

Development Management Report

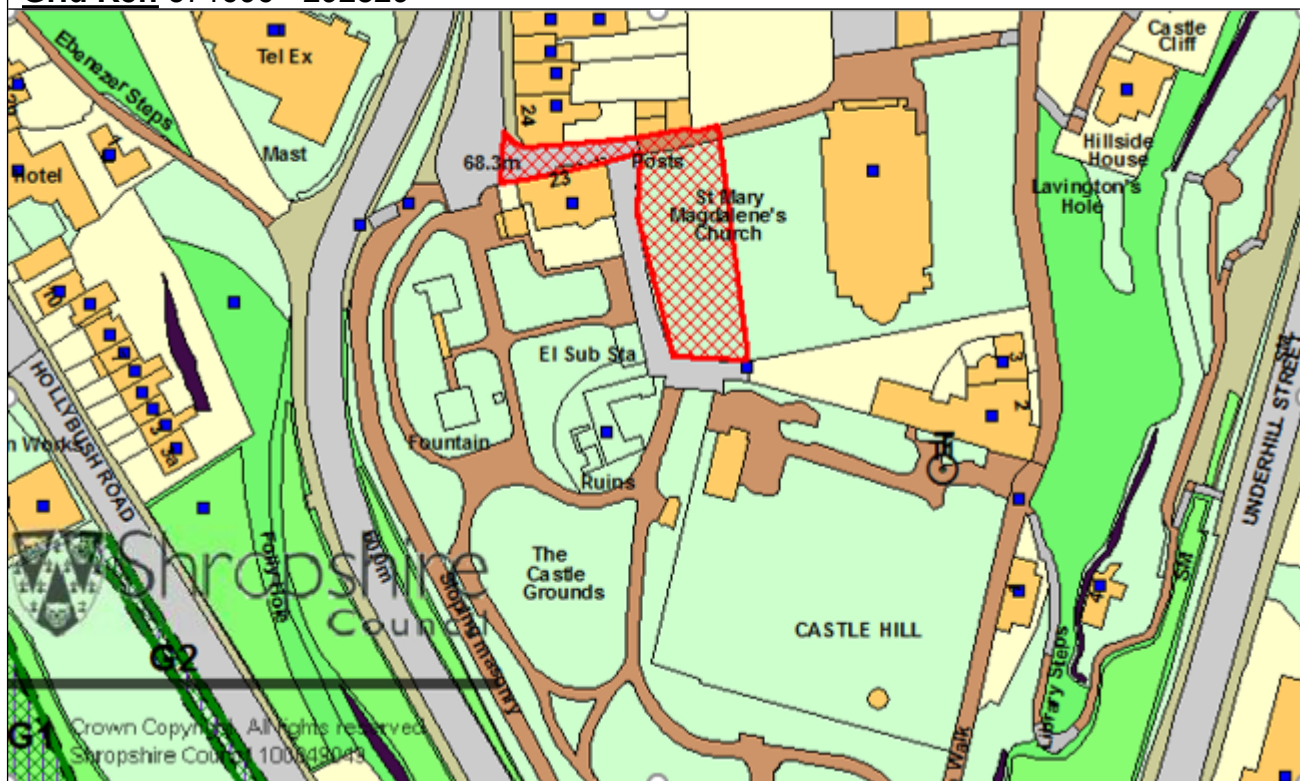
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 19/02793/FUL	<u>Parish:</u>	Bridgnorth
<u>Proposal:</u> Formation of six space car park and associated vehicular and pedestrian access for use in connection with St Mary's Church		
<u>Site Address:</u> St Mary Magdalenes Church East Castle Street Bridgnorth Shropshire		
<u>Applicant:</u> Reverend Simon Cawdell		
<u>Case Officer:</u> Emma Bailey	<u>email:</u> planning.southern@shropshire.gov.uk	

Grid Ref: 371696 - 292829



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning consent for the formation of six parking spaces and associated works at St Marys Church, Bridgnorth.
- 1.2 The parking spaces would be positioned along the western boundary of the churchyard, enclosed by post and rail fencing and secured by a chain across the frontage. Two of the six spaces would be made larger for improved accessibility. The materials used for the surface of the parking area would act primarily to protect the ground beneath, being a 3 dimensional no-dig cellular confinement system with a permeable surface, filled with 5mm lime free grit and hard wearing grass mix.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies in a particularly sensitive area of historic interest, being within close proximity to St Marys Church (Grade II*) and Bridgnorth Castle, and within the Bridgnorth conservation area. The parking area would be positioned to the north-western corner of an area of churchyard, on land that is currently used informally for the parking of vehicles.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council view is contrary to the Officer recommendation. The Principal Planning Officer, in consultation with the Chair and Vice Chair of the South Planning Committee, consider that the site history in this case and the level of local interest raises complex issues in the planning balance and it should be determined by the South Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

Please note that all comments are available to view in full on the Shropshire Council website.

