



Committee and date

South Planning Committee

13 February 2018

Development Management Report

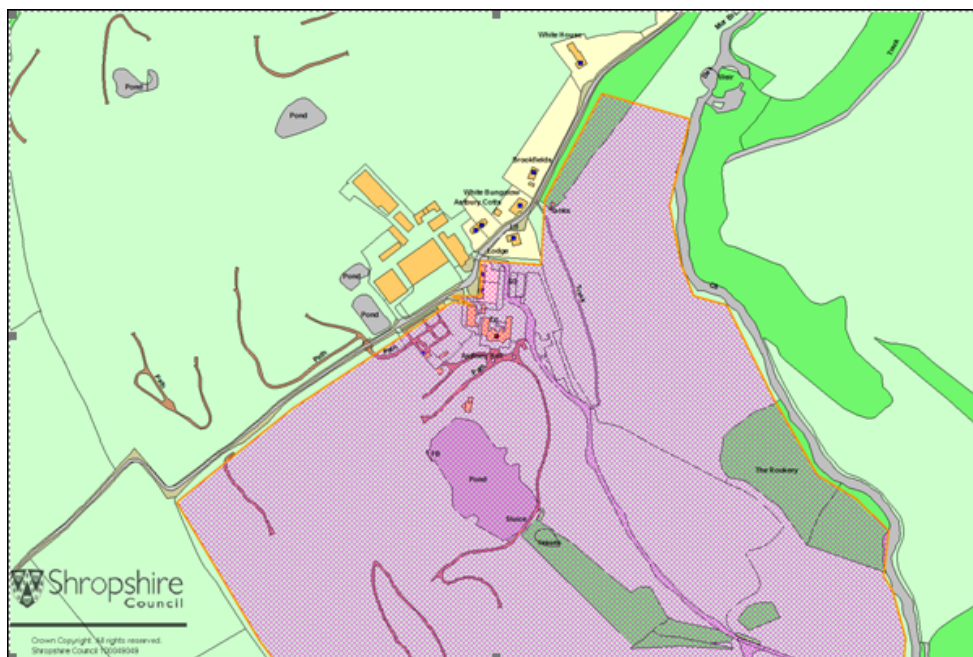
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 17/05426/VAR	<u>Parish:</u>	Chelmarsh
<u>Proposal:</u> Variation of conditions 21 & 34 attached to planning permission 98/0829 dated 07/03/2000 (and 11/01774/VAR) to allow for continued use of marquee for a further five years		
<u>Site Address:</u> Astbury Hall Astbury Bridgnorth Shropshire WV16 6AT		
<u>Applicant:</u> Mr K Downing		
<u>Case Officer:</u> Richard Fortune	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 372291 - 289217



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

- 1.1 In March 2000 planning permission was given to renew planning permission 91/0586 for the use of land as 18 and 9 hole golf courses; use of and extensions to Hall to provide hotel and ancillary facilities and temporary golf club house; use of and extension of pool house to golf club house; use of and extension to barn to provide holiday lets; erection of 12 holiday lodges and installation of sewage treatment plant at Astbury Hall, Eardington. (ref 98/0829). The planning permission has been implemented with the construction of the golf courses and the adaptation of the Hall to provide a reception and rooms for functions. Bases have also been laid for the holiday lets. All vehicular access to the site is taken from the B4555 road to the south, rather than the narrow Astbury Lane, in accordance with the planning permission.
- 1.2 There are a number of conditions attached to the planning permission including conditions 21 and 34 which state as follows:-
21. There shall be no functions, including wedding receptions or barbecues, held on the open areas outside the hotel building without the prior approval in writing of the Local Planning Authority.
Reason: To safeguard the amenities of nearby residential properties.
34. There shall be no buildings, caravans or other structures placed or erected on the open areas of the site without the prior approval of the Local Planning Authority.
Reason: In the interests of the visual amenities of the area.
- 1.3 A planning application was made in 2011 to vary the above conditions to allow outdoor functions including the erection of marquees in three locations in close vicinity of the Hall building (Ref 11/01774/VAR). These sites for the marquee were 1) On a paved terrace/patio area immediately to the east of the Hall building and adjacent to the main car park area; 2) Some 60 metres to the south of the Hall building on the site of the former swimming pool close to the lake and at a lower level; and 3) Immediately to the west of the Hall building in an area which is close to the kitchen and was the part of the drive approach from Astbury Lane which is no longer in use. This latter area is contained by the boundary wall to Astbury Lane and that of the walled Garden area and would require the removal of some conifer hedging and trees to create a site suitable for a marquee. The application was considered at the August 2011 South Planning Committee and a 5 year temporary permission was granted until 10th August 2016. Conditions restricted the playing of amplified sound after 23:00 hours and before 09:00 hours the following day; no more than one marquee to be erected at any time; details of the size and appearance of marquees to be approved; and any associated external lighting to be approved associated with marquees. Details of the size and appearance of the marquee were approved in December 2011 under reference 11/04126/DIS.

