



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

Date: Monday, 13 July 2020

Committee: Northern Planning Committee

Date: Tuesday, 21 July 2020
Time: 2.00 pm
Venue: This is a Virtual Meeting

Members of the public will be able to listen to this meeting by clicking on this link:

https://teams.microsoft.com//meetup-join/19%3ameeting_YmE1YmZkMDctNTMwYi00YVWVILTk0ZjltOWNIYjg0NjgzYzc0%40thread.v2/0?context=%7b%22Tid%22%3a%22b6c13011-372d-438b-bc82-67e4c7966e89%22%2c%22Oid%22%3a%22d575f8b0-3d5e-4fde-ad1b-db472605b812%22%2c%22IsBroadcastMeeting%22%3a%22true%7d

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The Council's procedure for holding Virtual Planning Committees can be found by clicking on the link below:

<https://www.shropshire.gov.uk/planning/applications/planning-committees/>

Claire Porter
Director of Legal and Democratic Services

Members of the Committee

Roy Aldcroft
Nicholas Bardsley
Gerald Dakin
Pauline Dee
Nat Green
Vince Hunt (Vice Chairman)
Mark Jones
Pamela Moseley
Keith Roberts
Paul Wynn (Chairman)
David Vasmer

Substitute Members of the Committee

Joyce Barrow
Ted Clarke
Julian Dean
Steve Davenport
Roger Evans
Rob Gittins
Roger Hughes
Chris Mellings
Paul Milner
Peggy Mullock
Alexander Phillips

Your Committee Officer is:

Tim Ward Committee Officer

Tel: 01743 257713

email: tim.ward@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 North Planning Committee held on 23 June 2020, attached, marked 2.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Friday, 17th July 2020.

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 Oteley Road, Shrewsbury, Shropshire (19/02494/FUL) (Pages 7 - 38)

Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development

6 Proposed Dwelling To The East Of Ivy Cottage, Walford Heath, Shrewsbury, Shropshire (20/01374/FUL) (Pages 39 - 52)

Erection of one detached dwelling and alterations to existing vehicular access

7 Land and Buildings at The Firs, Higher Heath, Whitchurch, Shropshire (19/02796/FUL) (Pages 53 - 82)

Change of use of land to commercial vehicle and plant auction site to include provision of customer parking, erection of an office and preparation building; creation of bunding and landscaping (relocation of Existing Auction Site from the A49 Grain Store site) (resubmission)

8 Appeals and Appeal Decisions (Pages 83 - 120)

9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 18th August 2020.

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Committee and Date

Northern Planning Committee

21 July 2020

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 23 June 2020
Meeting held virtually via Microsoft Teams Live

2.00 - 3.30 pm

Responsible Officer: Tim Ward
Email: tim.ward@shropshire.gov.uk Tel: 01743 257713

Present

Councillor Paul Wynn (Chairman), Councillors Roy Aldcroft, Nicholas Bardsley, Gerald Dakin, Pauline Dee, Nat Green, Vince Hunt (Vice Chairman), Mark Jones, Pamela Moseley, Keith Roberts and David Vasmer

105 **Apologies for Absence**

There were no apologies for absence.

106 **Minutes**

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 27 May 2020 be approved as a correct record and signed by the Chairman.

107 **Public Question Time**

There were no public questions, statements or petitions received.

108 **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 agenda item 6, Councillor Nat Green stated that he was a member of Shrewsbury Town Council Planning Committee however, he had not had any previous involvement with the application and would be considering the application with an open mind.

With reference to agenda item 5, Councillor Keith Roberts stated that he was acquainted with the applicant but that he did not consider that this was sufficient to require him to leave the meeting

With reference to agenda item 6, Councillor Keith Roberts stated that he was a member of Shrewsbury Town Council Planning Committee however, he had not had

any previous involvement with the application and would be considering the application with an open mind.

With reference to agenda item 7, Councillor Keith Roberts stated that he was acquainted with the applicant as he was the Deputy Leader of the Council

With reference to agenda item 6, Councillor David Vasmer stated that he was a member of Shrewsbury Town Council Planning Committee however, he had not had any previous involvement with the application and would be considering the application with an open mind.

109 Milestone Garden Ornaments Alberbury Shrewsbury Shropshire SY5 9AD (20/01408/OUT)

The Principal Planner introduced the application which was an outline application for the erection of two detached dwellings with all matters reserved and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

In accordance with virtual meeting speaking protocol the Solicitor read a statement from Councillor Ed Potter, the local ward Councillor, in support of the proposal.

During the ensuing debate Members comments included: -

- They understood the reason for the Parish Councils original objection and desire for affordable housing on the site but agreed that this was not possible due to extra costs associated with the redevelopment of a brownfield site.
- Redevelopment of the site would improve the entrance to the village.
- Important that any dwellings built on the site should match those in the locality.

Having considered the submitted plans and listened to the comments made by all of the speakers,

RESOLVED:

That, as per the Officer's recommendation, planning permission be granted subject to the conditions set out in Appendix 1 and the addition of the following condition: -

The development will be limited to 2 dwellings. Each dwelling will have a maximum of 2 storeys and 120m² internal floorspace, (measured externally and excluding garages). Garages will be appropriate and subservient in size to the size and scale of the associated dwellings.

Reason: In order that development on site is reflective of the surrounding built environment in this semi-rural location.

110 **Unit 3 Monkmoor Trading Estate Monkmoor Road Shrewsbury Shropshire (20/01453/COU)**

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Pam Moseley, local Ward Councillor, having submitted a statement, took no part in the debate and did not vote on this item

The Principal Planner introduced the application which was an application for the Change of use from a garage to a fitness/boxing gym and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planner drew Members attention to the information contained in the list of late representations.

In accordance with virtual meeting speaking protocol the following Public Speaker statements were read out:

- Mr Roy Cartwright on behalf of the residents of 1,3,5,7,9,11 and 11a Eskdale Road in objection to the proposal.
- Councillor Pam Moseley, the local ward Councillor, in objection to the proposal.
- Mr Luke Merrifield, the applicant, in support of the proposal.

During the ensuing debate Members comments included: -

- They understood the concerns from neighbouring properties regarding noise and felt that windows and doors should be kept shut when activities were taking place.
- They suggested that permission could be granted for a limited period in order that any adverse effects on the neighbourhood could be assessed

Having considered the submitted plans and listened to the comments made by all of the speakers,

RESOLVED:

That, planning permission be granted for a period of two years subject to the conditions set out in Appendix 1 and

- a) The amendment of condition 3 to read: -

The premises shall not be open to the public, nor any services be available to the public, outside the hours of 11:00 to 20:30 Monday to Friday and 11:00 to 13:00 on Saturday and Sunday, nor shall any member of the public remain on

the premises outside of these hours. The premises shall not be open on Bank Holidays.

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

b) The amendment of condition 4 to read: -

All vehicles of customers and staff shall be parked in the areas shaded red on the approved plan after 18:00 weekdays and on Saturday and Sunday and shall not be parked at the rear of the building or along the boundary with properties in Eskdale Road during these times.

Reason: To protect the amenities of occupiers of nearby properties from potential noise nuisance and disturbance

c) The amendment of condition 5 to read: -

No activities or exercise shall take place outside the building and no amplified music or sound shall be audible from outside the building. All windows and doors shall be closed at those times when activities or exercise takes place.

Reason: To protect the amenities of occupiers of nearby properties from potential noise nuisance and disturbance

111 Police House 3 Park Street Oswestry SY11 2HF (20/01426/FUL)

The Principal Planner introduced the application the erection of a two storey side extension and change of use of strip of land to residential and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

In response to a question the Principal Planner confirmed that currently the strip of land subject to the change of use was amenity land associated with the neighbouring police station.

RESOLVED:

That, as per the Officer's recommendation, planning permission be granted subject to the conditions set out in Appendix 1

112 Schedule of Appeals and Appeals Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area as at 23 June 2020 be noted

113 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 21 July 2020

Signed (Chairman)

Date:

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<u>Committee and Date</u>
Northern Planning Committee
21 July 2020

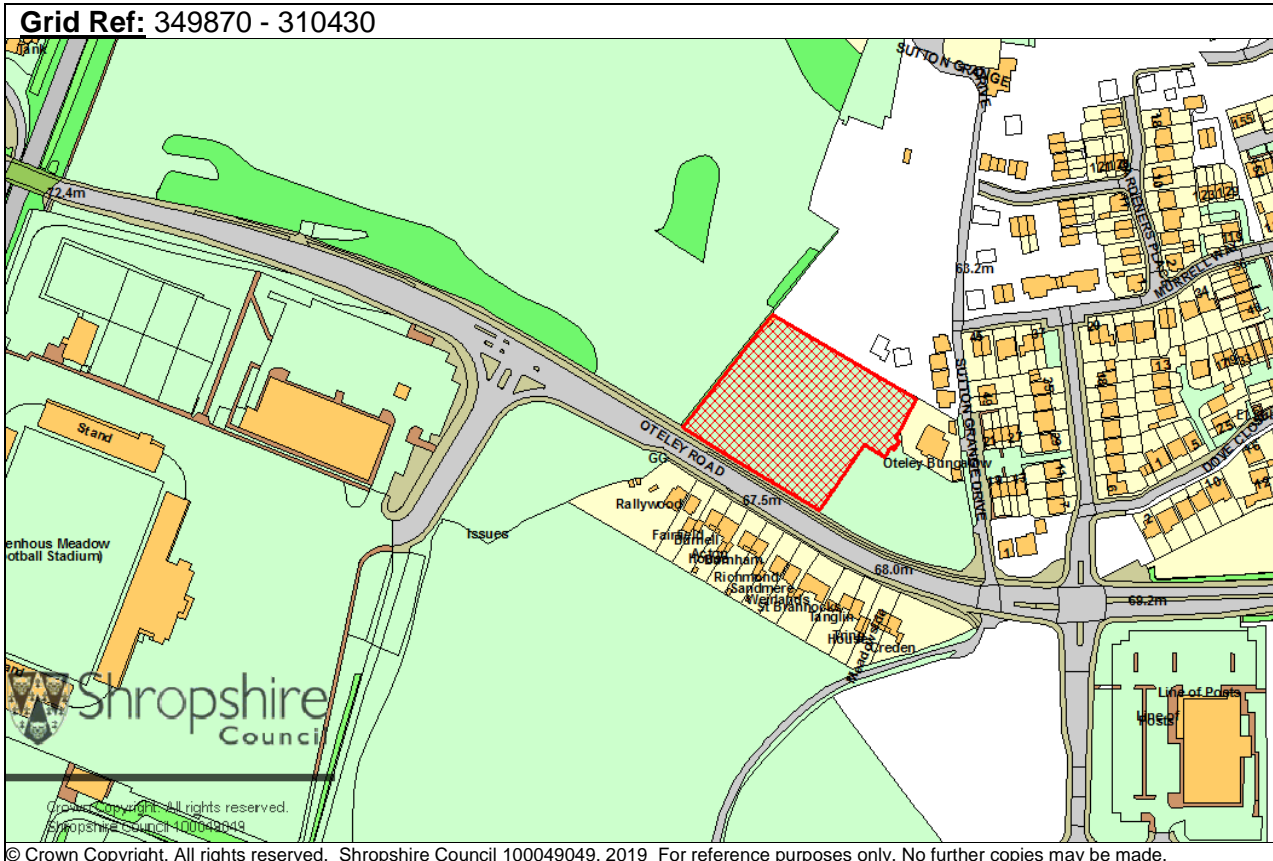
<u>Item</u>
5
Public

Development Management Report

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

Summary of Application

Application Number: 19/02494/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development		
Site Address: Oteley Road Shrewsbury Shropshire		
Applicant: Marston's Estates Ltd, Carter Lauren Ltd and Morris Property		
Case Officer: Philip Mullineux	email: planning.northern@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes erection of a family pub/restaurant (Class A4) including managers flat and a hotel (Class C1) with associated car parking and ancillary development on land at Oteley Road, Shrewsbury.
- 1.2 The application is accompanied by a set of proposed elevation and floor plans, site location plan, block plan, design and access statement, planning statement, arboricultural report, bat (received during the application processing period), and ecological assessment, preliminary ecological assessment, drainage statement, coal mining risk assessment, site investigation report, noise assessment, transport statement, and a statement of community involvement. Amended site layout plans and further information on odour prevention, (food cooking), was received during the application processing period.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the recognised development boundary for Shrewsbury being approx. 2km south of the town centre and located within the recognised 'Shrewsbury South Sustainable Urban Extension'. The site fronts onto and will take access from Oteley Road (B4380). The site extends to 0.67 hectares (1.66 acres) and forms part of a grassland field.
- 2.2 To the east of the site boundary is a dwelling known as Oteley Bungalow, (this site and its immediate area was subject to a separate application (19/03924/FUL), for intensive residential development, (two apartment blocks, and subsequently withdrawn by the applicants in accordance with the Council's scheme of delegation. Further east and to the rear of the site is recently constructed residential development. To the western side of the site is located Meole Brace Golf Course, which is separated from the site itself by a row of semi-mature and mature trees and shrubs. The southern boundary of the site (alongside the adjacent public highway), has had a row of lime trees recently served with a Tree Preservation Order. On opposite side of this highway are more mature two-storey dwellings located in reasonably large residential curtilages.
- 2.3 The application proposes alongside its frontal side with Oteley Road a 180 cover family pub restaurant with waitress service and a 3 bedroom manager's flat. Back of house staff facilities to include office, staff changing and WC facilities, plant space, general storage, yard to provide enclosure for recycling skips and refuse bins External layout to accommodate delivery route with level access to yard area and from PH bays to main entrance and 65 car parking spaces. To the rear of the site is proposed a hotel containing 39 bedrooms aimed at both business and leisure customers. Range of room types offering different bed configurations. Back of house areas for housekeeping and linen storage. Limited reception facility to provide 24/7 control. In order of 32 car spaces plus 13 spaces that were indicated to be shared with adjacent residential development (110 total spaces), (as originally submitted). Dedicated waste and recycling yard.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council and local member raises objections to this application and the Chair and Vice consider that based on the layout of the proposed development that in this instance Committee consideration is required.

4.0 **Community Representations**

4.1 **Shrewsbury Town Council** have responded to the application indicating:

Following the Planning Committee meeting held on 10.03.20, Members considered the amendments to this application and were disappointed that their original concerns in relation to the architectural design and the provision of renewable energy sources have not been addressed. Whilst noting Shropshire Council's Highways Department comments on the reduction of parking spaces from 94 to 92, Members feel that further erosion of parking provision on the site will result in patrons to the establishment parking in the neighbouring residential development. Members expressed concerns that the access road to this development, which also forms the access to the proposed adjacent residential development, has the potential to cause problems for both sites. Members would welcome measures to alleviate problems for both developments, particularly on football match days. Members also expressed concerns that this access road has the potential to cause problems for emergency vehicle access to both sites, and respectfully request that Shropshire Fire & Rescue Service is consulted to ensure that access meets their requirements. The Town Council objects to this application on the grounds that the parking provision is being eroded; the access road has the potential to cause problems for the neighbouring residential development; and access for emergency services vehicles may be hampered by the narrow width of the access road.

An earlier response indicated:

At the Planning Committee meeting held on 10.12.2019, Members considered the amended plans submitted for this application and were disappointed with the reduction in the number of car parking spaces for the premises. Members would like to see a comprehensive plan for the whole of this development site to fully appreciate the plans they have been asked to consider. Members were also disappointed that plans for a bold design for the building to reflect the diverse range of historical buildings in Shrewsbury or the provision for renewables had not been included in the revised plans. Members felt that their original comments on this planning application should stand. The Town Council restates its original position to this planning application.

The previous response indicated:

The Town Council does not object to this application per se, but Members expressed their disappointment with the plans submitted for one of the major entrances to the town. Members would like to see more ambitious designs for both the pub/restaurant and the lodge to reflect the town's diverse range of historical buildings in Shrewsbury. Members would also like to see renewable energy provisions within the plans.

4.2 **Consultee Comments**

4.3 **Shropshire Fire and Rescue** have responded to the application indicating:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <https://www.shropshirefire.gov.uk/safety-at-work/planning-Applications>

4.4 **SC Planning Ecology** have responded indicating:

I have read the above application and the supporting documents including the:

- Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019*
- Lighting plan prepared by Kingfisher Lighting received 5th June 2019*
- Bat ecological impact assessment prepared by Torc Ecology (August 2019) received 8th August 2019*

(Recommended conditions and informatives can be found at the end of this document)

Recommendation:

Conditions and informatives are recommended for inclusion on the decision notice.

Site

The majority of the site is improved grassland with areas of tall ruderal vegetation. There is a hedgerow interspersed with standard trees along the western boundary of the site and a small copse-grouping of trees along the northern boundary. There is a line of lime trees along the southern boundary that forms part of a longer line of trees along Oteley Road.

The site has low botanical interest and the hedgerow was not considered to be 'important' under the Hedgerow Regulations 1997.

The site has suitable terrestrial habitat for great crested newts, though it is reasonable to assume individuals are unlikely to commute to the site as there is no suitable connective habitat between the site and the closest ponds.

The site is unlikely to be suitable for reptiles though there are records within the locality.

The western and northern hedgerows will be retained and enhanced with additional planting of native species.

Bird boxes should be installed on site (preferably on the northern elevation of the hotel) to enhance the site for wildlife.

Any vegetation to be removed or cut back should be carried out outside of the bird breeding season. Ground vegetation to be removed should be checked by an ecologist for the presence of amphibians, reptiles, and hedgehogs. An ECoW should be appointed to carry out the searches and any other duties as necessary.

Bats

Several trees were recorded as having bat roost suitability and commuting routes were identified along the hedgerows and line of lime trees. Further surveys were recommended of the trees recorded as having bat roost suitability, and activity surveys to identify key commuting route and foraging areas for bats. A mature

oak along the western boundary has significant potential to support a bat roost, though no bat roosting activity was recorded during activity surveys.

Four species of bats were recorded on or adjacent to the site during nocturnal surveys. The majority of bat passes were recorded along the hedgerow on the western boundary and along the line of lime trees adjacent to the southern boundary of the site.

The bat roost in the bungalow close to the site will not be affected by the proposed development, provided indirect impacts that may occur during works are mitigated using the recommendations in section 6.4 of the bat survey report.

Any lighting installed on site will be highly directional and there will be minimal illumination of the southern and western boundaries.

Conditions

1. Prior to commencement of development (or each phase of development with prior agreement of the Local Planning Authority), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that ecological mitigation and enhancement measures recommended in the Preliminary Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019 are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place. Where any protected species licences amend the previously approved mitigation scheme then a revised updated and amended mitigation scheme, and a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection native biodiversity in accordance with MD12, CS17 and section 175 of the NPPF.

2. No vegetation clearance shall take place at any time within the bird breeding season (March 1st to August 31st inclusive) unless and until the developer submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or they have left the nest and there is no evidence of their returning.

Reason: To ensure the protection of nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended).

3. A minimum of four artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development. The boxes shall be sited at least 2m from the ground on a suitable structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

4. All landscaping shall be completed within 12 calendar months of commencement of the development or in such phases as may be agreed in writing with the Local Planning Authority. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

Informative:

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

An earlier response indicated:

The Preliminary Ecological Appraisal (Torc Ecology, May 2019) recommends bat surveys, as follows:

6.3.5. It is recommended that static nocturnal surveys of the mature oak tree standard within the hedgerow forming the western boundary of the site be carried out. This oak tree has been assessed as having moderate bat roost suitability along a likely bat commuting route/foraging area. The surveys should be designed to obtain the required bat roost data based on the tree's specific features i.e. the surveys should be reasonable and proportionate with regards the likely proposed felling and/or remedial works and therefore the likely impacts to bats and their roosts, and in-line with current best practice guidelines.

6.3.6. It is recommended that as a minimum two static nocturnal surveys be carried out by an appropriate number of surveyors at the oak tree within the western boundary hedgerow. One survey should be carried out mid-late May when night time temperatures are generally sufficient to support regular bat activity and the other survey should be when maternity roosts are well established in July. The licensed bat surveyor supervising the surveys will determine if a dusk or dawn static survey is appropriate. The spread of these two surveys will help determine the roost status, however a later third static nocturnal survey may be required based on the results of the initial surveys e.g. should a roost be suspected but not confirmed or should a further count of bat numbers at the roost be required to determine type of roost (maternity or satellite roost, etc.).

6.3.7. Due to the potential for the development to have a significant effect on commuting/foraging bats, it is recommended that bat nocturnal activity surveys be undertaken on site to identify bat species and key bat commuting routes/foraging areas on site, particularly principal key commuting routes from known and/or potentially yet to be identified bat roost sites. The surveys should be designed to obtain the required bat activity data based on the site specific circumstances i.e. the surveys should be reasonable and proportionate with regards the scale of the development and the likely impacts to bats and their roosts, and in-line with current best practice guidelines.