4.1 Consultee Comments

4.1.1 Bridgnorth Town Council

Members wish to object to this application at this point in time because they have the following potential concerns:

- The access and stability of the access road
- The proposal only provides two disabled parking spaces and, given the reasoning in the application, we would expect all spaces to be for disabled parking.
- Appropriateness in a Conservation Area

- 4.1.2 Shropshire Council (Trees)
Recommend condition relating to tree works and tree protection measures if minded to approve.
- 4.1.3 Shropshire Council (Highways)
Recommend informatives relating to works affecting the public highway, mud on the highways and drainage discharge to the highway if minded to approve.
- 4.1.4 Shropshire Council (Conservation)
Recommend condition relating to details of boundary treatments if minded to approve.
- 4.1.5 Shropshire Council (Drainage)
No objection.
- 4.1.6 Shropshire Council (Archaeology)
Recommend condition relating to a written scheme of investigation if minded to approve.
- 4.1.7 Shropshire Council (Ecology)
Recommend condition relating to bat and bird box and informatives relating to nesting birds, wildlife protection, landscaping and lighting if minded to approve.
- 4.1.8 Historic England
Historic England Advice – Comment:
Thomas Telford's church of St Mary Magdalene built 1792-94, is Grade II* listed and described in Pevsner as a remarkable design of great gravity both inside and out. It occupies a prominent location in the Bridgnorth Conservation Area on the high ground west of the River Severn and, together with the ruins of the adjacent castle, is a landmark feature of the Bridgnorth skyline. St Mary Magdalene has high historical value as an example of the work of Telford, a nationally renowned architect notable for his connections with Shropshire as designer of the world's first iron bridge. There is much historical value in the church's location within the medieval defensive area of Bridgnorth and potential for below ground archaeology given its proximity to the scheduled remains of the castle. The church has very high designed aesthetic value in its own right as a piece of outstanding architecture with its bold Tuscan portico and grandly scaled side elevations with strikingly large windows set between giant Tuscan pilasters and as a key element in a piece of late eighteenth century planned townscape. In addition to this designed setting, the attractive quality of the access from West Castle Street and the natural drama of the descent to the River Severn and the long country views east lend the church it considerable fortuitous aesthetic value. In addition to these qualities St Mary Magdalene has high intrinsic communal value as a symbol of enduring Christian faith and the identity of Bridgnorth.

The proposal concerns the use of part of the western grave yard for car parking and represents a change in setting of the listed building and

potentially that of the scheduled castle remains that could impact on their significance. It should therefore be assessed in terms of policy set out in section 16 of the NPPF including paragraphs: 193, 194 and 196 relating to the great weight that should be given to the conservation of scheduled monuments and Grade II* listed buildings and the need for a clear and convincing justification for any harm caused by development within their setting.

It is Historic England's opinion that the grave yard contributes to the historical and aesthetic value of the church being the space within which the giant order pilasters, large nave windows and massive gravity of the design are experienced. It is also part of the context in which the scheduled castle remains are experienced though its contribution to their aesthetic value is considerably lessened by the existence of mature planting between the graveyard and the castle access.

At present the area is used for unorganised, informal car parking that strikes a discordant note and harms the aesthetic value of the church. While the proposal seeks to bring order to this situation with a sensitive choice of ground netting, timber post and rail demarcation and managed access, the change from what should be a tranquil green space to formal car parking will result in harm. It also involves the relocation of graves and excavation that could affect archaeology relating to the castle as well as impacting on historical and communal value of the church. The proposal therefore requires a clear and convincing justification.