- 1.4 The reasons put forward in 2011 as to why the marquee options were sought were that the size of the rooms available in the Hall, which has yet to be extended, limits the maximum number of people that can be catered for to about 40. The agent explained the golf facility is an ideal location and setting for wedding functions, barbecues and corporate events. In order for these events to occur temporary marquees were needed, along with consent for live entertainment, and for the sale of beverages. He commented that the planning permission includes for the construction of a new hotel and they are seeking a variation of the conditions listed to enable these events to occur and a temporary consent, reviewed again in five years, which should coincide with phased work for the development of the new hotel. Following the grant of the temporary planning permission a marquee was erected and used for various functions. At the time of the site visit in connection with the current application a marquee remained in place in the area immediately to the west of the Hall (Location 3 in paragraph 1.3 above).
- 1.5 In August 2017 complaints were received that the marquee was still in place on the land and noise complaint relating to its use had been lodged with the Council's Regulatory Services Team. The owner was advised that the temporary planning permission for the marquee has expired and that his options were to remove the marquee or to seek a further temporary consent to retain the structure. This application has been made to retain the marquee for a further temporary period and a period of five years has been requested.
- 1.6 The applicant has explained that the marquee is needed to sustain the business. He states the marquee has been a vital lifeline for televised golf tournaments, corporate days, charity events, weddings, high school proms, wakes etc, He comments that there has only been one complaint in 5 years. The intention remains to submit a revised application for a hotel extension to replace the hotel scheme in the extant planning permission, and that would replace the temporary marquee.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Astbury Hall is a large, unlisted detached property with a range of associated dwellings and outbuildings on its northern side. It is situated in open countryside and backs onto the narrow Astbury Lane to the north, off which there is a scatter of other residential properties. The main access to the Hall is a long drive to the south which joins the B4555 road near to the railway bridge over the road. The bulk of the land associated with the Hall has been developed as a high quality golf course.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is referred to the South Planning Committee for determination because the Parish Council have expressed a view which is contrary to the recommendation of the Council's Officers and the Division Member has requested that the application be determined by Committee. The Chair of the Planning Committee considers the Parish Council response to be material planning considerations and confirms in this particular case that the application should be

determined by the Committee.

4.0 Community Representations

- Consultee Comments

4.1 Chelmarsh Parish Council – Object:

1. The current planning permission expired in August 2016.
2. Condition 2 of this permission has not been adhered to i.e. no music after 23.00 hours.
3. No details of siting of the marquee in the new application and your attention is drawn to the location of the current marquee which is too close to neighbouring residents.
4. The Parish Council has received numerous reports regarding noise levels/times music being played and SC have also been notified.

The Parish Council are concerned regarding noise disturbance for residents living close by which affects their life but also the noise travels to surrounding areas.

4.2 SC Regulatory Services (05.01.18) – Comment:

Marquee location 1 on previous application 11/01774/VAR is much closer to residential properties than marquee location 2 which is twice as far away. As a result activity in marquee location 1 may have a much more significant impact on residential properties and there may be the need to consider if this location requires additional controls to ensure it is used without impacting on the surrounding area in an unacceptably detrimental way, due to likely low background noise in the area.

Regulatory services has received a complaint about the activities at the premises.

Recommend a time restriction which allows use of outside areas and marquees for music only between the hours of 0900-2300 hours and use of the marquees by any public/guests between the hours of 0830-2330 hours. The tighter restriction than the premises license is justifiable based on complaint received and Parish Council comment.

4.2.1 SC Regulatory Services (18.12.17) – Comment:

The applicant has not stated what the marquee will be used for e.g. music, dancing etc., and how frequently the marquee is proposed to be used. This information is required in order to provide useful comment.

