



Committee and Date
North Planning Committee
23rd July 2019

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

Application Number: 19/01877/FUL	Parish: Stoke Upon Tern
Proposal: Application under Section 73A of the Town and Country Planning Act 1990 for the erection of replacement low rise boundary wall with decorative brick wall and 1.75m brick piers	
Site Address: Newcott Fish And Chips Newcott Services Tern Hill Market Drayton Shropshire	
Applicant: Mr Baljinder Singh	
Case Officer: Toby Cowell	email: planningdmc@shropshire.gov.uk

Grid Ref: 365319 - 330629



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2018 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

- 1.1 Retrospective planning permission is sought for the erection of a decorative brick boundary wall incorporating 1.75m high piers interspaced by approximately 3.36m, an 800mm intermediate wall and wrought ironwork above. The wall replaced a previously existing brick boundary wall of a lower height.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site, Newcott Fish and Chips, comprises a restaurant and takeaway premises located on the southern side of the A41 within close proximity to Stoke Heath, approximately 0.6 miles to the south-east. The site in question comprises the main commercial premises surrounded by an expansive degree of parking and additional hardstanding, with a dwelling house occupied by the premises' owners and associated curtilage in the southern portion of the site. The boundary wall which is the subject of the application extends along the site's northern boundary adjacent to the A41 and associated pavement.
- 2.2 Two neighbouring residential properties adjoin the site to the immediate east, with open fields bounding the site to the north, west and south. The site is located outside of a defined development boundary, and therefore comprises open countryside.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the conflict between the Parish Council's objection and the officer recommendation. It has been determined that the application be considered by planning committee following consultation with the chairman and vice-chairman of committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Stoke upon Tern Parish Council

Objection - Notwithstanding the retrospective nature of this Application the Parish Council wish to object on the grounds that the new walls, decorative fencing and lighting are out of keeping with the rural location. In particular the extensive new lighting on the piers is a distraction and safety hazard when travelling along the A41 at night and make it difficult to discern traffic entering and leaving the site.

4.1.2 **SUDS**

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority.

We have no comment from the drainage and flood risk perspective, regarding the erection of replacement low rise boundary wall with decorative brick wall and 1.75m brick piers.

4.1.3 **SC Highways**

The proposal seeks retrospective approval for the replacement of the boundary wall with a new wall topped with railings. No Objection – subject to the development hereby approved being constructed in accordance with drawing number NC-VS-500.

4.2 - **Public Comments**

- 4.2.1 This application was advertised via notice at the site. Additionally, the residents of 4 neighbouring properties was individually notified by way of publication. At the time of writing this report, no letters of representation have been received as a result of the publicity.

5.0 **THE MAIN ISSUES**

- 5.1 **Principle of development**
Character and appearance
Highways

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

- 6.1.1 The application site is situated outside of a defined development boundary and therefore forms part of the open countryside from a planning policy perspective. Core Strategy Policy CS5 states that any new development in the open countryside will be strictly controlled, and development proposals are expected to be appropriate for a countryside location. The impact of the development upon the character of the locality is discussed in the subsequent section of this report.

6.2 **Character and appearance**

- 6.2.1 Policy CS6 of the Core Strategy requires development to be designed to a high quality using sustainable design principles, which should be responsive to the local character and context of existing development and its wider surroundings. Likewise, SAMDev Policy MD2 requires development to respond positively to local design aspirations, and be reflective of locally characteristic architectural design and details.

6.2.2 The retrospective front boundary wall is noted as being relatively ornate and replaced a far simpler and lower boundary wall adjacent to the highway. Concerns have been raised by the Parish Council insofar as the development is out of keeping with the rural location. Notwithstanding this however, the site is located along a busy main road and forms part of a highly urbanised site including a substantial degree of hardstanding. In this context, it is not considered that the boundary wall and piers visually detracts from the overall character of the site and, with a total length of 43m, does not result in significantly adverse impact upon the character and appearance of the wider rural landscape. As a consequence, such development is considered to be on balance acceptable from a visual impact perspective and, in the context of this particular location, constitutes an appropriate form of development.