Historic England accepts that the visual impact of the car park has been minimised, that proposed retention of the trees conserves the aesthetic value of the scheduled monument and that a watching brief will capture archaeological value. We are not, however, expert in assessing parking need and therefore urge you to seek the advice of your own specialists on this element of justification. If this advice concludes that a good case exists, we would not, on balance, object to development which, though harmful, has the heritage benefit of helping to keep a historic place of worship in use.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

4.2 Public Comments

- 4.2.1 A press notice was placed in the Shropshire Star newspaper 23.07.2019, and site notice was positioned nearby to the application site 19.07.2019 and neighbour letters were sent. A total of 54 letters of representation have been received. 22 letters support the development, and 32 letters object.
- 4.2.2 Within the letters of objection received, the following key points are raised:
 - ☐ Alternative areas for parking should be considered
 - ☐ Hazardous for those using the public footpath

- ☐ Parking enforcement
- ☐ Impact of the development on the historic environment
- ☐ The churchyard is consecrated ground, the development is disrespectful
- ☐ Will negatively impact tourism/visitor numbers to the area
- ☐ Highways concerns (access, congestion, car park design)
- ☐ People currently park there and walk into town, abandon vehicles, wash cars, vehicles park here day and night
- ☐ Need
- ☐ Disturbance and increased pollution to neighbouring occupiers
- ☐ Only two of the six spaces are allocated for the disabled
- ☐ Ground and water contamination
- ☐ Churchgoers should use the Park and Ride
- ☐ Would set a precedent
- ☐ The railings which ran along the side of the footpath should be reinstated to prevent car parking altogether
- ☐ Disputes with the vicar
- ☐ People visit the churchyard to visit their ancestor's graves
- ☐ The address of the site is incorrect
- ☐ Listed building consent is required
- ☐ Impact on trees
- ☐ The applicant does not and will not maintain the site
- ☐ The site should be used for the Church and graveyard only
- ☐ The Church already uses the site as a car park
- ☐ Impact on graves
- ☐ Other Churches in the town manage without their own car parks
- ☐ Land ownership
- ☐ People are deterred from objecting because of the fear of offending others
- ☐ Ecology
- ☐ The works could affect the integrity of Bridgnorth castle
- ☐ The Church should provide transport
- ☐ Church attendance is declining
- ☐ Damage to property
- ☐ Planning history

4.2.3 Within the letters of support received, the following key points are raised:

- ☐ Would enable elderly people/people of limited mobility to continue to attend Church
- ☐ Would not harm the amenity of neighbours
- ☐ No religious or respect issue with the siting of the car park, there are alternative ways of paying your respects to the dead
- ☐ St Marys Church is very popular
- ☐ Parking in East Castle St is extremely limited
- ☐ Churchgoers already provide transport to and from services who are elderly/of limited mobility, however it is not possible to do this for all of those who may wish to attend
- ☐ The area of the proposed car park is small given the size of the church and the churchyard and makes best use of the space

available

- ☐ Informal parking already takes place here which has damaged the grass, a defined parking area will be an improvement
- ☐ The development will be in keeping with the Conservation Area
- ☐ The nearest car park is a considerable distance away
- ☐ There is no on-street parking available that gives enough time for worshippers to attend services without getting a parking ticket
- ☐ Wildlife surveys have been carried out
- ☐ The car park is only small but the benefits for those affected are huge
- ☐ It is important for people of faith to be able to meet together in their place of worship
- ☐ The people who would benefit are not asking a lot, as a community we should be enabling them to live their best lives
- ☐ Bridgnorth has an ageing population
- ☐ The carpark would only be open when the Church is in use
- ☐ St Marys Church is a community hub for Bridgnorth, offers various events in addition to church services
- ☐ The Church is open seven days a week
- ☐ No-one likes to see change
- ☐ When there is a funeral or wedding the forecourt of the Church is not available for parking, alternative parking is essential
- ☐ The objections are from people who do not attend and are not members of the Church
- ☐ A regularly used car park may deter antisocial behaviour
- ☐ Limited/no bus services on Sundays
- ☐ Bridgnorth forms part of a Team Ministry Benefice, sometimes congregation members travel in from across the rural areas of the benefice, collection is not convenient for these people
- ☐ Would meet the obligations of the Equality Act
- ☐ Access should only be when the Church is being used for services
- ☐ Life expectancy is now much longer, there is an increased need for provision for elderly people and those with restricted mobility who wish to attend services
- ☐ All gravestones have long ago fallen or disintegrated, the proposed works would not disturb buried remains
- ☐ Unofficial parking has taken place on site since the Council removed bollards to allow access to properties, the Church has no way of preventing parking on the Churchyard
- ☐ The proposals will regularise parking on site
- ☐ The proposed surface will protect the land from erosion
- ☐ The proposal will involve the erection of a barrier to prevent access onto the site outside of Church hours
- ☐ Spaces will be marked out which will prevent overspill
- ☐ By formally designating this area as parking for Churchgoers it is anticipated that this will reduce conflict in the community that has occurred previously
- ☐ Without sufficient numbers the Church will eventually close
- ☐ The Church is a lifeline for some and maintains their role in the community, the Church should be welcoming to all