6.3.8. It is recommended that as a minimum two transect surveys in conjunction with remote bat detector deployment be carried out on, and where access is permissible adjacent to site, to determine bat commuting and foraging activity on and adjacent site. Again, one survey should be carried out mid-late May when night time temperatures are generally sufficient to support regular bat activity, and the other survey should be when maternity roosts are well established in July. The licensed bat surveyor supervising the surveys will determine if a dusk or dawn transect survey is appropriate. The spread of these two surveys will help determine the bat activity in the late spring and during the main bat maternity period, however again a later third transect survey in conjunction with remote bat detector deployment may be required based on the results of the initial surveys e.g. should confirmation of bat use of a particular feature on site be required during a later transitional period (September/October).

6.3.9. The above approach to bat activity surveys (transects and remote surveys) is based more in-line with a low suitability habitat for bats, however combined with the data from the static surveys at the oak tree along the western boundary hedgerow, the data generated should be sufficient to inform an impact

assessment in relation to the bat status of this specific site. However, provision has been made to undertake further bat activity surveys should the need arise.

Please re-consult Ecology once the results of these surveys have been received.

4.5 SC Regulatory Services Manager has responded indicating:

The information provided is accepted. Should the application be granted there should be an ongoing condition for odour management plan to account for maintenance, periodic monitoring and commitment to resolve any matters arising from monitoring.

On a second note, looking at the plans for the external areas, please can acoustic fencing be provided along the Oteley road to help attenuate any noise from customers in the outdoor areas to protect residents from any noise.

Previous responses indicated:

With Reference to the Odour abatement and management system. The first issue is that the author used the withdrawn DEFRA guidance whereas I specified the DW172 guidance. Nonetheless the risk assessment identifies that there is a high risk of odour problems and outlines mitigation with system of mitigation by Plasmaclean. The author has opted for mitigation proposal against option 3 for DEFRA Guidance for Very High-Level Odour Control, being "Fine filtration or ESP followed by UV ozone system to achieve the same level of control and previous options" and describes the system, as being pre grease filters and Electrostatix PLC 75000 with UV c Component leading to final Plasmaclean Sitesafe Discarb x 45 carbon filters to vertical discharge at 9m/sec. This system would appear to achieve this requirement though this should be cross referenced with DW172. It is very important that as part of a odour abatement management plan that a schedule is produced for maintenance and cleaning as per manufacturers recommendations. The noise attenuation aspect of this system has not been calculated and such calculations would be required.

Earlier responses indicated:

The applicant would still have to provide sufficient information of odour abatement and extraction system to ensure that residents are not adversely impacted by odour. The odour management pan can incorporate the principle as described below, but it has to be part of an odour management plan and not in lieu of details of odour abatement. Which is to say that the applicant cannot have the condition to achieve after its built instead of proper details of extraction from a competent person and based on the equipment to be used, the type of foods, covers etc , then potentially fail due to reliance on such a condition. It will be part of the plan and basically highlights, as an enduring condition for the need for maintenance, servicing, cleaning and monitoring.

Earlier response indicated:

Thank you for the plans of the proposed extraction and odour abatement for the restaurant. I am primarily concerned with the potential of odour nuisance and dis-amenity, especially to existing residents opposite the proposed site (who are more

in the prevailing wind direction) and the existing estate. The restaurant is relatively large and will have a large number of covers per night and given the proximity of the hotel, it will also be likely to offer breakfasts for those guests. Such premises typically offer a wide selection of grilled foods, charcoal grilled, pan fried and deep fat fried foods which have a high grease, odour and smoke content.

The illustrations on the plan implies that the abatement consists of 2 x Electrostatic Precipitators (ESPs) and an ON 100 odour neutralizer. It is important to note that ESPs, whilst valuable in a holistic odour management plan, are only intended to remove visible smoke from the airstream rather than the gaseous phase which tends to carry the cooking odours and therefore not a primary odour control mechanism. The ON 100 basically uses a chemical odour, from a small topped-up every few weeks to bind and mask the smell. There are a range of technologies which have not been mentioned which are typically installed but are not specifically mentioned including appropriately prefilters and graded charcoal filters but such technologies are not limited to activated Charcoal filtration as ultra violet and ozone units can form part of a successful odour management. The plan is not a satisfactory odour management plan. Each technology has advantages and drawbacks which require careful selection along with maintenance, servicing and replacement which have not been described. I would also consider a future condition that odour from cooking shall not be detectable from the premises at a certain range, which will naturally be a shorter distance to the nearest properties, would be appropriate.

Previous responses indicated:

Noting the location of delivery bay and the location of the as yet built residential properties to the rear .Please can commercial deliveries and refuse collection times be conditioned for the hotel and pub/restaurant so no AM deliveries before 7.30am Monday to Friday, 8am Saturday and Bank Holidays and 9am Sunday. Regarding PM deliveries , no deliveries after 8pm

2. The type of premises is likely to be a high turnover of grilled and charcoal and fried foods which can be odorous to nearby receptors. To date there is no extraction or odour management plan of details of any extraction system. Can extraction and odour abatement system information and odour management plan be submitted. Specification should be to DW 172 guidance.

Reason :To protect amenity of the area and residential properties.

An earlier response indicated:

Noting the location of delivery bay .Please can commercial deliveries and refuse collection times be conditioned for the hotel and pub/restuarant so no AM deliveries before 7.30am Monday to Friday, 8am Saturday and Bank Holidays and 9am Sunday. Regarding PM deliveries , no deliveries after 8pm.

2. Please can extraction and odour abatement system infomation and odour management plan be submitted. Specification should be to DW 172 guidance.

Reason :To protect amenity of the area and residential properties.

Having considered the noise assessment I note the conclusions. I consider the noise assessment appropriate and agree with its conclusions. As a result I would recommend that glazing specification given in the conclusion is conditioned.

An earlier response indicated:

The following 2 environmental reports and coal mining risk assessment have been submitted in support of this planning application:

- Crossfield Consulting; for Morris Property Ltd, Land at Oteley Road, Site Investigation Report; Report No. CCL02958.CE06, June 2017*
- Enzygo Environmental Consultants; Phase 2 Geo-Environmental Report, Land off Oteley Road, Shrewsbury, for Marston PLC and Carter Lauren Construction Ltd; Report Ref SHF.1014.021.GE.R.001.A, FINAL, dated May 2019.*
- Enzygo Geo-Environmental; Coal Mining Risk Assessment; Report ref. SMB/SHF.1014.021, dated 15th May 2019.*

No remedial works are considered necessary for the proposed development, on the basis of all the presently available information and therefore Regulatory Services has no comments to make in respect of contaminated land.

4.6

SC Archaeology Manager has responded to the application indicating *no comments on this application.*

4.7

SC Tree Manager has responded to the application indicating:

Following amendments to the proposed landscaping and replacement of the 2 Lime trees removed for access I raise no further objection to the proposal. The choice of 3 Koster Oak which are narrow forming upright trees will be suitable mitigation in the longer term. I note however that size of stock at planting is missing from the plan so I would ask that the following condition is imposed:

Landscape Condition (including replacement trees)

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the LPA.

Replacement trees shall be Quercus robur Fastigiata "Koster" minimum girth of stem 14 – 16cm planted into properly prepared planting pits in accordance with BS8545: 2014 "Trees: from nursery to independence in the landscape: Recommendations" with specific reference to the procurement of tree stock, species selection, aftercare and maintenance.

Any trees 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 be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To mitigate for the lost of mature trees.

Earlier responses indicated:

These comments need to be read in conjunction with 19/02476/VAR - Variation of condition 4 (tree protection) attached to planning permission reference 17/02732/FUL- formation of access / Land on The North Side Of Oteley Road.

Approved application 17/02732/FUL for creating an access to the site proposed to remove 1 Lime tree (later amended to 2 for sight lines) from an avenue of 10 trees on the site frontage along Oteley Road.

Adequate mitigation was required for the loss of these important amenity trees and 3 new trees were conditioned as part of the approval to be planted either side of the new access (shown below).

Application 19/02476/VAR has been submitted to reposition the planting of the 3 new Lime trees which are now shown planted to the west of the access in a small planting area as shown below.

I have already suggested that there is inadequate space proposed for 3 trees to reach maturity in this location (the mature proportions of a Lime tree crown can be seen indicatively below as T19 and T20).

As very little open space is provided across the whole site for new landscaping (and barely any appears to be proposed), I previously recommended that new planting sites for the trees are identified within proposed hard standing areas. Replacement trees can then be sustainably planted in suitably designed underground pit systems with adequate soil volumes (e.g.StrataCell and Rootspace by GreenBlue Urban).

Clearly on the latest plan submitted for 19/02494/FUL this advice has not been implemented with the indicative landscaping still showing the replacement trees crammed into a small planting area with no details on species, planting pits, soil volumes or maintenance. Other proposed landscaping has been removed from the plan.

On this basis the amended application would still appear to be contrary to the principal of sustainable development outlined in the NPPF and Shropshire Council SAMDev plan policy MD2

An earlier response indicated:

Summary: I cannot support the current layout due to proximity to protected trees.

The proposed layout has the potential to impact on the existing lime trees along the site's frontage which are a significant contribution to the character of the surrounding area.

A larger frontage amenity area with the building set further back would create a better visual juxtaposition between the buildings and the trees and reduce shading, conflict and maintenance issues.

The application would appear to be contrary to the principals of sustainable development outlined in the NPPF and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17.

Comments

Advice is given in BS 5837 which notes:

“A realistic assessment of the probable impact of any proposed development on the trees and vice versa should take into account the characteristics and condition of the trees, with due allowance for space for their future growth and maintenance requirements” and advises that the following factors are given consideration:

Shading

Privacy and Screening

Direct Damage

Future Pressure for Removal

Seasonal Nuisance

The current proposal is to build up to the current root protection areas of the trees (RPA) and air spades have been used to locate the extent of existing roots currently on site.

Root protection areas represent below ground constraints and are protecting the minimum soil volumes required for the trees at their current size to survive the development process. The presence or absence of roots in the RPA does not therefore mean this area can be reduced for development to be brought closer.

These Lime trees are not fully mature and have the potential to increase to an ultimate size of 20m depending on their access to useable soil and other factors. The distance from the Lime avenue trees on the other side of the road to the existing houses is between 12m and 15m which I suggest is more sustainable.

Landscaping

As stated in my previous comments I acknowledge that giving the Lime trees more space at the front reduces other areas for planting, however there is a requirement to replant 4 new trees under application 17/02732/FUL. The current spacing given for these trees along with the proposed tree pit sizes does not allow for these trees to achieve long term maturity along with a Quercus robur (Oak) in the extreme eastern corner in a constrained border (shown below as QR) which would also have insufficient space to achieve any meaningful size.

An earlier response indicated:

1) I have concerns with proximity of the proposed building and car parking built up against minimum existing root protection areas of 2 of the important frontage Lime trees (T17 and T18) both for the health and future growth of the trees and expected conflict between buildings and protected trees.

A larger frontage amenity area with the buildings set further back would create a better visual juxtaposition between the buildings and the trees and reduce shading, conflict and maintenance issues.

2) There is insufficient space allocated on site for landscaping including 2 replacement Lime trees (required under 19/02476/var for T19 and T20) and for a proposed Oak tree (replacement for T4).

Report

The protected frontage Lime trees are part of a distinctive feature of Oteley Road which combined with mature hedgerows form a broad green corridor and contribute positively to the landscape.

Air spading to identify the current spread of the roots from trees T17 and T18 has been carried out by the applicant and roots found at 7.38m and 8.1m respectively. The footprint of the pub has been proposed at the outer edge of this spread. The report states that the position of the proposed pub building is acceptable as the RPAs of T17 and T18 are not adversely affected.

Whilst this meets the root protection area criteria found in BS 5837 2012 BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection" it does not allow for future expansion of the roots and crown as the tree reaches maturity. There will be an on-going requirement to cut back annual growth of the crown to prevent encroachment issues. Lime trees can be problematic in relation to buildings due to amounts of deadwood and in relation to car parking with deposits of honey dew.

New Landscaping

Proposed new planting includes the replacements for the removal of 2 mature frontage trees for the new access approved under application 17/02732/FUL. The current proposal is for 3 new Lime trees, *Tilia cordata* close together at the access in planting pits measuring 900 x 0900 x root depth.

The spacing given for these trees along with the proposed tree pit sizes does not allow for these trees to achieve long term maturity – this issue is highlighted in the applicants own submitted tree report as follows:

"Trees need to be planted in appropriate positions where they have sufficient space to grow and sufficient access to light and other necessities. Potential space to replant may be found to the east of the new proposed driveway, and potentially west of the new driveway although there is less space here. Due to the relative lack of space, replanting may therefore have to include smaller species types which are suitable to the available space and conditions. This may be especially relevant considering the closeness of the new car parking areas to the new driveway".

The planting of trees within confined urban environments should consider the use of appropriately designed planting pits specifically engineered to promote tree health and longevity. The aim will be to provide an adequate volume of quality soil for roots to suitably develop by calculating the amount of available soil volumes needed and selecting species whose mature size is compatible with the site.

Recommendations

*New planting including 2 of the replacement *Tilia cordata* (required under 19/02476/VAR) need to be relocated within the site with the use of appropriately designed planting pits to allow the trees to reach maturity.*

*A *Quercus robur* (Oak) is proposed in the extreme eastern corner in a constrained border which would appear to have insufficient space to achieve any meaningful size and should be relocated within the site to a more sustainable location.*

SC Highways Manager has responded indicating:

4.8 *It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.*

Conditions

Access Prior to other operations Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to acceptable standard as shown on the application drawing 2191-01-GA102 (dated the 14/12/17 of planning permission 17/02732/FUL), before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions, at all times, and in perpetuity. Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

Informative notes:

Mud on highway The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway. Extraordinary maintenance The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).

HIGHWAY ADVICE NOTE

Disabled needs The attention of the applicant is drawn to Section 175A (3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway/verge) or*
- carry out any works within the publicly maintained highway, or*
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway, or*

- otherwise restrict any part of the public highway (inc.footway, verge or waste) in any way, for the purposes of constructing the development (i.e., scaffolding, hording/safety fencing, material storage, skips or construction traffic, etc.)

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

An earlier response indicated:

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met."

Recommended Planning Conditions

1. *Prior to the development hereby permitted being first brought into use/occupied the access layout and visibility splays shall be implemented in accordance with Drawing No 2191-01-GA102 dated the 14/12/17 of planning permission 17/02732/FUL.*

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

2. *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: • the parking of vehicles of site operatives and visitors • loading and unloading of plant and materials • storage of plant and materials used in constructing the development • the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate • wheel washing facilities • measures to control the emission of dust and dirt during construction • a scheme for recycling/disposing of waste resulting from demolition and construction works • a traffic management and HGV routing plan*

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

Observations/Comments:

Access

The proposed development is accessed off the B4380 Oteley Road. The design of the proposed access is shown on drawing 2091-01-GA102 of planning permission 17/02732/FUL. The construction detail will have to include dropped pedestrian crossing points, as part of the anticipated s278 agreement of works within the adopted highway.

Layout

The internal highway and parking layout is acceptable. Note, that even if the apartment development went ahead, the Council would not adopt any part of the internal highway layout.

Offsite Highway Works

The new access will require works within the existing adopted highway (Oteley Road). This works can only be carried out with the permission of the highway authority.

Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or*
- carry out any works within the publicly maintained highway, or*
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*

The applicant should in the first instance contact Shropshire Councils Street works team. Note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

An earlier response indicated:

“It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.”

Recommended Planning Conditions

1. Prior to the development hereby permitted being first brought into use/occupied the access layout and visibility splays shall be implemented in accordance with Drawing No 2191-01-GA102 dated the 14/12/17 of planning permission 17/02732/FUL.

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

2. 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: • the parking of vehicles of site operatives and visitors • loading and unloading of plant and materials • storage of plant and materials used in constructing the development • the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate • wheel washing facilities • measures to control the emission of dust and dirt during construction • a scheme for recycling/disposing of waste resulting from demolition and construction works • a traffic management and HGV routing plan

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

Observations/Comments:

Access

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Layout

The internal highway and parking layout is acceptable. Note, that even if the apartment development went ahead, the Council would not adopt any part of the internal highway layout.

Offsite Highway Works

The new access will require works within the existing adopted highway (Oteley Road). This works can only be carried out with the permission of the highway authority.

Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or*
- carry out any works within the publicly maintained highway, or*
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*

The applicant should in the first instance contact Shropshire Councils Street works team. Note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

SC Drainage Manager has responded indicating:

4.9

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

The Drainage Statement, drainage calculations and the Drainage Layout Plan should be revised in accordance with the latest amended Proposed Site Plan and re-submitted for approval.

Condition:

No development shall take place until a scheme of surface and foul water drainage 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 (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4.10 **SC Conservation Manager** has responded indicating ‘No comments in conservation terms’.

Public Comments

4.11

Two letters of objection have been received from members of the public. Issues

4.12 raised on planning matters can be summarised as follows:

- Impact on trees alongside Oteley Road.
- A public house will have a detrimental impact on the amenity of surrounding dwellings.
- Economic benefits are not outweighed by the harm.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact, tree impacts and landscaping
- Public highway access and transportation
- Ecology
- Drainage
- Residential amenity and privacy

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6.1.2 Policy CS2: Shrewsbury Development Strategy in the Core Strategy encourages a comprehensive and co-ordinated approach to the planning and development of Shrewsbury and refers to Shrewsbury South land off Oteley Road where development will assist in the expansion of Shrewsbury which includes provision for housing and business use alongside Oteley Road.

6.1.3 Policy CS6 indicates 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.

- 6.1.4 Policy S16: Shrewsbury Area in the SAMDev encourages appropriate development and re-development that accords with the Strategy on suitable sites within the town's development boundary referring to development of the area known as Shrewsbury South Urban Extension. (The area around Oteley Road forms part of this site).
- 6.1.5 As such the principle of development at this site is acceptable, subject to satisfactory consideration to national and local plan policies and matters as discussed below.

6.2 **Siting, scale and design of structures**

- 6.2.1 Core Strategy policies CS6 and CS17 requires development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value. SAMDev Plan policy MD13 seeks to protect, conserve, enhance and restore Shropshire's heritage assets.
- 6.2.2 Paragraph 127 of the National Planning Policy Framework, (NPPF), indicates that planning decisions should ensure that developments function well to the overall quality of the area and are visually attractive as a result of good architecture and layout, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, (such as increased densities).
- 6.2.3 Paragraph 130 of the NPPF indicates permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions
- 6.2.4 During the application processing the applicants submitted amended plans indicating the proposed public house set back slightly further into the site and the lodge/hotel also set further into the site further away from the rear boundary. The site layout was re-arranged in order that the access road to the adjoining site, (under a separate planning consideration subsequently withdrawn), went alongside the northern boundary, rather than through the centre of the site, acting as a barrier between the proposed public house and hotel/travel lodge. The understanding for this was owing to Officer concerns with regards amenity and the location of the hotel/travel lodge up against the rear boundary, the other side of which has recently been subject to residential development and therefore concerns about impacts on the residential amenity for future occupiers of these dwellings. The revised site layout plan indicates 20 metres distance from the two-storey hotel structure to the rear wall of the nearest dwelling located to the rear of the site. Otherwise scale and design of the proposal is as originally submitted and in accordance with detail as set out in paragraph 2.3 above.
- 6.2.5 Whilst the comments as made by Shrewsbury Town Council with regards to overall design are noted, on balance the proposed built development overall

could be conceived as appearing a little cramped, a primary issue on this matter is amenity and landscaping of the site and tree planting and mitigation and this matter is discussed in further detail below.

- 6.2.6 On balance in relation to the build form of the two main structures on site only, development in relation to siting, scale and design is considered acceptable and overall in Officers opinion in accordance with relevant local and national planning policies on this matter. It is considered development on site will have no harm on the surrounding historic environment.

6.3 **Visual impact, tree impacts and landscaping**

- 6.3.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Policy CS6 requires all development protects, restores, conserves and enhances the natural environment and takes into consideration local context and character and those features which contribute towards local character. Policy MD2 requires development to contribute to and respect locally distinctive or valued character and existing amenity by responding appropriately to the form and layout of existing development and the way it functions including mixture of uses.
- 6.3.2 The application proposes tree planting as mitigation for the loss of two lime trees located alongside the site's frontage with Otley Road, these trees are an important feature in the area and have recently been made subject to a tree preservation order owing to their significance in the local area. The two trees to be removed were as a result of planning approval reference 17/02732/FUL- formation of access. This approval is presently subject to 19/102476/VAR - Variation of condition 4 (tree protection) attached to the planning permission.
- 6.3.3 Approved application 17/02732/FUL for creating an access to the site proposed to remove 1 Lime tree (later amended to 2 for sight lines) from an avenue of 10 trees on the site frontage along Oteley Road. Adequate mitigation was required for the loss of these important amenity trees and 3 new trees were conditioned as part of the approval to be planted either side of the new access. .
- 6.3.4 Application 19/02476/VAR has been submitted to reposition the planting of the 3 new Lime trees which are now shown planted to the west of the access in a small planting area on the site plan in accordance with the application currently under consideration.
- 6.3.5 The Council's Tree Officer initially indicated that there was inadequate space proposed for 3 trees to reach maturity in this location. Also concerns were raised that very little open space was provided across the whole site for new landscaping (and barely any appears to be proposed). Replacement trees need to be sustainably planted in suitably designed underground pit systems with adequate soil volumes (e.g.StrataCell and Rootspace by GreenBlue Urban). Following amendments to the proposed landscaping and replacement of the 2 Lime trees removed for access the Council's Tree Officer in her final response to the application raises no objection to the proposal. The choice of 3 Koster Oak which are narrow forming upright trees she considers are suitable mitigation in the

longer term, although she notes that size of stock at planting is missing from the plan so recommends a condition to be attached to any approval notice to address this issue.

