

Committee and date

Item

Public

## Development Management Report

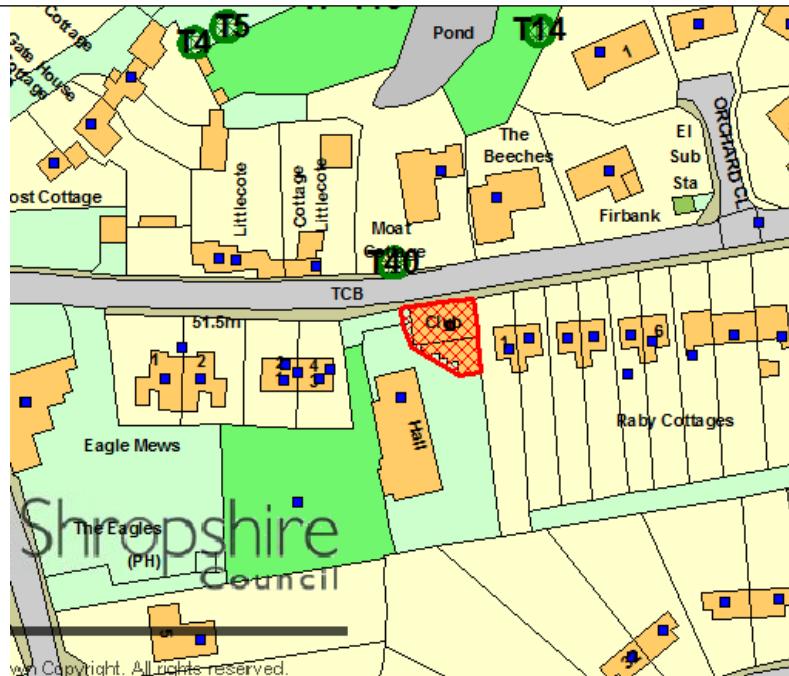
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 19/03422/FUL	<b>Parish:</b>	Cressage
<b>Proposal:</b> Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (re-submission)		
<b>Site Address:</b> Cressage Mens Club, Sheinton Road, Cressage, Shrewsbury SY5 6BY		
<b>Applicant:</b> Cressage Social Club		
<b>Case Officer:</b> Andrew Sierakowski	<b>email:</b>	<a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>

**Grid Ref:** 359265 - 304134



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**Recommendation:** Grant permission subject to the conditions set out in Appendix 1.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This is a re-submission of a retrospective application under s.73A Town and Country Planning Act 1990 for the installation of a decked area on the western gabled end of the Cressage Social Club.
- 1.2 The decked area has already been constructed using off-the-shelf decking components. It comprises a five-sided area of decking measuring 5.70m x 4.35m constructed on slightly rising ground so that it is 0.66m above ground level on the north side adjacent to the pavement along Sheinton Road and 0.20m high above ground level on the south side. It includes a handrail, constructed of boards at a height of 0.56m above the level of the decking. The sides are finished off with horizontally mounted boards. There are concrete steps up to the decking on the north side and a timber ramp on the south side, adjacent to entrance to the club. The purpose of the decking is to provide an outside seating area that accommodates benches.
- 1.3 There was a previous application (Ref. 18/05041/FUL) that was submitted in November 2018 and was refused consent following determination by the former Central Planning Committee on 18<sup>th</sup> January 2019. The reason for refusal was:

“The proposed decking is not designed and built to a sufficiently high quality which respects and enhances local distinctiveness or to provide adaptable and safe access to constitute sustainable design and is therefore contrary to the Shropshire Local Development Framework Adopted Core Strategy (March 2011), Policy CS6 Sustainable Design and Development Principles and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015), Policy MD2 Sustainable Design”.
- 1.4 This application amends the design of the decking as it has been built to include a 110cm high handrail with vertical balustrade railings/spindles below the handrail, removal of steps on the road side of the decking, vertical or horizontal boarding around the edge of the base of the decking, a new step to replace the timber ramp at the rear of the decking with a gate, 24 hour CCTV to deter and record any anti-social behaviour on the decking and a sign stating the decking must be vacated by no later than 9pm.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises an area adjacent to the western gable end of the Cressage Social Club, on the south side of Sheinton Road, approximately 90m east of the junction of Sheinton Road, the B4380, Station Road, and the A458 Much Wenlock to Shrewsbury Road.