5.0 THE MAIN ISSUES

- Principle of development
- Historic environment considerations
- Highways considerations
- Letters of representation
- Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'. The local development framework of the county of Shropshire principally consists at this time of the Core Strategy (2011) and Site Allocations and Management of Development (SAMDev) Plan (2015), and a range of supplementary planning documents.
- 6.1.2 Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework (NPPF) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 Development that affects the historic environment
- 6.1.5 The application site lies in a highly sensitive location of historic interest, including St Marys Church (Grade II*) and the Bridgnorth conservation area. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when deciding whether to grant consent for development which affects a listed building or its setting, Local Planning Authorities should have special regard to the desirability of preserving the building or its setting or any features of special architectural and historic interest which it possesses.
- 6.1.6 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when deciding whether to grant consent for development which affects a conservation area, Local Planning Authorities should have special regard to the desirability of preserving the character or appearance of that area.
- 6.1.7 Part 16 'Conserving and Enhancing the Historic Environment' of the NPPF encourages local planning authorities to take account of:

- ☐ the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
- ☐ the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- ☐ the desirability of new development making a positive contribution to local character and distinctiveness; and
- ☐ opportunities to draw on the contribution made by the historic environment to the character of a place.

6.1.8 This advice is repeated within Policy CS6 'Sustainable Design and Development Principles' of Shropshire Council's Core Strategy, and Policy MD2 'Sustainable Design' of the SAMDev Plan, which amongst other matters requires great weight to be given to the conservation of designated heritage assets. This is in addition to the guidance provided within Policies CS5 'Countryside and Green Belt' and CS17 'Environmental Networks' of the Core Strategy, and Policy MD12 'Natural Environment' of the SAMDev Plan, which seeks to protect, maintain and where appropriate enhance the local environment.

6.1.9 Paragraph 127 of the NPPF also reinforces that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change', which is broadly repeated within SAMDev Policy MD13 'Historic Environment' which stipulates that Shropshire's heritage assets should be protected, conserved, sympathetically enhanced and restored where appropriate.

6.1.10 In considering the potential impacts of development on designated and non-designated heritage assets, paragraphs 193 to 197 of the NPPF requires any identified harm to be weighed against the public benefits of the proposal.

6.1.11 Development that affects community facilities

6.1.12 The NPPF under Paragraph 8 considers amongst other matters there is a need to 'support strong, vibrant and healthy communities... by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being'.

6.1.13 The need for the provision and accessibility of community facilities is a matter repeated throughout this document (NPPF). Specifically, Paragraph 92 seeks to safeguard such facilities as well as allow them to 'develop and modernise' and be 'retained for the benefit of the local community':

6.1.14 *"92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

a) plan positively for the provision and use of shared spaces,

community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

6.1.15 Shropshire Council's Policies CS6 'Sustainable Design and Development Principles' and CS8 'Facilities, Services and Infrastructure Provision' builds upon this wording by giving support to developments that allow for safe and healthy communities where residents can enjoy a high quality of life, and be accessible to all. Specific encouragement is given to 'Protecting and enhancing existing facilities, services and amenities that contribute to the quality of life of residents and visitors'.

6.1.16 The principle of this development may therefore be acceptable, however its acceptability principally rests upon the level of any harm to the sensitive receptors identified above, and any other material planning consideration.