6.3.6 The avenue of lime trees along Oteley Road are considered an important feature in relation to the character of the surrounding area and as a result of concerns with regards recent pruning to some of these trees within close proximity to the site these trees have been made the subject of a Tree Preservation Order in order to protect their future well-being. It is clear when taking the Council's Tree Officer's comments into consideration the amended plans for development on site did not initially give adequate consideration to landscaping on site as well as consideration to the growth of the three trees that need to be planted on site as mitigation for the loss of the two lime trees subject to approval reference 17/02732/FUL and thus a change to the layout and species to be planted as discussed in the preceding paragraph.

6.3.7 On the basis of the above discussion, this application in relation to visual impact, tree impacts and landscaping is now considered by Officers to be marginally acceptable in relation to the principals of sustainable development as outlined in the NPPF and overall in accordance with Shropshire Council Shropshire Core Strategy Policies CS6 and CS17 and SAMDev policies MD2 and MD12.

6.4 **Public highway access and transportation.**

6.4.1 Core Strategy policy CS6 requires that all development is designed to be safe and accessible. SAMDev Plan policy MD8 states that development should only take place where there is sufficient existing infrastructure capacity. Policy CS17 seeks to protect and enhance environmental networks, including public rights of way.

6.4.2 The applicants have submitted a transport statement, and this concludes that the proposed development will be accessed by a safe and efficient vehicular access arrangement and that the proposed development benefits from being accessible on foot with the existing pedestrian links providing access to the surrounding residential and commercial areas. The development is ideally located to encourage journeys by bus and rail via the services available in the vicinity of the site. The proposed development can be adequately serviced. The development will be served by what Officer consider an adequate level of car parking. The proposals will have a negligible impact on the operation of the local highway Network and as such it is considered by Officers that the proposals will provide a sustainable development in transport terms.

6.4.3 SC Highways Manager has responded to the application indicating that it is considered the proposed development could be acceptable, from a highways and transport perspective, if conditions are imposed and subsequently met with regards to proposed vehicular access and visibility splays.

6.4.4 Whilst the concerns as outlined by Shrewsbury Town Council on highway matters are noted, on highway and transportation grounds the application is considered acceptable and in accordance with relevant local plan and national policy on this matter.

6.5 **Ecology**

- 6.5.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan Policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Policy MD12 states that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on specified ecological assets should only be permitted if it can be clearly demonstrated that:
- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
 - b) the social or economic benefits of the proposal outweigh the harm to the asset.
- It states that in all cases, a hierarchy of mitigation then compensation measures will be sought.
- 6.5.2 The applicants have submitted in support further ecological information and this included an ecological appraisal prepared by Torc Ecology (May 2019) lighting plan prepared by Kingfisher Lighting and a bat ecological impact assessment prepared by Torc Ecology (August 2019).
- 6.5.3 The Council's Planning Ecologist considers the information as submitted acceptable with suitable worded conditions attached to any approval notice issued. The response indicates that the majority of the site is improved grassland with areas of tall ruderal vegetation. There is a hedgerow interspersed with standard trees along the western boundary of the site and a small copse-grouping of trees along the northern boundary. There is a line of lime trees along the southern boundary that forms part of a longer line of trees along Oteley Road. The site has low botanical interest and the hedgerow was not considered to be 'important' under the Hedgerow Regulations 1997. The site has suitable terrestrial habitat for great crested newts, though it is reasonable to assume individuals are unlikely to commute to the site as there is no suitable connective habitat between the site and the closest ponds. The site is unlikely to be suitable for reptiles though there are records within the locality. The western and northern hedgerows will be retained and enhanced with additional planting of native species. Bird boxes should be installed on site (preferably on the northern elevation of the hotel) to enhance the site for wildlife.
- 6.5.4 As such on ecological grounds with conditions and informatives' attached to any approval notice subsequently issued, the development considered acceptable and in accordance with Policies CS17 and MD12 on this matter. Recommended conditions relate to an ecological clerk of works, on site vegetation clearance, bird boxes and landscaping in relation to the ecological aspect.
- 6.6 **Drainage**
- 6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.6.2

SC Drainage Manager has responded to the application raising no objections recommending that the Drainage Statement, drainage calculations and the Drainage Layout Plan should be revised in accordance with the latest amended proposed Site Plan and re-submitted for approval. However it is noted the response from SC Drainage indicates with an appropriately worded condition attached to any approval notice issued with regards to a scheme of surface and foul water drainage being submitted to and approved in writing by the Local Planning Authority, prior to any development on site, drainage matters are considered acceptable.

6.6.3

As such on drainage, the application is considered acceptable and in accordance with local plan policies once clarification is received on drainage calculations. With this matter addressed the application on drainage matters considered to be in accordance with Policy CS18.

6.7

Residential amenity and privacy

6.7.1

Core Strategy Policy CS6 states that development should safeguard residential and local amenity. Policy CS8 seeks to protect existing facilities and amenities

6.7.2

During the application processing as a result of Officer concerns a revised site layout plan was received in relation to residential and amenity issues, this was primary in consideration of concerns with regards to overlooking of adjoining residential land uses. (To the rear of the site residential development has recently been constructed).

6.7.3

The amended plans have to a degree remedied this matter, however the site is located in a primary residential area where significant development has recently taken place and there is also consideration required to the adjacent site alongside the site's eastern side to which access is obtained through the site subject to this application in relation to suggested residential use.

6.7.4

The Council's Regulatory Services Manager responded to the application requesting further information in relation to extraction and odour abatement system information and an odour management and that specification should be to DW 172 guidance.

6.7.5

Further information on this matter was eventually received from the applicants and it is noted that the Council's Regulatory Services in its final response to the application considered the information provided acceptable subject to an ongoing condition for an odour management plan to account for maintenance, periodic monitoring and commitment to resolve any matters arising from monitoring. Regulatory Services also requesting a condition to be attached to any approval notice issued with regards to acoustic fencing alongside the side with Oteley Road in order to address any issues in relation to outside noise generated from the public house in consideration of surrounding residential amenity. Also in relation to surrounding residential amenity it is recommended a condition is attached to any approval notice issued in relation to collections and deliveries to the site and this includes waste, owing to the site's proximity to residential development.

6.7.6

As such in relation to residential amenity issues and the extraction and odour abatement issue, with conditions attached to any approval notice issued as

recommended by the Council's Regulatory Services, on balance Officers consider the application is in accordance with Policies CS6 and CS8 of the Shropshire Core Strategy.

7.0 CONCLUSION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered.

7.2 Having considered the proposal against adopted planning policy and guidance, it is considered that the proposal in Officers opinion on balance overall is in accordance with Policies CS5, CS6, CS8, CS17, MD2 and MD12 of the local plan and the NPPF.

7.3 Whilst the application represents development that Officers note has raises concerns with regards cumulative impacts and adjacent development, the siting scale and mass in relation to the application under discussion on balance is considered acceptable. However landscaping and tree mitigation and long term viability, although initially of concern with conditions attached as discussed in this report, overall considered to be in accordance with Policies CS6, CS17, MD2 and MD12 of the local plan on this matter.

7.4 Residential amenity in respect of odour issues has been the subject of considerable dialogue, as discussed in Section 6.7 of this report. On this matter with consideration to the further information received and the Council's Regulatory Services Manager's final response with conditions attached as discussed, the application considered in accordance with Polices CS6 and CS8 of the local plan.

7.5 Issues in relation to highway and transportation and ecology considered acceptable. Drainage with a condition attached with regards to sustainable drainage and drainage calculations also considered acceptable.

7.6 Comments from Shrewsbury Town Council with regards to scale and design on site have been noted, as well as objections from the members of the public who raised concerns with regards to impacts on trees alongside the site and landscaping.

7.7 On balance and with consideration to all the material considerations which includes consideration to the economic benefits, (that weigh in favour of the application), the application considered by Officers to be in accordance with Policies CS6, CS8, and CS17 of the Shropshire Core Strategy, Polices MD2 and MD12 of the SAMDev and the NPPF. Therefore the recommendation is one of approval subject to the conditions as outlined in appendix one attached to this report.

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.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework:

Shropshire Council Core Strategy (February 2011):

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Site Allocations and Management Development Plan (December 2016):

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD4 - Managing Employment Development

MD11 - Tourism Facilities and Visitor Accommodation

MD12 - Natural Environment

MD13 - Historic Environment

S16 - Shrewsbury

10.2 Relevant Planning History

PREAPP/16/00630 Erection of food store and no.60 bed care home NPW 22nd May 2017.

17/02732/FUL Formation of vehicular access GRANT 31st January 2018.

PREAPP/18/00261 Erection of a family pub/restaurant (Use Class A4) and hotel lodge (Use Class C1) together with ancillary development, landscaping and car parking PREAIP 6th July 2018.

19/02475/DIS Discharge of Condition 3 (Tree Protection) on Planning Permission 17/02732/FUL for the formation of vehicular access DISAPP 24th June 2019.

19/02476/VAR Variation of condition 4 (tree protection) attached to planning permission reference 17/02732/FUL formation of access PDE

19/02494/FUL Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development PDE

19/02494/FUL Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development PDE

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 19/02494/FUL

Cabinet Member (Portfolio Holder) - Cllr Gwilym Butler

Local Member - Cllr Ted Clarke, Cllr Jane Mackenzie and Cllr Tony Parsons

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of surface and foul water drainage 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 (whichever is the sooner). The scheme will also make reference to drainage calculations and the Drainage Layout Plan will be revised in accordance with the latest amended Proposed Site Plan submitted in support of the application.

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4. 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 traffic management and HGV routing plan

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

5. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to acceptable standard as shown on the application drawing 2191-01-GA102 (dated the 14/12/17 of planning permission 17/02732/FUL), before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions, at all times, and in perpetuity.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

6. Prior to commencement of development (or each phase of development with prior agreement of the Local Planning Authority), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that ecological mitigation and enhancement measures recommended in the Preliminary Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019 are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place. Where any protected species licences amend the previously approved mitigation scheme then a revised updated and amended mitigation scheme, and a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection native biodiversity in accordance with MD12, CS17 and section 175 of the NPPF.

7. No vegetation clearance shall take place at any time within the bird breeding season (March 1st to August 31st inclusive) unless and until the developer submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or they have left the nest and there is no evidence of their returning.

Reason: To ensure the protection of nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended).

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

8. Notwithstanding the approved plans, prior to any development on site details will be submitted to the local planning authority and approved in writing with regards to external construction materials for all external walls and external roofing materials.

Reason: In order to ensure external construction is of a satisfactory standard in relation to the location and the surrounding built environment.

9. All landscaping shall be completed within 12 calendar months of commencement of the development or in such phases as may be agreed in writing with the Local Planning Authority. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

10. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the LPA.

Replacement trees shall be *Quercus robur Fastigiata* "Koster" minimum girth of stem 14 - 16cm planted into properly prepared planting pits in accordance with BS8545: 2014 "Trees: from nursery to independence in the landscape: Recommendations" with specific reference to the procurement of tree stock, species selection, aftercare and maintenance.

Any trees 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 be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To mitigate for the lost of mature trees.

11. A minimum of four artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development. The boxes shall be sited at least 2m from the ground on a suitable structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

12. No building or use hereby permitted shall be occupied or the use commenced until there has been submitted to and approved in writing a plan by the Local Planning Authority, which will achieve the objective of minimising odour, such as those indicated by document 298-136-RPT-01 submitted in support of the application or subsequent improvements in available technology and an Odour Management Plan, setting out cleaning, maintenance and filter/technological replacement policies. The plan will include a written recording system to record and demonstrate when all such work is carried out. The approved odour management plan shall be complied with throughout the duration of the use. Any odour abatement system proposed and installed cannot be guaranteed to achieve minimal odour until it is actually being operated and further works may be required to safeguard the amenity of an area if required.

Reason: To safeguard the amenity of nearby premises and the area generally

13. Prior to first use of the site detail will be submitted to the Local Planning Authority and approved in writing with regards to plans of external acoustic fencing and design features to reduce and minimise the noise from patrons using outdoor areas such as beer garden external drinking and eating area affecting neighbouring properties.

Reason: To safeguard the amenity of nearby premises and the area generally

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

14. Deliveries to and waste collection from the proposed hotel and the public house shall not be within the hours 2100-0700.

Reason: To safeguard the amenity of nearby premises and the area generally

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Committee and Date
Northern Planning Committee
21 July 2020

Item
6
Public

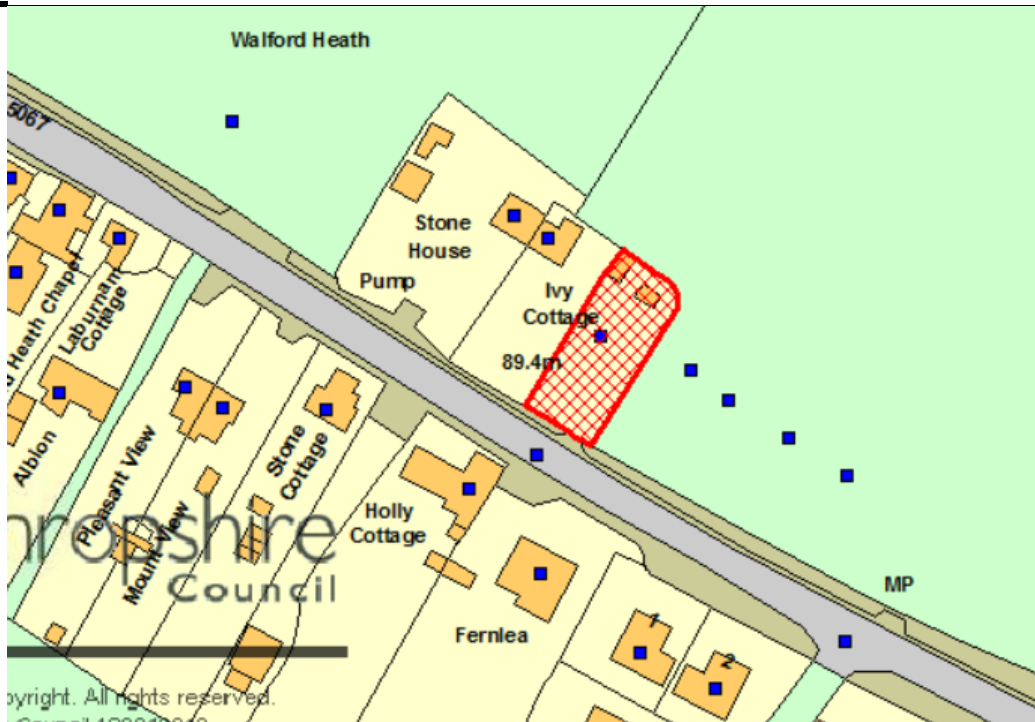
Development Management Report

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

Summary of Application

<u>Application Number:</u> 20/01374/FUL	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Erection of one detached dwelling and alterations to existing vehicular access		
<u>Site Address:</u> Proposed Dwelling To The East Of Ivy Cottage Walford Heath Shrewsbury Shropshire		
<u>Applicant:</u> Mr Nicholas		
<u>Case Officer:</u> Mark Perry	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 344690 - 319977



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 Application is made in 'full' and proposes erection of one detached dwelling and alterations to existing vehicular access on land to the east of Ivy Cottage Walford Heath, Shrewsbury.
- 1.2 Application is accompanied by a site location plan, block plan, proposed elevation and floor plans and a planning statement justifying the proposed development. During the application processing amended plans were received indicating a dwelling of reduced scale and mass.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site forms part of the residential curtilage to Ivy Cottage which is a semi-detached two-storey dwelling. The application site is to the east of this dwelling and to the east of the application site are other recently constructed detached dwellings. To the rear of the site is open farmland. A public highway (B5067), runs past the site's frontage and on opposite side of this highway are other detached dwellings.
- 2.2 Application proposes a detached two storey dwelling making use of the roof space for the second floor which will contain four bedrooms.
- 2.3 This application is a resubmission of planning application 19/04589/FUL which was refused by the Council on the 31st January 2020 for the following reason:

'The proposed detached dwelling is of a size and scale disproportionate to the application site and its surroundings, whereby the width of the dwelling, forward of the host dwelling, would dominate and be overly prominent within the streetscene, being harmful to the character and setting of the host dwelling, a historic dwelling that currently enjoys a large degree of openness. Furthermore, the proposed design and appearance of the dwelling is largely unsympathetic in regard to the traditional sandstone cottage, Ivy Cottage, and the open countryside beyond. Whilst a varying style and form is generally acceptable within this streetscene, the proposal fails to incorporate or acknowledge the proportions or detailing of surrounding properties. The proposal therefore is unable to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and MD13 of the SAMDev Plan, in addition to Sections, 12, 15 and 16 of the NPPF.'

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application does not comply with the scheme of delegation as the Local Parish Council raises objections, which the Chair and Vice consider are material considerations that warrant consideration of the application at Committee.

4.0 **Community Representations**

Baschurch Parish Council has responded to the application indicating:

Baschurch Parish Council object to the application with the same grounds as previously given in applications 18/02159/FUL submitted on 5th June 2018 and application 19/04589/FUL.

Previous comments as follows:

"Walford Heath is part of a community cluster within SAMDEV expected to deliver sixteen residential properties within the current plan until 2012 shared across the hamlets of Walford Heath, Merrington and Old Woods. Existing permission granted or built at Walford have alone met this obligation. The addition of further building is not justified or needed.

The proposed development is neither affordable nor on a brownfield site and is a size and type already in surplus in the area.

Shropshire Council already has 5.97 years of land supply to meet its obligations under SAM DEV national planning policy for sustainable development, exceeding its five year target.

We would draw attention to the planning officer's reasons for refusing planning permission on the recent nearby application 17/03587/OUT, in particular.

"Any additional development atop of the figure has real potential to significantly and adversely impact upon the local infrastructure and community goodwill. Despite the presumption in favour of sustainable development, there are no considerable benefits that materially outweigh the negatives arisen from its non-compliance with MD1, MD3 and S16(xv) of the SAM Dev Plan".

The above is also borne out by the officer's report on refusal of 17/01055 which is also still relevant and material to this application.

As part of the refusal for 15/02411/FUL for a single dwelling at Walford Heath, it was recognised by the officer's report that although there is a 40MPH speed limit, the speed limit is rarely adhered to. There has been little work to improve the highway safety and reduce speeds through Walford Heath and the speed limit is very rarely enforced. Baschurch Parish Council believe that the addition of any further dwellings with egress onto the highway is inappropriate and could cause further compromise to dwellings already experiencing issues with safe highway access and visibility.

As part of the Local Plan Partial Review to 2036, Bomere Heath Parish Council requested that Walford Heath be removed from Community Cluster status and put back into open countryside.

This was because the pattern of development had not been manageable and had resulted in development too quickly and in undesirable locations, which did not meet local needs. Shropshire Council has acknowledged this and Baschurch

Parish Council supports and understands the decision made by our adjoining Parish Council.

As significant reliance has previously been made on emerging plans, this emerging plan should also be afforded considerable weight, especially when considering that the previous plan numbers have already been exceeded.

Consultee Comments

SC Affordable Housing have responded indicating:

If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

SC Drainage have responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Condition:

No development shall take place until a scheme of surface and foul water drainage 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 (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Informative Notes:

- 1. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.*
- 2. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.*
- 3. On the Surface Water Flood Map, part of the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.*

4. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details, plan and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the loading for the septic tank/ package sewage treatment plant and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

SC Highways have responded indicating:

No Objection – subject to the development being constructed in accordance with the approved details, and the following conditions & informatives.

Observations/Comments:

The proposed development seeks to erect a single dwelling within the boundary of Ivy Cottage, Walford Heath. Access is existing from the B5067 which is governed by a local 40 mph speed limit. As part of the development the access is to be widened and adequate parking and turning provided for both dwellings.

Conditions:

Access: The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To provide a safe access to the development in the interests of highway safety. Parking and Turning The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area. Hedge/Boundary: Any hedge or other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times. Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

Access Apron

The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Informatives: Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

☐ construct any means of access over the publicly maintained highway (footway or verge) or

carry out any works within the publicly maintained highway, or

☐ *authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*
The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.
<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

Public Comments

At the time of writing this report nine letters of objections have been received from members of the public. Key planning issues raised can be summarised as follows:

- ☐ Development does not represent sustainable development.
Highway and transportation concerns
- ☐ The settlement concerned has exceeded its housing guidelines for the planning period of the local plan.
- ☐ Scale, mass and design of the proposed dwelling is not reflective of local character.
Drainage issues.

