of the surface finish, detail and materials of rainwater goods to the linking blocks, and window details including materials and depth of reveals to these elements – these should be the subject of pre-commencement conditions as detailed below and not on the basis of current plans.

Recommendation:

Generally no objection on conservation or design grounds as on balance the scheme is considered to accord with the relevant policies, guidance and legislation noted above, subject to the inclusion of the following conditions: CC1 (External Materials), JJ20 (Joinery – with revised Reasons), pre demolition recording of the main house and retention of any garden features, plus conditions to agree hard and soft surfaces for the driveway access, parking and amenity areas, as well as any

boundary walling or enclosure features.

4.1.2 **SC Highways** (final comments on proposal as amended):

Recommendation

No Objection - Subject to the development being carried out in accordance with the approved details and the following conditions/informatives

Observations/Comments:

It is considered that the currently submitted details supporting the revised development proposals have been robustly presented and justified. However, given the site location, 'retirement living' occupancy type and the precedent set by the similar McCarthy & Stone development on Copthorne Road, Shrewsbury. An absolute minimum allocation of one parking space per apartment should be provided to support this development proposal.

In the circumstances, if a minimum of 32 car parking spaces can be incorporated within the application site, then it is considered that this development could be acceptable from a highway & transport perspective.

Notwithstanding the above, should the developer choose not to improve the car parking ratio within the site, it is recommended that the Developer enters into a Section 106 Agreement with the Council. For the purposes of securing a financial contribution of £7,500.00, to be held for 5 years following the full occupation of the development. This contribution could then be used, by the Council, for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders, on Wenlock Road (or any adjacent streets), should any overspill car parking take place, associated with the development, which is considered to be contrary to the interests of highway safety.

Would also support an appropriately worded condition that restricts the age of the occupants, this will seek to reduce the level of car ownership and associated demand on parking. Mouchel have recommended that a condition is placed upon any permission granted that requires details of access to be submitted, and would welcome this condition as the details of the current access do not show the viability splays and swept paths.

On receipt of additional information confirmed that the proposed layout of the access is sufficient to accommodate two-way car movements, as requested. However, the details presented in the applicant's email dated 24th May 2017, does not provide all the detail required to discharge the recommended conditions (i.e. no construction specification or visibility splays shown.)

4.1.3 **SC Waste Management:** It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <http://new.shropshire.gov.uk/media/2280/shropshireplusrefuse-and-recycling-planning-guidanceplusseptemberplus2015plusversionplusa.pdf>

We would prefer to see vehicle tracking of the refuse vehicle to ensure the vehicle can manoeuvre the roads of the development. Collection crews would need a code or fob to access the site as it is gated.

With regards to refuse vehicles Highways have confirmed that normal waste collection arrangements for existing residents along Wenlock Road is currently undertaken at kerbside, so this particular operation, if it is only once a week, is probably going to be acceptable.

4.1.4 **SC Trees:** Recommends a condition in order to protect the retained trees on site and adjacent important amenity trees.

4.1.5 **SC Ecology:**

Bats

A bat survey was carried out on this site between July and August 2016 by Environmental Services.

During an initial inspection, approximately 50 pipistrelle droppings ‘were discovered in the loft space of the original structure’, ‘scattered below the central beam of the original building and at each gable end. The droppings were old suggesting the loft space has not been used by bats in 2016, and given the number found was used by a single or small number of individuals.’

A re-entry survey was carried out on 13th July and emergence surveys were carried out on 11th August and 22nd August. Static detectors were also used.

A ‘possible emergence’ was recorded during the first emergence survey ‘from the Northwest facing elevation. As a result, the loft space was checked for a second time and an additional surveyor added to the third survey effort in order to specifically watch this area. No fresh droppings were discovered and no bat emergence was identified from the building. Therefore the ‘possible’ emergence is highly likely to have been a bat flying over the building foraging between the gardens and the vacant plot of land.’

Common pipistrelles were recorded foraging around ‘the main property and over the vacant plot of land’ during the surveys. No roosting behaviour was identified.

Bats do not appear to be currently using the building but ‘the loft space was likely used by a single or small number of *Pipistrellus* sp. during summer 2015’. Therefore, the works will need to take place under a European Protected Species licence from Natural England.

Environmental Services have produced a Soft Strip Method Statement (December 2016) which sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.
- ‘Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.’
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be ‘installed in to the fabric of the [new] building in groups of two.’
- ‘All external lighting during construction to be angled downwards and away from any bat sensitive areas.’
- ‘All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.’

A European Protected Species 3 tests matrix is provided and the planning officer needs to complete sections 1 and 2, ‘over riding public interest’ and ‘no satisfactory alternative.’ The EPS 3 tests matrix must be included in the planning officer’s report for the planning application and discussed/minuted at any committee at which the application is considered.

RammSanderson Ecology Ltd was commissioned to undertake a single nocturnal survey of this site to update the previous survey work. One bat survey was conducted following the negative result of roosting bats during the 2016 nocturnal surveys. RammSanderson Ecology has concluded that the roosting features identified are not currently in use.

SC Ecology considers that the existing bat roost cannot legitimately be regarded as no longer legally protected.

Natural England require a period of monitoring for a bat roost prior to its ‘de-designation’. If it can be demonstrated that a former bat roost had not been occupied by bats for a period of five years or more, it might no longer constitute as a bat roost and therefore no longer fall under the legal protection of the Habitats Regulations, but to my knowledge, this timeframe has not yet been tested in Court, so one ought to be cautious.

Natural England advises on a timeframe of 'after a number of years'. A sufficient level of survey work would be needed to demonstrate long-term absence of bats. When applying for an EPS licence, it is often the case that an estimate of the number of bats using the roost during a typical calendar year is not known accurately, but the total(s) applied for must be strongly indicative and supported evidentially. The status of the roost is equally important. This evidence can be based on counts of bat droppings, their age, distribution, setting; looking at the potential bat features within a structure and all with the bat's ecology – typical sizes of roosts etc. all taken into account.

The Bat Survey Guidelines state (the main information relevant here is in Chapter 7):

Section 7.2.8 states:

Dusk and dawn surveys should be repeated until the information outlined in sect 5.1 is reliably collected, although appropriate methods and equipment should be used to minimise the number of survey visits required and effort should always be proportionate to impact. If presence has been confirmed by droppings found during a preliminary roost assessment but bats have not been detected during roost characterisation surveys, it may be necessary to carry out further surveys at alternative times of year.

Based on the points above the comments made by SC Ecology from Sophie Milburn, dated 30.01.2017, are still relevant to this planning application. As bats tend to re-use the same roost after periods of vacancy, legally a roost is protected whether a bat is present at that time or not. Due to the evidence of bat droppings Shropshire Council will complete the 'three tests'. The 'three tests' must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful. Shropshire Council's role is to consider if an offence under the Habitats Regulations is likely, and if so, would a licence be obtainable from Natural England, by considering the 'three tests'. Failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

If work is carried out which affects bats or roosts without a license the law will be broken. The applicant should be aware that an offence is punishable by up to a £5000 fine per individual animal impacted and potentially up to 6 months in prison.

Birds

Environmental Services do not record whether any evidence of birds was found on or in the building.

Vegetation removal should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check

should be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Bird boxes should be erected on the site to enhance the nesting opportunities available for birds.

Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.

The landscaping scheme should ideally contain more native species of local provenance and species of particular value to wildlife.

4.1.6 **SC Drainage:** The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

4.1.7 **SC Affordable Homes:** Awaiting final view on the viability assessment and agreement on the amount of financial affordable housing contribution.

4.2 - Public Comments

4.2.1 **Shrewsbury TC:** Objects: Initially concerned that the parking provision is inadequate for the number of residential units and disliked the massing of the building and considered that the demolition of 117 Wenlock Road would be a significant loss to the area. On receipt of the amended plans welcomed the amendments which have addressed the concerns regarding the level of massing. Members however do have a retained concern about the number of parking places and given that the local area has minimal on-street parking on this busy gateway into the town they would welcome a 1:1 ratio regarding car-parking.

4.2.2 **West Mercia Constabulary:** Provides advice on crime prevention through the environmental design advice within 'Secured By Design' to explore opportunities to design out crime and /or the fear of crime and to promote community safety.

4.2.3 31 letters of objection have been received and 12 letters of support to the scheme as first submitted and as amended summarised as follows (comments are available to view in full on the public file):

4.2.4 Support:

- The proposal is well designed and attractive and would suit the street scene.

- Although the proposal is wide, 113 and 115 are almost joined at their shared boundary and together offer quite a wide frontage which people are already accustomed to seeing.
- The height will be similar to 125 and less than the front portion of the Tower House.
- It will add to the wide variety of building ages and styles between Armoury Gardens and Ebnal Road.
- The development seems to be generally in keeping with and will blend in well with surrounding properties.
- No. 117 is a fine house but would not be missed if it were to go.
- The site has been an eyesore for too long and looking forward to this well needed development in an excellent location.
- The development would eradicate the Japanese Knotweed which should be welcomed and M & S have experience in dealing with brownfield sites such as this and can be depended on to clean up this land.
- It is relatively high density compared to the alternative approved four houses but it would mean less disturbance to the occupiers of nearby properties.
- Retired people have simpler more 'low key' lives than families. Four 4-bed houses could have up to a dozen children squealing and shouting in gardens, birthday parties, barbeques and barking dogs etc.
- Wenlock Road could easily accommodate the extra traffic and it's not a commercial development. Apart from a short period in the mornings and evenings the traffic density is not an issue.
- The alternative 4 houses would do nothing for affordable housing.
- Both central and local government are under huge pressure to increase housing supply but in particular for couples and those living alone.
- Provision of suitable housing for the older age group is limited in this part of Shrewsbury but figures show that this ward has a high number of residents over 65 years.
- There are enough 4 bedroom homes in this location.
- Having family in Shrewsbury and now living alone one of these apartments would be ideal and it will be a good area to retire to.
- Have lived in the area for over 30 years and want to stay but until now there

has been nothing suitable to down size to.