It is noted that, on the premises license for Astbury Hall, there is no marquee shown marked on the site plan and therefore this element may not have been fully

considered when the license was granted. The premises license provides the potential for music to be played in indoor and outdoor areas until 0100 hours. It is noted that the lapsed temporary planning permission stated 2300 hours as cut off for music in the marquees. Without any information to suggest that this is suitable and would not impact significantly on residential amenity I would recommend that 2300 hours would be suitable as the latest time available for any music in this external area of Astbury Hall.

-Public Comments

- 4.3 7 neighbouring properties consulted 07.12.17 with comments requested by 28.12.17. Site notice displayed 20.12.17 on Astbury Lane site road frontage (Expiry date 10.01.18).

No comments have been received in response to this publicity.

5.0 THE MAIN ISSUES

5.1 Principle of Development

Impact upon the residential amenities of the area (Condition 21)

Impact upon the visual amenities of the area (Condition 34).

6.0 OFFICER APPRAISAL

6.1 Principle of Development

- 6.1.1 Core Strategy policy CS5 relates to development in the countryside and Green Belt, and seeks the retention and appropriate expansion of existing established businesses. Sustainable rural tourism and leisure and recreation proposals which require a countryside location are also supported in principle where they accord with policy CS16 (Tourism, Culture and Leisure) and CS17 (Environmental Networks). Core Strategy policy CS13 is supportive of the development and growth of Shropshire's key business sectors, which includes developments such as that at Astbury Hall. The importance of high quality, sustainable tourism, and cultural and leisure development to Shropshire is recognised by Core Strategy policy CS16. The National Planning Policy Framework, Section 3, relates to supporting a prosperous rural economy and paragraph 28 is supportive of the sustainable growth and expansion of all types of business and enterprise in rural areas.

- 6.1.2 This application is related to an established rural leisure/recreation/sporting and hospitality/events enterprise. There is no in principle planning policy objection to this application to retain the marquee at this property. The issue here are whether a satisfactory balance can be achieved between the benefits to this business and the rural economy of the marquee and ensuring no undue harm to neighbour amenity and visual amenity.

6.2 Impact upon the residential amenities of the area

- 6.2.1 Core Strategy policy CS6 seeks to ensure that all development safeguards residential and local amenity. Similar general development criteria applied in 1999

when the renewal of the application for the golf course, hotel and holiday accommodation development at Astbury Hall was under consideration. It was acknowledged that there would be interest in holding functions on land outside the hotel building which could potentially impact upon residential amenity. For this reason condition 21 was worded so as to require the prior approval in writing by the Local Planning Authority for such functions. The consent to hold functions in marquees sought in this application, outside of the main building, would embrace corporate events, weddings, birthdays, through to christenings and funerals.

6.2.2 The reason why the previous planning permission to allow the erection of temporary marquee was a temporary five year consent was to reflect what was applied for, to allow the functions element of the business to develop and to fit in with the then envisaged timescale for the construction of the hotel extension contained in planning permission 98/08029. While construction has not started yet on the hotel element of the planning permission, and no planning applications have been made for alternative proposals for the Hall, the marquee would appear to be an important part of the enterprise from the explanation given by the applicant at 1.6 above. Regard also needs to be paid to the current premises licence which provides the potential for music to be played in indoor and outdoor areas until 0100 hours. The reference by the Parish Council to condition 2 of the previous planning permission being breached by music being played after 23.00 hours is noted, but the matter was followed up and, had the breach continued, there are powers available to the Council to secure compliance. It cannot be implied that a similar condition on any new consent would also be breached. A planning permission goes with the land and would apply to all operators/ users of the marquee

6.2.3 It was accepted in consideration of the 2011 application that marquee type structures offer little resistance to the passage of sound and that background noise levels are low in this rural location. However, provided that the playing of amplified recorded sound/music and amplified live sound/music in any outside area, including in marquees, does not take place after 11.00pm and before 9.00am the following day, (Together with no public/ guest use of the marquee after 11:30 pm and before 8.30am the following day); and the option of locating the marquee in area 1 shown on the submitted plan is excluded (Due to the observations made by SC Regulatory Services at 4.2 above), it is considered that an acceptable balance between business needs and safeguarding residential amenity would be achieved.