- 2.2 Cressage Village Hall is located behind the Social Club on the south side of Sheinton Road, with residential properties making up most of the other properties along the north and south side of Sheinton Road, including directly opposite the Club. The Village Hall includes a car park at the rear of the Social Club, the access into which, is immediately adjacent to the area of decking.
- 2.3 The Social Club is a single storey red brick-built building with flat-roofed extensions to the side adjacent to the area of decking and to the rear.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF ATHE PPLICATION**

- 3.1 The Parish Council have submitted views contrary to the Officers recommendation. The Local Member has been consulted and has requested that the application be determined by the Committee. The Principal Planning Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised and the Committee decision on the previous application require a committee determination of this application.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **Cressage, Harley & Sheinton Parish Council**

- 4.1 The Parish Council objected to the original application as the structure for the following reasons:
- The visual impact of the decking;
  - Because licensing rules state that a beer garden should not be within view of a bedroom;
  - The noise impact which is made worse by the structure being raised like a stage and in summer when neighbours have windows open or when they are using their gardens;
  - Proximity to adjacent and nearby dwellings, given the above objections;
  - Pedestrian safety in that there is no gating, inadequate barriers and the structure is adjacent to a narrow pavement and car park meaning there is a high risk of young children running into the path of traffic; and
  - Because the open nature of the structure means it is used by members of the public who are not members of the Social Club with the potential to lead to anti-social behaviour and unregulated use of the decked area.
- 4.2 In relation to the current application the Parish Council considers that few changes have been made compared with the original application. It therefore maintains its objection on grounds of safety, anti-social behaviour, noise and traffic moving between the Social Club and the Village Hall, raising a concern about the safety of pedestrians.

## **Public Comments**

- 4.3 In addition to the comments from the Parish Council there have been eight third party representations, of which two offer objections and six express support.
- 4.4 The representations making objections in summary make the following points:
- That the alterations to the design make little difference in terms of making the decking acceptable;
  - That the decking is in a very prominent location;
  - That the decking creates a pinch point for vehicles accessing the Village Hall car park;
  - That the use of the decking creates noise and nuisance for the adjacent residential properties;
  - That the decking is unacceptably close to a Listed Building;
  - That the Central Planning Committee previously determined that "The proposed decking is not designed and built to a sufficiently high quality which respects and enhances local distinctiveness or to provide adaptable and safe access to constitute sustainable design and is therefore contrary to the Shropshire Local Development Framework etc.."
  - That the amended details in the current application do not offer any enhancement or contribute to a comprehensive safety strategy. From the submitted photographs they appear both flimsy and inadequate;
  - That the re-submission does not include any improvements to the basic structure which the Committee deemed "...not built to a sufficiently high quality".
  - That there are implicit social, environmental, and licencing concerns;
  - That although referred to as decking the structure is in reality a stage constructed on the side of a road with adjacent residential dwellings in close proximity;
  - That it was erected in June 2018 without planning consent and without consultation with nearby residents.
  - That when occupied, the raised nature of the structure means any noise is immediately audible, and any occupants clearly visible from nearby residencies;
  - That once constructed, the area was immediately used and, on several occasions loud, and abusive language was used to the distress of local residents;
  - That the decking cannot be supervised by the club management during the many hours the premises remain closed;
  - That during the last year, the decking has been used as a general seating area by local children, adult passing cyclists and walkers as well as by Social Club members;
  - That the main structure remains unchanged in the re-application and that it is difficult to see how such a substandard construction designed specifically for the consumption of alcohol fits in with the general

- residential nature of the immediate area;
- That although the revised application makes some provision for general safety, the additions do not appear robust enough to provide a permanent solution;
- That the re-application makes no mention of any policy to deal with safety and environmental issues in relation to the use of glasses for drinking, their collection and return, litter, and use of the decking as a designated smoking area; and
- That the Club management has made no attempt to engage with local residents on this proposal, who's concern is that if the re-application is successful, the neighbourhood will be permanently blighted by an inferior structure, giving rise to the noise and intrusion as was experienced in June and July 2018.