- These apartments will free up family homes.
- This development is in an ideal residential location with a frequent bus service.
- There are local shops for essentials and two mini supermarkets only a few hundred yards away. The local shops including the butchers at Mereside would benefit from the extra business.
- St Giles Parish Church, and Parish Hall, Mereside Community Centre, Doctors surgery and chemist, dental practice, the facilities at SCAT (Hairdressers and restaurant) and local pubs are all nearby.
- This development with its communal areas will facilitate mutual support for the residents and alleviate isolation and loneliness which so often lead to the need for hospitalisation.
- The grouping of people of similar disposition can help make nursing care and the distribution of medication more efficient and cost effective.

4.2.5 Object:

- Residents have obtained 107 signatures from the local residents opposing the scheme, including those living on Wenlock Road, Armoury Gardens, Ebnal Road and London Road.
- The site is constrained and cannot accommodate over 30 dwellings and does not provide sufficient parking or the ability to deal with surface water without flooding nearby gardens.
- Little mention of any rainwater or 'grey' water recycling other than a few rainwater butts. The size of the proposal must lead to an increase in the volumes of water required and sewage generated. Recycling rainwater and grey water would reduce any increasing demand for water and help reduce run off.
- The dwelling to be demolished is one of the original dwellings on this highway route into town and should not be demolished and would result in demonstrable harm to the amenity of the area.
- Demolition of 117 Wenlock Road that contributes to the distinctiveness of the locality would be in conflict with LDF strategic objective 7 and the large replacement building does not 'respond to the local context.
- It is ironic that the trees and hedge should be preserved but a house allowed to be demolished.

- Reduction in the height of the hedge reduces nesting opportunities for the local small bird communities.
- The nature and form of development should match the surrounding development and three storey development is unacceptable.
- The development is over intensive and three storey development would be incongruous to the street scene.
- The apartment building is totally out of character with the mainly detached and semi-detached nature of development in the area.
- The proposed building is too high - overlooking neighbouring gardens resulting in a lack of privacy issues for residents.
- It might also appear intrusive and result in a loss of light.
- Whilst an attempt has been made to reduce the scale of the building it will still be massive with a large car park to the front and would be more appropriate on an industrial estate. It is till incongruent and not in keeping with the area.
- The front elevation has basically remained the same with a few aesthetic tweaks and adding a few chimneys to an already large building does not make it more sympathetic to its surroundings.
- The new glass connecting corridors and black timber facade do not “reflect the local character of the street scene”.
- This development is not two and a half storeys it is a three storey block of flats not three ‘pavillions’ or ‘villas’.
- The revised plan still represents a physical overdevelopment of the site when compared to other properties along Wenlock Road which present a varied and attractive range of private homes.
- Over 30 houses would result in a considerable increase in traffic movements compared to that of the four houses already approved.
- Wenlock Road is already busy and the impact of the development has to be considered on both the access onto the highway and the wider road network and junctions.
- There will be thousands of additional traffic movements due to the development on Oteley Road and Emstrey Business park causing more potential for highway danger and this proposal should be viewed in the context of that.

- Shropshire Council must accept that there is a highway safety issue due to the road closure and highway improvements including pedestrian crossings in recent years.
- The development will generate at least 90 traffic movements a day and this will be dangerous close to a complicated road junction and a pedestrian crossing.
- Insufficient parking is provided. Although the apartments are aimed at the over 55 age group there is nothing in planning law or land law to stop anyone buying and occupying one of the apartments from owning one or two cars.
- Developers anticipate the average age of occupants to be around 79 years which is based on previous developments. Statistics are fine as a basis for calculating
- unknowns but they are not facts and until the properties are all sold this will remain just speculation.
- The nature of occupation means that it is likely that there will be more visits from health visitors etc. and parking will be required. Residents and visitors will park on the road or on the grass and slip road opposite, causing congestion and highway dangers.
- There is no provision for disabled parking and the parking of larger vehicles such as emergency vehicles and deliveries.
- In sufficient parking on site will result in parking on Wenlock Road which will be a hazard and add to the congestion.
- There is no emergency assembly area indicated on the plans
- From experience of working in a M & S property a more accurate and true reflection of what to expect is that:
 - 1/ half of residents will have cars
 - 2/half of residents will come from outside the area (Shropshire)
 - 3/a very high turnover of residents
 - 4/ a high level of 'care' traffic (ambulances, doctors, nurses and several types of care personnel)
- Good quality and frequently accessible public transport is not available in this area of Wenlock Road which has only a limited bus service and no service later in the evening.
- A pedestrian crossing should be installed at the Column end of Wenlock Road at the expense of the developer.

- The influx of up to 100 elderly residents will impose extra burden on: a) already overstretched doctors surgeries b) local post offices c) local bus services, which are already overcrowded.
- Shrewsbury already has an excess of elderly residents and adding more places a
- further burden on the social and healthcare services already stretched to breaking point.
- There is no provision for parking during the construction phase causing congestion and impact on highway and public safety.
- Air pollution, dust and noise pollution will be increased during construction
- The proposal could impact on bats and owls in the area and a bat survey should be undertaken. There was standing water on the site and a newt survey should be carried out.
- The Japanese Knotweed needs to be fully investigated and dealt with.
- The proposal does not represent an appropriate use of available land as required by LDF strategic objective 4.
- It does not provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly as required by LDF objective 5.
- The prices they are marketed at are beyond the means of the vast majority of local residents in the target age range.
- The proposal fails to address the need for social housing provision and should include affordable housing and this should not be negotiable
- The development will not meet the housing needs of local elderly but is expected to attract more wealthy individuals from elsewhere, thereby reducing the availability of land and affordable properties for local residents.
- What will ensure that the apartments are only occupied by the elderly.
- Who will be responsible for the upkeep of the building and the communal areas.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale, design and appearance
Impact on residential amenity

Access and parking
Trees and Ecology
Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 This proposed development for open market retirement apartments falls within Use Class C3 (Dwelling Houses). The site is considered to be in a sustainable location reasonably close to the Town Centre and other services and facilities nearby. It is situated within the urban development boundary for Shrewsbury identified within SAMDev and the provision of housing within the urban area of Shrewsbury accords with policy CS2 that identifies Shrewsbury as the primary focus for housing development for Shropshire.

6.1.2 CS2 identifies that the ageing population is a particular issue in Shropshire, where 28.4% of the population is expected to be over the age of 65 by 2026. There is a requirement for all types and size of housing to meet the housing need but in particular there is a need for smaller accommodation to suit the elderly. Although not providing affordable accommodation this proposal will help meet that need and also release family homes to the market.

6.1.3 CS11 seeks to create mixed, balanced and inclusive communities, and ensure the provision of a mix of type, size, tenure and affordability. It states that high priority should be given to the provision of housing to meet the local needs and aspirations of all households, including the elderly. CS6 requires that the design of housing should be adaptable to changing needs (including the elderly) and this is one element of sustainable design. This proposal is designed to meet the needs of the elderly and will help to provide a shortfall in accommodation specifically for the elderly and retired.

6.2 Siting, scale, design and appearance

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. Policy CS17 and MD13 seeks to ensure that development does not have a significant adverse impact on Shropshire's environmental assets and protects and enhances the built and historic environment.

6.2.2 The proposal is for a three storey building to provide 32 apartments. The number of apartments and the height of the building have been reduced to that first submitted in order to reduce its overall scale and bulk. Although it is a three storey building the third floor of accommodation is in the roof and the new design has effectively broken the building up into three distinct blocks. This has resulted in a development which will front Wenlock Road and will appear as two pairs of semi-

detached houses with a subservient element in between that links them together and is set back from the front elevation.

- 6.2.3 The proposal appears much more domestic in scale than previously and the detailing and proportions are now more in keeping with other buildings in the locality. The front of the building is also set slightly further back than the existing building line which will help reduce its prominence in the street. The glazed second floor corridor that is obviously not a feature of other buildings in the locality will not be flush with the edge of the two storey link but is set back and will sit on top of the roof. It will therefore not be readily seen from ground level as it is set so far back on the flat roof. It is required to provide connectivity between the three different blocks and to provide access to the communal lounge and the ground and first floors by lift.
- 6.2.4 There is a mix of public opinion regarding the acceptability of the design and appearance of the proposal and it is acknowledged that there is a strong public objection to the development. However whilst some may consider that it will not be a positive addition to the location it is officers view that the proposed scale, design and appearance of the building would have no adverse impact on the character and appearance of the locality that would justify refusal.
- 6.2.5 With regard to the dwelling to be removed it is one of many examples of early 20th century housing in the area and it is not a particularly exemplary example of this period or type of architecture. The conservation officer has also confirmed that it has been extended and its historic form has been largely subsumed by modern extensions. Furthermore the removal of the dwelling is permitted development requiring only an application for prior approval for its method of demolition and the clearing of the site. It would therefore not be justifiable to refuse this application due to the loss of this building.