6.2 Historic environment considerations

6.2.1 St Mary's Church is acknowledged as forming a part of Bridgnorth that has exceptionally high historic value. In their consultee response, Historic England describes the site as follows:

6.2.2 Thomas Telford's church of St Mary Magdalene built 1792-94, is Grade II* listed and described in Pevsner as a remarkable design of great gravity both inside and out. It occupies a prominent location in the Bridgnorth Conservation Area on the high ground west of the River Severn and, together with the ruins of the adjacent castle, is a landmark feature of the Bridgnorth skyline. St Mary Magdalene has high historical value as an example of the work of Telford, a nationally renowned architect notable for his connections with Shropshire as designer of the world's first iron bridge. There is much historical value in the church's location within the medieval defensive area of Bridgnorth and potential for below ground archaeology given its proximity to the scheduled remains of the castle. The church has very high designed aesthetic value in its own right as a piece of outstanding architecture with its bold Tuscan portico and grandly scaled

side elevations with strikingly large windows set between giant Tuscan pilasters and as a key element in a piece of late eighteenth century planned townscape. In addition to this designed setting, the attractive quality of the access from West Castle Street and the natural drama of the descent to the River Severn and the long country views east lend the church it considerable fortuitous aesthetic value. In addition to these qualities St Mary Magdalene has high intrinsic communal value as a symbol of enduring Christian faith and the identity of Bridgnorth.

- 6.2.3 It is pertinent to note that this is not the first application that has been submitted to the Local Planning Authority seeking car parking on part of this site. Permission has previously been sought for the construction of hardstanding for cars with access from West Castle Street under planning ref: BR/89/0480, for vehicles used by Bridgnorth Team Ministry staff. This was refused for the following reason:
- 6.2.4 1. The proposed parking area will have an adverse effect on the setting of the Listed Building and would be detrimental to the amenities of the Conservation Area by reason of its appearance the precedent it would set.
- 6.2.5 An appeal was then lodged and subsequently dismissed under case ref: T/APP/J3205/A/90/147404/P8 on the 12 June 1990. Amongst other matters, the appeals inspector stated at the time that:
- 6.2.6 *“The protection of St Marys Church and its setting, which are part of the national heritage, ought to take precedence over the provision of convenient parking spaces. The movement of offensive car parking from one position on the site to another does not provide the adequate planning gain, sufficient to warrant setting aside the listed building and conservation area policies, as suggested in the representations. On the matter of parking in churchyards elsewhere, the evidence before is insufficient to enable a balanced judgement, related to this case, to be made. However, the photographs provided do show the harmful appearance that cars, parked near important churches, create on the buildings and on their surroundings.”*
- 6.2.7 A key issue in this case therefore is whether there is ‘adequate planning gain’ to outweigh the harm that was previously identified to the historic environment.
- 6.2.8 The submitted supporting statement sets out that development is needed in order to improve the church’s accessibility, particularly for those of limited mobility. From the letters of support received it can be understood that difficulty in attending St Marys church can be attributed to:
- ❑ Restricted parking availability in the immediate vicinity that is time-limited and shared with permit holders
 - ❑ Public car parks being some distance away
 - ❑ Restricted public transport services, particularly on Sundays

6.2.9 In commenting on the proposed development, Historic England concludes that the development would result in 'harm', but that the extent of this harm should be weighed in the balance of the potential benefit of users of the Church, concluding:

6.2.10 *"Historic England accepts that the visual impact of the car park has been minimised, that proposed retention of the trees conserves the aesthetic value of the scheduled monument and that a watching brief will capture archaeological value. We are not, however, expert in assessing parking need and therefore urge you to seek the advice of your own specialists on this element of justification. If this advice concludes that a good case exists, we would not, on balance, object to development which, though harmful, has the heritage benefit of helping to keep a historic place of worship in use."*

6.2.11 Highways matters are discussed separately within this Report.

6.2.12 Shropshire Council's Conservation and Archaeology teams have in addition been consulted as part of this application for their specialist advice. Shropshire Council's Conservation team have made the following comments:

6.2.13 *"This application relates to the formation of a 6 space car park within the grounds of St Marys Church, East Castle Street, Bridgnorth. The church itself is Grade II* listed and the area proposed for use as car parking is within the immediate setting of the listed building but also falls within the Bridgnorth conservation area and within close proximity of a number of other listed buildings. The site is therefore a very sensitive one and a sensitive approach is required here. There has been an informal parking arrangement in this area for a number of years and this has caused some degradation of the grass surface which in turn has visual impact upon the setting of the church. A more formalised solution as proposed has the potential to minimise this current degradation and maintain a well-kept appearance to the parking area as it can be more controlled. The solution proposed is fairly low key but gives the opportunity to control when the parking spaces are in use by providing a chained off access and also a surface treatment that should be able to better withstand the wear and tear associated with the use. The formalisation of the proposed parking use is considered to be appropriate and the justification for the spaces that has been provided is considered sufficient in this instance. Therefore the proposal is considered to generally accord with policies, guidance and legislation as outlined above from a conservation perspective".*