4.5 The representations in support of the application include a petition with 60 signatures expressing support for the development. These in summary make the following points:

- That the Steward of the Social Club has had no reports of anti-social behaviour since the original decking was installed in September 2018;
- That there is a high level of support for the application in Cressage and the surrounding area;
- That Social Club is now the only licensed premises in Cressage and that the decked area is the only outside area that members and guests can use as an outdoor social and smoking area;
- That the concrete steps (to which the Parish Council has objected) pre-date the installation of the decking and were constructed in the 1970s to provide access to a seat installed by a former Chair of the Parish Council and Mayor of the former Shrewsbury and Atcham Borough Council;
- That there has been a close relationship between the Village Hall and the Social Club, with the two supporting each other;
- That there have been no known incidents of anyone falling down the steps;
- That there has been no anti-social behaviour on or around the decking;
- That the decking does not create a pinch point for vehicles access the Village Hall car park; the pinch point is between the walls of the two buildings;
- That the Social Club has gone out of its way to meet the concerns of the Parish Council;
- That the concerns about the design of the decking are subjective;
- That there have been no issue or concern (on the part of an adjoining resident) to the decking;
- That the decking has replaced an untidy garden area;
- That there have been no problems with noise or traffic as result of the decking having been constructed;
- That the decking can only seat about 4 people as it is so small so that there is no significant likelihood of problems with anti-social behaviour;

- That the Social Club is a non-profit making organisation run under the control of a Committee. It has been completely refurbished internally and a new roof has been provided. The decking has provided a significant improvement compared with the previous garden area; and
- That the decking area is an asset to both the Social Club and the village.

## **Technical Consultees**

- 4.6 Shropshire Council - Highways: Has no objection, subject to the development being constructed in accordance with the approved details. They comment that the proposed alterations to the railing and decking would appear to make the existing situation safer, but that the applicant should ensure that the handrail along the top of the balustrade does not protrude on the footway side, in the interest of pedestrian safety. They also comment that the applicant should be mindful of glasses in the area and ensure that these are frequently cleared, and that any breakages dealt with immediately. They advise the inclusion of an informative relating to works on, within or abutting the public highway.
- 4.7 Shropshire Council - SUDS: Advise the inclusion of an informative on sustainable drainage.
- 4.8 Shropshire Council – Regulatory Services: Advise, due to the proximity of neighbouring properties, that the decking area should be closed to patrons of the club after 10.30pm, so as to reduce noise disturbance to nearby dwellings.

## **5.0 THE MAIN ISSUES**

- **Design and Build Quality;**
- **Residential Amenity; and**
- **Highway and Pedestrian Safety**

## **6.0 OFFICER APPRAISAL**

### **6.1 Design and Build Quality**

- 6.1.1 The key issue in the determination of this application, as set out in the previous reason for refusal is whether, with the alterations now proposed, it is of sufficiently high design and build quality that it can be considered to respect and enhance local distinctiveness and provide adaptable and safe access.
- 6.1.2 As set out in the officer's report on the original application the decking is unusual in having been constructed on the street frontage adjacent to the pavement outside the Cressage Social Club and Village Hall. It is essentially similar to an area of decking that might be constructed on the rear of a residential property or possibly attached to a pub. As such, it may be considered to be a little incongruous in the street scene along the Sheinton Road. However, the buildings along the adjacent

section of the road, which include the Village Hall and residential properties, are of varying ages, designs, forms and material finishes, including Victorian/Edwardian houses and mid and late 20th century properties, with timber-framed, brick and rendered finishes. Some are located on the street front and others set back behind high hedges and walls. There is no coherent architectural style and there is a plethora of different material finishes, although much of the length of the road is fronted by hedges.

