



Committee and Date
North Planning Committee
12th November 2019

Item
7
Public

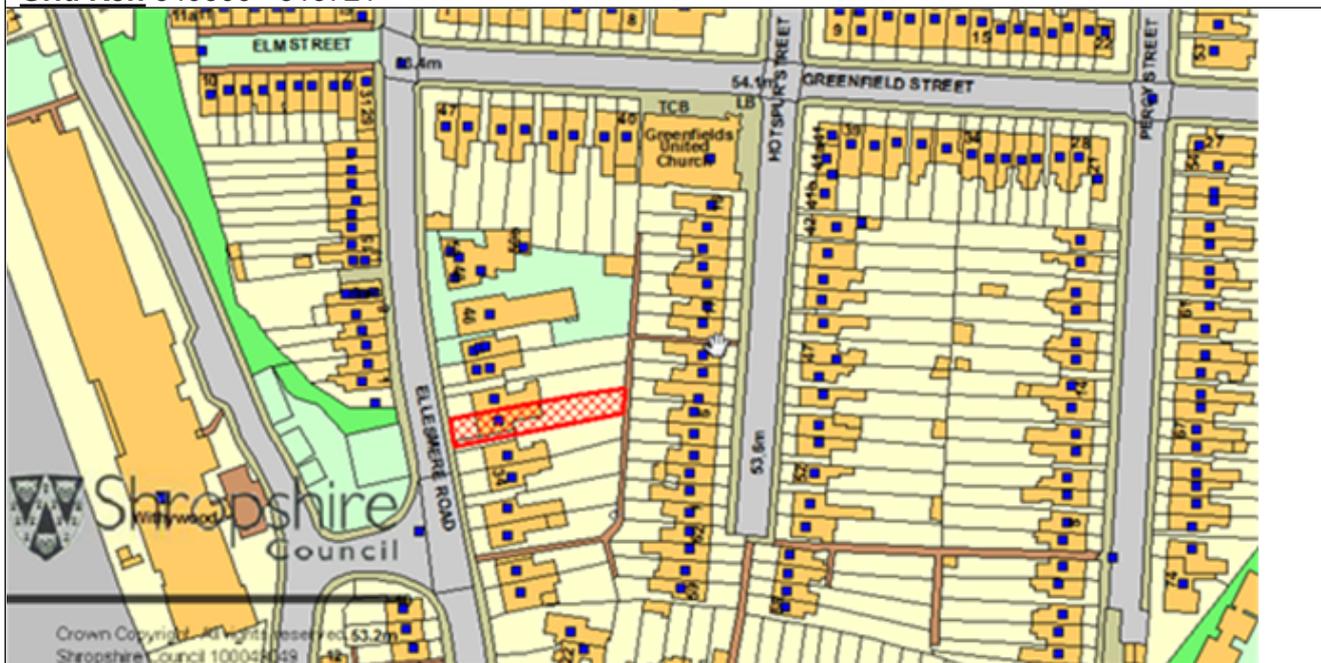
Development Management Report

Responsible Officer: Tim Rogers
Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/04218/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of a single storey side and rear extension and rear dormer window to facilitate an additional room in the extended roof space to provide a total of 7 rentable rooms in association with change of use from residential to sui-generis use (large house in multiple occupation) and provision of extended dropped kerb to provide vehicular access and parking for 2 cars		
Site Address: 38 Ellesmere Road Shrewsbury SY1 2PR		
Applicant: Effective Property Solutions		
Case Officer: Jane Raymond	email:	planning.northern@shropshire.gov.uk

Grid Ref: 349306 - 313721



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

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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposed development is for the erection of a single storey side and rear extension and rear dormer window to facilitate additional room in the extended roof space to provide a total of 7 rentable rooms in association with change of use to a large house in multiple occupation (sui-generis use).
- 1.2 The proposal also includes the provision of an extended dropped kerb to provide vehicular access and parking for up to two cars.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application relates to 38 Ellesmere Road which is a semi-detached late Victorian house situated to the north of Shrewsbury Town Centre.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local Member objects to the application and has requested it to be referred to the Northern Planning Committee within 21 days of electronic notification of the application and agreed by the Principal Planning Officer in consultation with the committee chairman and vice chairman to be based on material planning reasons.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Highways:** Ellesmere Road has very little on street parking and adjacent to the property restrictions prevent parking at any time on both sides of Ellesmere Road. The neighbouring residential area of Greenfields features a lack of residential off-highway parking and demand for parking is higher than provision. Whilst the existing family home could generate demand for a number of spaces, and the application includes the potential creation of 2 parking spaces, the proposal for 7 individual letting rooms could potentially create an even higher demand for parking. Whilst this is not ideal from a highways and transport perspective, an objection on highways grounds would not be sustainable. No details have yet been submitted regarding the proposed parking area, however upon approval of these permission will need to be obtained and detail of this can be found in the relevant informative below.