6.3 **Impact on residential amenity**

- 6.3.1 SAMDev policy MD2 and Core Strategy Policy CS6 seeks to ensure that all development safeguards residential and local amenity.
- 6.3.2 The proposed building will be situated centrally within the site and although it is a three storey building the second floor of accommodation will be within the roof and the building will not be significantly higher than surrounding properties. The part of the building closest to any boundary is two storey and not three storey and is situated to the rear of the site and there are no first floor windows proposed for the rear North East facing elevation. A condition can be imposed to ensure that no additional windows are added. It is considered that due to the distance from the existing boundaries and the mature trees on the boundaries and within adjacent gardens, the proposal would not appear overbearing and obtrusive, would not result in a loss of light and will also not result in unacceptable levels of overlooking or a loss of privacy.

6.4 **Access and parking**

- 6.4.1 SAMDev policy MD2 requires development to be designed to provide adequate onsite car parking to ensure that cars do not overspill onto surrounding roads and therefore negatively impact on the local road network. There has been much public concern that the proposal provides insufficient parking for the number of units proposed, including lack of parking for visitors and service vehicles and that this will inevitably lead to on street parking resulting in congestion in the surrounding streets and that this combined with the additional traffic generated would have highway safety and capacity implications.
- 6.4.2 The proposal now indicates 29 parking spaces for 32 units. Highways have confirmed that they would prefer to see 1:1 parking provision and would not object to the proposal if this were provided. However notwithstanding this, Highways have not objected to the proposal and have suggested that if the applicant is unable to provide more parking spaces then they should enter into a Section 106 Agreement with the Council for the purposes of securing a financial contribution of £7,500 to be held for 5 years following the full occupation of the development. This contribution could then be used by the Council for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road (or any adjacent streets) should any overspill car parking associated with the development take place.
- 6.4.3 The applicant has confirmed that they are willing to enter into such agreement. However it is considered unlikely that overspill parking will take place as M & C have confirmed that the average age of home owners upon purchase is 79 and that residents often choose to give up running their own cars upon residency. One of the objectors to the proposal whose family has experience of working in a M & C development confirms that only half the residents usually have cars and that there is usually a high turnover of residents. The dwellings are designed as retirement apartments and the majority of future residents will normally be giving up driving as part of their life style choice to move into this type of accommodation. Future occupiers will be aware that they will not be purchasing or being provided with a parking space when they buy an apartment so they would presumably not purchase such a home if they intended to retain the use of a car. As less than half the spaces will be allocated to residents it is considered that sufficient parking for visitors and service vehicles will be available.
- 6.4.4 Although contractors and cleaners will visit the site to maintain the communal area, the exterior of the building and the garden the proposal is not a care facility and there is no on site care or medical staff or restaurant facilities. The only communal facility is a home-owners lounge. It is considered that the car parking provision is adequate and that residents and any visitors will have sufficient on site parking and the proposal will not create a demand for on street parking. Although the S106 will be entered into it is unlikely that parking restrictions will be required to deter on street parking but is required in case a problem should arise. A condition will also be imposed to restrict occupancy to the over 55's. This will ensure that accommodation designed specifically for an ageing population (that have chosen this lifestyle choice to give up the responsibility of the up keep of a family home and garden and the use of a car) remains available in the future. A condition that restricts the age of the occupants will also ensure that the reduced level of car

ownership and associated demand on parking is maintained.

- 6.4.5 With regards to increased traffic the provision of 32 apartments with age restricted occupancy should not result in a significant increase in the volume of traffic travelling up and down Wenlock Road. Highways have expressed no concern about the proposal having an impact on congestion or the capacity of the roads and nearby junctions to accommodate the traffic generated as a result of this proposal. In any case any vehicle movements generated are not likely to be concentrated or coincide with the existing peak traffic times as future occupiers are all likely to be retired. Highways have confirmed that the proposed layout of the access is sufficient to accommodate two-way car movements but that details of a construction specification and visibility splays for the access are still required and that the recommended condition regarding this should be imposed.

6.5 Trees and Ecology

- 6.5.1 A tree constraints plan and tree protection details have been submitted and this indicates that 4 trees in the centre of the site and 4 trees to the rear of the site (trees 13 – 20 inclusive on the tree protection plan) and a single tree (tree 9) in the North East corner are required to be removed. The tree officer has no objection to their removal and recommends a condition in order to protect the retained trees on the site and the adjacent important amenity trees. Although a landscape plan has been submitted a landscaping condition will also be imposed requiring full landscaping conditions to be submitted for approval as the Ecologist has recommended that it should ideally contain more native species of local provenance and species of particular value to wildlife.
- 6.5.2 The proposal involves the demolition of a building and therefore an ecological survey is required and a bat survey was undertaken in summer 2016. The initial inspection revealed pipistrelle droppings in the loft space but their age indicated that the loft space had not been used by bats in 2016. The emergence surveys of 2016 also revealed that bats did not appear to be currently using the building. A single nocturnal survey has recently been undertaken and the report concludes that the roosting feature identified is not currently in use. It is likely that the loft space was used by a single or small number of Pipistrellus sp. during summer 2015. Ecology have confirmed that Natural England consider that an identified roost is still protected regardless if bats have been recorded emerging/re-entering the bat roost feature and that it can not be 'de-designated' until sufficient survey information has been collected to confirm that it has not been occupied by bats for over 5 years. As 5 years has not lapsed the roost falls under the legal protection of the Habitats Regulations and therefore an EPS species licence is required for the development to proceed.
- 6.5.3 Ecology have completed the 3 tests matrix and have confirmed that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the recommended conditions are imposed and complied with. These conditions will ensure that the Method Statement which sets out mitigation, compensation and enhancement measures will be carried out including four bat

tubes installed in to the fabric of the new building and three Schwegler bat boxes erected on mature trees on the site. As work will need to be conducted under licence from Natural England the completed EPS three tests matrix is attached as appendix 2 to this report and should be noted by members.

- 6.5.4 The recommended informative and condition regarding birds and the erection of bird boxes will enhance nesting opportunities for wild birds and a landscaping condition will ensure appropriate landscaping of the site. The development of the site will also ensure that Japanese Knotweed is eradicated from the area.

6.6 **Developer Contributions**

- 6.6.1 A viability appraisal has been submitted to determine the amount of affordable housing contribution and at the time of writing this has not yet been agreed with the housing enabling team. It is unlikely that the amount of affordable contribution would be sufficient to provide on site provision and officers request that if members are minded to approve this application (subject to a S106 to secure an affordable housing contribution) that they grant delegated authority to officers to agree the amount and issue the decision on completion of the S106. Members will be updated if an agreement is reached on the amount before the date of the committee.
- 6.6.2 The fall-back position is the retention of the existing house and the implementation of the planning permission for 4 houses on the adjacent land which does not include an affordable housing contribution. This proposal although not providing affordable housing on site will provide a financial contribution to affordable housing and will also achieve a fat higher CIL levy compared to the previously approved scheme for 4 houses.

7.0 **CONCLUSION**

- 7.1 Residential accommodation is acceptable in principle in this location and it is considered that the benefits of the scheme outweigh any perceived adverse impacts. It will provide 32 homes that will help boost housing supply whilst meeting the needs of the ageing population and releasing under-occupied family homes to the market. The proposal would not result in a significant increase in traffic and would not adversely impact on highway safety or result in significant congestion along Wenlock Road or at nearby roads and junctions. Given that over half of the residents will have made a decision to give up car ownership on purchasing one of the apartments it is considered that the parking provision is adequate. If the development results in on street parking the S106 will ensure that funds are secured to introduce any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road and/or any adjacent streets. A S106 will also secure an affordable housing contribution with the exact amount yet to be agreed.
- 7.2 Officers consider that the proposed scale, design and appearance of the development is acceptable and would have no adverse impact on the character and appearance of the area or adversely impact on residential amenity. The building to be demolished is not considered to be a non designated heritage asset

as it is one of many examples of early 20th century housing in the area. It is not a particularly exemplary example of this period or type of architecture and has been extended significantly and its historic form has been largely subsumed by modern extensions. Its removal is in any case permitted development. The proposal would also not result in the loss of any significant trees and will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range subject to compliance with conditions and requiring an EPS licence from Natural England.

7.2.3 The proposal is therefore considered to accord with local plan policies, CS2, CS6, CS11, CS17, MD2 and MD13 and approval is recommended subject to a S106 to secure an affordable housing contribution with the agreement of the exact amount being delegated to officers.

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

Core Strategy Policies: CS2, CS6, CS11 and CS17

SAMDev Policies: MD2 and MD13

RELEVANT PLANNING HISTORY:

16/03635/FUL Erection of 4 no. detached dwellings with 3 no. garage blocks GRANT 3rd November 2016

11. Additional Information

List of Background Papers: File 16/04590/FUL
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member : Cllr Ted Clarke, Cllr Jane Mackenzie, Cllr Tony Parsons
Appendices APPENDIX 1 – Conditions APPENDIX 2 – EPS £ Tests

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 shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a construction/operative/visitor Traffic Management and HGV Routing Plan

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Japanese Knotweed management plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure the safe eradication of Japanese Knotweed from the site and to ensure that it does not spread

5. No development shall take place (including demolition, ground works and vegetation clearance) until either:

- a) a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted to the Local Planning Authority; or

b) a statement from an experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

Reason: To ensure the protection of bats, which are European Protected Species.