6.2.14 These comments are accepted and discussed more fully within the conclusion of this Report.

6.3 **Highways considerations**

- 6.3.1 Shropshire Council does not have any parking guidelines at present and as such Officers must consider each application on a case-by-case basis. Critically, the National Planning Policy Framework makes it clear that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe' (Paragraph 109).
- 6.3.2 Shropshire Council's Highways team have been consulted as part of this application for their specialist advice. In their response, the following comments have been made:
- 6.3.3 *"The current vehicle access serves properties within the surrounding area meaning pedestrians are already aware of current vehicular movement. The church is to appoint a car park marshal who will supervise the cars upon arrival and leaving. This also satisfies us of the safety of pedestrians and vehicles using the existing footpath/carriageway. With the proposed measures and details in place we are satisfied from a highway safety perspective."*
- 6.3.4 These comments are accepted and discussed more fully within the conclusion of this Report.
- 6.4 **Letters of representation**
- 6.4.1 The key points raised in the public consultation are discussed in turn below:
- 6.4.2 Alternative areas for parking should be considered
This comment is noted, however it would be at the discretion of the applicant to put forward alternative sites. Every planning application submitted to the Council is considered on its own merits.
- 6.4.3 Hazardous for those using the public footpath
This comment is discussed within this Report.
- 6.4.4 Parking enforcement
This comment is discussed within this Report.
- 6.4.5 Impact of the development on the historic environment
This comment is discussed within this Report.
- 6.4.6 The churchyard is consecrated ground, the development is disrespectful
This comment is noted. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.
- 6.4.7 Will negatively impact tourism/visitor numbers to the area
This comment is discussed within this Report.

- 6.4.8 Highways concerns (access, congestion, car park design)
This comment is discussed within this Report.
- 6.4.9 People currently park there and walk into town, abandon vehicles, wash cars, vehicles park here day and night
This comment is noted.
- 6.4.10 Need
This comment is discussed within this Report.
- 6.4.11 Disturbance and increased pollution to neighbouring occupiers
This comment is noted. Shropshire Council's Regulatory Services team have been consulted as part of this application, who have no comments to make.
- 6.4.12 Only two of the six spaces are allocated for the disabled
This comment is discussed within this Report.
- 6.4.13 Ground and water contamination
Shropshire Council's Regulatory Services and Drainage teams have been consulted as part of this application, who have no comments to make.
- 6.4.14 Churchgoers should use the Park and Ride
This comment is noted. The current park and ride in Bridgnorth operates on Saturdays and is seasonal.
- 6.4.15 Would set a precedent
This is speculation only. Every planning application submitted to the Council is considered on its own merits.
- 6.4.16 The railings which ran along the side of the footpath should be reinstated to prevent car parking altogether
This comment is noted, however the reinstatement of railings would be at the discretion of the applicant and would require planning permission. This current application is being judged on its own merits. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.
- 6.4.17 Disputes with the applicant
Disputes between the applicant and the local community cannot be considered as material to the consideration of this planning application in this case.
- 6.4.18 People visit the churchyard to visit their ancestor's graves
This comment is noted. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.
- 6.4.19 The address of the site is incorrect
This comment is noted, however the location of the site and the intentions

of the applicant are clearly shown on the submitted plans. A site notice has additionally been placed at the application site for the avoidance of any doubt.

6.4.20 Listed building consent is required

Historic England sets out that listed building consent is required in the following instances:

Listed building consent is required for all works of demolition, alteration or extension to a listed building that affect its character as a building of special architectural or historic interest.

The requirement applies to all types of works and to all parts of those buildings covered by the listing protection (possibly including attached and curtilage buildings or other structures), provided the works affect the character of the building as a building of special interest.

This application relates to the formation of a parking area. It does not propose to alter any listed building, nor does it relate to a curtilage building or structure. Listed building consent is therefore not required.

More information on listed building consent is available to view on the Historic England website using the following web link:

<https://historicengland.org.uk/advice/hpg/consent/lbc/>.

6.4.21 Impact on trees

Shropshire Council's Trees team have been consulted as part of this application, who have recommended a condition if planning approval is given.