5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Siting, scale and design of structure
- ☐ Visual impact and landscaping
- ☐ Highway Safety
Drainage and flooding
Neighbour amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application site forms part of the side garden space to Ivy Cottage, a semi-detached dwelling located adjacent to the rural settlement of Walford Heath. Whilst the semi-detached pair of dwellings are on the opposing side of the highway to the main built pattern of the settlement, due to their age they have a strong social and physical connection to the settlement core, whereby the sub-division of existing dwellings, regardless of their location, can be acceptable.
- 6.1.2 Walford Heath is a rural village that has been identified for sustainable growth throughout the local plan period, until 2026. With S16.2(xv) of the SAMDev Plan providing:
- “Walford Heath is a Community Cluster settlement in Pimhill Parish where development by limited infilling/conversions of buildings may be acceptable, with a housing guideline of approximately 6 dwellings over the period to 2026, in addition to the 10 already approved.”*
- 6.1.3 Despite being visually within Walford Heath the site does in fact fall with a different Parish to most of the village. The boundary between Pimhill and Baschurch Parishes runs through the site. However, the application site does fall within the Baschurch Parish.
- 6.1.4 This application is a re-submission of, ref: 19/04589/FUL, which was refused for the reasons set out above. In recent years the characteristics of the site and surroundings have altered with the introduction of four recently completed detached dwellings adjoining the south-west boundary. Resultantly, the application site is now regarded as constituting an infill plot, in that the development of this plot would result in the closing up of a small gap within the existing built pattern and adjoined by neighbouring residential development on its side boundaries, showing a continuation of the built environment. The application site now complies with the settlement policy.
- 6.1.6 Like the previous applications there has been strong public objection to this application, citing concerns of overdevelopment and lack of services and facilities. The settlement has nonetheless been identified as a Community Cluster, in which and in association with surrounding settlements is able to accommodate sustainable additional growth. So, a lack of services and facilities in the immediate Walford Heath is not a substantive reason for refusal. The sub-division of an existing large residential curtilage would not represent an unacceptable encroachment of countryside and a modest dwelling in this plot would not represent overdevelopment and could supplement the street scene in providing a continuation of development.
- 6.1.7 On the above basis, the principle of development can be both established and supported.

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

- 6.2.1 With consideration to the amended plans received, the proposed dwelling sited on the existing garden land and forming an infill plot, between historic cottages to one side and modern dwellings to the other, the visual impact of the proposal is considered low. The site is occupied by a range of outbuildings, the site makes little contribution to the wider landscape setting, with the presence of a new dwelling and maintained gardens and rationalised outbuildings providing a betterment to the immediate visual amenities.
- 6.2.2 Since the previous refusal the scale of the dwelling has been significantly reduced and its character is now one that is more rural in its character and more closely connected in scale and mass to the dwelling within whose curtilage the site is located within. The proposed dwelling is one and a half storeys with dormer windows to the front and rear roof slopes and an open fronted porch over the front door. Height of the dwelling in relation to the surrounding street scene considered acceptable. One of the concerns with the plans as submitted was the depth of the proposed dwelling, this has now in accordance with the amended plans been reduced from 7.5 metres to 5.6 metres which is considered acceptable in relation to the surrounding built environment which includes reference to the dwelling within whose curtilage the application site is located.
- 6.2.3 Overall it is considered that the character of the proposed dwelling and its scale is now much more appropriate when compared to the previously refused scheme. It is considered that the proposal would now integrate more acceptably with the surrounding development which comprises traditional cottages and modern development.
- 6.2.4 The adjacent Ivy Cottage to the west sits towards the rear of its plot creating a long front garden. The new dwellings to the east are much closer to the road; set back just far enough to accommodate the access road and driveways. The dwelling proposed would be midway between the differing positions of the neighbouring dwelling to create a more gradual change to the alignment of the dwellings in relation to the road.
- 6.2.5 On the opposing side of the highway lies a dormer bungalow, traditional brick builds and painted brick builds. The surrounding style and form is varied, differing from plot to plot. As a result of this, there is no prevalent dwelling type.
- 6.2.6 It is considered that the proposed dwelling, as revised, is of an appropriate scale and appearance with adequate separation from the side boundaries. The proposed dwelling is now sympathetic to the host dwelling and the street scene. In order to preserve the built form of the site and potential impacts on the surrounding area, it is recommended permitted development rights are removed in relation to curtilage development. This will not necessarily prevent development within the curtilage of the dwelling, but will enable Local Planning Authority control over future development. (Development would need to reflect the scale and character of the dwelling it will be associated to).

6.3 **Highways and access**

- 6.3.1 The proposed dwelling will be served by the existing access that serves Ivy Cottage, leading off the B5057 and providing a shared access point and driveway. The immediate highway section, through the village, is governed by a local 40 mph speed limit and as part of the development the existing access is to be widened and the parking and turning area increased to provide adequate space for both dwelling.
- 6.3.2 The existing access will be shared with the existing dwelling and parking and turning spaces provided for both properties. The submitted plan does show a large expanse of driveway but it is considered that this could be mitigated by appropriate landscaping.
- 6.3.3 The public comments in regard to highway safety, speeds and vehicle movements are acknowledged. However, the introduction of a single dwelling and its associated vehicle movements and utilising an existing access point are not considered to exacerbate the highway conditions. Instead, the issue of highway safety would be more appropriately addressed through calming measures, as the issue is with passing vehicles and not residents.
- 6.3.4 No objections have been raised by the Council's Highways Team with regards to highway safety.
- 6.4 **Flooding and Drainage**
- 6.4.1 Details of the surface and foul water drainage have been submitted to show surface water directed into a newly proposed soakaway and silt trap under the permeable gravel driveway, with foul water disposed of via a new connection into the mains sewer. Both arrangements are acceptable.
- 6.4.2 The site lies in Flood Zone 1 only and is at a very low risk of surface water flooding.
- 6.5 **Impact on Neighbour Amenity**
- 6.5.1 The proposed development is not considered to adversely impact upon those amenities enjoyed by neighbouring residents. The host dwelling private garden space is reduced by half, with very little rear garden; however, Ivy Cottage has never had substantial rear garden space, owing to its positioning right at the rear of its plot.
- 7.0 **CONCLUSION**
- 7.1 The proposed detached, one and a half storey dwelling would be within an identified settlement for new development and the plot is able to constitute an infill plot in accordance with the settlement specific policy. The proposed dwelling is of a scale that is proportionate to the site and its surroundings and is of a design, scale and style that is sympathetic for its location.
- 7.2 The proposed development is considered to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and DM13 of the SAMDev Plan and it is recommended that permission be approved, subject to the conditions as attached in appendix one to this report.
- 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/04420/FUL Erection of four detached dwellings with detached garages; formation of estate roads and formation of new vehicular access (modification to previously approved) REFUSE 4th February 2019

18/04651/FUL Erection of two storey extension to side elevation GRANT 4th January 2019

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

20/01374/FUL Erection of one detached dwelling and alterations to existing vehicular access PDE

18/02159/FUL Erection of one detached dwelling WDN 20th June 2018

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

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) Councillor Gwilym Butler

Local Member

Cllr Nick Bardsley

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of foul drainage, and surface water drainage 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 (which ever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

4. Notwithstanding the details shown on the submitted block plan, no above ground works shall be commenced until full details of both hard and soft landscape works 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

5. 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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

6. The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety

7. Any hedge or other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times.

Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

8. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

9. The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To provide a safe access to the development in the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 Part 1 class; E shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development site and to safeguard residential and visual amenities.

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Committee and Date
Northern Planning Committee
21 July 2020

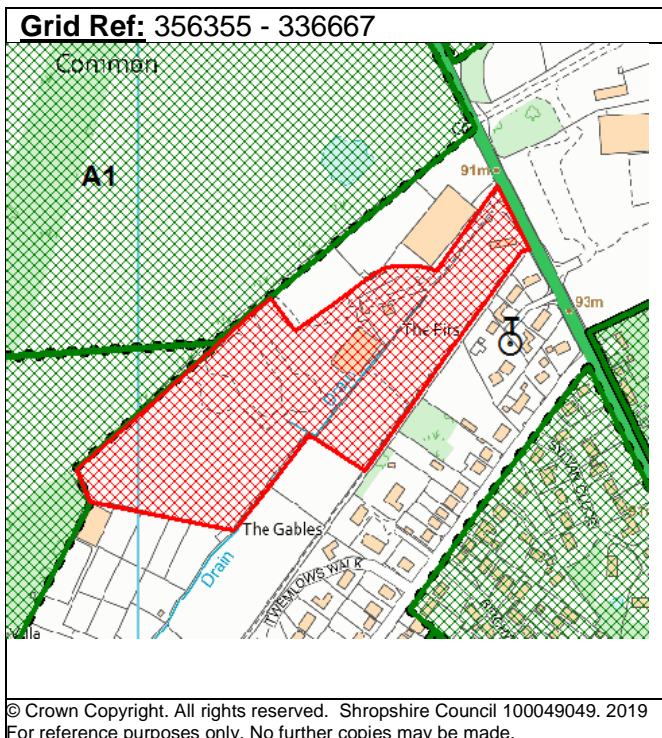
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7
Public

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> 19/02796/FUL	<u>Parish:</u>	Prees
<u>Proposal:</u> Change of use of land to commercial vehicle and plant auction site to include provision of customer parking, erection of an office and preparation building; creation of bunding and landscaping (relocation of Existing Auction Site from the A49 Grain Store site) (resubmission)		
<u>Site Address:</u> Land and Buildings at The Firs Higher Heath Whitchurch Shropshire		
<u>Applicant:</u> Malcolm Harrison Auctions		
<u>Case Officer:</u> Sue Collins	<u>email:</u> planning.northern@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the use of an existing commercial site as a commercial vehicle and plant auction site. The application includes the provision of customer parking, the erection of an office and preparation building, the creation of bunding and landscaping to the site. The intention of the application is to allow the applicant to relocate from the current premises off the A49 to the north of the site as it is understood this location is now too small for the operation.
- 1.2 During the course of the application amended plans and additional information has been provided by the applicant. It is on the basis of the latest information and plans that this report has been written.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land lies on the south side of Prees Heath Common and is a strip of land that was utilised as part of the Tilstock Airfield. This is an area of open countryside and situated to the rear of a large hangar building on the A41. Nearby there are a number of other hangar buildings currently operating with commercial use.
- 2.2 The site currently has consent for use for storage purposed and has a newly built storage building on site, as well as for B1 light industrial uses.
- 2.3 To the south of the site the boundary is defined by an old disused track with trees and hedgerows along both sides of this. A strip of agricultural land then separates the buildings from the track with the Prees Heath to the north. Security fencing defines the boundary along the heath.
- 2.4 The majority of housing in the area lies to the south of the site at Higher Heath.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:
- (i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
 - (ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee. In this instance the Vice Chair in conjunction with the Principal Officer considers Committee consideration of this application is appropriate.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

4.1.1 Prees Parish Council: Object

[Response Received 21.06.20](#)

Prees Parish Council notes the amendments but feels the small contribution they will make to reducing the impact of the site on the vicinity is of little significance when viewed against

the huge catalogue of reasons that the Parish Council sees for objecting to this application. It wishes its continuing objection to be registered.

Response Received 17.07.19

Prees Parish Council wishes to register its strong objection to this Application.

It is opposed to the increasing industrialization of an area of land so close to an area of Special Scientific Interest which is of national significance.

The impact too on nearby established housing will be detrimental to an unacceptable degree. The noise and smells generated by the site will very adversely affect local residents' quality of life. All local people are aware of the hazardous nature of the A41 and its history of accidents and near-misses and this makes the proposed relocation of the auction to this site extremely concerning. Most visitors will be approaching the site from the North and this will involve them turning right, across incoming traffic, to gain access to the site. This manoeuvre will be additionally dangerous due to its proximity to the brow of a hill. Parking at the 'old' site was always a problem: the A49 would be lined with parked vehicles on auction Saturdays. Is the area allowed for parking at the proposed new site sufficient to prevent a similar problem arising there?

An additional concern is the disposal of all the dirty, possibly contaminated water that will be generated by the washing-down of vehicles at the site. It is hard to see how the Applicant could guarantee that there will be no contamination of soil or local water courses in this ecologically important location.

4.1.2 **Whitchurch Rural: Object**

Response Received 30.06.20

The Parish Council maintains its original objection to the proposals and sees nothing in the amendment that alters its previous decision to object.

Response Received 11.03.20

The Parish Council strongly objects to the proposals outlined in this application.

The Parish Council has suggested that the designated sites for employment in Whitchurch as outlined in the Local Plan would be a more appropriate for this application. Councillors raised concerns over loss of residential amenity for the non related residential dwellings neighbouring the site. Serious concerns were raised over highways safety and access to and from the site – a nearby dip in the A41 in this location causes sight line issues which resulted in fatality in this location within the last 18 months. The Council has taken on board complaints from local residents and supports their concerns about the impact of noise light pollution causing loss of residential amenity. Concerns about the environmental impact of land which will be resurfaced for hardstanding for vehicles were raised. The Parish Council would like to request that, if it has not already been consulted, the Butterfly Conservation Trust is consulted for a potential impact assessment as the SSSI area is close to the proposed site.

In conclusion the Parish Council objects to this application on the grounds that it contravenes CS6 as the proposals will not protect, restore, enhance the natural, built and historic local environment (detrimental effect on the local environment and ecology); Nor will it contribute to the health and well being of the local community, in particular the residents of the neighbouring properties or safeguard their residential and local amenity. There are other, more suitable, specifically designated areas around Whitchurch which would be a more suitable relocation site for this business. This scheme would contravene CS17 due to the potential adverse affect upon the visual (light pollution) and ecological values of the immediate area.

In the event that it is agreed that this application should be recommended for approval, the Parish Council requests that it be taken to the Planning Committee for decision. This request has the approval of the Local Member, Cllr G Dakin.

4.1.3 SC Highways: No objection

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.

Observations/Comments:

3 points of information were requested in highways comments dated 09/07/2019 which have now been provided. The main risk to highway safety is vehicles awaiting to right turn into the development off the A41. However in the peak hour the number of right turners is predicted to be 49, less than 1 per minute, and the modelling shows that the junction performance will not be to the detriment of highways safety. Therefore a highways objection would be unsustainable.

Further detail has been received regarding the signage to be used for the site and the access layout, both of which are acceptable.

Clarification has been made to the days of operation of the auctions.

Conditions and informatives have been recommended for inclusion on any planning permission that may be granted.

4.1.4 Environment Agency: No comment

4.1.5 SC Regulatory Services: No objection

Response Received 01.05.20

Regulatory Services have reviewed the revised noise assessment Ref 19-10009-R01r1 dated 28th April 2020. The BS4142 assessment provided within this report indicates that there is likely to be a small adverse impact to some residential receptors due to normal operations of plant deliveries/collections and preparations and also due to auctions on Saturdays. The additional barrier on top of the earth bund provides some additional mitigation but it should be understood that noise from the operations on the site will be audible at the neighbouring residential properties, although the adverse impact of this is likely to be low.

Should the planning authority deem it appropriate to grant consent conditions are recommend for inclusion on any planning permission that may be granted.

Response Received 08.08.19

Regulatory Services have reviewed the application and have the following comments: The proposed site has residential properties along the southern boundary, the acoustic assessment provided with the application indicates that there will be no significant adverse effect on the neighbouring residential properties. Despite this I have concerns that the manoeuvring of heavy plant and potentially the PA system will be clearly audible at the neighbouring residential properties that may have a detrimental impact on the amenity. The predictions provided do not give an indication of the individual noise levels of specific activities it only provides an average noise level and hence it is difficult to interpret the impact of certain activities. I would expect the vehicle movements in the auction area and possibly the tannoy to be clearly audible in some of the neighbouring properties. Whilst the duration of these activities will be limited they are likely to have an impact on the amenity of the neighbouring properties. Whilst the proposed bund will provide significant mitigation to the carpark area it will have a minimal benefit to the auction area. I recommend that

consideration is given to incorporating a barrier on top of the bund to increase the effectiveness of the mitigation to reduce the impact.

The noise assessment has not considered the impact on The Firs as it is the managers property. The use of this building as residential should be linked to the commercial use, if it is not it needs to be assessed as a sensitive receptor.

The site is likely to require security lighting, such lighting can impact on amenity of neighbouring properties if not designed appropriately. When installing artificial lighting regard should be given to the impact of the light on surrounding properties so as not to cause a detriment to the amenity. No external lighting should be installed until a technical report has been provided and approved by a qualified competent person (e.g. Lighting Engineer) setting out the type of lights and the light levels to be achieved over the intended area, at the site boundaries.

4.1.6 **Butterfly Conservation: Objects**

Response Received 09.03.20

1. The comments below respond to the further information submitted by the applicant relating to the construction of a bund between the nature reserve and the development.

2. In summary Butterfly Conservation continues to object to the development subject to resolution of all of the concerns we raised in our substantive reply of 2nd July 2019.

3. The points of concern we raised in our 2019 response were, in summary:

- Potential for litter generation from the development which we will have to clear up
- Adverse effects on the public amenity of the reserve
- The potential for groundwater contamination of the pond created by Butterfly Conservation and the Environment Agency from fugitive fuels and oils from stockpiled machinery that soaks into the light sandy soils and escapes from the development site

4. The proposal for a bund with a fence fixed on top we believe is likely to be sufficient to curtail significantly the spread of litter onto the nature reserve but we would expect the landowner to ensure that litter is collected within the development site regularly so that it doesn't build up and fragments blow into the reserve when it is exceptionally windy. We believe this would also resolve the adverse effects on the public amenity of the reserve.

We support the area of 1.12ha of land to be accommodate ecological enhancements associated with the bund, and the tree, shrub and wildflower species that have been selected. However, there are insufficient details of the construction and landscaping of the bund in the CEMP/Biodiversity Enhancement Plan for us to have any confidence that the wildflowers and planted heather will have any chance of survival for more than a few years after establishment. The wildflowers and heather require very low fertility soils to thrive and there is no indication that this requirement will be met. Section 5.1 refers to the handling of topsoil and topsoil is inappropriate for heather to grow. There is no indication of how gorse, broom or other species will be prevented from smothering the heather that is to be planted. Section 5.3 does not clarify one way or the other whether topsoil is to be used in wildflower establishment; it isn't required.

There needs to be a detailed landscape plan submitted to show the physical arrangement of the ecological areas, and the soils/subsoils that will be used for the formation and the

bund. There needs to be a 5-year aftercare plan submitted to show what measures are proposed to ensure proper establishment, and a long-term maintenance plan to show the measures that the landowner will put in place to ensure the biodiversity benefits are maintained in perpetuity.

We therefore require additional information to be submitted before we can withdraw our objection.

5. We note the measures outlined in Section 3.1 to deal with hazards and spills, which refer to containment once a spill is noticed. We consider that this is currently insufficient to prevent long-term low-level contamination of the sandy ground, and insufficient to prevent the potential for leaching of spills towards the pond. We consider that areas where machinery are to be stored should be within a constructed concrete containment area with positive drainage to an appropriately sized sump with oil interceptor

We therefore require further consideration of this matter to be considered by the applicant and planning authority to provide assurances to us before we can withdraw our objection.

Response Received 20.07.19

Butterfly Conservation owns and manages Prees Heath Common Reserve, the area of land between the applicant's existing auction site and the proposed new auction site. The reserve is Registered common Land under the Commons Registration Act 1965, parts of it is a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981 as it is Access Land under the Countryside and Rights of Way Act 2000. It provides a sanctuary for the Silver-studded Blue butterfly, *Plebejus argus*, in its last remaining site in the Midlands, which is now increasing in number on the reserve, as well as supporting a range of heathland wildlife of conservation significance at county level. It provides a popular venue for visitors to enjoy walking in open countryside and appreciate such wildlife. Since Butterfly Conservation purchased the site in 2006 the reserve is undergoing a long term restoration of the heathland and associated habitats that were destroyed by ploughing and arable cultivations from the 1960s onwards, and this work has achieved interest nationally. Butterfly Conservation has a number of concerns regarding the proposed use of the application site affecting the reserve and its enjoyment by visitors.

Firstly the applicant's current auction site on the western side of the reserve already produces unacceptable amounts of litter on the reserve, despite the fact that there is a security fence between our land and the auction site. This litter consists mainly of polystyrene cups, crisp packets, paper and auction lot tickets containing the words 'Malcolm Harrison Auctions' which our volunteers have to regularly clear up. Mr Harrison and his staff have been asked to either prevent the litter coming onto the reserve in the first place or clear it up from the reserve themselves, but the situation has not improved. It would be unacceptable for such litter generation to also occur from the other side of the reserve. We are aware that the proposed auction site already has a mesh security fence, but as this may not be effective prevention we would not want this application to be approved without enforceable conditions on the applicant to control the litter generated and clear up any that appears on Prees Heath Common Reserve.