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

6. All demolition, site clearance and development shall occur strictly in accordance with the Soft Strip Method Statement (Environmental Services, December 2016), unless an alternative Method Statement is submitted to and approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

7. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan Ian Keen Ltd drawing 9178/o2 and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

8. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

9. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

10. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 4 artificial nests suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).

The boxes shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path, and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

11. No above ground works shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

12. No above ground work shall take place until details for the parking , turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

13. No above ground works shall take place until details of the measures to be taken to provide adequate access and facilities for disabled people have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

Reason: To ensure adequate facilities for the disabled, in accordance with adopted policy

14. No above ground works shall take place until a scheme of surface water drainage (including a proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility for future maintenance) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use and maintained for the lifetime of the development.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and to ensure that the drainage system remains in good working order throughout its lifetime.

15. 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.

16. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery (including the glazed walkway) shall be submitted to and

approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

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

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

17. Any gates provided to close the proposed access shall be set a minimum distance of 5.5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

18. No further windows or other openings shall be formed above ground floor level in the North East facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

APPENDIX 2: EPS 3 Tests matrix

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application reference number, site name and description:

16/04590/FUL
Land At 117/125 Wenlock Road Shrewsbury Shropshire
Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehiucal access following demolition of existing property

Date:

30th January 2017

Officer:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Test 1:

Is the development **'in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

The proposal will boost housing supply in a sustainable location providing 32

purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution to affordable housing and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses. The proposal will provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site (including eradication of Japanese Knotweed) with no adverse environmental impacts.

Test 2:

Is there '**no satisfactory alternative?**'

The alternative is not to develop the site or alternatively not demolish the house and implement the previously approved scheme on part of the site. However this would not provide the boost to housing supply numbers in Shropshire, would not make effective use of the land and would not provide an affordable housing contribution or CIL. This would therefore not provide the social and economic benefits of the proposal and the ecological enhancements of the site including the eradication of Japanese Knotweed to be secured by conditions attached to this planning permission.

Test 3:

Is the proposed activity '**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

A bat survey between July and August 2016 identified a common pipistrelle roost in the building, used in 2015 by a single or small number of bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be demolished.

The Soft Strip Method Statement (Environmental Services, December 2016) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.

- 'Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.'
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be 'installed in to the fabric of the [new] building in groups of two.'
- 'All external lighting during construction to be angled downwards and away from any bat sensitive areas.'
- 'All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Jane Raymond (dated 30th January 2017) are included on the decision notice and are appropriately enforced. The conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence; and
- Lighting plan.



<u>Committee and date</u>
Central Planning Committee
26 October 2017

<u>Item</u>
7
Public

Development Management Report

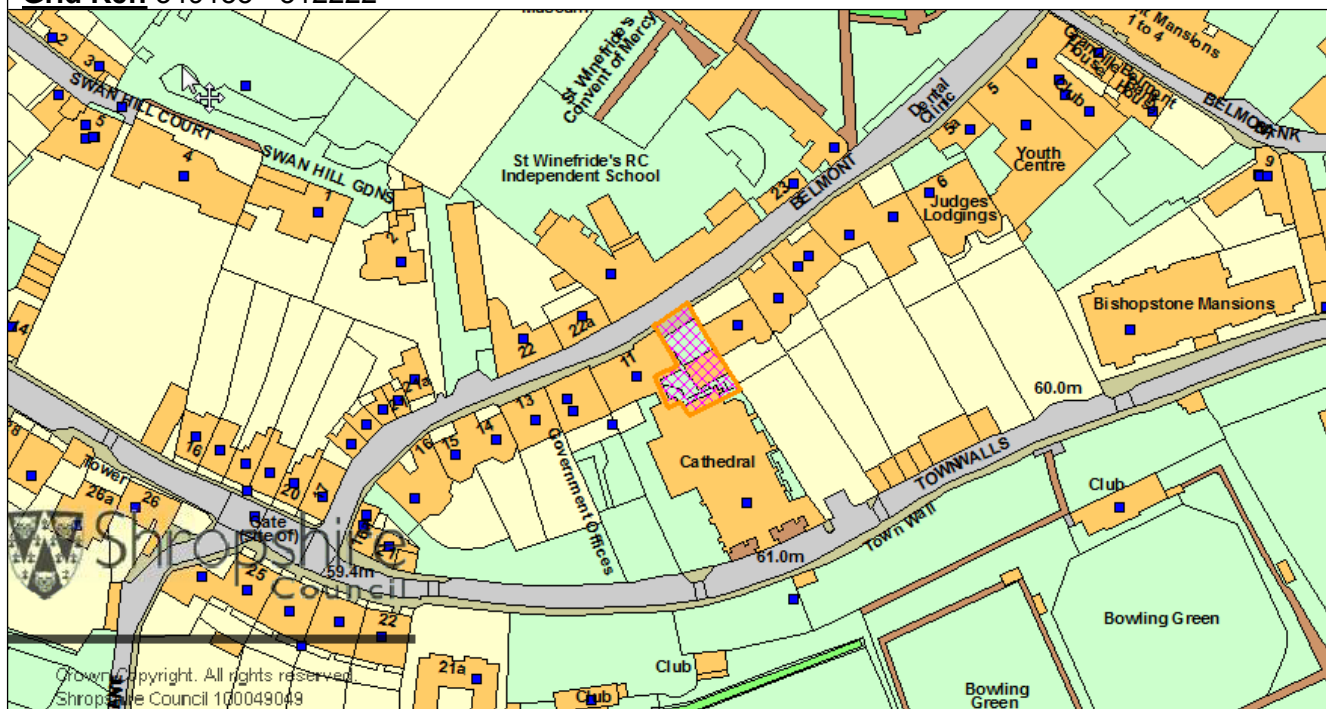
Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number:</u> 17/02075/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Installation of cast iron automatic gates, wall mounted railings and brick piers for the rear access from Belmont to include in a reduction in height of entrance walls		
<u>Site Address:</u> Cathedral Church Town Walls Shrewsbury Shropshire		
<u>Applicant:</u> Shrewsbury Roman Catholic Diocesan		
<u>Case Officer:</u> Luke Ashley	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 349153 - 312222



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

REPORT

1.0 THE PROPOSAL

- 1.1 It is proposed to create new gates in a “quatrefoil” pattern for the entrance from Belmont as a continuation of the cast iron gate arrangement on Town walls. It is also proposed to remove the wooden doors leading from Belmont (the street to the east of the Cathedral) into the small parking area just outside the East window of the Cathedral and to replace these with new cast iron gates using the same “quatrefoil” pattern.
- 1.2 The existing brick wall to either side of the Belmont access will be lowered to allow for the installation of railings (to similar design to the gate) flanking the new automatic set of gates.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Shrewsbury RC Cathedral is located in the Medieval Centre of Shrewsbury and occupies a site situated between Belmont and Town Walls Streets. The building is Listed Grade II* and is located within the Shrewsbury Conservation area.
- 2.2 Views of the front of the Cathedral are taken from Belmont and this forms an important and dominant element of this part of the wider conservation area

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 Parish Council have submitted a view contrary to officers based on material planning reasons and the Area Planning Manager in consultation with the Committee Chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

- Consultee Comments

SC Conservation – Initial holding objection received however this has been since been removed. No objections subject to conditions

SC Archaeology (Historic Environment) – No comment

Historic England – No comment

- Public Comments

Shrewsbury Civic Society - The use of open railings will mean that vehicles will be

on constant display from the road. This could add to the impression of Shrewsbury's 'over-concern for the car'.

Shrewsbury Town Council - The Town Council has no objection to the principle of installing gates at these premises but feels that the plans as submitted provide a radical alteration which will affect the listed building and is detrimental to the existing street scene. members respectfully request that this application is considered by the central planning committee.

5.0 THE MAIN ISSUES

Siting, scale and design (Conservation and setting of Listed Buildings)

6.0 OFFICER APPRAISAL

6.1 Siting, scale and design (Conservation and setting of Listed Buildings)

6.1.1 In considering these concurrent listed building consent and planning permission applications, due regard to the following local and national policies, guidance and legislation has been taken in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance. As the proposal is within the boundaries of the Shrewsbury Conservation Area, and more specifically the Town Centre Special Character Area, special regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area.

Section 66 of the Act is also relevant as the Cathedral building on the subject property is Grade II* listed, and buildings along Belmont immediately adjacent to the Belmont site entrance are also Grade II and Grade II* listed, and the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

NPPF Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- ☐ The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- ☐ The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- ☐ The desirability of new development making a positive contribution to local character and distinctiveness.

NPPF Paragraph 137 states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated

favourably.

Core Strategy Policy CS6 states that;

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness.

It further states that that all development:

Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.

Core Strategy Policy CS17 goes further in regard to protecting heritage assets and states that all development proposals shall protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment [and] contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets.

SAMDev Policy MD2 states that to respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set. As such, new development should respect the existing pattern of development, both visually and in relation to the function of spaces, retain and enhance important views and landmarks and respond appropriately to local environmental and historic assets, in accordance with MD12 and MD13

Policy MD13 states that heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the significance or setting of designated or non-designated heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal and there are no satisfactory alternatives.

The initial concerns raised by SC Conservation stated that the decorative quatrefoil motif combined with the proposed blue coated finish would not visually harmonize as well with the Belmont street scene, which is dominated not so much by the Cathedral, but by more traditional historic residential buildings that line the street here. The holding objection also stated that although there is no objection in principle to the modification of the existing relatively modern brick boundary wall and the rationalization of the parking area here, the proposed insertion of the same railings featured on the main Cathedral entrance along Town Walls is not considered to satisfactorily reflect the pattern of street frontage development along Belmont, and has the potential to be an unnecessarily very dominant individual visual feature in this location.