6.3 Impact upon the visual amenities of the area

6.3.1 Core Strategy policy CS6 seeks to ensure that all developments take account of local context and character, so as to not detract from the visual amenities of the area. SAMDev Plan policy MD2 supplements CS6 with regard to sustainable design considerations. Condition 34 remains compatible with these objectives, requiring the prior approval of the Local Planning Authority for structures on the open areas of the site (The Hall being a non-designated heritage asset) in order to safeguard visual amenity. With the establishment of the golf courses and the completion of the ancillary facilities such as the car park and patio areas in the vicinity of the Hall, the landscape context means that a marquee of a suitable design, positioned in close proximity to the Hall, would not detract from the visual amenities of the area. The maximum size of marquees for each site identified will

be constrained by the topography of each plot. The marquee currently erected in area 3 (Immediately to the west of the Hall) measures some 9 metres by 21 metres. It has a white external finish, with a shallow dual pitched roof and side panels which incorporate full height 'windows'. The design of this particular marquee is not considered to detract from the visual amenities of the area and was approved under reference 11/04126/DIS to satisfy the condition relating to approval of the size and appearance of the marquee on the temporary planning permission 11/01774/VAR. The details of the size and appearance of any alternative or replacement marquee can be the subject of a condition on any approval issued.

7.0 CONCLUSION

7.1 The marquee currently has a key role in the business operations at Astbury Hall, which supports a number of jobs and contributes to the rural economy. At the time of writing this report the property and business is up for sale and potential purchasers, (Or the current owner should he regain in control of the business), will need to some certainty over the availability of this facility as part of the business. The marquee has previously been judged to be acceptable in this location as a temporary measure prior to replacement by a permanent function room facility. The adopted Development Plan policies, and the guidance set out in the NPPF, requires local planning authorities to, where possible, support proposals that contribute towards a prosperous rural economy and the employment such developments bring/retain. Paragraph 187 of the NPPF states that:

“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”

7.2 It is considered that an acceptable balance can be achieved between the needs of the business (That contributes to the rural economy) and safeguarding neighbour and visual amenity by the imposition of conditions. The recommended conditions are adjusted in comparison with those attached to the previous temporary permission 11/01774/VAR in the light of the comments receive from the Council's Regulatory Services Team concerning the premise licence and the noise complaint. A condition would prohibit the playing of amplified sound/music in any outside area, including in marquees, between 23:00 hours and 09:00 hours the following day; no occupation of marquees by any public/guests after 23:30 hours and 08:30 hours the following day, with location area 1 immediately to the east of The Hall being excluded as a siting option, due to the lack of intervening structures between that location and nearby residential properties to assist in suppressing noise between the source and receptors. The proposed locations for the marquee are considered acceptable in terms of landscape impact, as was the case in 2011, provided that any changes to the size and appearance of the marquee currently erected is first approved in writing by the Local Planning Authority, which can be achieved through conditions. A condition restricting the consent to a period of five years would also be appropriate, in order to define the permission, to maintain business continuity and to allow for a review of the need for the marquee with progress on construction of the new hotel or alternative permanent function room facility which may come forward with or without a change in site ownership.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee

members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy:
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS13 Economic Development, Enterprise and Employment
CS16 Tourism, Culture and Leisure
CS17 Environmental Networks

RELEVANT PLANNING HISTORY:

BR/74/0254 Conversion of existing dwelling to a hotel GRANT 6th May 1974
11/01035/AMP Amendments to planning permission 98/0829 to incorporate the additional lavatory block and pay station within the building GRAMP 2nd June 2011
11/01774/VAR Variation of condition numbers 21 and 34 attached to planning permission reference 93/0829 dated 7th March 2000 to allow for the provision of outdoor functions and erection of temporary marquees GRANT 10th August 2011
11/04126/DIS Discharge of Condition No.3 (appearance of marquees) attached to planning permission 11/01774/VAR dated 10/08/11 - Variation of condition numbers 21 & 34 (93/0829) to allow for the provision of outdoor functions and erection of temporary marquees DISAPP 12th December 2011
BR/74/402 The erection of two lodged dwellings for staff occupation REFUSE 5th November 1974
BR/76/0305 The erection of two extensions to provide additional bedrooms at the front of two existing cottages GRANT 5th July 1976
13/03715/DIS Discharge of condition 4 (Materials) on planning permission 06/0435 for the use of land for the stationing of holiday lodges at Astbury Hall, Chelmarsh WDN 7th March 2014
13/04958/VAR Variation of condition 2 of planning permission 06/0435 for the stationing of holiday lodges GRANT 10th March 2014
14/00794/FUL Erection of 11 holiday retreats GRANT 14th April 2014