6.3 Highways

6.3.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.

6.3.2 The Highways Authority have appraised this retrospective application for the erection of the boundary wall and raised no objection in relation to highway safety.

7.0 CONCLUSION

The retrospective erection of a brick boundary is considered to be acceptable in principle, without adversely impacting the visual amenities of the locality to a substantive degree, the amenities of neighbouring residential properties or resulting in a detrimental impact upon the safety and convenience of the highway network.

Officers therefore recommend that the application be approved, subject to the single condition as set out in Appendix 1.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can

be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

RELEVANT PLANNING HISTORY:

NS/07/02403/ENQ Enquiry regarding possible uses of the site REC

NS/08/01599/ENQ Current class order of property and proposed use of property as a storage depot REC

NS/89/00196/FUL Erection of petrol sales office and shop at Halfway House Cafe, Tern Hill
GRANT 10th April 1989

PREAPP/09/00677 Proposed redevelopment of site to eight letting rooms, three self contained flats and parking area following demolition of existing petrol station REC

NS/90/00827/ADV Display of internal illuminated free standing price/logo stand. REFUSE 14th November 1990

NS/85/00634/ADV Display of external illuminated double sided pole mounted advertisement.
GRADV 7th November 1990

NS/84/00487/OUT Extension and alterations to fire damaged cafe to include a two storey managers dwelling and 1st floor truckers overnight accommodation with proposed phasing of development of halway house. GRANT 1st November 1984

NS/84/00487/DET Extension and alterations to fire damaged cafe to include a two storey managers dwelling and 1st floor truckers overnight accommodation. GRDET 7th June 1985

NS/83/00030/FUL Erection of dwelling with private garage. REFUSE 22nd March 1983

NS/79/00298/FUL Proposed erection of a dwelling with private garage. GRANT 31st May 1979

NS/78/00777/FUL Alterations and re-building of existing living accommodation to form a dwelling. GRANT 2nd February 1979

NS/90/00507/FUL Erection of extension and fire escape. GRANT 11th June 1990

NS/89/00054/FUL Installation of new fuel storage tanks, erection of new canopy and replacement of existing fuel pumps. GRANT 8th March 1989

PREAPP/10/00027 Site history / details REC

PREAPP/10/00204 Proposed installation of an extractor fan REC

PREAPP/10/02965 Proposed rear ground floor extension NOOBJC 24th November 2010

15/03412/FUL Erection of a new convenience store with associated drainage and site works
GRANT 1st December 2015

16/00533/FUL Erection of a single storey extension to restaurant/shop to include new toilets following demolition of single storey toilets GRANT 23rd March 2016

17/03165/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the re-building of restaurant stores with extension to create additional kitchen area and stores GRANT 6th September 2017

PREAPP/19/00086 Proposed change of use of part of commercial premises to residential PREAIP 28th March 2019

NS/74/00220/OUT Erection of dwelling on land at Halfway cafe REFUSE 3rd September 1974

NS/77/00052/FUL Use of land as parking area for motor vehicles GRANT 10th May 1977

19/01877/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the erection of replacement low rise boundary wall with decorative brick wall and 1.75m brick piers PDE

NS/98/00688/FUL HALFWAY HOUSE SERVICES CHESTER ROAD TERN HILL MARKET DRAYTON SHROPSHIRE
ERECTION OF A TWO STOREY EXTENSION AND PORCH TO FRONT ELEVATION AND GROUND FLOOR EXTENSION TO SIDE ELEVATION PER 8th September 1998

NS/98/00689/FUL HALFWAY HOUSE SERVICES CHESTER ROAD TERN HILL MARKET DRAYTON SHROPSHIRE
VARIATION OF CONDITION 06 ATTACHED TO P.P. N/84/487/SU/117 DATED 1.11.84 TO INCREASE THE NUMBER OF BED SPACES FROM 6 TO 8 (RETROSPECTIVE) PER 8th September 1998

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
--

Cabinet Member (Portfolio Holder)

Councillor Gwilym Butler

Local Member

Cllr Karen Calder

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development shall be retained strictly in accordance with the approved plans and drawings

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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.

-