Another point of concern is the impact on the public amenity value of the reserve which is one of its primary functions. The site is already heavily affected by the presence of the busy major roads and we have planted screening alongside the A41 in an effort to counter the visual and noise impacts. Such measures should be a requirement on the development of uses on the application site which have already progressed considerably with new structure and equipment and machines in storage alongside the boundary fence.

The application's ecological report considered the possible impacts of the proposed use on reserve's pond, but only in terms of likely presence of Great Crested Newts. We note the ecological report's conclusions and that the developments on the application site that might have had impacts on its condition have already largely taken place (photograph below in 2018)

The pond was created in 2009 by Butterfly Conservation in partnership with the Environment Agency and has already developed naturally into one of considerable significance in being above national average levels for high quality ponds for the quality and diversity of its flora according to a 2017 survey by the Freshwater Habitats Trust. The reserve is already affected by traffic air pollution and the groundwater in these very permeable soils is highly vulnerable to pollution from oils, fuels, and contaminated surface water. These are all a high risk with the presence of stockpiled worn machinery, some partially dismantled. The applicant should be required to take all necessary safeguarding measures against pollution including the light pollution that would result from security lighting.



4.1.7 **Shropshire Wildlife Trust:** Object

We feel that the increasing industrialisation of the area is damaging to the nature conservation value of the area, the potential for tourism and the social/historical interest.

Of particular concern are the potential impacts on neighbouring land where there is significant wildlife interest including one of the last sites for the silver-studded blue butterfly, a nationally scarce species. Also with high ground water levels and a lack of clarity regarding drainage there are concerns regarding potential impacts on a nearby pond. While this pond may be considered poor in relation to its suitability for great crested it is believed to have a much greater invertebrate.

We would share the view of the Parish Council and would question why a site in a sensitive area should be developed when more suitable sites allocated have been allocated in the SADMDev

4.1.8 **Natural England:** No objection

Response Received 01.04.20

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection. Natural England considers that the relocation of this activity from within the SSSI to be beneficial to the future management of that site for the features for which it is notified.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure provision of a buffer to the SSSI and the submission of a Construction Environment Management Plan outlining how the development will be constructed without causing harm to the site.

4.1.9 **SC Ecology:** No objection.Response Received 08.07.20

I have read the submitted Ecological Appraisal (Greenscape Environmental, May 2018) and the Construction And Environmental Management Plan And Biodiversity Enhancement Strategy (Greenscape Environmental, September 2019). I am happy with the level of survey work and recommend conditions to be included on any planning permission that may be granted.

Conditions have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

Working in accordance with report condition

All demolition, conversion, site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with the Construction And Environmental Management Plan And Biodiversity Enhancement Strategy (Greenscape Environmental, September 2019) and the Proposed Site Plan Rev. G.

Reason: To ensure the protection of and enhancements for protected and priority species.

Lighting Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a lighting plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall:

a) identify those areas/features on site that are particularly sensitive for wildlife, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and

b) show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development.

Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK

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

4.1.10 **SC Trees:** No objectionResponse received 06.03.20

I support the addition of a 10m buffer zone and bund with additional planting. Further details on native planting species, numbers etc should be added to the plan details.

Example native plant / hedgerow specification:

The new hedgerow should be planted in a double staggered row at 5 plants per linear metre to create a dense and well-structured hedgerow network of value for wildlife.

Hawthorn *Crataegus Monogyna*
 Holly *Ilex Aquifolium*
 Crab apple *Malus Sylvestris*
 Hazel *Corylus Avellana*
 Blackthorn *Prunus Spinosa*
 Rose *Rosa Canina*
 Guelder Rose *Viburnum Opulus*

Response Received 03.07.19

There is a stand of semi mature trees crossing some of the site. It is understood that these are to remain, and a suitable buffer remain around them. Please apply the following tree protection condition to any approval:

All trees which are to be retained in accordance with the approved plan shall be protected in 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.

A 10m buffer is to be provided along the treeline to the south to provide access for maintenance of the boundary. I note that a bund is also to be constructed from topsoil removed from the site. This is to be planted to provide screening for local residents and the submitted Ecology report also recommended that the landscaping be improved with the inclusion of native species hedgerows and trees, particularly along the boundary with the heathland. Details of the species, sizes and numbers to be included should be added to the plan in line with recommendations in the Ecology report.

4.1.11 **SUDS:** No objection subject to the inclusion of the recommended condition and informatives being included on any planning permission that may be granted.

4.1.12 **Rights of Way:** No comment.

4.2 **Public Comments**

4.2.1 83 letters of representation have been received in response to the proposed development.

One of these is a letter in support of the proposal:

- The existing site is not a nuisance to them or their neighbours
- The staff are very considerate when an auction is taking place.

The areas of concern raised in the remaining comments relate to the following:

Principle and Policy

- The proposal is contrary to local and national adopted policies
- Industrialisation of this land is inappropriate.
- Commercial areas identified in SAMDev should be used and not this open countryside location.
- This is not a commercial site.
- The proposed building is not going to be an enhancement or benefit to local residents.
- The use is likely to increase over time from that outlined in the application.
- The existing site is not as close to the same number of residential properties and the new location.
- This is green belt and should not be developed.
- That fact it was previously an airfield does not give it permission for industrial use.
-

Highways

- Increase in traffic will cause highway safety issues
- Access is too dangerous particularly for vehicles turning right into and out of the site.
- Other accesses in use in this area already cause issues with turning and slow moving traffic.
- The speed and amount of traffic using the A41 causes traffic safety issues at the moment without further traffic being generated,
- The A41 is extremely busy and is used as a diversion route for traffic from the M6.
- The A41 is busier than the A49 where the business currently operates from.
- Traffic using the A41 frequently travels faster than the speed limit of 50 mph.
- This is an area of frequent vehicle accidents including fatalities.
- People will park on the highway rather than use the allocated parking area.
- The traffic surveys carried out by the applicant are insufficient to assess the impact of the proposal on the highway network.
- A filter lane should be introduced into the site together with a right turn filter lane to allow traffic to continue to flow smoothly.
- A regulated traffic management system will be required to ensure that the site operates without causing hindrance to other road users.
- People do not obey the highway regulations in relation to no right turns at the relevant junction adding to highway safety issues.
- HGV's are breaking up the road surface of the A41.
- Traffic is prevented from turning right into Twemlows Avenue for highway safety reasons. It should be the same for the entrance to this site.
- Traffic safety needs to be addressed for the current traffic flows never mind the addition of the traffic using this site.

Residential Amenities

- Increase in air pollution from extra vehicles
- Increase in noise pollution. Auctions by their nature are noisy as well as the additional traffic generated and works being carried out to the vehicles and plant prior to sale.
- Additional noise is contrary to the NPPF.
- Security lighting will have an impact on the residential amenities of the local area.

- The proposed noise mitigation will not be high enough to provide any protection to neighbouring properties.
- Smells will arise from the proposed use due to the vehicles being transported to and from the site as well as visitor's vehicles on auction days.
- The site will not only be in use on auction days but in between with moving stock in and out as well as preparation for the sale days.
- There is no indication in the application of the hours of operation for the business on the site.
- Holding sales mid-week will still affect those who do not work or work from home.
- The proposed fencing and bunding will be on the mutual boundary with neighbouring residential properties. This will have an unacceptable impact of their amenity.

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Ecology

- Unacceptable impact on the nature reserve. The ecology of the area is a delicate balance
- Works already carried out may have caused damage to the heath.
- The existing use of the site for storage and the building is not commensurate with the heathland.
- The change of use will have an impact on the Silver-Studded Blue Butterfly.
- The proposed use will cause pollution to run-off into the heathland, and the underlying aquifer.
- The Ecology surveys submitted and the proposed mitigation are not good enough.
- The applicant has destroyed heathland in carrying out works to the site.
- Floodlights that are left on overnight are harming wildlife in the area.

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Trees and Landscaping

- The proposed bunding will be detrimental to the adjacent conservation area.
- Installation of fencing will be visually intrusive
- Trees have already been felled on the application site.
- The development will look like a scrapyard and be detrimental to the countryside character.

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Drainage

- No drainage details have been provided and as the site is close to the nature reserve/SSSI this is a potential pollution issue.
- Tarmacking over the whole site will cause flooding problems.

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Other Matters

- Loss of view from residential properties over the heath.
- The development will devalue the properties of local residents.
- The applicant does not appear to comply with conditions and permissions for his existing site. This does not therefore bode well if he were to operate from this location.
- Comments relating to other areas outside of the application site being used by the applicant without consent.
- Rubbish is allowed to pollute the area around the existing site used by the applicant.
- Building works on other sites in the area remain incomplete ie, buildings part constructed and landscaping not finished. In addition works have been carried out on this site and neighbouring properties without planning permission first being obtained.

- Works on the site will release contamination into the ground as has been found at Furber's Scrapyard.
- Due to the Covid 19 situation the use should not be approved as a risk to health.
- The proposal will impact on tourism to the area as visitors to the heathland will be dissuaded by the noise etc.
- Responses from Consultees have been made based solely on the information provided by the applicant and without site visits or independent reports being carried out.

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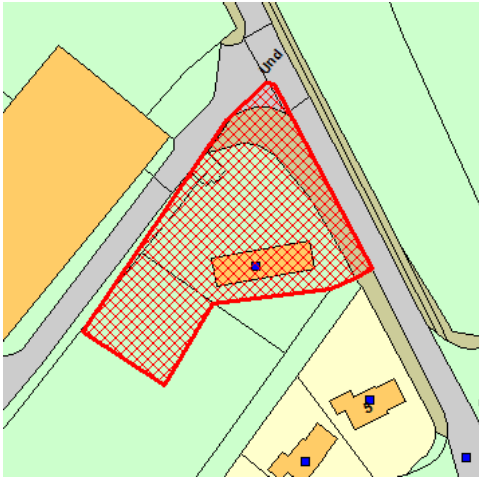
5.0 THE MAIN ISSUES

- Policy and Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Ecology
- Trees and Landscaping
- Drainage
- Other Matters.

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 Comments have been made in relation to the application that this use should not be approved in a rural location particularly where it is in close proximity to residential properties, the heathland, SSSI and where there are highway implications. It should be relocated to an allocated employment site as identified in the Shropshire Local Development Framework.
- 6.1.3 Areas of Prees Heath such as the application site became commercial in use due to the sale by Central Government of the former Grain Intervention Stores that had been erected. Other areas of the former airfield have been sold off over time and have been used for commercial activities.
- 6.1.4 Application 09/01600/COU allowed for the conversion of a dis-used military building to office use including the formation of an estate road and car parking area together with the installation of septic tank drainage.



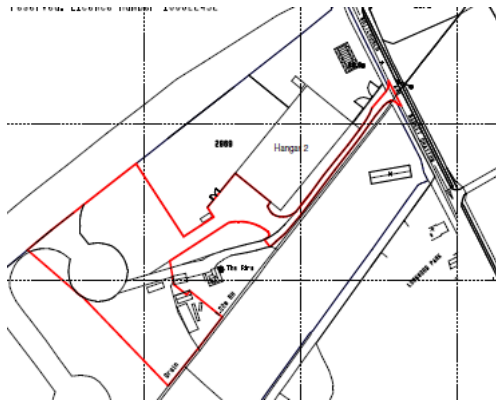
This includes part of the proposed car parking area as set out in the current application.

- 6.1.5 In 2011 planning permission 11/02471/FUL allowed for the turning circles to be used for B1 C use. This included the means of access from the A41. This was granted only for use by the applicant but indicates that the use of the premises for B1C use is acceptable.



This is part of the current application site as it includes part of the means of access and part of the land to be used for the auction site.

- 6.1.6 Application 14/01226/FUL gave approval for works to be carried out to the access on to the A41
- 6.1.7 In 2017 planning permission was granted for the erection of a portal covered store which included land around the building reference 17/02222/FUL. This was constructed but was not carried out in accordance with the approved plans. A subsequent application in 2019 reference 19/00312/FUL was approved for the amended design and size of the building.



As can be seen this includes part of the proposed site to be used for the new auction area and identifies that the area already has the benefit of commercial uses.

- 6.1.8 As demonstrated above while the site is located within open countryside it does have the benefit, in part, for commercial use. It should be noted that reference in some objections has been made to the area being in green belt which is incorrect.
- 6.1.9 The Shropshire Core Strategy identifies a number of objectives which provide the spatial vision for the County. Strategic Objective (SO) 1 supports the principle of sustainable communities which not only ensure inclusive and safe areas, but also housing, jobs, education and training among many other things. To meet the needs of communities. In this instance the business does employ people some of which would be in the local area. Buyers coming to the sales will need accommodation and refreshments which could be obtained nearby and as such it provides an economic benefit to the locality. SO3 requires the rebalance of rural community through local housing and employment opportunities. As previously indicated the business helps to support other local businesses which is in accordance with the aim of SO3. In relation to SO6 this is a sustainable location being close to areas where employees can be found for the business and its close proximity to a major road network.
- 6.1.10 The Shropshire Core Strategy also supports the principle of supporting rural vitality and the viability of the countryside. This is evident in policies CS5 which does allow for development in the countryside particularly where the development is for a relatively small-scale development which allows for diversification of the rural economy and also where it allows for the retention and appropriate extension of an existing established business. In this instance the business is existing on another part of the heath. However the business is now constrained and needs to expand and its current site does not allow for this being adjacent to the identified SSSI and any extension having an impact on it.
- 6.1.11 Also policy CS13 of the Core Strategy supports promoting Shropshire as a business investment location where a range of businesses are encouraged to start up, invest and grow. As such planning and managing a flexible supply of employment land and premises are required to meet the needs of businesses and be in appropriate locations.
- 6.1.12 In relation to policy CS14 of the Shropshire Core Strategy supports policy CS13 is identifying allocated land for development. However this does not mean that other “windfall” sites cannot be considered appropriate and it also allows for agricultural diversification provided it meets with other relevant policies.

- 6.1.13 As the land has been previously developed both through the more recent applications but also as it was one part of the airfield, the land has to be considered as brownfield and as such in line with government advice it is an appropriate area to consider the principle redevelopment. This is identified in para 19 of the NPPF.
- 6.1.14 While it is appreciated that the application area does include some agricultural land as well as previously developed land, it is considered that this will provide for a viable business which will be to the economic benefit of the area and nearby towns and settlements. It will see the redevelopment of some previously developed land and as stated in the NPPF this is to be encouraged.
- 6.1.15 As such from a policy point of view, it is the opinion of the case officer that the proposal is acceptable in principle. However other issues raised in relation to the proposal are discussed further in this report.
- 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. 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. In addition, policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design. The site is located in open countryside and as such policy CS5 of the Shropshire Core Strategy is also relevant.
- 6.2.2 The proposed development encompasses land that had planning permission for commercial uses as well as some additional land that is currently agricultural in use. Since the submission in June 2019 the layout plan has been amended to include the buffer zones, landscaping and other changes as required by statutory consultees.
- 6.2.3 No new permanent structures are to be constructed on the site as a result of the development other than boundary fencing. The Auction area and the car park areas are to be surfaced. The Auction area is to be surfaced with type 1 MOT aggregate and plantings which is a permeable surface to aid with drainage of the site. The car park is to remain to grass with reinforcement allow vehicles to drive over the surface. This will enable the land to remain green for much of the year with a top dressing of bark chippings to be applied to maintain the rural appearance of the field. For the auctions a mobile booking and sales office will be brought to site together with mobile toilets to allow the auctions to take place.
- 6.2.4 It is understood that the auctioneer is driven around the auction lots carrying out the sales using a loud haler with the mobile booking and sales office being used for registration of bidders and to complete the sales. The mobile structures are removed from site within 2-3 days of an auction and as such have limited visual impact on the site.
- 6.2.5 The applicant has indicated that there would be no more than 12 auctions a year and that they are happy for this to be the subject of a planning condition. The condition would also be worded to require the dates of the auctions to be agreed with the LPA to ensure that they stay within the limit.

- 6.2.6 From the information provided the auction itself will only be held for a limited number of times a year and while vehicles and plant are on site for relatively brief periods of time their visual impact is limited. Similarly visitor vehicles and mobile office and toilets are most likely to be on site just before, during and briefly after the auctions these will have insubstantial visual impact on the rural landscape.
- 6.2.7 While larger vehicles and plant may be visible from outside the site, these views will be minimalised through the construction of screen bunding and appropriate native landscaping. These matters are discussed further in this report.
- 6.2.8 As such much of the works proposed as part of this application could be removed to reinstate land back to agricultural use should the need arise. However, in terms of visual impact this will be much reduced by the amount and nature of the landscaping and bunding that is to be carried out as well as the temporary nature of the storage of sales lots and the use of the car parking area.
- 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.
- 6.3.2 Comments have been made in relation to the potential impact the development may have on the residential amenities of properties in close proximity of the site. These relate to noise, lighting, odours and air pollution.
- 6.3.3 Along the rear boundaries of the nearest residential properties to the east of the site there is a track which is not in the ownership of the applicant. This is approximately 6 metres wide with trees or hedgerows along most of its length. The parking area that is to be used by visitors on auction days only lies to the west of the track. This field has an approximate width of 50 metres to the hedge that provides a boundary to the proposed auction area. The dwelling known as the Firs and its associated domestic garden which is occupied by the Manager of the site stretches along part of the hedgerow and the commercial building extends further along this boundary providing significant separation from the closest dwellings to the actual area of the auctions.
- 6.3.4 The application includes the provision of a bund that follows the eastern and southern boundaries of the site. The bund is to be set 10 metres into the field from the existing track boundary giving a separation of approximately 16 metres to the base of the bunds from the rear boundaries of the dwellings. The bund will spread 5 metres and have a height of 2 metres and will have a 1.8 metre high timber acoustic fence on top. The bund will also be planted with native trees/shrubs which will enhance the protection afforded by the fence and introduce additional screen planting. While some of the adjacent dwellings (to the car park area), are on slightly higher land the car park area will only be used on auction days for visitors.
- 6.3.5 The hedgerow and trees in the boundary hedge adjacent to the auction area will further reduce the visual impact of the auctions as well as providing additional barrier to any noise that may be produced. In addition, the Council's Regulation Services Officer has recommended planning condition that should be imposed if planning permission is granted. These include restricting hours of use of heavy plant etc and the limitations on the use of a public address system.

- 6.3.6 In terms of lighting the CEMP the applicant has set out some limitations on lighting to ensure protection for the wildlife of the area. However in addition to this, the Council's Regulatory Services Officer has made a recommendation for a condition to be included on any planning permission that may be granted requiring the details of any lighting to be submitted for approval prior to its erection.
- 6.3.7 Although comments have been made in relation to odours and air pollution no adverse comments have been received from Regulatory Services in relation to there being any issues on these matters. At present there are no policies within the Shropshire Local Development Framework to deal with air pollution and while there may be an increase in the amount of traffic currently using the site, there is planning permission in place for the site to be used for commercial purposes. As such this could result in an intensified use of the premises including the level of traffic using it. Therefore it would be difficult to differentiate the air pollution levels between the current authorised use of the premises and that proposed as part of this application.
- 6.3.8 While it is appreciated that there are concerns from local residents in relation to the impact the development may have on their properties, the application has identified that conditions and mitigation works can be put in place to overcome the majority of these to an acceptable level.
- 6.4 **Highways**
- 6.4.1 Many objections to the proposed scheme relate to the potential impact the development will have on highway safety given the existing usage of the Highway.
- 6.4.2 As previously identified there are uses authorised for both the existing unit at the entrance to the application site and for part of the application site which allow for commercial uses without any restriction as to the amount of traffic that is to use them. While at present the application site may be being under utilised it could be significantly increased above its current level without any planning permission required.
- 6.4.3 The proposed development would create two distinct areas. The area where the vehicles/machinery is to be auctioned and the car park area to be used by visitors.
- 6.4.4 Items to be disposed of will be brought to the premises and stored on the area ready for sale. After the sales the items sold will be removed from site and new stock brought in ready for the next sale. As such this element of the proposal will be rotational with no knowledge of how many vehicles will arrive or be removed from the premises at any time.
- 6.4.5 The car park to be used by visitors and staff will mainly be in use on sale days. While 227 parking spaces are to be created not all visitors will arrive at once on the day of sale. It is common for buyers to arrive only before the lots they are interested in are to be auctioned and leave soon after. As such it would not be expected that 227 vehicles will descend on the premises in one go but in rotation throughout sale days. As the number of sales in one year are to be no more than 12 this would leave a significant number of days per year where there would be no or very little usage of the car park. Pedestrians will access the auction area direct from the car park without need to walk along the highway.
- 6.4.6 The information provided with the application has been reviewed by the Council's Highways Development Control Manager as well as a site visit having been undertaken. The Transport Statement includes data obtained from both the existing auction site on the

A49 as well as traffic data from the A41 site that is the subject of this application. The observations of the Manager is that the main risk is for vehicles waiting to turn right into the site off the A41. The information indicates that at its peak it is predicted to be less than 49 turning right. These vehicles would be visible to southbound traffic for some distance given the long straight approaching the access. The site access is also within the 50 mph speed limit where vehicles should be moving slower. There is no dip in this section of the road to obscure the views of traffic approaching from the north. While there is a slight raised area to the south of the application access point, there will be sufficient visibility provided though the changes proposed to the access which are commensurate with the Manual for Streets to ensure highway safety. The amended details also include the provision of signage that will be installed on the A41 to advise road users of the auctions and that there will be turning traffic. From the information provided including the modelling and the requirements of the Manual for Streets issued as Government guidance it would be difficult to sustain an objection on highway grounds.