14/03609/FUL Siting of 1no. additional holiday retreat within the context of the previously approved scheme 14/00794/FUL GRANT 16th October 2014

16/00786/DIS Discharge of conditions 6 (external materials), 7 (landscaping), 9 (drainage), 10 (protective fencing) and 14 (Ecology) on planning permission 14/00794/FUL for the erection of 11 holiday retreats DISPAR 11th April 2016

16/00798/DIS Discharge of conditions 6 (external materials), 7 (drainage), 8 (protective fencing) and 11 (ecology) on planning permission 14/03609/FUL for the siting of 1no. additional holiday retreat within the context of the previously approved scheme 14/00794/FUL DISPAR 11th April 2016

16/00800/DIS Discharge of conditions 6 (external materials), 7 (landscaping), 9 (protective fencing), 10 (habitat management plan) and 20 (construction method statement) on planning permission 14/04010/FUL for the erection of 28 residential units with a restriction for holiday use DISPAR 11th April 2016

16/04437/DIS Discharge of Condition 9 (drainage) relating to planning permission 14/00794/FUL - Erection of 11 holiday retreats DISAPP 2nd November 2016

16/04438/DIS Discharge of Condition 7 (drainage) relating to planning permission 14/03609/FUL - Siting of 1no. additional holiday retreat within the context of the previously approved scheme 14/00794/FUL DISAPP 17th November 2016

17/05426/VAR Variation of conditions 21 & 34 attached to planning permission 98/0829 dated 07/03/2000 (and 11/01774/VAR) to allow for continued use of marquee for a further five years PDE

BR/APP/FUL/03/0337 Variation of condition number 7 on planning permission reference 98/0829, approved 7 march 2000 GRANT 10th June 2003

BR/APP/FUL/06/0435 Use of land for the stationing of holiday lodges GRANT 31st July 2006

BR/APP/FUL/06/0434 Variation of condition 16 attached to permission ref 98/0829 to substitute drawing no 03/49/11A for 90/107/53 with regard to car park layout GRANT 27th July 2006

BR/APP/FUL/06/0054 Variation of condition 28 on planning permission ref 98/0829 to allow the barn conversion and extension and the timber lodges to be used 12 months a year for holiday purposes only GRANT 6th March 2006

BR/98/0829 Renewal of planning permission 91/0586 for use of land as 18 hole and 9 hole golf courses; use of and extensions to Hall to provide hotel and ancillary facilities and temporary golf club house; use of and extension of pool house to golf clubhouse; use of and extension to barn to provide holiday lets; erection of 12 holiday lodges; installation of sewage treatment plant GRANT 7th March 2000

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Robert Tindall
Appendices APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The temporary approval hereby granted for functions on the open areas outside the Hall building, including weddings, barbeques, corporate and charity events, inclusive of the erection of marquees in locations area 2 and 3 only shown on drawing number 03/49/116, shall expire within 5 years of the date of this permission.

Reason: To define the permission for the avoidance of doubt, to allow for business continuity and for a review of the need for the marquee at that time.

2. The playing of amplified recorded sound/music and amplified live sound/music in any outside area, including in marquees, shall not take place after 23:00 hours and not before 09:00 hours the following day. The marquees shall not be occupied by any public/guests after 23:30 hours and not before 08:30 hours the following day.

Reason: To safeguard the amenities of nearby residential properties.

3. Before any replacement or alternative marquee to that shown in the application photographs is first installed in an area approved for its erection, details of the size and external appearance of the marquee shall be submitted to and approved in writing by the Local Planning Authority. The marquee shall be installed in accordance with the approved details.

Reason: In the interests of the visual amenities of the area.

4. No more than one marquee shall be erected at any time.

Reason: In the interests of the visual amenities of the area.

5. Prior to the erection of any external lighting associated with a marquee, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK. The lighting plan shall be installed and operated in accordance with the approved details.

Reason: To minimise the disturbance to bats, a European Protected Species, and in the interests of visual amenity.

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 187.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy:
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS13 Economic Development, Enterprise and Employment
CS16 Tourism, Culture and Leisure
CS17 Environmental Networks