6.4.22 The applicant does not and will not maintain the site

This is speculation only and cannot be considered as material to the consideration of this planning application in this case. Any breach of planning condition on the grant of any consent may result in enforcement being taken. Matters that relate to the maintenance of St Marys Church more generally may fall outside of the remit of Shropshire Council's planning department.

6.4.23 The site should be used for the Church and graveyard only

This comment is noted. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.

6.4.24 The Church already uses the site as a car park

This comment is discussed within this Report.

6.4.25 Impact on graves

This comment is discussed within this Report. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies that are

governed by their own legislation.

6.4.26 Other Churches in the town manage without their own car parks

This comment is noted.

6.4.27 Land ownership

Matters relating to land ownership cannot be considered as material to the consideration of this planning application in this case. It should be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.

6.4.28 People are deterred from objecting because of the fear of offending others

This comment is noted, however the Council has performed their statutory duty in respect of public consultations. It would be the choice of any person whether they wish to make a representation.

6.4.29 Ecology

Shropshire Council's Ecology team have been consulted as part of this application, who have recommended a condition and informatives if planning approval is given.

6.4.30 The works could affect the integrity of Bridgnorth castle

This comment is noted. However, this application proposes a 'light touch' approach which is unlikely to undermine the integrity of nearby buildings or structures. No concerns in relation to this matter have been raised by statutory consultees, and the site is not identified as being part of an area that is potentially unstable through historic mining activity or similar.

6.4.31 The Church should provide transport

This comment is noted, however this matter is not something that the Council could impose and it would be at the discretion of the Church to provide transport. This application is being determined on its own merits.

6.4.32 Church attendance is declining

This comment is noted.

6.4.33 Damage to property

Matters relating to alleged potential damage to property cannot be considered as material to the consideration of this planning application in this case.

6.4.34 Planning history

This comment is discussed within this Report.

7.0 **CONCLUSION**

7.1 When taking the above matters into consideration, a significant amount of change has occurred to the planning system since the submission and determination of planning ref: BR/89/0480, including a significant overhaul of planning policy. National planning policy in particular has shifted to give

local authorities a greater degree of pragmatism in the context of deciding applications and recognising when there are occasions where the special circumstances of the case make a development that would otherwise be unacceptable, acceptable.

- 7.2 Officers accept that the development would cause harm to the historic environment, in particular the setting of the church. The concerns raised by the Appeals Inspector in 1990 are acknowledged and it is agreed by both the Council's Conservation Team and Historic England within their consultee response that the presence of cars in the grounds of the churchyard continues to be undesirable. Notwithstanding this, this application has resulted following a need to provide better access to the church for the less mobile, and this need is clear through the number of representations received in support of this development. There is in addition an ongoing unrestricted parking issue on this site, which arguably has the potential to cause a significantly greater level of harm. This unrestricted parking of vehicles has resulted in the degradation of the ground and friction within the local community, which has also been well documented in the letters of representation received.
- 7.3 It is pertinent to note that the ability to park a car on land does not require planning permission in its own right when for purposes associated with the Church. It is the proposed works to form the parking area in this application that require consent. Amongst other things, the submission of a planning application gives the Local Planning Authority an opportunity to set parameters in which a development is acceptable through the use of appropriate planning conditions, and gives a clear starting point to enforce against any potential breach in the future.
- 7.4 From a planning perspective, the proposal would create a formal parking area that would limit the amount of vehicles parked on site, to the benefit of pedestrian safety and would strengthen and protect the ground to avoid further degradation. Further, by introducing a parking marshal and securing the parking area when it is not in use this dissuades drivers from using the car park for reasons unconnected with the church and from using the site for antisocial behaviour more generally, which has also been raised as an issue in the letters of representation received.
- 7.5 Matters relating to whether vehicles can rightfully park on a churchyard and the moral issues that surround this matter including the moving of headstones falls outside of the remit of what can be considered as part of this planning application. It should also be made clear that the granting of any planning consent does not override any other permissions that would be required from separate bodies prior to works commencing.
- 7.6 It is considered that there is an overriding public benefit in providing the parking sought, which would facilitate the continued viable use of the listed building consistent with its conservation (Paragraph 192 a) of the NPPF. Approval is therefore recommended, subject to conditions.