6.4.7 While reference has been made to numerous accidents and injuries in the area, the only information available to the Council indicates there have been four personal injury accidents in the stretch of the A41 from by the access to the application site and Twemlows Avenue in the last 3 years. Of these one was a fatality and one caused serious injury. The Highways Development Control Manager has indicated to the Case Officer that this is not sufficient to designate this area as an accident black spot. Although of course accidents are not acceptable, planning permission should not be refused due to the inability of drivers to adhere to the Highway Code in terms of obeying speed limits and allowing sufficient stopping distances which would appear from the comments made to be the main reasons for the accidents that occur.

6.4.8 From the information available and the comments received it is considered by officers that there is insufficient justification to sustain an objection to the proposal on highway grounds. Conditions have been recommended for inclusion on any planning permission that may be granted which will ensure that the access is appropriately designed and maintained, appropriate signage is put in place and all parking/turning/manoeuvring space for vehicles is put in place prior to the use commencing on site.

6.5 **Ecology**

6.5.1 Concerns have been raised by Parish Councils, local residents, the Butterfly Conservation Group and Shropshire Wildlife Trust in relation to the impact the proposal will have on the adjacent Heathland, SSSI and the wildlife of the area. Of particular concern is the impact the development will have on the Silver-Studded Blue Butterfly of which the heathland is the only area within the West Midlands where this butterfly can be found.

6.5.2 The application has been accompanied by ecology surveys and a Construction and Environment Management Plan (CEMP) together with plans. This has been undertaken on behalf of the applicant by a suitably qualified Ecologist and contains full details of proposed mitigation and enhancements that would be carried out should the application be approved.

6.5.3 The information submitted has been assessed by the Council's Ecologist and also Natural England. No objection to the proposal has been raised by Natural England subject to the inclusion of appropriate conditions on any planning permission that may be granted to secure the provision of the buffer to the SSSI and that any works are carried out in accordance with the CEMP. The Council's Ecologist has also assessed the information provided and has also recommended conditions be included. As with Natural England they

require the works to be carried out in accordance with the CEMP and also a condition relating to the installation of any lighting where it will need to be submitted for approval prior to installation.

6.5.4 From the information provided it is considered by officers that the scheme can be implemented without having a detrimental impact on the SSSI, the heathland or the wildlife of the area. If the application is approved, it will be a requirement for the user to implement and adhere to the CEMP to ensure that this remains the case.

6.6 **Trees and Landscaping**

6.6.1 A number of concerns have been raised regarding the loss of trees, that the applicant will not carry out the landscaping shown on the submitted drawings and that the impact on the landscape of the area will be unacceptable.

6.6.2 The site is a flat area of land which is bounded along the north eastern and eastern by mature hedgerows. Within the hedgerows and the landscape there are mature/semi-mature trees. There is a strip of land which is a former access track to Green Lane Farm which is outside the ownership of the applicant and this provides separation between the application site and the dwellings to the east. There are further trees and hedgerow along the eastern boundary of this track. There is also an existing hedge along the boundary between the auction area and the proposed car parking. This has also been planted with trees which in time will grow to provide additional landscaping.

6.6.3 None of the trees within the application site are protected and as such the applicant is able to work on them and the hedgerows.

6.6.4 The proposed scheme includes the provision of bunding along the majority of the site together with additional land totalling 1.12 ha which is to be used to provide ecological enhancements. The bunds are to be landscaped with a mixture of indigenous plants and as should would improve the green corridors from that currently on the land. While Timber acoustic fencing will be installed this will to some extent become screened by the planting and as it ages it will become less stark.

6.6.5 The car park area would only be used on auction days and as such this would be very limited as the intention is to have no more than 12 auctions a year. The car park area is to be left green with reinforcement placed on grass to allow vehicles to park. This will over time be reinforced with bark chippings and as such maintain a natural appearance when not in use.

6.6.6 The area for the storage of the vehicles and equipment for sale or sold will be on the opposite side of the existing commercial building and behind the hedgerow to the car parking area. Additional bunding will be in place along the boundary with the heathland. As such the majority of these will be screened from view from most public areas. As these will be moving in and out of the site they will be a fixed feature and as such their visual impact will vary. However it is the opinion of officers that the proposed screening will significantly reduce the visual impact to a satisfactory level.

6.6.7 Although the Council's Tree Officer has recommended a condition requiring full details of the planting to be carried out, it is noted that all the details of species and planting schedules are included in the CEMP. Therefore it is proposed by the Case Officer that a

condition will be imposed requiring the planting scheme to be carried out in accordance with the CEMP which would be between October and April.

6.6.8 In view of the above it is considered that the proposed development will not have an unacceptable impact on the existing trees or the landscaping of the area. Therefore the proposal meets the requirements of the NPPF policy CS17 of the Shropshire Core Strategy and policy MD12 of SAMDev

6.7 **Drainage**

6.7.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.7.2 Concerns have been expressed that there is the potential for inappropriate drainage of the site to impact upon the adjacent Heathland and SSSI.

6.7.3 The site is of a size where a flood Risk Assessment is required as part of the application. This has been submitted and has been assessed by the Council's Drainage Engineer.

6.7.4 The site is located in a Flood Zone 1 on the Environment Agency mapping and as such has a low probability of flooding. Existing drainage facilities to the existing buildings is not to be altered. In relation to the drainage of the land it is intended that surface water will continue to permeate the impervious surfaces as currently and no increase will be made in non-permeable surfacing. The proposed car parking and storage areas will be overlain with timber chippings to create a more durable surface.

6.7.5 In terms of foul drainage no new fixed systems are to be installed. Customers will have access to portable toilet facilities which are delivered to site the day before an auction and removed the day after. All foul created as a result is removed from site and dealt with under licence by the provider.

6.7.6 The CEMP received on the 24th February 2020 includes details that all hazardous substances will be stored, handled and disposed of in accordance with their COSHH Assessment. Should a spill or leak occur a process is included to deal with situation. Hazardous waste is to be dealt with and removed from site as required by current legislation. The document further sets out that the bunding will provide protection to the SSSI post development and this will be checked.

6.7.6 However to ensure that all drainage requirements are adhered to, the Council's Drainage engineer has requested that a condition be included on any planning permission granted requiring full details of all drainage to be submitted for approval and installed prior to the use commencing. In addition informatives' have been recommended which advise the applicant on the type of information and method of drainage required to ensure that appropriate drainage systems are installed.

6.7.7 In view of the above it is considered by officers that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

6.8 **Other Matters**

6.8.1 A number of issues have been raised in relation to the application which do not apply to the above categories. These are raised and responded to below

- 6.8.2 Loss of view from residential properties over the heath and the development will devalue the properties of local residents.
While these issues are of concern to residents and understandable, they are not material planning considerations and cannot be used as reason to refuse a planning application. In addition there is no right for residents to have a view and as such this cannot be protected through the planning system.
- 6.8.3 The applicant does not appear to comply with conditions and permissions for his existing site. In addition, the applicant appears not to have applied for permission for works that have been carried out.
There is no requirement in planning terms for the length of time a developer undertakes works unless this is subject to a time limit within the conditions attached to a planning application. If there is a concern that conditions have not been complied with on other sites or that works have been carried out without planning permission, these should be reported and processed through the Council's Enforcement procedures. This will then allow investigations to be carried out and appropriate action taken. Whether or not the applicant has complied with conditions attached to planning permissions on other sites, this cannot be taken into consideration as a reason to refuse the current application before the Council.
- 6.8.4 Due to the Covid 19 situation the use should not be approved as a risk to health.
The exceptional circumstances regarding Covid 19 are a constantly changing situation. Recently lockdown measures have been relaxed and people are being encouraged to return to work. Provided the company complies with all Guidance and Regulations issued by Government there is no justification to recommend refusal of the application in planning terms in relation to Covid 19.
- 6.8.5 Works on the site will release contamination into the ground as has been found at Furber's Scrapyard.
Furber's Scrapyard was a breakers yard where the vehicles were broken up so that parts could be sold to the public. It was also sited directly upon the Whixall Mosses. Much of the debris there had been stored for years without having been properly dealt with. This is not the same purpose for this application. The site is to be for auctioning off vehicles and machinery as complete units. They are not being broken up on the site for the parts to be sold. In addition the site is next to the SSI and the Heathland and not on it. As such the two sites cannot be compared.
- 6.8.6 Responses from Consultees have been made based solely on the information provided by the applicant and without site visits or independent reports being carried out.
Consultees respond to the application as required by the Planning Regulations.
- 6.8.7 The proposal will impact on tourism to the area as visitors to the heathland will be dissuaded by the noise etc
While this is a consideration, part of the application site already has planning permission for commercial uses. These could be more intensive and potentially more noise than that being applied for at this time. Measures including bunding, landscaping and noise mitigation are being put in place to minimise the potential impact of the development.
- 6.8.8 Rubbish is allowed to pollute the area around the existing site used by the applicant.

Within the CEMP it is stated that the company will regularly remove litter from an area of 20 metres to the north of the site. It also stipulates that all waste will be dealt with as required by Section 34 of the Environmental Protection Act 1990. A condition can be included that this is carried out in accordance with the CEMP.

7.0 CONCLUSION

7.1 Overall, on balance, it is considered by Officers that whilst it is acknowledged there have been concerns raised in relation to the proposed development, it is considered that the applicant has provided mitigation measures which when used in conjunction with the recommended conditions would enable the business to operate without detriment to the residents of the area, the wildlife and the highway network of the area.

As such the proposed development is considered to be in accordance with the NPPF and policies CS5, CS6, CS13, CS14, CS17, CS18, MD2 and MD12 of the Shropshire LDF. Thus the recommendation is one of approval subject to the conditions as outlined in appendix attached to this report.

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 - written representations, a hearing or inquiry.
- The decision is 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 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 give 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 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS14 - Managed Release of Employment Land

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

09/01600/COU Conversion of dis-used military building to B1 Office Use; formation of estate road and car parking area; installation of septic tank drainage system; GRANT 12th March 2010

PREAPP/10/01124 Affordable housing site REC

11/02471/FUL Change of Use of turning circles to B1C (Light industrial) following approval of temporary change of use (09/02457/COU). GRANT 9th February 2012

18/04298/FUL Change of Use to Provide Commercial Vehicles and Plant Auction Use to include Office, Auction Area, Preparation Building, Customer Parking along with 2m high Earth Bund around perimeter and 10m Landscaping Strip to SE Boundary (relocation of Existing Auction Site from the A49 Grain Store site) WDN 10th January 2019

19/02796/FUL Change of use of land to commercial vehicle and plant auction site to include provision of customer parking, erection of an office and preparation building; creation of

bunding and landscaping (relocation of Existing Auction Site from the A49 Grain Store site)
(resubmission) PCO

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) Councillor Gwilym Butler

Local Member

Cllr Paul Wynn

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. All demolition, conversion, site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with the Construction and Environmental Management Plan and Biodiversity Enhancement Strategy. (Greenscape Environmental, September 2019) and the Proposed Site Plan Rev. G.

Reason: To ensure the protection of and enhancements for protected and priority species.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of surface and foul water drainage 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 (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

5. No development shall take place until the full details of necessary auction signage and its location on the A41 have been submitted to and approved in writing to the Local Planning Authority, the signage shall be implemented fully in accordance with the approved scheme prior to the use hereby permitted being first brought into use and the signage shall thereafter be maintained for the lifetime of the development. Reason: In the interests of highway safety.

Reason: In the interests of maintaining highway safety.

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

6. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

7. The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To provide a safe access to the development in the interests of highway safety.

8. All hard and soft landscape works shall be carried out in accordance with the Construction and Environment Management Plan received on the 24th February 2020. The works shall be carried out prior to the occupation / use of any part of the development hereby approved. 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 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.

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

9. All preparation of plant and vehicles that requires the use of automated or electrical equipment shall be carried out within the existing building edged in green on the plan attached to this decision notice, with all doors and windows closed during the operations.

Reason: To protect the residential amenities of the area.

10. Prior to the installation of any external lighting on the site full details of a proposed lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following information:

- a) A technical report shall be provided by a qualified competent person (e.g. Lighting Engineer) setting out the type of lights, performance, height and spacing of lighting columns;
- b) The light levels to be achieved over the intended area, at the site boundaries;
- c) Identify those areas/features on site that are particularly sensitive for wildlife, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
- d) Show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK

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

11. Any public address system operating on the site shall not be audible at the boundary of any neighbouring residential property.

Reason: To protect the residential amenities of the area.

12. No machinery shall be operated or heavy plant, lorry movements or deliveries permitted, on the premises before 0700 or after 1900 on weekdays nor before 0800 or after 1300 on Saturdays and not at any time on Sundays or Bank Holidays.

Reason: To protect the amenities of the area.

13. All hazardous materials shall be stored, handled and disposed of in accordance with their COSHH assessment and any spillage or leakage shall be dealt with as set out in the Construction and Environment Management Plan received on the 24th February 2020.
Reason: To protect the SSSI and the surrounding area.

14. As detailed in the submitted Construction and Environment Management Plan received on the 24th February 2020 the company using the site shall regularly patrol and remove litter from a 20m buffer to the north of the site on the area of open space. This will be undertaken on a weekly basis and will include further clean-up sessions during times of Auctions. All waste will be dealt with in accordance with Section 34 of the Environmental Protection Act 1990 and its subsequent amendments and regulation.
Reason: To protect the amenities of the adjacent open countryside, SSSI and heathland.

15. The LPA and the Parish Council shall be notified of the calendar of events for each 6 month period as soon as practicable and at least by 31st January and 31st July respectively of each year. A notice at the entrance to the site shall also be put up advising of the calendar of events for the forth-coming 6 month period. No auctions will be permitted unless at least 28 days notice has been given as described above.
Reason To safeguard the residential amenities of the locality

16. No more than 12 auctions shall be carried out per calendar year on the site hereby approved.
Reason: to protect the amenities of the locality.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. Works on, within or abutting the public highway
This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

3. 1. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 25% for climate change. Full details, calculations, dimensions and location plan of the percolation tests and the

proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 25% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

3. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

If main foul sewer is not available for connection, full details, plan and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 4' should be used to determine the number of persons for the proposed development and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

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Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce

sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations

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accordance

with the Building Regulations H2. These documents should also be used if other form of treatment

on site is proposed.

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<u>Committee and Date</u>
Northern Planning Committee
21 July 2020

<u>Item</u>
8
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 21 JULY 2020

APPEALS LODGED

LPA reference	19/05448/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr C Goode
Proposal	Erection of a single detached dwelling
Location	Land SW Of Long Meadow 127B Longmeadow Drive Shrewsbury
Date of appeal	02.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/03686/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr And Mrs McKirdy
Proposal	Erection of double garage, installation of balustrade and new entrance gates
Location	Rosemount Cottage 1 Canonbury Shrewsbury
Date of appeal	09.04.2020
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04715/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Committee Decision
Appellant	Mr Khan
Proposal	Change of use from (A1) shop to (A5) hot food takeaway restaurant; associated alterations and the provision of 2No. off-street car-parking spaces
Location	41 Wood Street Shrewsbury
Date of appeal	03.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	17/01924/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Millhouse Group
Proposal	Erection of 2 blocks of residential care home comprising 50 units with communal facilities
Location	Land off Mill Street Wem
Date of appeal	09.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04743/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T Ciesielski
Proposal	Erection of gazebo and stature
Location	Land adj 4 The Beeches Chester Road Whitchurch
Date of appeal	01.02.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/03252/AGR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr E R Birch and Son
Proposal	Erection of agricultural building
Location	Sutton Farm Woodseaves Market Drayton
Date of appeal	13.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04912/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Jones
Proposal	Erection of 1no. live-work unit following demolition of existing glasshouses
Location	Silver Birch Bolas Road Ercall Heath
Date of appeal	24.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/03143/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Mathew Dunn
Proposal	Conversion of traditional agricultural barn to 1 dwelling
Location	Barn South of Ivy Farm Cottage Broughall Whitchurch
Date of appeal	11.05.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/01180/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr R Vale
Proposal	Removal of Condition 9 (Remove Permitted Development rights)
Location	Mount View Lockley View Hinstock
Date of appeal	08.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04328/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Anderson, Walsh & Jones
Proposal	Outline application (all matters reserved) for residential development (12 apartments); to include removal of trees
Location	Land West Of Morda Mill Morda Bank Morda Shropshire
Date of appeal	30.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/05312/FUL
Appeal against	Approval
Committee or Del. Decision	Delegated Decision
Appellant	Mr Dickenson
Proposal	Formation of 1 additional vehicular access
Location	Sedgeford Wem
Date of appeal	10.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/02843/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Ms Sophie Dillon
Proposal	Change of use from dwelling house providing bed and breakfast accommodation to dwelling house providing bed and breakfast accommodation, A3 (Restaurant) Use Class, and A4 (Drinking Establishment) Use Class, including alterations to the access on to the public highway.
Location	Barn Adjacent To The Hayes Racecourse Road Oswestry Shropshire SY10 7PH
Date of appeal	28.05.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04925/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Mark Kiely
Proposal	Change of use from A1 (Retail) to A4 (Micro Pub)
Location	16 Wyle Cop Shrewsbury
Date of appeal	26.05.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

APPEALS DETERMINED

LPA reference	19/00035/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs PN and WT Woollaston
Proposal	Erection of detached dwelling and associated infrastructure
Location	Proposed Dwelling To The West Of 30 Havelock Road Shrewsbury
Date of appeal	14.01.2020
Appeal method	Written Representations
Date site visit	17.06.2020
Date of appeal decision	19.06.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	18/03375/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Cory Irvin-Wright
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for erection of a sixth floor to provide a roof top conservatory with glazed ballustrading (amended description)
Location	Land Adjacent Chronicle House Chester Street Shrewsbury
Date of appeal	30.01.2019
Appeal method	Written Representations
Date site visit	12.06.2020
Date of appeal decision	27.06.2020
Costs awarded	
Appeal decision	ALLOWED – PLANNING PERMISSION GRANTED

LPA reference	18/05969/ENF
Appeal against	Appeal against the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under planning application reference 14/00582/FUL.
Committee or Del. Decision	-
Appellant	Mr Cory Irvin-Wright
Proposal	Alleged breach of Planning Control in relation to erection of a roof top conservatory and installation of glazed balustrading
Location	Residential Development Land Adjacent Chronicle House Chester Street Shrewsbury
Date of appeal	16.11.2018
Appeal method	Written Representations
Date site visit	12.06.2020
Date of appeal decision	27.06.2020
Costs awarded	
Appeal decision	ALLOWED - ENFORCEMENT NOTICE QUASHED

LPA reference	19/00564/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Shropshire Rural Housing Association
Proposal	Erection of 5No affordable dwellings. formation of vehicular access and installation of septic tank (re-submission)
Location	Land To The South Of Knockin Heath Shropshire
Date of appeal	26.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	17.06.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/01478/OUT
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	B&B Jones Ltd
Proposal	Outline application (all matters reserved) for the erection of agricultural workers dwelling and all associated works
Location	Land East Of Nantgoch Pen-y-bont Llanerch Emrys Shropshire
Date of appeal	27.11.2019
Appeal method	Hearing
Date site visit	
Date of appeal decision	09.06.2020
Costs awarded	COSTS APPLICATION SUCCEEDS
Appeal decision	APPEAL WITHDRAWN



Appeal Decision

Site visit made on 17 June 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Appeal Ref: APP/L3245/W/20/3244782

Land to the west of 30 Havelock Road, Shrewsbury SY3 7NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs PN and WT Woollaston against the decision of Shropshire Council.
 - The application Ref 19/00035/FUL, dated 21 December 2018, was refused by notice dated 2 August 2019.
 - The development proposed is erection of detached dwelling and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted an amended structural engineer report¹ which was not with the Council before the determination of the application. This report addresses an inconsistency in the documents on the proposed type of foundation. The Council has had an opportunity to comment on the report but I have not been advised it has been the subject of any public consultation. Even so, the report does not significantly amend the proposal and I am satisfied that taking it into account would cause no injustice or prejudice to any party.

Main Issue

3. Since the appeal was lodged, the Council has withdrawn its second refusal reason relating to the effect on tree roots and I find no reason to arrive at a different view to the main parties on this matter. As such, the main issue is whether the development would preserve or enhance the character or appearance of Belle Vue Conservation Area (CA).

Reasons

4. The CA includes the largely residential streets around Belle Vue Road. Its significance lies partly in the prevalent 19th and early 20th century dwellings that reflect its history as an early Shrewsbury suburb. Havelock Road includes buildings of this period, a narrow road and mature vegetation which all reflect the CA's history and adds to its interest.