4.2 - Public Comments

- 4.2.1 **Shrewsbury Town Council:** Raises no objections to this application.
- 4.2.2 **Local Member:** This application is not without merit. I understand that the Victorian frontage and windows are to be kept as is (save for a new dormer window to the loft, which I hope would have sympathetic 'heritage' materials). This will maintain the appearance of the building among a distinctive row of Victorian buildings,

keeping an attractive street scene. Nevertheless the current application is higher density than the flats and houses found in the immediate area and legally is a different type of application. The two parking spaces in particular are insufficient for seven units in an area which already has severe parking issues. Though ideally I would want to see this property remain as a single dwelling I accept that is not sustainable in planning terms, given that some houses in the area have been converted into flats. Therefore if a single dwelling is not possible then a lower density development (or development into 2/3 flats) would help alleviate my concerns and concerns I have heard from residents on density, over development and parking.

This accommodation appears to be non-commissioned exempt accommodation. As such, under Section 13 of Housing Benefit Regulations, it has to be demonstrated that there is need for this type of accommodation and that the need is not met elsewhere.

Therefore, any planning report and decision on this application needs to have responses from both housing benefits officers and housing officers to consider if the test under Section 13 is met in terms of:

- Demand for this type of accommodation
- If it is not already supplied elsewhere (in particular under initiatives such as the Council's own housing company)
- If housing officers consider if this is appropriate accommodation to place people who may have vulnerabilities.

4.2.3 **14 Letters of objection summarised as follows:**

One can only image the type of person this sort of set-up is going to attract.

This type of property may attract people with vulnerabilities and would question if this is the right type of tenant in an area with young children and elderly residents in close proximity.

HMO are famous for anti-social behaviour and with up to 7 residents living in a medium sized house I worry this will be a problematic issue on a regular basis.

Anti-social behaviour is already a big problem with Marijuana constantly being smoked from the flats further towards the shop.

A higher concentration of HMO's has been associated with both increased noise complaints and increased levels of crime.

This area is already a high traffic area, only adding 2 parking spaces is clearly not sufficient for a 7 bedroom multiple occupancy house.

Insufficient off-street parking spaces in an area where there is no capacity for additional on-street parking.

It is hard to park in the day never mind at night when everyone is at home.

There are plans to make parking restrictions in the area and if these go ahead there will be even less parking space available than there is now.

Increased traffic and congestion and impact on air quality and potential noise disturbance.

The proximity to town, the Greenfields primary school and Witheywood Retirement home all mean that there are a lot of pedestrians in the area and by adding more cars to an already busy area the potential for accidents would be increased.

There are already two existing HMOs in close proximity to this property (one registered and one currently unregistered). Neither of these has sufficient off-road parking facilities to match their occupancies.

There is already a HMO at number 28 and 4 flats close to the local shop.

Within this vicinity of the Victorian properties the mix of family, flats and HMO's is adequate.

Over development of a medium sized family home.

Converting this beautiful house in to flats is not what the area needs as there are plans to build flats further up Ellesmere road.

This area does not require a HMO and would ask for evidence otherwise.

A single family home or flats would be more appropriate and is more suitable and sustainable to the surrounding area.

Potential destruction of a Victorian house, the frontage will not conform to the other house on the row.

This property is a rare grand Victorian property which requires huge improvements including the front facade which needs full restoration.

Is concerned that the developers will not restore the original Victorian features of the house including the original stained glass windows and timber bay windows with Minton tile decoration.

We would ask that if permission is given that a condition is added to retain these original features.

The proposed extension would encroach significantly into the rear open space.

The extension to the rear of the property would significantly reduce natural light into the neighbouring property and a full report on light loss should be submitted.

The homes immediately around this HMO will have their value impacted on.

The proposal should be modified to increase the parking spaces or reduce the number of independently rented rooms.

It seems unlikely that there are enough fire exits for 7 people.

Does not consider that the site notice was erected on 2nd October and requests that residents have longer than 23rd October to comment.

- 4.2.4 **One letter of support:** All the people objecting to this probably own their own homes and probably some own more than one.

There is currently a shortage of housing like this that is of high quality.

I unfortunately have to live in these "dreadful" HMOs as some would like to call them.

I take note of the following public comment "*one can only imagine the type of person this sort of set up is going to attract*" How patronising, I work and I always have done.

