

Development Management Report

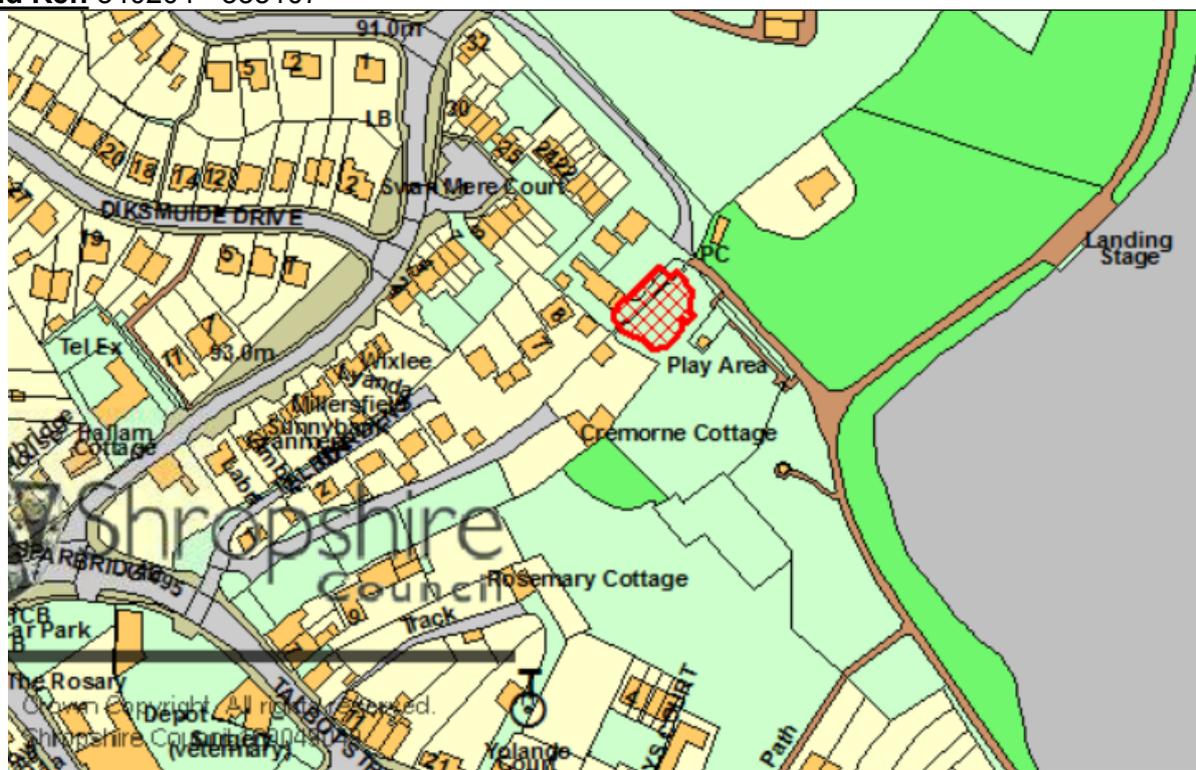
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 19/02633/FUL	Parish:	Ellesmere Urban
Proposal: Erection of a timber building to act as a Cafe/Visitor Centre		
Site Address: Swan Hill Depot Swan Hill Ellesmere Shropshire		
Applicant: Shropshire Council		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 340204 - 335107



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

- 1.1 The submitted application is for the erection of a café/ visitor centre at the western end of the Mere in Ellesmere. The building will contain a kitchen, toilets, indoor seating area and also a covered outdoor seating area.
- 1.2 The proposed building would be of a unique design constructed of timber with roof/ canopy and decking area taking the form of a leaf. The canopy and the roof overhangs will be supported on natural tree trunks. The roof would be planted up to create a 'live' gutter.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the Ellesmere Conservation Area. The proposed building would sit adjacent to the existing children's playground and the traditional buildings that are used as a Council depot. A former pre-fabricated timber clad building has already been removed from the depot area creating an open space.
- 2.2 The proposed café would be positioned partly on the yard area of the depot and part on the green area adjacent to the children's play area. This would necessitate the removal of a number of trees and a hedgerow which currently forms the separating boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application has been submitted on behalf of Shropshire Council and the proposal is part of its statutory functions. It must therefore be determined by committee.