Further to these earlier comments, ongoing discussions with the architects have

been accomplished to more fully discuss the railings scheme and alterations to the existing brick wall to accommodate them. The architects have expanded on their initial Design and Access Statement to more fully address potential visual impact of the blue coated quatrefoil pattern cast railings and gate proposed within the immediate and wider Belmont street scene with an addendum now provided in the form of a heritage assessment and historical background of the area along with a fuller justification for the design proposed, which would match the cast iron railing design now partially implemented to the main frontage of the Cathedral along Town Walls. It is also understood that approval has now been granted for the remainder of this proposed railings scheme along Town Walls, which would replace the existing Lych-gate railings and Memorial Chapel gates to complete the scheme.

The newly implemented railings and gates scheme on Town Walls are of an exceptionally high quality and finish as executed, and while they are indeed a visual change in the street scene, they do enhance the site and the setting of the Cathedral building and work well with other improvements along the frontage and on the wider site. It is understood that the proposed Belmont gates and railings would be of an equally high quality, and would visually help reinforce the sense of connection through both ends of the Cathedral site which the Cathedral is desirous of improving, as well as increase the potential appreciation of the east end of the Cathedral building which is currently poorly interpreted.

On balance following this further assessment of the proposal, no further objection is raised to the Belmont frontage scheme as detailed on the plans submitted, and while the scheme will result in a visual change to the rear entrance to the site, the scheme is considered to overall result in an improvement to the character and appearance of the immediate street scene and the setting of the Cathedral within it, and given the level of set back of the gates and wall/railings from the street line, there is considered to be an acceptable level of visual impact on the wider street scene within the Conservation Area. The alterations to the boundary wall and the insertion of an automatic gate with the same quatrefoil design are also considered acceptable due to how they tie in with the rest of the proposed scheme and in regard to their limited impact upon the wider conservation area.

7.0 CONCLUSION

is not considered that there would be any significant adverse impacts of the proposal that would outweigh the benefits. The new signage is considered appropriate and would also lead to an enhancement of the site in terms of its visual appearance whilst preserving the character of the wider conservation area. It is therefore considered that the proposal accords with Shropshire Core Strategy policies CS6 and CS17, SAMDev policies MD1, MD2 and MD13 and the aims and provisions of the NPPF.

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.

- ② 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

Core Strategy policies CS6 and CS17

SAMDev policies MD1, MD2 and MD13

RELEVANT PLANNING HISTORY:

15/03737/FUL Internal alterations and improvements to No.11 and No.12 Belmont including the demolition of existing rear basement extension and erection of replacement extension to accommodate a cafe, retail space and heritage centre to support the Cathedral; alterations and improved access facilities to Shrewsbury Cathedral South Entrance; landscaping works to the rear garden areas of No.11 and No.12 to improve parking facilities GRANT 4th December 2015

15/03738/LBC Internal alterations and improvements to No.11 and No.12 Belmont including the demolition of existing rear basement extension and erection of replacement extension to accommodate a cafe, retail space and heritage centre to support the Cathedral; Alterations and improved access facilities to Shrewsbury Cathedral South Entrance; landscaping works to the rear garden areas of No.11 and No.12 to improve parking facilities GRANT 4th December 2015

11. Additional Information

List of Background Papers: File 17/02075/FUL and 17/02076/LBC
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Nat Green
Appendices APPENDIX 1 - Conditions

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.

Agenda Item 8



<u>Committee and date</u>
Central Planning Committee
26 October 2017

<u>Item</u>
8
Public

Development Management Report

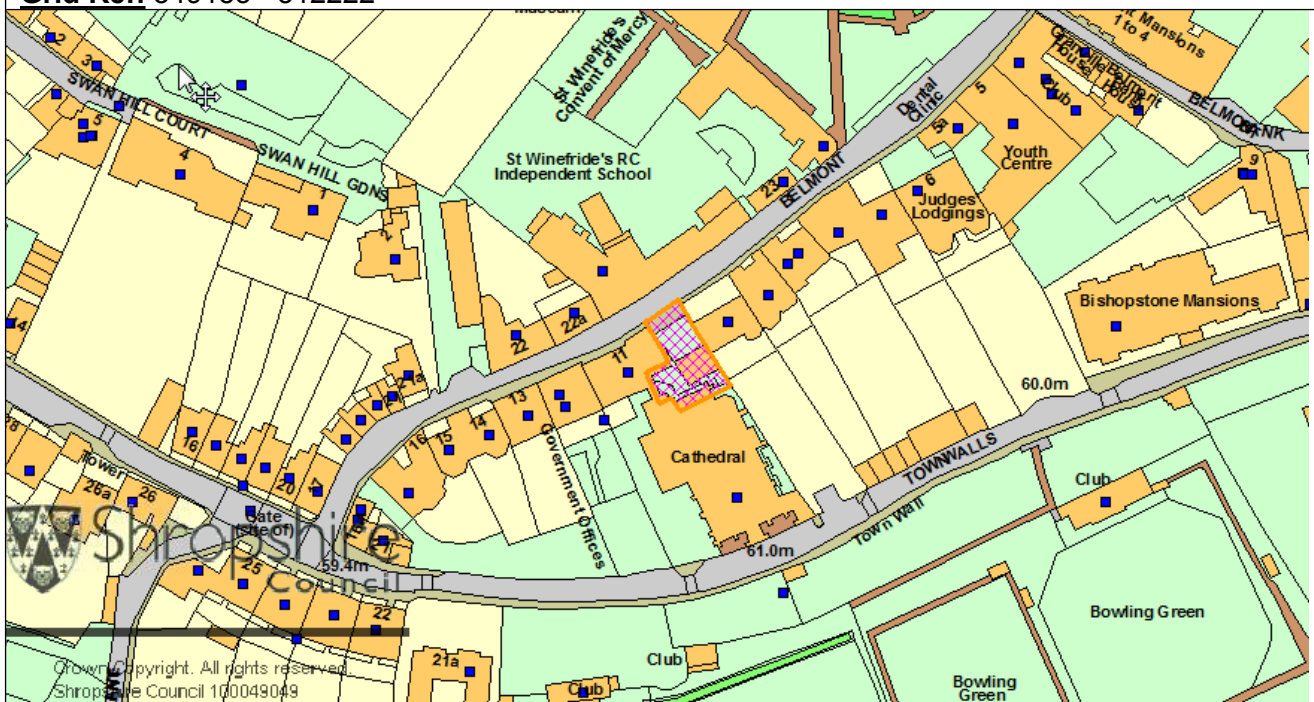
Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number:</u> 17/02076/LBC	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Works to Listed Building(s) to facilitate the installation of replacement gates, railings and piers to include a reduction in the height of existing wall		
<u>Site Address:</u> Cathedral Church Town Walls Shrewsbury Shropshire		
<u>Applicant:</u> Shrewsbury Roman Catholic Diocesan		
<u>Case Officer:</u> Luke Ashley		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 349153 - 312222



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

REPORT

1.0 THE PROPOSAL

- 1.1 It is proposed to create new gates in a “quatrefoil” pattern for the entrance from Belmont as a continuation of the cast iron gate arrangement on Town walls. It is also proposed to remove the wooden doors leading from Belmont (the street to the east of the Cathedral) into the small parking area just outside the East window of the Cathedral and to replace these with new cast iron gates using the same “quatrefoil” pattern.
- 1.2 The existing brick wall to either side of the Belmont access will be lowered to allow for the installation of railings (to similar design to the gate) flanking the new automatic set of gates.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Shrewsbury RC Cathedral is located in the Medieval Centre of Shrewsbury and occupies a site situated between Belmont and Town Walls Streets. The building is Listed Grade II* and is located within the Shrewsbury Conservation area.
- 2.2 Views of the front of the Cathedral are taken from Belmont and this forms an important and dominant element of this part of the wider conservation area

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 based on material planning reasons and the Area Planning Manager in consultation with the Committee Chairman agrees that the Town Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

- Consultee Comments

SC Conservation – Initial holding objection received however this has been since been removed. No objections subject to conditions

SC Archaeology (Historic Environment) – No Comment

Historic England – No Comment

- Public Comments

Shrewsbury Civic Society - The use of open railings will mean that vehicles will be on constant display from the road. this could add to the impression of Shrewsbury's

‘over-concern for the car’.

Shrewsbury Town Council - The Town Council has no objection to the principle of installing gates at these premises but feels that the plans as submitted provide a radical alteration which will affect the listed building and is detrimental to the existing street scene. members respectfully request that this application is considered by the central planning committee.

5.0 THE MAIN ISSUES

Siting, scale and design (Conservation and setting of Listed Buildings)

6.0 OFFICER APPRAISAL

6.1 Siting, scale and design (Conservation and setting of Listed Buildings)

6.1.1 In considering these concurrent listed building consent and planning permission applications, due regard to the following local and national policies, guidance and legislation has been taken in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance. As the proposal is within the boundaries of the Shrewsbury Conservation Area, and more specifically the Town Centre Special Character Area, special regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area.

Section 66 of the Act is also relevant as the Cathedral building on the subject property is Grade II* listed, and buildings along Belmont immediately adjacent to the Belmont site entrance are also Grade II and Grade II* listed, and the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

NPPF Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- ☐ The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- ☐ The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- ☐ The desirability of new development making a positive contribution to local character and distinctiveness.