¹ BJSE Consulting Structural Engineers report dated 02.08.2019, included as appendix 5 to the appellant's statement of case.

5. There are no buildings on the site but mature trees on its borders are prominent features in the locality. The site no longer forms part of the garden to 30 Havelock Road (No 30) and evidence suggests it was originally intended to be a housing plot. Nevertheless, through its openness and the trees it contains the site contributes positively to the street scene by breaking up development and providing an attractive setting for adjacent buildings. As such, the site contributes positively to the CA's character and interest, notwithstanding that neither it nor No 30 is formally identified as a non-designated heritage asset.
6. Retained trees would partially screen the development when looking at the site from the north west and it would be of an appropriate scale to the plot and area. Nonetheless, the house would be a significant distance forward of No 30 so its 2 storey high element would be easily seen from the road to the southeast. From this direction, the development would be uncharacteristically prominent in the street scene, would noticeably reduce the site's openness and would detract from its natural features. Consequently, it would be obtrusive and harmful to the character and appearance of the area.
7. Local properties vary in style and include a nearby contemporary house so the modern design of the proposal would not be incongruous. Furthermore, as a sizeable undeveloped plot, the appeal site is unusual in the largely built up area. However, these factors fail to address or override the identified harm that would be caused by the proposal to the appearance of the site and its contribution to the quality of the local environment.
8. As such, the proposal would harm the overall character and appearance of the CA and diminish its significance. Whilst this would not reach the very high hurdle of substantial harm, it would constitute less than substantial harm to the CA's significance. Due to the separation distance and intervening landscaping, the proposal would not be seen with the listed buildings 7 and 9 Havelock Road and so it would not affect the setting or significance of these properties. No other designated heritage asset would be affected by the development.
9. In line with the National Planning Policy Framework (the Framework), the harm caused to the CA should be weighed against the public benefits of the proposal. Great weight should be given to the heritage asset's conservation in my assessment and I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
10. The Council no longer objects to the proposal's impact on trees and it would have an acceptable effect on wildlife. Also, the scheme would address concerns with previous proposals over the removal of part of the front wall. However, acceptability in these regards is not a public benefit of the proposal.
11. The site is unused and so could be prone to unauthorised entry and anti-social behaviour. However, there is limited evidence of harm caused in this respect and in any case such issues could be addressed through increased security measures rather than the development. Also, there is no evidence that demonstrates the proposal is the only way in which the site could be put to an effective use. Therefore, any benefit in these terms attracts limited weight.
12. The development would add to the housing stock and would represent the more efficient use of land in an urban area close to facilities. Also, it would create construction employment and occupiers would support local businesses.

However, the benefits in these regards would be modest given that a single dwelling is proposed. Overall, I find the harm caused to the significance of the CA would outweigh all of the public benefits of the proposal.

13. For these reasons, I conclude the development would not preserve or enhance the character or appearance of the CA and so, in this regard, it would be contrary to policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted County Core Strategy 2011, policies MD2, MD12 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan 2015 and the Framework. These all aim, amongst other things, to ensure development is in keeping with the character and appearance of an area and to conserve heritage assets and their significance.

Conclusion

14. For these reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

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Appeal Decisions

Site visit made on 12 June 2020

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 27 June 2020

Appeal A: APP/L3245/W/19/3221461

Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Cory Irvin-Wright against the decision of Shropshire Council.
- The application Ref 18/03375/FUL, dated 20 July 2018, was refused by notice dated 9 October 2018.
- The development proposed is described as - "Application under section 73A of the Town and Country Planning Act 1990 for erection of a sixth floor to provide a roof top conservatory with glazed balustrading (amended description)".

Summary of Decision: The appeal is allowed and planning permission is granted.

Appeal B: APP/L3245/C/18/3216404

Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ

- The appeal is made under section 174 of the 1990 Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Cory Irvin-Wright against an enforcement notice issued by Shropshire Council.
- The enforcement notice was issued on 17 October 2018.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL on the Land.
- The requirements of the notice are:
 - I. Remove from above the rooftop of the building (approved under planning application reference 14/00582/FUL) and entirely from the Land, the conservatory, glazed balustrading and parts thereof;
 - II. Remove from the Land all building materials arising from compliance with (I) above and make good the roof top surface to a condition had the breach not taken place and in accordance with planning permission 14/00582/FUL.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Planning Inspectorate initially made arrangements for this appeal to be determined following an 'accompanied' site visit. That event could not take place given the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and related guidance. The file has subsequently been reviewed to consider the optimal procedure for the appeal.

2. It appeared that the appeal could be determined with an 'unaccompanied' site visit without causing prejudice to any party. I conducted the site visit from public viewpoints and I am satisfied I understand the nature of the site, given the matters in dispute.
3. The Council has asked that I correct the enforcement notice to amend any reference to planning permission 14/00582/FUL to instead refer to planning permission reference 14/00582/FUL as varied by 17/03177/VAR and 19/00335/VAR. It is important that the allegation is correct since this forms the basis for my assessment of the deemed planning application. Hence, I agree it is necessary to correct the allegation. I am satisfied I can make this minor correction without injustice. As I am quashing the notice, a consequential correction to the requirements is not necessary.
4. I have taken the address in Appeal B from the enforcement notice, as this applies to the deemed planning application. I note this differs from that of Appeal A, which is taken from the Council's decision notice and the appeal form. However, the appeals both relate to the same site and development, which is clear from the documents submitted.

Appeal A

Appeal B on ground (a) and the deemed planning application

Background and Main Issues

5. The terms of the deemed planning application are derived from the corrected allegation. The wording differs slightly from the amended description of development for the planning application but the meaning is the same. Hence, planning permission is sought for the erection of a roof top conservatory and the installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR.
6. The main issues are: (i) the effect of the development on the character and appearance of the area, in particular the Shrewsbury Conservation Area and non-designated heritage assets in the vicinity; (ii) whether the development preserves the setting of nearby listed buildings and; (iii) the effect of the development on the living conditions of adjoining occupiers with regard to outlook and light.
7. The site is located beyond the immediate town centre on land close to Shrewsbury Castle and the station. It lies between two buildings; Cambrian House to the north is a modern former office building, which has been converted to apartments with the addition of a sixth floor. I understand this development received local awards for its contribution to the enhancement of the built environment of Shrewsbury.
8. Chronicle House, immediately to the south, is a three-storey, stone-faced and traditionally designed building. It has been converted to residential use on the upper floors with commercial uses at street level. The building dates from 1927 and is considered to be a non-designated heritage asset within the Conservation Area. The Council explains the building was purpose built to be occupied by the Shrewsbury Chronicle and was designed by local architects Shayler and Drake. Its significance, therefore, results from its design, architectural features and historical associations.

9. The appeal site was formerly a parking area between Cambrian House and Chronicle House and is now occupied by a residential building, known as Chester House. The appellant explains that the design resulted from lengthy dialogue with the Council in order to achieve the highest architectural standards. The approved building comprises five-stories, with the upper floor being fully glazed and stepped back to enhance design detailing. The building has been further developed by the unauthorised addition of a largely glazed roof structure with balustrading, which forms an extension to the uppermost apartment. This sits towards the southern end of the roof, closer to Chronicle House.

Character and Appearance

10. The appellant's heritage impact assessment highlights the juxtaposition of the historic townscape with contemporary commercial and residential development. It characterises the area as having contrasting building forms, supported by the imaginative use of materials which creates visual interest. The historic development sits comfortably among more modern architecture, and there is a complementary relationship which brings a distinct character and quality to the townscape. I consider that the significance of the Conservation Area in this locality can be attributed to the development layout and the quality of buildings, which evidence the Town's early mediaeval importance and its continued growth throughout later periods of prosperity, up to the present day.
11. The Council has drawn my attention to specific buildings which, in addition to Chronicle House described above, are considered to be non-designated heritage assets. Cleveland House is a red-brick former temperance hotel dating from 1885. It sits to the south of the appeal building, at the junction of Chester Street and Smithfield Road. The building comprises four-storeys and incorporates a distinctive 'belvedere' forming part of the roof. Other 19th Century buildings in the row opposite the station include the three-storey Corbett Building, defined by its Italianate detailing and polychromatic brick; the painted brick Station Hotel, and the more modestly scaled Albion Vaults. The significance of these buildings arises from their age and architectural detailing, and their contribution to the quality and character of the street scene at this gateway to the town centre.
12. The unauthorised development or "sunroom" is widely visible due to its siting on top of the five-storey Chester House. In views from the Dana footpath, below the Castle, the whole of the fifth floor of Chester House can be seen over the roofs of the Station Hotel and adjoining buildings. The sunroom is prominent, but it is seen within the context of the host modern building and the neighbouring Cambrian House, which it reflects in terms of its design and materials. As such, it does not detract from the traditional buildings facing the station forecourt. From the front of the station building, the sunroom hovers over the pediments of the Station Hotel and Chronicle House but is clearly associated with the building to the rear and does not affect the appreciation of the architectural detailing of these non-designated heritage assets. The glazing reduces the impact of the building, and I do not consider that it dominates views or otherwise harms the significance of the buildings in the foreground.
13. From Chester Street the structure is barely visible, although it can be seen in views from the south. However, from this angle, the sunroom and balustrading are again seen in the context of the modern buildings and do not stand out as

incongruous features given the backdrop. In views from further along Castle Gate the structure appears on the rooftop next to the belvedere of Cleveland House, a feature which contributes to the significance of this non-designated heritage asset. However, the facing elevations are glazed and the contemporary structure is a recessive feature of the skyline. It does not compete with the roof of Cleveland House but is a modern feature alongside, serving a similar function as the historic belvedere.

14. In views from the road junction to the south-west, the sunroom is prominent and can clearly be seen alongside Chronicle House as it appears behind the gable of a modern residential building. Again, the use of glazing lessens the impact of the structure. It does not seek to replicate the traditional architecture in the vicinity but appears as a modern addition that sits alongside historic development which, in my judgement, forms a complementary relationship.
15. In wider views from the Butter Market, the sunroom is evident but is not overly prominent. Similarly, the structure can be seen from the footbridge over Smithfield Road, although it does not stand out as a discordant feature. The foliage along the river provided screening from the Frankwell car park at the time of my site visit, so I have relied on the Council's photographs. Nonetheless, I find the sunroom to be acceptable in more distant views of the skyline due to the mix of architecture that forms the setting, and its design and materials.
16. The Council explains that the height of Chester House, with a clean and unadorned roofline and glazed upper-storey, was considered appropriate in its context between the taller, modern Cambrian House and the more modestly scaled Chronicle House. I appreciate the design ethos but the addition of the sunroom adheres to this concept through its reduced scale and use of glazing. As such, it reflects the architecture of Chester House and does not detract from the buildings either side.
17. I find that the development is a modern addition within an area of the town characterised by its eclectic mix of traditional and historic buildings. It does not stand-out as an incongruous feature in this setting thus preserving the significance of the Conservation Area. Nor does it harm the significance of the non-designated heritage assets, identified above, as their age and architectural detailing, and their appreciation within the streetscene, are unaffected.
18. To conclude on this issue, I consider that the development preserves the character and appearance of the Shrewsbury Conservation Area and the significance of non-designated heritage assets in the vicinity. It complies with Policies CS6 and CS17 of the Shropshire Council Core Strategy (2011) and Policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev) Plan (2015) which, among other things, seek to promote high quality design that respects and enhances local distinctiveness while also protecting heritage assets. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 192 and 197 of the National Planning Policy Framework (the Framework).

Setting of Nearby Listed Buildings

19. The remains of Shrewsbury Castle are a grade I listed building within a Scheduled Monument. The remains date from the late 12th Century and include

various later modifications. The significance, insofar as relevant to the matters before me, can be attributed to their age and historical associations, the historical record provided by the remaining built fabric, and later alterations, and the Castle's imposing presence within the town. The building is sited at a high level, reminiscent of the site's early development as a motte and bailey. Hence, the setting of the listed building is not confined to its immediate surroundings but extends over the area in which it is experienced. As explained, part of the significance of the heritage asset stems from its imposing presence and defining influence, in addition to its development and historical associations. The setting contributes positively to its significance in that it enables the Castle to be experienced from different viewpoints within the Town.

20. Shrewsbury Station is a grade II listed building dating from 1849 with later extensions. Its significance can be attributed to the age, architectural style and historical role as an early-Victorian station building. The setting contributes to the significance as it expands the area in which the station buildings can be appreciated, in particular along Castle Foregate and Smithfield Road.
21. There are numerous other listed buildings to the south of the appeal site, along Castle Gate. I have limited information but judge their significance to be associated with their age and architecture, which reflects that of the 19th Century.
22. The appeal building lies to the north of the Castle, in relatively close proximity. In certain views, in particular from the cricket ground across the river, the castle crenellations can be seen in the skyline in the same panorama as the sunroom. However, the wider context includes numerous other modern buildings of varying architectural quality. The Castle is elevated above road level which, combined with its obvious age and defining built form, enables the remaining built elements to retain their imposing presence despite the later development in the vicinity. The sunroom appears as a minor modern addition to the skyline that can be seen alongside the Castle but does not impinge on its setting. Consequently, I find that the development preserves the setting of this designated heritage asset of national importance.
23. As set out above, the sunroom is visible from the station forecourt and surrounding roads. However, it does not compete with the station building due to its scale, separation and intervening buildings. As such, the setting of the listed building is preserved. Similarly, the listed buildings to the south along Castle Gate are some distance from the development and their setting is more closely related to their street frontages. The sunroom does not affect their settings, or the contribution the settings make to the buildings' significance, as it bears a closer relationship to the development in its immediate vicinity.
24. Given the above, I conclude that the proposal would preserve the setting of the listed buildings. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 192 of the Framework and would not conflict with Policies CS6 and CS17 of the Core Strategy or Policies MD2 and MD13 of the SAMDev Plan that seek, among other things, to protect heritage assets.

Living Conditions

25. The reason for refusal cites an overbearing impact and loss of light to the rear of properties in Castle Foregate. In its appeal statement, the Council accepts that the sunroom would not have a significant adverse impact in terms of shading and loss of light. Nonetheless, it maintains the development would have "some impact" on light levels and would impact on the outlook from the upper floor, rear windows of the Albion Vaults Public House, which has recently been extended and renovated. In response, the appellant has submitted an updated Shade Cast Appraisal (March 2020).
26. I understand the windows in question serve living accommodation over the public house. It is apparent from the evidence before me that the outlook and light levels from these windows were already significantly affected by the development of Chester House, as approved. The addition of the sunroom, which although only partially glazed to the relevant elevation, would not have a material adverse effect on outlook or light given its comparative size and siting. It is unlikely that the sense of enclosure already experienced would be significantly exacerbated.
27. To conclude, I find that the development would not have an adverse effect on the living conditions of adjoining occupiers with regard to outlook and light, in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan, which seek to ensure development contributes to the health, safety and wellbeing of communities while safeguarding residential amenity. The development accords with the Framework insofar as it seeks to secure a high standard of amenity for existing and future residents.

Other Matters

28. The Council has requested a condition to require the glazing to the rear of the sunroom to be fitted with obscure glass. There is no reason given for the condition but I assume it is to protect the privacy of neighbouring occupants. The height of the development and its proximity to the rear of the public house is such that views would be downwards oblique and likely to be limited. In addition, similar views may be obtained from the approved rooftop garden. As such, it has not been shown that the suggested condition is necessary.

Conclusions

29. Appeal A: For the reasons given above I conclude that the appeal should be allowed.
30. Appeal B: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the corrected notice. The appeal on ground (f) does not, therefore, need to be considered.

Formal Decisions

31. Appeal A: The appeal is allowed and planning permission is granted for the "erection of a sixth floor to provide a roof top conservatory with glazed balustrading" at Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ in accordance with the terms of the application, Ref 18/03375/FUL dated 20 July 2018, and the plans submitted with it.

32. Appeal B: It is directed that the enforcement notice is corrected by the addition of the words "as varied by applications reference 17/03177/VAR and 19/00335/VAR" after *planning application reference 14/00582/FUL* in paragraph 3 of the notice.
33. Subject to this correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR, on the Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ referred to in the notice.

Debbie Moore

Inspector

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Appeal Decisions

Site visit made on 12 June 2020

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 27 June 2020

Appeal A: APP/L3245/W/19/3221461

Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Cory Irvin-Wright against the decision of Shropshire Council.
- The application Ref 18/03375/FUL, dated 20 July 2018, was refused by notice dated 9 October 2018.
- The development proposed is described as - "Application under section 73A of the Town and Country Planning Act 1990 for erection of a sixth floor to provide a roof top conservatory with glazed balustrading (amended description)".

Summary of Decision: The appeal is allowed and planning permission is granted.

Appeal B: APP/L3245/C/18/3216404

Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ

- The appeal is made under section 174 of the 1990 Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Cory Irvin-Wright against an enforcement notice issued by Shropshire Council.
- The enforcement notice was issued on 17 October 2018.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL on the Land.
- The requirements of the notice are:
 - I. Remove from above the rooftop of the building (approved under planning application reference 14/00582/FUL) and entirely from the Land, the conservatory, glazed balustrading and parts thereof;
 - II. Remove from the Land all building materials arising from compliance with (I) above and make good the roof top surface to a condition had the breach not taken place and in accordance with planning permission 14/00582/FUL.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Planning Inspectorate initially made arrangements for this appeal to be determined following an 'accompanied' site visit. That event could not take place given the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and related guidance. The file has subsequently been reviewed to consider the optimal procedure for the appeal.

2. It appeared that the appeal could be determined with an 'unaccompanied' site visit without causing prejudice to any party. I conducted the site visit from public viewpoints and I am satisfied I understand the nature of the site, given the matters in dispute.
3. The Council has asked that I correct the enforcement notice to amend any reference to planning permission 14/00582/FUL to instead refer to planning permission reference 14/00582/FUL as varied by 17/03177/VAR and 19/00335/VAR. It is important that the allegation is correct since this forms the basis for my assessment of the deemed planning application. Hence, I agree it is necessary to correct the allegation. I am satisfied I can make this minor correction without injustice. As I am quashing the notice, a consequential correction to the requirements is not necessary.
4. I have taken the address in Appeal B from the enforcement notice, as this applies to the deemed planning application. I note this differs from that of Appeal A, which is taken from the Council's decision notice and the appeal form. However, the appeals both relate to the same site and development, which is clear from the documents submitted.

Appeal A

Appeal B on ground (a) and the deemed planning application

Background and Main Issues

5. The terms of the deemed planning application are derived from the corrected allegation. The wording differs slightly from the amended description of development for the planning application but the meaning is the same. Hence, planning permission is sought for the erection of a roof top conservatory and the installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR.
6. The main issues are: (i) the effect of the development on the character and appearance of the area, in particular the Shrewsbury Conservation Area and non-designated heritage assets in the vicinity; (ii) whether the development preserves the setting of nearby listed buildings and; (iii) the effect of the development on the living conditions of adjoining occupiers with regard to outlook and light.
7. The site is located beyond the immediate town centre on land close to Shrewsbury Castle and the station. It lies between two buildings; Cambrian House to the north is a modern former office building, which has been converted to apartments with the addition of a sixth floor. I understand this development received local awards for its contribution to the enhancement of the built environment of Shrewsbury.
8. Chronicle House, immediately to the south, is a three-storey, stone-faced and traditionally designed building. It has been converted to residential use on the upper floors with commercial uses at street level. The building dates from 1927 and is considered to be a non-designated heritage asset within the Conservation Area. The Council explains the building was purpose built to be occupied by the Shrewsbury Chronicle and was designed by local architects Shayler and Drake. Its significance, therefore, results from its design, architectural features and historical associations.

9. The appeal site was formerly a parking area between Cambrian House and Chronicle House and is now occupied by a residential building, known as Chester House. The appellant explains that the design resulted from lengthy dialogue with the Council in order to achieve the highest architectural standards. The approved building comprises five-stories, with the upper floor being fully glazed and stepped back to enhance design detailing. The building has been further developed by the unauthorised addition of a largely glazed roof structure with balustrading, which forms an extension to the uppermost apartment. This sits towards the southern end of the roof, closer to Chronicle House.