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
National Planning Practice Guidance

Shropshire Core Strategy and SAMDev Plan Policies:
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks
CS18 Sustainable Water Management
MD2 Sustainable Design
MD12 Natural Environment
MD13 Historic Environment

RELEVANT PLANNING HISTORY:

HEPRE/12/00195 Blue Plaque in vestibule LBCNRQ 5th July 2012
BR/TRE/TCA/97/0068 Removal of dead wood and crown lifting of: oak (3) horse chestnut, lime, lawson's cypress (7), yew trees. NOOBJC 23rd December 1997
BR/TRE/TCA/97/0075 Fell 1 no. Ash tree. NOOBJC 15th January 1998
18/00602/TCA To reduce in height by 25% a group of 3 No Lawson Cypress Trees within Bridgnorth Conservation Area CBR 28th February 2018
18/05757/TCA Fell 2no Lawson Cypress within Bridgnorth Conservation Area (Amended 04.01.2019) NOOBJC 22nd January 2019
19/02793/FUL Formation of six space car park and associated vehicular and pedestrian access for use in connection with St Mary's Church PCO
BR/APP/FUL/06/0936 Extension to brick paving and erection of bollards GRANT 5th January 2007
BR/87/0419 Rebuilding of boundary retaining wall GRANT 10th August 1987
BR/87/0418 Rebuilding of boundary retaining wall GRANT 10th August 1987
BR/89/0480 Construction of hardstanding for cars with access from West Castle Street REF 22nd August 1989
BR/91/0965 Display of two fabric banners on the north facing wall of the Church. GRANT 3rd March 1992
BR/94/0038 Construction of a disabled access ramp at the front of the Church. GRANT 11th April 1994
BR/99/0795 Installation of foul drain and control kiosk. GRANT 21st December 1999

Appeal

09/01517/REF CONSTRUCTION OF HARDSTANDING FOR CARS WITH ACCESS FROM
WEST CASTLE STREET DISMIS 12th June 1990

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)
Planning, Heritage and Design and Access Statement
Ecological Report
Tree Condition Report

Cabinet Member (Portfolio Holder)
Councillor Gwilym Butler

Local Member

Cllr Les Winwood
Cllr Elliot Lynch

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. No above ground works shall commence until details of the proposed materials to be used in the formation of the carpark including details of boundary treatments have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the car park being first brought into use.

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

4. All pre-commencement tree works and tree protection measures detailed in the approved Arboricultural Method Statement (Forester and Arborist Services Ltd, 19-02-2019) and Tree Location and Protection Plan (dwg: 906-02-PK03 02, 29-03-2019) shall be fully implemented before any development-related equipment, materials or machinery are brought onto the site.

The development shall be implemented in accordance with the approved Arboricultural Method Statement (AMS) and Tree Location and Protection Plan. The ground amelioration works and installation of the no-dig surface specified within the AMS shall be carried out under the watching supervision of an arboricultural specialist. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

Reason: to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

5. No development approved by this permission shall commence until the applicant, or their agents 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 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

6. Prior to first use of the car park, 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 boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, 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.

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

7. The use and operation of the car park hereby approved shall be restricted to when services and other events take place at St Mary's Church only, in accordance with paragraphs 2.3 and 2.4 of the Planning, Heritage and Design and Access Statement prepared by Alan Murphy, dated June 2019 and received by the Local Planning Authority on 20th June 2019.

Reason: To ensure that the development is exclusively for the benefit of the designated heritage asset in its function.

Informatives**1. ECOLOGY INFORMATIVES****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 and/or scrub removal 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 for active bird nests should be carried out. If vegetation 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. No clearance works can take place with 5m of an active nest.

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).

Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

Lighting informative

Should any additional lighting be required, this should be sensitive to bats and follow the Bat Conservation Trust's guidance. The latest Bat Conservation Trust guidance on bats and lighting is currently available at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>.

2. HIGHWAYS 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 a new utility connection, or
- undertake 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.

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.

3. PARAGRAPH 38

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

4. PLANNING POLICIES

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

National Planning Policy Framework
National Planning Practice Guidance

Shropshire Council Core Strategy policies:
CS06 - Sustainable Design and Development Principles
CS08 - Facilities, Services and Infrastructure Provision
CS17 - Environmental Networks
CS18 - Sustainable Water Management

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan policies:
MD02 - Sustainable Design
MD12 - Natural Environment
MD13 - Historic Environment
S03 - Bridgnorth

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