NPPF Paragraph 137 states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Core Strategy Policy CS6 states that;

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness.

It further states that that all development:

Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.

Core Strategy Policy CS17 goes further in regard to protecting heritage assets and states that all development proposals shall protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment [and] contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets.

SAMDev Policy MD2 states that to respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set. As such, new development should respect the existing pattern of development, both visually and in relation to the function of spaces, retain and enhance important views and landmarks and respond appropriately to local environmental and historic assets, in accordance with MD12 and MD13

Policy MD13 states that heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the significance or setting of designated or non-designated heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal and there are no satisfactory alternatives.

The initial concerns raised by SC Conservation stated that the decorative quatrefoil motif combined with the proposed blue coated finish would not visually harmonize as well with the Belmont street scene, which is dominated not so much by the Cathedral, but by more traditional historic residential buildings that line the street here. The holding objection also stated that although there is no objection in principle to the modification of the existing relatively modern brick boundary wall and the rationalization of the parking area here, the proposed insertion of the same railings featured on the main Cathedral entrance along Town Walls is not considered to satisfactorily reflect the pattern of street frontage development along Belmont, and has the potential to be an unnecessarily very dominant individual visual feature in this location.

Further to these earlier comments, ongoing discussions with the architects have been accomplished to more fully discuss the railings scheme and alterations to the existing brick wall to accommodate them. The architects have expanded on their initial Design and Access Statement to more fully address potential visual impact of

the blue coated quatrefoil pattern cast railings and gate proposed within the immediate and wider Belmont street scene with an addendum now provided in the form of a heritage assessment and historical background of the area along with a fuller justification for the design proposed, which would match the cast iron railing design now partially implemented to the main frontage of the Cathedral along Town Walls. It is also understood that approval has now been granted for the remainder of this proposed railings scheme along Town Walls, which would replace the existing Lych-gate railings and Memorial Chapel gates to complete the scheme.

The newly implemented railings and gates scheme on Town Walls are of an exceptionally high quality and finish as executed, and while they are indeed a visual change in the street scene, they do enhance the site and the setting of the Cathedral building and work well with other improvements along the frontage and on the wider site. It is understood that the proposed Belmont gates and railings would be of an equally high quality, and would visually help reinforce the sense of connection through both ends of the Cathedral site which the Cathedral is desirous of improving, as well as increase the potential appreciation of the east end of the Cathedral building which is currently poorly interpreted.

On balance following this further assessment of the proposal, no further objection is raised to the Belmont frontage scheme as detailed on the plans submitted, and while the scheme will result in a visual change to the rear entrance to the site, the scheme is considered to overall result in an improvement to the character and appearance of the immediate street scene and the setting of the Cathedral within it, and given the level of set back of the gates and wall/railings from the street line, there is considered to be an acceptable level of visual impact on the wider street scene within the Conservation Area. The alterations to the boundary wall and the insertion of an automatic gate with the same quatrefoil design are also considered acceptable due to how they tie in with the rest of the proposed scheme and in regard to their limited impact upon the wider conservation area.

7.0 **CONCLUSION**

It is not considered that there would be any significant adverse impacts of the proposal that would outweigh the benefits. The new signage is considered appropriate and would also lead to an enhancement of the site in terms of its visual appearance whilst preserving the character of the wider conservation area. It is therefore considered that the proposal accords with Shropshire Core Strategy policies CS6 and CS17, SAMDev policies MD1, MD2 and MD13 and the aims and provisions of the NPPF.

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

Core Strategy policies CS6 and CS17

SAMDev policies MD1, MD2 and MD13

RELEVANT PLANNING HISTORY:

15/03737/FUL Internal alterations and improvements to No.11 and No.12 Belmont including the demolition of existing rear basement extension and erection of replacement extension to accommodate a cafe, retail space and heritage centre to support the Cathedral; alterations and improved access facilities to Shrewsbury Cathedral South Entrance; landscaping works to the rear garden areas of No.11 and No.12 to improve parking facilities GRANT 4th December 2015

15/03738/LBC Internal alterations and improvements to No.11 and No.12 Belmont including the demolition of existing rear basement extension and erection of replacement extension to accommodate a cafe, retail space and heritage centre to support the Cathedral; Alterations and improved access facilities to Shrewsbury Cathedral South Entrance; landscaping works to the rear garden areas of No.11 and No.12 to improve parking facilities GRANT 4th December 2015

11. Additional Information

List of Background Papers: 17/02075/FUL and 17/02076/LBC
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Nat Green
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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. All works shall be carried out in complete accordance with the terms of the application and approved plans.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Notwithstanding the decorative ironwork authorised by this consent details of the following shall be submitted to and approved in writing by the Local Planning Authority prior to their installation:

- Fully detailed and dimensioned drawings, together with samples of scrolls, spearheads finials, and any other details
- Details of the method of attachment of the decorative ironwork
- Details of the proposed high-performance corrosion-inhibiting priming system
- The colour scheme for the ironwork

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

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

4. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

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

5. All new external and internal work and finishes, and work of making good shall match existing original work adjacent, in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved.

Reason: To ensure satisfactory preservation of this Heritage Asset.



<u>Committee and date</u>
Central Planning Committee
26 October 2017

<u>Item</u>
9
Public

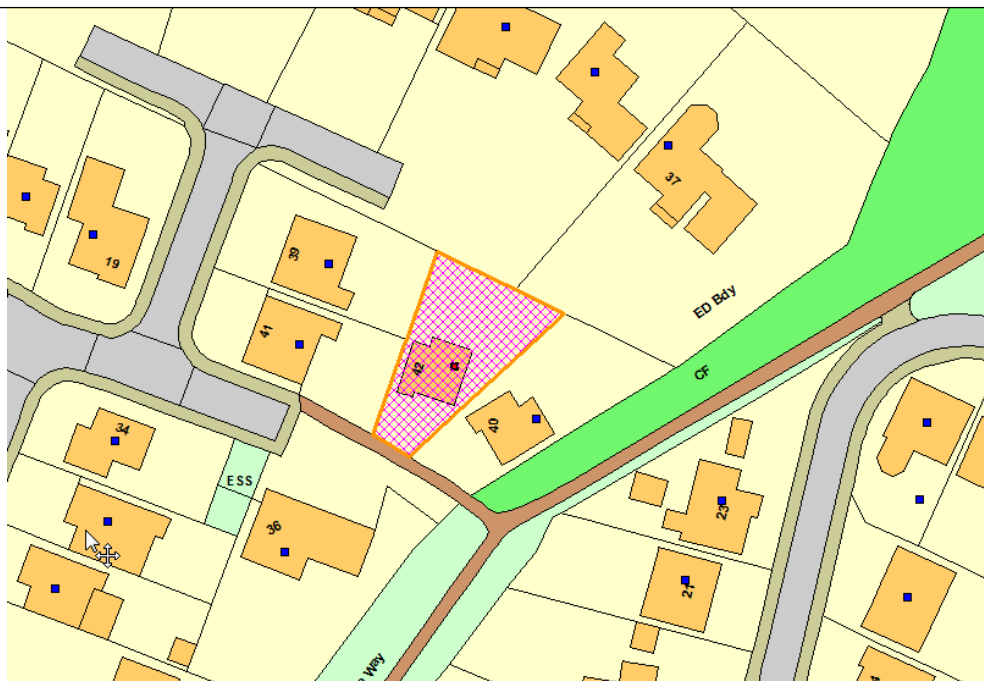
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 17/03276/FUL	Parish: Shrewsbury Town Council
Proposal: Erection of a two storey; single storey and first floor extensions	
Site Address: 42 Rothley Close Shrewsbury SY3 6AN	
Applicant: Mr J Simmonds	
Case Officer: Shannon Franklin	email: planningdmne@shropshire.gov.uk

Grid Ref: 347791 - 311615



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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 is for the erection of a two storey side extension together with a single storey rear and side extension. The two storey element of the proposal will be limited to the west elevation above the existing garage and will form front and rear subservient gables. The single storey extension will be to the east elevation with a slim strip wrapping around the north (rear) elevation.
- 1.2** In total the extension will provide two additional bedrooms, an enlarged open plan kitchen diner and an additional living room. These additions will enable the existing second bedroom to be utilised as an office/study and the existing living room as a family room/playroom.
- 1.3** During the course of the application assessment the applicant has provided revised drawings as requested by officers which show a reduced pitched to the 2no. proposed gables. In addition it has been confirmed by the applicant that the west (side) elevation will be finished in brick.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** The application site is located in the residential area of Radbrook, a suburb to the south of Shrewsbury town centre. The site is surrounded on all sides by residential dwellings and their associated curtilage and its boundaries are formed of domestic close boarded fence panels lined in places with hedging trees and ornamental planting. Due to the road layout the dwellings on Rothley Close are orientated at varying angles.

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 Parish Council have submitted a view contrary to officers.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 Shrewsbury Town Council Parish Council (Objection)

Members do not object to this property being extended but feel that the proposed plans will impact considerably on the resident at number 40. Members request that the plans be reviewed to take into consideration overlooking aspects and impacts on the privacy of the neighbouring properties.

4.2 - Public Comments

- 4.2.1** The six adjoining neighbours have been notified of the application. To date two representations have been received; one in support of the application citing the following:

- Enhancement of the properties appearance.
- Improvement in the appearance of the general area.