4.0 Community Representations

- Consultee Comments

- 4.1 Town Council- Support the planning application
- 4.2 Ecology- No objection subject to conditions and informative.
- 4.3 Natural England- no comments to make on the application.
- 4.4 Conservation- no objection subject to conditions.
- 4.5 Drainage- no objection subject to conditions.
- 4.6 Archaeology- no objection subject to a condition requiring an archaeological watching brief during the intrusive groundwork phase of the development.

- Public Comments

No representations received at time of writing report

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Impact on Heritage assets
Ecological Impact

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS13 of the Shropshire Council Core Strategy indicates the Council's approach to positively develop and diversify the Shropshire Economy through supporting enterprise and delivering sustainable economic growth and prosperous communities. Furthermore policy CS16 encourages appropriate development to deliver high quality sustainable tourism, cultural and leisure facilities

6.1.2 The on-site provision of such facilities will enable the centre to potentially attract more users and increase its popularity. At the moment there are no food or drink facilities close to the children's playground. The nearest facility is around 560 metres away where the Boathouse restaurant is located on the south western side of the Mere. Prior to the submission of the application the Council surveyed users of the Mere to find out how the site could be improved. One of the top 3 suggestions was for a wider range of food and drink facilities.

6.1.3 As such the provision of the café will enhance the offerings available at the Mere which will help to encourage visitors to come to the Mere and/ or to stay longer. The new cafe will also create a small number of employment opportunities and generate additional income for the Council.

6.2 Siting, scale and design of structure

6.2.1 The proposed building has been specifically designed to reflect the unique character of its setting, it uses as many natural materials as possible to help it reflect its surroundings. Externally the building would be entirely finished in timber; utilising a mix of English Oak, sweet chestnut with larch or cedar cladding. The proposed 'leaf' shaped decking and canopy would further add interest to the building and reflect the natural landscape of the mere.

6.2.2 It is considered that the unique design of the building and the proposed materials would enhance this part of the Mere and would integrate with its surroundings.

6.3 Impact on Heritage Assets

6.3.1 The site is located within the Conservation Area and therefore under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a requirement to consider the desirability of preserving or enhancing the character or appearance of that area.

6.3.2 It is considered that the proposal would preserve the character of the Conservation

Area and that the new building would not have any detrimental impact on the setting of the nearest listed building which is around 30 metres from the edge of the application site. The listed building is separated from the Mere by extensive vegetation which provides robust amounts of screening.

6.3 Ecology

6.3.1 The proposed development would involve the removal of 6-8 semi mature ash trees which form part of the hedge between the existing depot buildings and the children's play area. Undergrowth shrubs, holly bushes and damson trees would also need to be removed. The trees marked for removal are considered to be of low quality and offer limited amenity value. The loss of the trees and short length of hedgerow would reduce the availability of nesting and foraging opportunities for birds however the trees are considered to be unsuitable for bats to roost in.

6.3.2 It is considered that any limited local harm caused by the loss of vegetation can be offset by ensuring that there is appropriate landscaping and that bat and bird boxes are installed to provide an appropriate level of mitigation and ecological enhancement to the site.

6.4 Drainage

6.4 The applicant proposes that surface water will discharge to soakaways and foul water will go to the mains. Details of any drainage system will need to be submitted for approval by a planning condition added to any consent to ensure that there is no implication for flooding or pollution.

7.0 CONCLUSION

7.1 The proposed development will provide an improvement to an established and popular tourism and recreational facility at an important local attraction. The proposed building is considered to be well designed for its unique setting and would have a minimal impact upon the character and appearance of the natural landscape, the conservation area and nearby listed building. Therefore the proposed development is in accordance with policies CS3, CS6, CS13, CS16 and CS17 of the Shropshire Council Core Strategy and policies MD2, MD11, MD12 and MD13 of SAMDev.

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

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment
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 CS16 - Tourism, Culture and Leisure
 CS17 - Environmental Networks
 MD2 - Sustainable Design
 MD11 - Tourism Facilities and Visitor Accommodation
 MD12 - Natural Environment
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

19/02633/FUL Erection of a timber building to act as a Cafe/Visitor Centre PDE

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 Ann Hartley

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

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

4. 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.

5. Prior to first use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

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

6. The development shall be carried out strictly in accordance with the approved plans, drawings and submitted application forms.

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

7. No above ground development shall take place until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (including replacement hedgerow planting);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved.

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

8. No above ground 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.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and pollution.

Informatives

1. Nesting birds informative

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

If during construction birds gain access to the building and begin nesting, work must cease until the young birds have fledged.

General site informative for wildlife protection

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.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

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).

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