Character and Appearance

10. The appellant's heritage impact assessment highlights the juxtaposition of the historic townscape with contemporary commercial and residential development. It characterises the area as having contrasting building forms, supported by the imaginative use of materials which creates visual interest. The historic development sits comfortably among more modern architecture, and there is a complementary relationship which brings a distinct character and quality to the townscape. I consider that the significance of the Conservation Area in this locality can be attributed to the development layout and the quality of buildings, which evidence the Town's early mediaeval importance and its continued growth throughout later periods of prosperity, up to the present day.
11. The Council has drawn my attention to specific buildings which, in addition to Chronicle House described above, are considered to be non-designated heritage assets. Cleveland House is a red-brick former temperance hotel dating from 1885. It sits to the south of the appeal building, at the junction of Chester Street and Smithfield Road. The building comprises four-storeys and incorporates a distinctive 'belvedere' forming part of the roof. Other 19th Century buildings in the row opposite the station include the three-storey Corbett Building, defined by its Italianate detailing and polychromatic brick; the painted brick Station Hotel, and the more modestly scaled Albion Vaults. The significance of these buildings arises from their age and architectural detailing, and their contribution to the quality and character of the street scene at this gateway to the town centre.
12. The unauthorised development or "sunroom" is widely visible due to its siting on top of the five-storey Chester House. In views from the Dana footpath, below the Castle, the whole of the fifth floor of Chester House can be seen over the roofs of the Station Hotel and adjoining buildings. The sunroom is prominent, but it is seen within the context of the host modern building and the neighbouring Cambrian House, which it reflects in terms of its design and materials. As such, it does not detract from the traditional buildings facing the station forecourt. From the front of the station building, the sunroom hovers over the pediments of the Station Hotel and Chronicle House but is clearly associated with the building to the rear and does not affect the appreciation of the architectural detailing of these non-designated heritage assets. The glazing reduces the impact of the building, and I do not consider that it dominates views or otherwise harms the significance of the buildings in the foreground.
13. From Chester Street the structure is barely visible, although it can be seen in views from the south. However, from this angle, the sunroom and balustrading are again seen in the context of the modern buildings and do not stand out as

- incongruous features given the backdrop. In views from further along Castle Gate the structure appears on the rooftop next to the belvedere of Cleveland House, a feature which contributes to the significance of this non-designated heritage asset. However, the facing elevations are glazed and the contemporary structure is a recessive feature of the skyline. It does not compete with the roof of Cleveland House but is a modern feature alongside, serving a similar function as the historic belvedere.
14. In views from the road junction to the south-west, the sunroom is prominent and can clearly be seen alongside Chronicle House as it appears behind the gable of a modern residential building. Again, the use of glazing lessens the impact of the structure. It does not seek to replicate the traditional architecture in the vicinity but appears as a modern addition that sits alongside historic development which, in my judgement, forms a complementary relationship.
 15. In wider views from the Butter Market, the sunroom is evident but is not overly prominent. Similarly, the structure can be seen from the footbridge over Smithfield Road, although it does not stand out as a discordant feature. The foliage along the river provided screening from the Frankwell car park at the time of my site visit, so I have relied on the Council's photographs. Nonetheless, I find the sunroom to be acceptable in more distant views of the skyline due to the mix of architecture that forms the setting, and its design and materials.
 16. The Council explains that the height of Chester House, with a clean and unadorned roofline and glazed upper-storey, was considered appropriate in its context between the taller, modern Cambrian House and the more modestly scaled Chronicle House. I appreciate the design ethos but the addition of the sunroom adheres to this concept through its reduced scale and use of glazing. As such, it reflects the architecture of Chester House and does not detract from the buildings either side.
 17. I find that the development is a modern addition within an area of the town characterised by its eclectic mix of traditional and historic buildings. It does not stand-out as an incongruous feature in this setting thus preserving the significance of the Conservation Area. Nor does it harm the significance of the non-designated heritage assets, identified above, as their age and architectural detailing, and their appreciation within the streetscene, are unaffected.
 18. To conclude on this issue, I consider that the development preserves the character and appearance of the Shrewsbury Conservation Area and the significance of non-designated heritage assets in the vicinity. It complies with Policies CS6 and CS17 of the Shropshire Council Core Strategy (2011) and Policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev) Plan (2015) which, among other things, seek to promote high quality design that respects and enhances local distinctiveness while also protecting heritage assets. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 192 and 197 of the National Planning Policy Framework (the Framework).

Setting of Nearby Listed Buildings

19. The remains of Shrewsbury Castle are a grade I listed building within a Scheduled Monument. The remains date from the late 12th Century and include

various later modifications. The significance, insofar as relevant to the matters before me, can be attributed to their age and historical associations, the historical record provided by the remaining built fabric, and later alterations, and the Castle's imposing presence within the town. The building is sited at a high level, reminiscent of the site's early development as a motte and bailey. Hence, the setting of the listed building is not confined to its immediate surroundings but extends over the area in which it is experienced. As explained, part of the significance of the heritage asset stems from its imposing presence and defining influence, in addition to its development and historical associations. The setting contributes positively to its significance in that it enables the Castle to be experienced from different viewpoints within the Town.

20. Shrewsbury Station is a grade II listed building dating from 1849 with later extensions. Its significance can be attributed to the age, architectural style and historical role as an early-Victorian station building. The setting contributes to the significance as it expands the area in which the station buildings can be appreciated, in particular along Castle Foregate and Smithfield Road.
21. There are numerous other listed buildings to the south of the appeal site, along Castle Gate. I have limited information but judge their significance to be associated with their age and architecture, which reflects that of the 19th Century.
22. The appeal building lies to the north of the Castle, in relatively close proximity. In certain views, in particular from the cricket ground across the river, the castle crenellations can be seen in the skyline in the same panorama as the sunroom. However, the wider context includes numerous other modern buildings of varying architectural quality. The Castle is elevated above road level which, combined with its obvious age and defining built form, enables the remaining built elements to retain their imposing presence despite the later development in the vicinity. The sunroom appears as a minor modern addition to the skyline that can be seen alongside the Castle but does not impinge on its setting. Consequently, I find that the development preserves the setting of this designated heritage asset of national importance.
23. As set out above, the sunroom is visible from the station forecourt and surrounding roads. However, it does not compete with the station building due to its scale, separation and intervening buildings. As such, the setting of the listed building is preserved. Similarly, the listed buildings to the south along Castle Gate are some distance from the development and their setting is more closely related to their street frontages. The sunroom does not affect their settings, or the contribution the settings make to the buildings' significance, as it bears a closer relationship to the development in its immediate vicinity.
24. Given the above, I conclude that the proposal would preserve the setting of the listed buildings. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 192 of the Framework and would not conflict with Policies CS6 and CS17 of the Core Strategy or Policies MD2 and MD13 of the SAMDev Plan that seek, among other things, to protect heritage assets.

Living Conditions

25. The reason for refusal cites an overbearing impact and loss of light to the rear of properties in Castle Foregate. In its appeal statement, the Council accepts that the sunroom would not have a significant adverse impact in terms of shading and loss of light. Nonetheless, it maintains the development would have "some impact" on light levels and would impact on the outlook from the upper floor, rear windows of the Albion Vaults Public House, which has recently been extended and renovated. In response, the appellant has submitted an updated Shade Cast Appraisal (March 2020).
26. I understand the windows in question serve living accommodation over the public house. It is apparent from the evidence before me that the outlook and light levels from these windows were already significantly affected by the development of Chester House, as approved. The addition of the sunroom, which although only partially glazed to the relevant elevation, would not have a material adverse effect on outlook or light given its comparative size and siting. It is unlikely that the sense of enclosure already experienced would be significantly exacerbated.
27. To conclude, I find that the development would not have an adverse effect on the living conditions of adjoining occupiers with regard to outlook and light, in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan, which seek to ensure development contributes to the health, safety and wellbeing of communities while safeguarding residential amenity. The development accords with the Framework insofar as it seeks to secure a high standard of amenity for existing and future residents.

Other Matters

28. The Council has requested a condition to require the glazing to the rear of the sunroom to be fitted with obscure glass. There is no reason given for the condition but I assume it is to protect the privacy of neighbouring occupants. The height of the development and its proximity to the rear of the public house is such that views would be downwards oblique and likely to be limited. In addition, similar views may be obtained from the approved rooftop garden. As such, it has not been shown that the suggested condition is necessary.

Conclusions

29. Appeal A: For the reasons given above I conclude that the appeal should be allowed.
30. Appeal B: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the corrected notice. The appeal on ground (f) does not, therefore, need to be considered.

Formal Decisions

31. Appeal A: The appeal is allowed and planning permission is granted for the "erection of a sixth floor to provide a roof top conservatory with glazed balustrading" at Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ in accordance with the terms of the application, Ref 18/03375/FUL dated 20 July 2018, and the plans submitted with it.

32. Appeal B: It is directed that the enforcement notice is corrected by the addition of the words "as varied by applications reference 17/03177/VAR and 19/00335/VAR" after *planning application reference 14/00582/FUL* in paragraph 3 of the notice.
33. Subject to this correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR, on the Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ referred to in the notice.

Debbie Moore

Inspector

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Appeal Decision

Site visit made on 26 May 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2020

Appeal Ref: APP/L3245/W/19/3242657

Land to the south of Knockin Heath, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Shropshire Rural Housing Association against the decision of Shropshire Council.
 - The application Ref 19/00564/FUL, dated 4 February 2019, was refused by notice dated 3 September 2019.
 - The development proposed is erection of 5 no affordable dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the address of the appeal site from the Council's decision notice as it is absent from the planning application form.
3. The appellant has submitted a signed Unilateral Undertaking (UU) stating that all of the properties will be affordable rented dwellings. I return to this matter later on.

Main Issue

4. The main issue is whether the appeal site provides a suitable location for the proposed development with regard to the risk of flooding.

Reasons

5. Based on the Environment Agency flood maps and the submitted Flood Risk Assessment (FRA) areas of the site fall within Flood Zones 2 and 3. The submitted layout shows that plots 3, 4 and 5 would be located within these flood zones.
6. Flood Zones 2 and 3 represent a medium to high probability of flooding. Paragraph 155 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk. In areas that are known to be at risk from flooding, the Framework sets out that a Sequential Test should be applied to development proposals. It states that the overall purpose of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The Planning Practice Guidance (PPG) advises that the area to apply the Sequential Test across will be defined by local

- circumstances relating to the catchment area for the type of development proposed.
7. The appellant has undertaken a Sequential Assessment. In this particular case, the appellant has considered the settlements of Kinnerley, Maesbrook, Dovaston and Knockin Heath which are identified as a community cluster in the Shropshire Core Strategy (2011) (CS) and an area for future housing growth. The study area seems to me to be an appropriate one given the type and scale of the proposal.
 8. However, the assessment, in my view, is limited in scope. It only considers sites that are either allocated for housing in the CS or sites that have been subject of planning applications. Of the sites identified that benefit from planning permission the assessment sets out they have either been built out or that it is unlikely that market housing sites would be sold at a reduced value to a housing association.
 9. Whilst these sites have been considered the assessment does not contain an objective analysis of other sites, either greenfield or brownfield, across the community cluster that lie within Flood Zone 1, regardless of whether they have been presented by landowners or the Parish Council. I am therefore not satisfied that there are no reasonably available sites for the proposed development in areas at a lower risk of flooding particularly considering the Council's more flexible approach towards the location for affordable housing.
 10. Whilst the flood mitigation and safety measures proposed in the FRA may demonstrate the proposal could be made safe it does not negate the need to consider alternative locations with a lower probability of flooding. The proposal would not pass the requirements of the sequential test. It therefore follows that I do not need to consider the provisions of the exceptions test although I acknowledge one has been submitted.
 11. Taking all of this into account the proposed development would conflict with Policy CS18 of the CS which, amongst other things, requires new development to be safe, taking into account its lifetime and the need to adapt to climate change. It would also be contrary to paragraph 158 of the Framework which sets out that the aim of the Sequential Assessment is to steer new development to the areas with lowest risk of flooding.

Other Matters

12. I acknowledge there may well have been considerable discussions between the site landowner and the appellant regarding the proposal and that there is a need for affordable properties in the area. I also acknowledge that the site may not be suitable for farming, that other site constraints including impact on trees have been addressed and that the development would be sympathetic to local character. However, these either individually or cumulatively do not outweigh my concerns in relation to the main issue.
13. I note the appellant's comments that no reference was made in relation to flood risk during the course of a previous planning application at the site. However, every application and appeal must be considered on its own merits, which is what I have done, and has not led me to reach a different conclusion on the main issue.

14. A Unilateral Undertaking has been submitted setting out that the development would be affordable rented dwellings. However, consideration of that matter would not affect my findings on the main issue, and the appeal would in any case be dismissed, thus it is not necessary for me to consider this any further.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

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Your Ref: 19/01478/OUT
Our Ref: APP/L3245/W/19/3241097
Date: 9 June 2020

Dear Sir

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 320
LAND AT NANT GOCH, PEN-Y-BONT, OSWESTRY SY10 9JG
APPEAL BY B & B JONES LTD: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspectorate's letter dated 7 February 2020 confirming withdrawal of the appeal by B & B Jones Ltd. The appeal was against Shropshire Council's decision dated 15 May 2019 to refuse a planning application (19/01478/OUT) for "*Outline planning permission (all matters reserved) for the erection of agricultural workers dwelling and all associated works*", on land described above.

2. This letter deals with the Council's application for a full award of costs against the appellants as made in written correspondence dated 5 February and 3 March 2020. The appellants' agents replied on 26 February 2020. The costs representations, which have been made available to the parties, have been carefully considered along with all the available information.

Summary of the decision

3. The costs application succeeds and a full award of costs is being made. The formal decision and costs order are set out in paragraphs 16 and 17 below.

Basis for determining the costs application

4. In planning appeals the parties are normally expected to meet their own expenses irrespective of the outcome of the appeal. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense. The application for costs has been considered in the light of relevant guidance (as published on the Gov.uk website under "Appeals"), the appeal papers, the parties' written costs correspondence and all the relevant circumstances.

Reasons for decision

5. All the available evidence has been carefully considered. The costs application, made following the withdrawal of the appeal, is for a full award of costs and on the basis that the appeal was unnecessary. The decisive issue is therefore whether or not the appeal was unreasonably made at the outset with the result that the Council incurred wasted expense in the appeal proceedings. Particular regard has been paid paragraphs 052 & 054 of the costs policy guidance. Paragraph 052 refers to the possibility of a procedural award of costs against an appellant in the event of a withdrawal of an appeal. Paragraph 054 explains that the right of appeal should be exercised in a reasonable manner and that an appellant is at risk of an award of costs if the appeal had no reasonable prospect of succeeding.

6. It is noted that the appeal, accompanied by statement of case, was made on 13 November 2019 with a request for a hearing to be held. The Inspectorate's procedural ("start date") letters of 27 November 2019 explained that the appeal would indeed be decided via a hearing. A timetable was set for the submission of appeal documentation and a date of 5 February 2020 was subsequently arranged for the hearing. The letter to the appellants' agents drew attention to the published guidance on awards of costs and warned that withdrawal of the appeal, at any stage of the proceedings without good reason, would place the appellants at risk of an award of costs.

7. The appeal proceeded and the parties submitted appeal documentation. The appellants provided, with the draft Statement of Common Ground (SoCG), financial information/accounts relating to their farm business – information not previously seen by the Inspectorate or the Council. The Inspectorate informed the parties, on 4 February 2020 (the day before the hearing) that the relevant Planning Inspector had agreed to accept this as "new information". The hearing opened as arranged on 5 February but the Planning Inspector decided to adjourn it for further information to be submitted in relation to the property known as "Brooklands". Following the adjournment of the hearing, but on the same day, an e-mail (16:00) from the appellants' agents announced the withdrawal of the appeal. They stated:

"... in the light of disclosures and the way they were represented by the Council at the hearing rather than in the Statement of Common Ground or when the Council were made aware of this information, we strongly feel that our clients position has been prejudiced and as agents we were not aware of this situation and were not able to adequately address this issue."

The Council's e-mail¹, also sent on 5 February, informed the Inspectorate that information had been obtained from the Council's tax section which showed that Mr & Mrs Jones' son, Matthew Jones, had been residing at a nearby property known as Brooklands (Pen-y-Bont, Oswestry) and had done so prior to any planning applications for a dwelling on the appeal site. The Council stated that this was contrary to what the appellants' agent had indicated at the hearing – he had indicated that circumstances had only recently changed in relation to on-site living arrangements. The Council's e-mail also expressed concern about the late submission of the financial information by the appellants.

8. In response to the costs application the appellants' agents made the following points:

- At the hearing the Council confirmed that they were not making an application for costs
- The Council had admitted (e-mail of 5 February) that they were aware of information (concerning residential details) prior to the hearing but did not disclose it
- The Council had not raised, in their Decision Notice or Officers' Report, the issue of alternative accommodation or financial information as an issue

¹ e-mail (16:56) containing the costs application.

- The appellants' position had been prejudiced and there had been no opportunity to address the issue other than to withdraw the appeal and to recommence the planning application process
- The appeal was not a waste of public money. It raised issues that needed further explanation which unfortunately could not be addressed at the hearing

9. In their costs correspondence the Council indicated that it was only after carrying out a recent search, in relation to other available property (at the time of the hearing) that they discovered the information about Brooklands. It was only after further information was obtained about this matter, and the withdrawal of the appeal, that the costs application was made. As regards the question of alternative accommodation, this was referred to at 6.3.4 of the Officers' Report and at point 8 of the Council's appeal statement. The Council stated that the appellants had not been prejudiced by the Council's comments at the hearing about residential accommodation. Council tax records showed that the appellants' son and his then-partner had been residing at Brooklands since 1 April 2017. The Council claimed that information concerning the residential occupation of Brooklands had been withheld by the appellants.

Conclusions

10. Having made the appeal it is considered that it was for the appellants, barring a material change in circumstances in the Council's case on appeal or other material change in circumstances, to pursue it to a formal determination. However, despite the costs warning given in the Inspectorate's "start date" procedural letter, they decided to withdraw it in favour of, it appears, pursuing the planning application process afresh with the Council. The circumstances leading to the decision to withdraw the appeal have therefore been carefully examined.

11. The basis for the appeal proposal was that Mr & Mrs Jones would vacate the farmhouse to move to a residential dwelling to be built elsewhere on their land thus allowing their son to occupy the farmhouse and succeed them in running the farm business (although Mr & Mrs Jones would continue to support the overall farming business and help meet the needs of the farm). The appellants contended² that there were no available dwellings within a three mile radius that were suitable for them. There was no indication that their son was residing at a different location to the farm. The appellants' statement of case (paragraph 6.8) had stated that "B & B Jones' son will continue to live in the farmhouse and that the proposed dwelling will be occupied by Mr and Mrs Jones". It was the Council's case³ that there was no essential and functional requirement for a dwelling on site, as proposed, and no consideration of alternative dwellings had been put forward by the appellants. The Council stated that it was the needs of the business that required planning consideration and not the preferences of the persons concerned.

12. It appears that, at the hearing, the Council explained that they had recently discovered evidence that the appellants' son was not residing at the farmhouse and had moved to Brooklands. A short adjournment of the hearing allowed the appellants' agent to contact them (the appellants were not present at the hearing) and they confirmed that their son was indeed residing at Brooklands. This appears to be contrary to the information, as available before the hearing opened, that Mr & Mrs Jones and their son were living at the farmhouse. It was then the appellants' decision to withdraw the appeal. The inference appears to be that Brooklands represented a source of accommodation in sufficiently close proximity to the farm. Although the appellants would have had the opportunity to address the issue (concerning Brooklands) and to pursue the appeal to a formal determination they stated that their position had been prejudiced. It was their decision to withdraw the appeal.

² SoCG (Council's Comments)

³ 9.1 of the Council's appeal statement refers

13. The conclusion drawn from the available evidence is that the appellants decided to withdraw the appeal because they considered that the information obtained by the Council, about the residential accommodation at Brooklands, was detrimental to the prospect of success for the appeal. While the information amounted to a change in circumstances that had hitherto been unavailable on appeal it was nevertheless information which would have been known by the appellants (if not their agents) at the outset of the appeal. It was therefore their decision to submit the appeal on the basis of information which excluded any reference to Matthew Jones' residence at Brooklands and to then withdraw it only when this information came to light at a late stage in the appeal proceedings. For the avoidance of doubt, no reason is seen to conclude that the Council were in a position to highlight this information any sooner than they did. Indeed, if they had been in a position to introduce the information at an earlier date it seems unlikely that they would have chosen to wait until the hearing to do so as an earlier withdrawal of the appeal would have served to help reduce the amount of expense incurred by them in the appeal proceedings.

14. In the circumstances described the Secretary of State concludes that the appellants actions in submitting the appeal and then withdrawing it in the light of information introduced by the Council at the hearing – information which should have already been within the appellants' knowledge – amounts to unreasonable behaviour. As a result the Council incurred wasted expense in connection with appeal proceedings. In the particular circumstances a full award of costs is considered justified.

15. The Secretary of State does not decide the amount of costs payable. This is for the parties' agreement or via an application for a detailed assessment in the Senior Courts Costs Office.

FORMAL DECISION

16. For these reasons, it is concluded that a full award of costs against the appellants, on grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense, is justified in the particular circumstances.

COSTS ORDER

17. Accordingly, the Secretary of State for Housing, Communities and Local Government in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 78 and 320 of the Town and Country Planning Act 1990, and all other powers enabling him in that behalf, **HEREBY ORDERS** that B & B Jones Ltd shall pay to Shropshire Council their costs of the appeal proceedings before the Secretary of State; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in paragraph 1 above.

18. You are now invited to submit to the appellants' agents details of those costs with a view to reaching agreement on the amount. A copy of this decision letter has been sent to them.

Yours faithfully

John Gardner

Authorised by the Secretary of State
to sign in that behalf

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