The other two representations received object to the proposal for the following reasons:

- Elimination of light to the gardens of the adjoining properties (overshadowing) to the west.
- Reduction of light into the adjoining dwellings (overshadowing).
- Necessary works to thin the trees on the boundary and impact on their roots.
- Proposed construction method and materials.
- Unsightly view caused by the 'over dominant' gable end extension being 1m from the shared boundary.
- Overlooking of the neighbours residential curtilages.
- Reduction in parking facilities.

5.0 THE MAIN ISSUES

- **Principle of development**
- **Siting, scale and design of structure**
- **Visual impact and landscaping**
- **Impact on residential amenity**

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 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.
- 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.

6.2 Siting, scale and design of structure

- 6.2.1 The proposal will provide additional living accommodation to the ground floor including an enlarged kitchen diner and an additional living room. To the first floor, in the extension above the existing pitched roof garage to the west side of the dwelling, the proposal will provide two modest sized bedrooms and a storage cupboard.
- 6.2.2 The proposal will increase the overall internal floor area of the dwelling by approximately 58.4m², while this is a relatively large increase it is considered to be acceptable considering substantial size of the neighbouring properties to the north and south. In addition the proposal will retain a good sized residential curtilage, appropriate levels of parking and generous gaps between the proposed extensions out walls and its shared boundaries with neighbours.
- 6.2.4 Following the applicant's revision of the plans to reduce the ridge height of the 2no. proposed gable it is officers opinion that the vertical emphasis has been reduced and that the proposal is therefore appropriate in scale. In addition officers consider that this alteration reduces the shadow caused by the proposal and ensures that this additional gable is clearly subservient to the existing dwelling and does not over dominate the principal elevation of the dwelling as a whole. From the rear the single storey addition will be clearly identifiable as a later addition and the gable to the west will again be clearly distinguishable from the original dwelling due to its position and the proposed materials.

6.3 Visual impact and landscaping

- 6.3.1 The design utilises a single storey extension to the east elevation and an additional storey extension above the existing garage. Both these additions are present on properties within the area and as such the proposal is in character with the surroundings.
- 6.3.2 The proposed construction method of the dwelling is not a planning concern however the material finishes to the facades of the building are required to be in character with the area and of no significant detrimental visual impact.
- 6.3.3 The proposed materials to be utilised include; facing brick, painted render, interlocking roof tiles and white uPVC windows and doors. These materials are all to match the existing materials present in the existing dwelling and can also be found in a number of dwellings within the locality therefore officers consider that they are in character and will not detract from the visual impact of the locality.
- 6.3.4 The site is bounded to the east and west by close boarded timber fencing which will be retained as part of the development. To the north is a substantial mature hedge which screens the property from the large dwellings approximately 30m to the north on Rothley Drive. To the west the 2no. adjoining properties have substantial mature trees and hedging lining the shared boundary within their ownership. It is officers opinion that these trees effectively screen the existing dwelling and will go some way to screening the additions within the proposal. These trees are outside the applicants' ownership and therefore their removal is not proposed as part of the application. It is considered by officers that the close boarded fence to the east will screen the majority of the single storey addition to this boundary and no concerns are identified.
- 6.3.5 As concerns have been raised by the neighbours ascertaining to the visual impact of the proposed white painted render finish to the west (side) gable end, it has been

concluded that an appropriately worded condition should be imposed on any grant of planning permission ensuring that this elevation is finished in brick to match the existing dwelling. Officers consider that this will ensure that the visual outlook from the 2no. neighbours properties to the west will remain similar to the existing arrangement; a brick gable end, and the proposal will therefore not have a significant negative impact on these neighbours. The use of a brick façade will ensure the extension is less visually intrusive when viewed through the mature tree and hedge planting forming the shared boundary.

6.3.6 Due to the complimentary materials, the in keeping design features and the existing boundary treatments in place, officers considered there to be no significant visual impact caused by the development.

6.4 Residential Amenity

6.4.1 Representations have been received from two neighbouring properties identifying a number of concerns, predominantly the scale, over dominance and degree of over shadowing affecting the neighbouring properties.

6.4.2 With regards to the over dominance of No.41 to the west, the west (side) elevation of the proposal will be between approximately 10.4m and 12.2m from the stepped rear elevation of this dwelling. It should be noted that the applicant will retain a side access between the existing garage wall and the close boarded fence forming the shared boundary of approximately 1m in width. No.41 already has views of the side of the dwelling subject to this application, including its garage and the gable end of the property. While the second storey wall will move 3m closer to No.41; in line with the ground floor garage, and extend slightly longer in the northern direction, due to the siting of the existing dwelling and the width of No.41's residential curtilage, the proposal will only abut approximately half of the shared boundary which is no more than the existing dwelling. Having considered the existing boundary treatments, the existing outlook from No.41 and the distances between the two dwellings, officers consider that the proposal will not be experienced as overbearing on this property.

6.4.3 The existing dwelling does not sit adjacent to the shared boundary with No.39. the proposal will extend the existing dwellings footprint such that approximately 3m of the boundary with No.39 faces the west (side) elevation of the proposal. In considering the size of the existing properties residential curtilage, the height of the proposed extension and the amount of the shared boundary with No.39 affected by the proposal officers considered that the proposal will not be experience as overbearing to this property.

6.4.4 With regards to over dominance of No.40 to the east it is considered by officers that the introduction of a single storey building a minimum of 600mm beyond the shared boundary will not constitute over dominance.

6.4.5 With regard to overshadowing, the rear elevation of the existing dwelling is north facing. The residential curtilage associated with the dwelling is situated to the north elevation and therefore the majority of additional shadow caused by the proposal will fall within the applicant's residential curtilage. Officers conclude there will be little to no increase in overshadowing to the neighbour to the east (No.40) as the proposal will only be single storey in this location and will not protrude significantly above the existing close boarded fence boundary treatments. Any shadowing to this elevation will fall on the neighbours' garage wall and officers consider this will not therefore negatively impact the amenity of this dwelling.

6.4.6 To the west elevation (side) of the dwelling an additional storey is proposed above

the existing garage and the length of this elevation will increase by approximately 1.5m beyond the rear most part of the existing dwelling. Officers conclude there will be some increase in overshadowing in this direction as a result of the proposal to the residential curtilages of No.41 and No.39 but that it is not sufficient to warrant the refusal of the scheme. The increase to No.39 will be limited to the south western corner of the residential curtilage as only 3m of this boundary will be shared with the proposal. This overshadowing will not have a significant impact on the residential curtilage and will not affect the dwelling, the rear elevation of which is between 10.2m and 12.4m is away from the proposal. Any increase in shadow on the residential curtilage of No.41 will again be limited to the eastern most strip of their residential curtilage which currently experiences some shadowing from the existing dwellings gable end and garage and the substantial mature trees located on this boundary. Again as the dwelling is between 10.2m and 12.4m away from the proposal any shadow caused will not impact the dwelling itself.

6.4.7 On balance it is considered by officers that any increase in overshadowing on the neighbouring properties is not sufficient to warrant a refusal of the scheme given the distance of the dwellings from the proposal and the proportion of the residential curtilages which will be impacted by the development.

6.4.8 The proposal will introduce additional windows to the dwellings north (rear) elevation and south (front) elevation of the existing dwelling. Officers conclude that the window on the front elevation is a significant distance from its opposite neighbour and it not situated in a position that would cause any degree of overlooking. The ground floor rear windows proposed overlook the applicants residential curtilage and there are no properties immediately north of the dwelling which these windows could impact. In addition officers consider that the 2no. sky lights proposed in the single storey extension to the east elevation will not overlook or cause privacy concerns to any neighbouring dwellings. Officers acknowledge that the additional rear window to the bedroom of the two storey element of the proposal may cause a slight degree of overlooking to the residential curtilage of No.39 however this will be minimal due to the orientations of the dwelling and the mature tree forming the boundary. In addition officers consider that the distance and orientation of the two dwellings mean that any over looking will not impact the dwellings habitable rooms and will not detrimentally impact on the privacy of the amenity space in comparison to the existing first floor windows of the dwelling.

6.4.9 One small window is proposed to the west elevation on the ground floor. This window will look at the close boarded fence forming the shared boundaries and officers conclude that it will not have any impact on the privacy and amenity of No.41. It should be noted that the first floor window to this existing elevation is omitted in the proposal and therefore the degree of perceived overlooking from this position is reduced.

6.4.10 Officers conclude that the extension should not be experienced as overbearing on any of the adjoining properties and the orientation would indicate that there will be minimal increase in over shadowing compared to the existing arrangements. On balance it is therefore considered by officers that the proposal will not cause unacceptable levels of overlooking or overshadowing and that the amenity and privacy of neighbouring dwellings will not suffer any substantial harm.

7.0 CONCLUSION

7.1 The works are judged to be in scale and character with the original dwelling and its setting, and of no demonstrable harm in terms of neither residential nor visual amenities. The application therefore accords with the principal determining criteria of the relevant development plan policies 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

Central Government Guidance:

Core Strategy and Saved Policies:

National Planning Policy Framework
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

SA/81/0238 Erection of 45 dwellings (layout and design of roads and sewers) (6 acres).
PERCON 9th June 1981

SA/80/0967 Erection of 97 dwellings with private garages and the formation of vehicular and pedestrian accesses (15 acres). (Ref. Outline application No. 74/856/779/74 dated 18th January 1978). PERCON 13th July 1981

SA/79/0748 Earthmoving works and landscaping. (Ref. Outline application No. S74/856/779/74 dated 18th January 1978). PERCON 20th August 1979

SA/74/0856 Residential development. APPAL 18th January 1978

Appeal

78/00422/NONDET Residential development. ALLOW 18th January 1978

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)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Keith Roberts

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. 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

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

4. The west (side) elevation of the proposal must be finished in brick to match the existing dwelling.

Reason: To protect the visual amenity of the area.