I am on a low income and will probably never be able to afford to purchase a property unlike the majority of people objecting to this application, I don't own a car and again can't afford to run a car, but what I can say is I have lived in many HMO properties over the last ten years and they have all been of high standard and the rooms let to working people, many of which are in the same circumstances as me

I am all for high quality affordable HMO units which are fully licensed by the council, at least the applicant is doing this and applying for the property to be properly registered as a HMO.

I note all these comments of objection have been whipped up in support of a post on Greenfields community page on Facebook, I wonder how many of these people actually live in close proximity to this proposed HMO and will they actually be affected by it.

5.0 THE MAIN ISSUES

Principle of development
 Parking/Highway impact
 Impact on character and appearance
 Impact on residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Core Strategy Policy CS2 and SAMDev policy MD1 identifies Shrewsbury as the primary focus for housing development for Shropshire and the provision of housing within the urban area of Shrewsbury accords with SAMDev Policy S16.

- 6.1.2 The existing house is situated within the Greenfields area to the North of Shrewsbury Town Centre which is an established residential area. The site is located within close proximity to a range of services and facilities and within easy

walking or cycling distance of Shrewsbury town centre with a wide range of retail and leisure facilities and employment opportunities and easy access to public transport including the bus and train station. It is therefore considered to be a sustainable location for the provision of HMO accommodation.

- 6.1.3 The need for this type of accommodation and also the impact on the balance of accommodation in the locality has been questioned. The local member also considers that the accommodation will be '*non-commissioned exempt accommodation*' and that '*under Section 13 of Housing Benefit Regulations, it has to be demonstrated that there is need for this type of accommodation and that the need is not met elsewhere*'.
- 6.1.4 '*Exempt accommodation*' is a term used under Housing Benefit legislation to describe accommodation where the rules that normally limit the amount of rent covered by a benefit award do not apply. Regulation 13 of the Housing Benefit Regulations 2006 provides for the restriction of benefit for occupiers of "exempt" accommodation. The amount of housing benefit can be restricted following an assessment of whether the rent payable for the accommodation in question is unreasonably high by comparison with that payable for suitable alternative accommodation elsewhere. The Housing Benefits regulations are not considered relevant to the determination of this application for planning permission for a dwelling to be used as a 7 person HMO. A review of alternative accommodation available in the area would be considered as part of any application by a future occupier for housing benefit.
- 6.1.5 The proposal will provide affordable one bedroom accommodation close to Shrewsbury town centre which accords with CS11 that states the following:
- 'To meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, an integrated and balanced approach will be taken with regard to existing and new housing, including type, size, tenure and affordability. This will be achieved by:*
- Seeking housing developments which help to balance the size, type and tenure of the local housing stock'*
- 6.1.6 The conversion of this single dwelling to a HMO will provide accommodation of a different size, type and tenure to that predominantly available in the area and help contribute to the provision of a more balanced and inclusive community. The proposed HMO is not for a particular type of tenant (as indicated by some objectors to the proposal) and whether future tenants are in employment and/or on housing benefit is not considered relevant to the determination of the application. There is therefore no requirement to consult housing benefits officers regarding this application. It is also not considered necessary for the need for the proposed development to be justified or demonstrated. If there is no demand for the proposed accommodation the rooms would not be let.
- 6.1.7 Having checked with the Housing team and Regulatory Services it has been confirmed that there is only one licenced HMO nearby at no 28 Ellesmere Road but there are no other licenced HMO's in the local area. It is considered that the provision of a HMO for up to 7 would not significantly impact on the mix and type of housing available in the locality.

- 6.1.8 Regulatory Services have also confirmed that a HMO occupied by five or more people sharing facilities (e.g. kitchen and/or bathroom) must be licensed. They have also confirmed that when considering a licence application they do not need to consult the public and that provided the rooms are safe and suitable and the applicant passes the fit and proper person test a licence has to be granted.
- 6.1.9 In addition to requiring a licence planning permission is only also required in this instance because this proposal is for seven. The use of a dwelling as a HMO for up to six is permitted development and would not require planning permission. It is considered that the provision of one additional room to allow up to seven residents is not significantly different to that allowed under permitted development. However to ensure that the rooms do not become double occupancy and the use over intensified a condition can be imposed to ensure a maximum of seven residents.
- 6.2 Parking/Highway impact**
- 6.2.1 CS6 and MD2 require that adequate car parking is provided to ensure that development does not result in unacceptable adverse impacts such as cars overflowing onto surrounding roads and negatively impacting on the local road network. Highways have commented that the proposal could potentially create a higher demand for parking than the existing family home might generate and whilst this is not ideal from a highways and transport perspective, an objection on highways grounds would not be sustainable.
- 6.2.2 The proposal is more likely to attract residents that don't own a car rather than car owners, and the provision of a HMO for seven with only two parking spaces is considered acceptable in this close to town centre location. The use of the property as a HMO for up to six and with no off-street parking provision is in any case permitted development.
- 6.2.3 Whether the house remains as a single dwelling or is occupied by six or seven unrelated individuals would not significantly impact on highway or pedestrian safety or the availability of on-street parking in the locality. It is considered that the proposed development including the provision of two parking spaces would not significantly impact on the amount of traffic or result in increased congestion or air pollution in the area.
- 6.3 Impact on character and appearance**
- 6.3.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.3.2 The proposed extensions include a single storey side and rear extension and the insertion of a dormer window to the rear and a roof light to the front. The dormer window and roof light are both permitted development and do not require planning permission. It is considered that the proposed replacement single storey extension