- 6.1.3 At the time that the original application was considered by the former Central Planning Committee, the concern was with, both, the aesthetic design quality of the decking and with its safety. In relation to design, the combined effect created by the raised platform, which is 66cm high, but with no more than low, 56cm high, handrail without a balustrade, was not considered to be of sufficient quality. In relation to safety, the concerns were that the low handrail without a balustrade, the steps on to the pavement and the narrow timber ramp to the rear of the decking all presented unacceptable risks.
- 6.1.4 In response to these concerns, the applicant has now attempted to come forward with an amended design which addresses both the design and safety shortcomings, that there were considered to be, in the original design. This has most significantly resulted in the replacement of the low hand rail with a full height handrail (110cm high) and balustrade with vertical balustrade railings/spindles which are to be spaced at no more than 100mm apart, the closing-off and decking over of the steps at the front of the decked area down to the pavement, the replacement of the timber ramp, with a step and timber gate, and vertical or horizontal boarding around the edge of the base of the decking. The applicant has liaised with Building Control, even though no Building Regulations application is required, and has attempted to liaise with the Parish Council to come up with an acceptable design, albeit that the Parish Council, has despite the changes, maintained its objection.
- 6.1.5 From a design and safety point of view the amended design will, and will appear to, be significantly more substantial, with the inclusion of a significantly high handrail and balustrade, than the original design. To the extent that there is no coherent architectural style and there is a plethora of different material finishes along much of the length of the Sheinton, Road, it is difficult argue that the design is inconsistent with the street scene along the Sheinton Road. The design is an improvement on the original and it does address all the safety concerns that there were about the original proposal. Potentially use of dark stain in the finishing of the balustrade may make the visual appearance less obtrusive, and this can be dealt with by condition.
- 6.1.6 Overall, the design is an improvement on the original and the applicant has attempted to come up with an amended proposal that addresses both the design and safety concerns of the original application and has attempted to do in conjunction with Building Control and the Parish Council. There are no immediately nearby Listed Buildings, the setting of which, would be affected.
- 6.1.7 Relevant development plan policy includes the Shropshire Local Development

Framework Adopted Core Strategy (March 2011), Policy CS6 on Sustainable Design and Development Principles and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015), Policy MD2 on Sustainable Design. These seek to ensure the design of new development responds appropriately to the form and layout of existing development and the way it functions, including the mixture of uses, streetscape, building heights and lines, scale and that is reflects locally characteristic architectural design and details including building materials, form, colour and the texture of detailing.

- 6.1.8 In the context of the mix of uses, architectural styles and material finishes along Sheinton Road, with the amendments to design proposed to the decking, the advice the Committee is that, whilst constructed of off-the-shelf materials, it is sufficiently improved to overcome the previously stated concerns set out in the reason for refusal included in the previous decision notice and it can therefore be considered to be complaint with Core Strategy Policy CS6 and SAMDev Policy MD2.

## **6.2 Residential Amenity**

- 6.2.1 Residential amenity was raised as an issue by objectors in relation to the original application, with concerns expressed by the Parish Council and the neighbouring objector. It should however be noted that adverse amenity impact was not included in the original reason for refusal. The issue nevertheless been raised again by the Parish Council and objectors.
- 6.2.2 The issue was considered in the officer's report on the original application, particularly concerns that noise and overlooking would have an adverse impact on the adjacent properties. There was a concern that two properties in particular, could be affected, these being the two immediately adjacent properties to the west and north of the Social Club. Both however are relatively well screened by the presence of fences, trees and hedges, so that there is unlikely to be any significant overlooking, and whilst the north side of the decked area is 0.66m high, this is not so high that it will have a major impact in terms of increasing overlooking or have any impact on noise. Because of the proximity of the decking to the adjacent pavement, the most significant impact is likely to be the slightly overbearing impact on passing pedestrians, albeit that this would only be transient.
- 6.2.3 Whilst it is understandable that there are concerns that use of the decking, particularly on summer nights, could give rise to additional noise and disturbance, from a planning perspective there is currently no control over the use of the outside area adjacent to the Social Club for social activities. It is also already an area that will be frequented by visitors to the adjacent Village Hall, entering, leaving and attending events there, that may similarly spill out on to the outside area adjacent to the Hall and the Social Club. In addition, the area of decking is relatively small and is not capable of accommodating a significant number of people, particularly compared with the number that may attend an event at the Village Hall. On the other hand, it may to some extent result in the presence of people and the noise of people talking and mingling resulting low-level noise for longer periods of time and in a less transient way than is currently the case. Overall, however, it is difficult to

argue that the area of decking would give rise to any more significant noise and disturbance, than the current activities in and around the Social Club and the Village Hall.