Informatives

1. In arriving at this decision the 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 187.

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. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

4. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

5. 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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Committee and date
 Central Planning Committee
 26 October 2017

Item
10
 Public

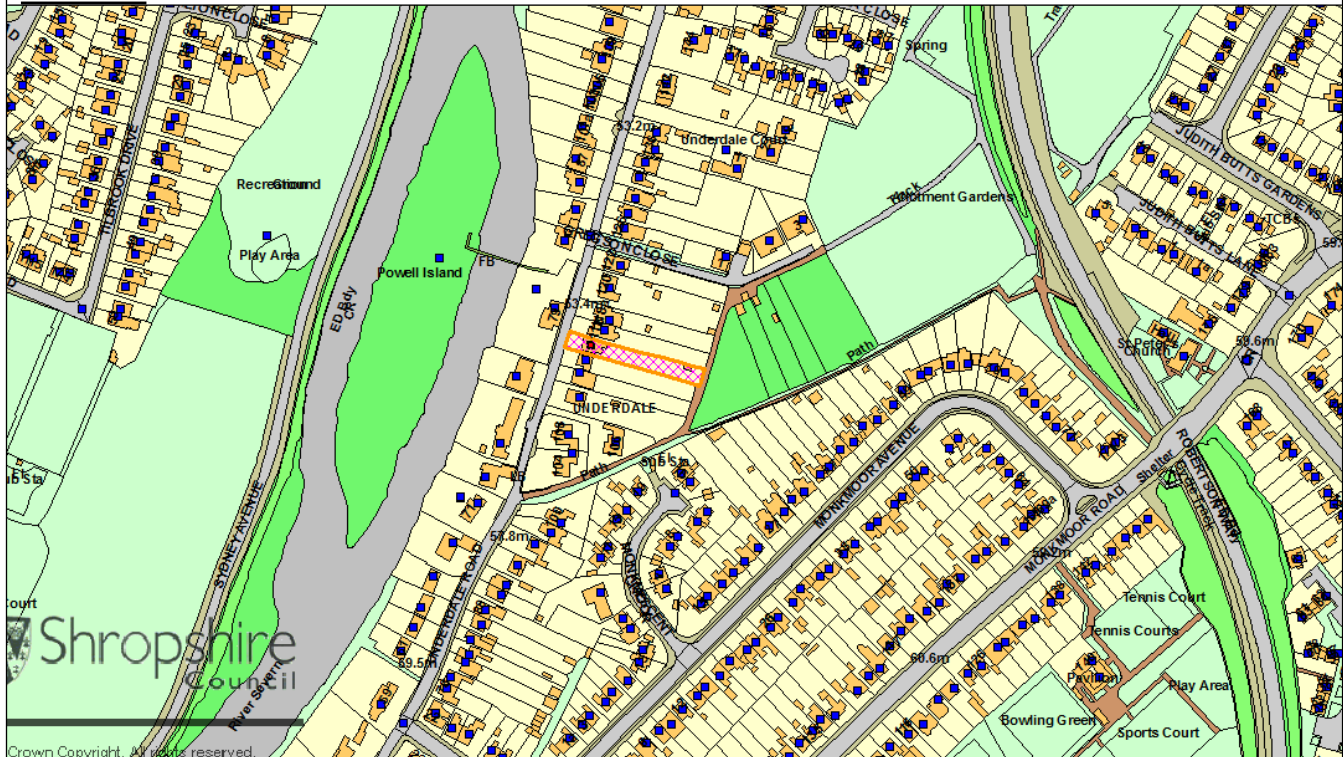
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 17/03906/FUL	Parish:	Shrewsbury Town Council
Proposal: Alterations to conservatory to form garden room; new detached outbuilding; alterations to existing driveway and installation of fence to front		
Site Address: 116 Underdale Road Shrewsbury SY2 5EF		
Applicant: Mr And Mrs Moseley		
Case Officer: Aileen Parry	email: planningdmc@shropshire.gov.uk	

Grid Ref: 350462 - 313350



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the alteration to an existing conservatory to form a garden room and linking to the existing rear single storey extension; a new detached building within the rear garden forming a hobby room with log burner and separate store; and alterations to the existing driveway (paving) and formation of a new fence in the form of metal railings to the front of the dwelling with the garden area being retained.
- 1.2 The garden room is attached to the rear and will measure approximately 3.5 metres wide, 3.3 metres deep with a ridge height of 3.3 metres. The new detached building will be sited approximately 0.6 metres from the boundary enable maintenance of the boundary and building and will measure approximately 8.0 metres wide, 3.0 metres deep with a ridge height of 3.2 metres. The metal railings will measure approximately 1.5 metres high and 2.8 metres wide.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 116 Underdale Road is an existing detached property located within a large elongated curtilage within a residential street in the Monkmoor area of Shrewsbury. The site does not fall within the Shrewsbury Conservation Area.

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 applicant is an elected member of the Council and therefore the application must be determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments
Highways
No Objection – subject to the development being constructed in accordance with the approved details. A Condition & informatives have been recommended.
- 4.2 -Town Council
The Town Council raises no objections to this application.
- 4.3 - Public Comments
Three neighbours have been consulted. No public comments have been received at the time of writing this report.

5.0 THE MAIN ISSUES

Principle of development
Design, Scale and Character
Impact on Residential Amenity
Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Within the development plan policy, there is a general presumption in favour of extensions to dwellings provided that the scale, siting and design do not overwhelm or dominate the appearance of the original dwelling or that the extension does not have any detrimental impact on residential amenities. The proposal is considered to comply with this presumption.

6.2 Design, Scale and Character

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.2.2 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.

6.2.3 The proposal is seeking full planning permission for the alteration to an existing conservatory to form a garden room and linking to the existing rear single storey extension; a new detached building within the rear garden forming a hobby room with log burner and separate store; and alterations to the existing driveway (paving) and formation of a new fence in the form of metal railings to the front of the dwelling with the garden area being retained.

6.2.4 It is considered that the proposed scale, design and appearance of the proposed development will respect the existing character of the dwelling and will not result in any visual impact in the locality. The proposed development will be built from materials which will be sympathetic to the existing character of the property, whilst it will be sustainably constructed meeting the current Building Regulation standards as a minimum. The proposed development will not result in the significant loss of garden area and will provide an appropriate level of amenity space for the enlarged

dwelling.

6.2.5 Officers consider that the proposal meets the relevant criteria within the NPPF, CS6 and MD2 and is therefore acceptable in principle.

6.3 Impact on Residential Amenity

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. Having regard to the proposed orientation and distance away from neighbouring properties it is considered that the proposed windows will not result in any detrimental impact from overlooking or loss of light. It is felt that the proposed layout, design and scale of the proposed development in relation to the boundary will also not result in any detrimental overbearing impact or result in any noise disturbance.

6.4 Highways

6.4.1 The proposal has been assessed by the Councils Highways Team who has stated that they have no objection to the development subject to the development being constructed in accordance with the approved details. A condition and informatives have been recommended.

6.4.2 Officers have sort clarification on the condition recommended, which requires a Construction Method Statement (CMS) to be submitted prior to development, as it is considered onerous for the scale of the proposed development from the Developing Highways – Area Manager South and Central of Shropshire Council. Their response advises that they can understand what the consultee respondent was seeking in suggesting the condition due to the constraints of Underdale Road, however as the applicant has confirmed it is not in their interest to obstruct the carriageway and there is sufficient room for storage of materials within the curtilage of the property boundary. They are therefore happy to support the application without the requirement for a formal condition to be attached to the planning permission if granted.

6.4.3 On this advice, officers will therefore not impose the initially requested CMS condition but will include the recommended informatives on any planning permission that may be granted.

7.0 **CONCLUSION**

Officers consider that the proposed scale, design and appearance of the proposed development will respect the existing character of the dwelling and will not result in visual impact or cause any detrimental impact on neighbouring properties.

Recommendation is that planning permission is granted.

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

Core Strategy and Saved Policies:
CS6 - Sustainable Design and Development Principles
MD2 - Sustainable Design

Relevant Planning History:

SA/03/0522/F Erection of single storey rear extension and front porch, following demolition of part existing conservatory and pergola PERCON 21st May 2003

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 David Vasmer
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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The external materials and their colour shall be as detailed on the submitted application form and as shown on the deposited plan.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

Informatives

1. In arriving at this decision the 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 187.
2. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.

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<u>Committee and date</u>
Central Planning Committee
26 October 2017

<u>Item</u>
11
Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

LPA reference	16/04668/OUT
Appeal against	Appeal Against Refusal
Appellant	Messrs Brassington
Proposal	Outline application (all matters reserved) for mixed residential development
Location	Land South Of B4380 Buildwas Shropshire
Date of application	12.10.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	15.02.2017
Date of appeal	10.08.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	17/01510/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Ian Groves
Proposal	Outline application for the erection of a single dwelling (all matters reserved)
Location	12 Arscott Shrewsbury
Date of application	30.03.2017
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	09.06.2017
Date of appeal	18.07.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

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