to the rear and side extension to the existing would have no adverse impact on the character and appearance of the building. The dwelling is currently vacant and in need of repair and renovation, and the proposed conversion to a HMO and associated external and internal alterations would secure its future maintenance.

6.3.3 The house is not listed and is not in a conservation area or subject to an article 4 direction. Any repairs and alterations to the front of the house do not need planning permission and therefore it would not be reasonable to impose conditions stipulating what materials can be used in making any improvements to the front including changing the windows.

6.4 **Impact on residential amenity**

6.4.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development '*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*'.

6.3.1 A HMO rented out and occupied by unrelated individuals but sharing facilities has the potential to be occupied in a different manner to a single residential dwelling, and potentially result in more comings and goings compared to its occupation by a family unit. However the use by six unrelated persons is permitted development and as this proposal is only for one more it is not considered that the proposed change of use would significantly impact on residential amenity compared to its existing use as a dwelling or its lawful use as a HMO for up to six individuals.

6.3.2 As confirmed by Regulatory Services a HMO needs a licence to operate which specifies the number of tenants and ensures that the property is inspected and regulated. A licence can be revoked if the property is not properly managed and/or does not comply with the relevant fire and health and safety regulations.

6.3.3 With regards to the impact of the proposed single storey rear and side extension this replaces an existing extension and does not extend any further to the rear than the existing. The replacement rear extension does not need planning permission and it is only the part of the extension to the side of the existing that actually requires planning permission. It is considered that the proposed single storey flat roof extension would not have any significant adverse impact in terms of loss of light, a loss of privacy or appearing overbearing or obtrusive.

7.0 **CONCLUSION**

7.1 It is considered that the proposed change of use is acceptable in principle and will help contribute to the provision of a balance in the type, size, tenure and affordability of accommodation in a sustainable location near to Shrewsbury town centre and therefore accords with Core Strategy Policy CS2, CS11 and SAMDev policy MD1 and S16. It is considered that the proposed change of use and the extensions to the house would not adversely impact on the character and appearance of the building or the locality and would not have an adverse impact on residential amenity. The number of tenants is regulated by the licence that is

required in addition to planning permission but it is recommended that a planning condition is imposed to restrict occupancy to seven. It is considered that the demand for parking spaces would not be significantly different compared to its use as a single dwelling or a HMO for six and that it is not necessary to provide additional parking spaces due to the location within walking distance of the town centre and access to public transport. The proposal is therefore also considered to accord with MD2 and CS6.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: National Planning Policy Framework

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan: CS2, CS6, CS11, MD1, MD2 and S16.

Relevant Planning History:

19/04219/CPL Application for a Certificate of Lawful Development for the proposed erection of a single storey rear extension and a dormer window to the rear in association with change of use from C3 (dwelling) to C4 (small house in multiple occupation for a total of 6 single occupancy rentable rooms permitted under Class L, Part 3 of Schedule 2 of the GPDO)
LAWFUL 23rd October 2019

11. Additional Information

List of Background Papers:

19/04218/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PY8VD6TDI0A00>

Cabinet Member (Portfolio Holder): Councillor Gwilym Butler

Local Member: Cllr Alex Phillips

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. The external materials shall be as indicated on the approved plans and the submitted application form or in accordance with details to 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.

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

4. The development hereby permitted shall not be brought into use until a dropped kerb access has been provided. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To provide a safe access to the development in the interests of highway safety.

5. The development hereby permitted shall not be brought into use until details for the parking of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

6. The HMO hereby approved shall not be occupied by more than 7 residents.

Reason: To ensure that the use is not over intensified to the detriment of neighbouring properties.