- 6.2.4 In response to the concerns raised by the Parish Council and the neighbouring objectors, the Social Club has offered to limit the use of the area of decking to no later than 9pm at night and has indicated that it would be agreeable to the inclusion of a condition limiting its use up to this time. The amended application includes details of the sign making clear that the decking must be vacated by no later than 9.00pm. This will ensure that there is no late-night disturbance arising from the use of the decking in association with the activities at the Social Club. Accordingly, a condition is included to this effect.
- 6.2.5 In addition, there have also been concerns raised that the decking has attracted unauthorised users given rise to anti-social behaviour, when it is not in use by Social Club members. The Club has confirmed it has not itself received any complaints about anti-social behaviour. Nevertheless, to deal with this the Club is proposing to close-off the direct access from the pavement and is to install 24 hours CCTV. With these alterations there is no reason to consider that the use of the decking cannot be effectively managed, so that its construction and use can be considered to be compliant with Core Strategy Policy CS6, which seeks to safeguard amenity.

### **6.3 Highway and Pedestrian Safety**

- 6.3.1 In relation to highway and pedestrian safety, the concern raised by objectors is that the construction and use of the decking creates a pinch point in the access to the Village Hall car park which could present a risk to pedestrian. The construction of the decking does not however itself constrain access to any greater extent than was previously the case and does not add to the use of the area when the Social Club is open or when there are events at the Village Hall, that would give rise to any significant increased risk to pedestrians. The Highways Authority has not objected to the development or raised any concerns in relation to the construction of the decking creating a pinch point.

### **7.0 CONCLUSION**

- 7.1 In the context of the mix of uses, architectural styles and material finishes along Sheinton Road, with the amendments to design proposed to the decking, it is sufficiently improved to overcome the previously stated concerns set out in the reason for refusal included in the previous decision notice and it can therefore be considered to be compliant with Core Strategy Policy CS6 and SAMDev Policy MD2. Whilst the concerns about potential noise and disturbance are understandable, these are not likely to be so significant, especially with a restriction on the hours of use to no later than 9pm, offered by the applicant, to warrant refusal of consent. The amended design includes adequate safeguards to deter anti-social behaviour and the it cannot be considered to give raise to any unacceptable highway and pedestrian safety concerns. Accordingly, it can be considered to be acceptable in relation to Core Strategy Policy CS6 and SAMDev Policy MD2.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

8.1.1 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; and
- 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.

8.1.2 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**

8.2.1 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.

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

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

### **8.3 Equalities**

8.3.1 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**

9.1 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**

### **10.1    Development Plan Policy:**

- Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011):
  - Policy CS6: Sustainable Design and Development Principles.
- Shropshire Council, Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015):
  - Policy MD2: Sustainable Design.

### **10.2    National Planning Policy:**

- National Planning Policy Framework (2019).

### **10.3    Relevant Planning History**

- SA/80/0653 Erection of a pitched roof rear extension to provide beer store, server lounge and WCs (as per amended plans received 1/10/80). Approved 21st October 1980;
- SA/82/0345 Alterations and additions of 2 no. flat roofed extensions to provide lounge, beer store and servery at rear, and side entrance lobby. Approved 25th May 1982;
- SA/87/0622 Alterations and additions to provide a single storey flat roof beer store extension. Approved 30th July 1987; and
- SA/95/0577 Erection of a first-floor extension to provide a two-bedroom flat. Refused 26th July 1995;
- 18/05041/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective) Refused 18th January 2019.

## **11. Additional Information**

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PVGVGNTDGNW00>

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 Claire Wild

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

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.

#### **CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION /PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

3. Prior to the resumption in use of the decked area, the balustrade and handrail shall be installed in its entirety in accordance with the approved plans and details , and shall be painted or treated a colour which has first been approved in writing by the Local Planning Authority. The balustrade and handrail shall thereafter be maintained in position and in the approved colour(s)."

Reason: In the interests of public safety and to ensure that the external appearance of the development is satisfactory in compliance with the Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011), Policy CS6:

## **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

4. The decked area hereby approved shall not be used between 9.00pm and 9.00am the following day.

Reason: To safeguard the residential amenity in compliance with the Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011), Policy CS6: Sustainable Design and Development Principles.

## **INFORMATIVES**

### **General**

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.

### **Highways**

#### Works On, Within or Abutting the Public Highway

This planning permission does not authorise the applicant to:

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

The applicant should in the first instance contact Shropshire Council's 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.

### **Drainage**

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.