

## Development Management Report

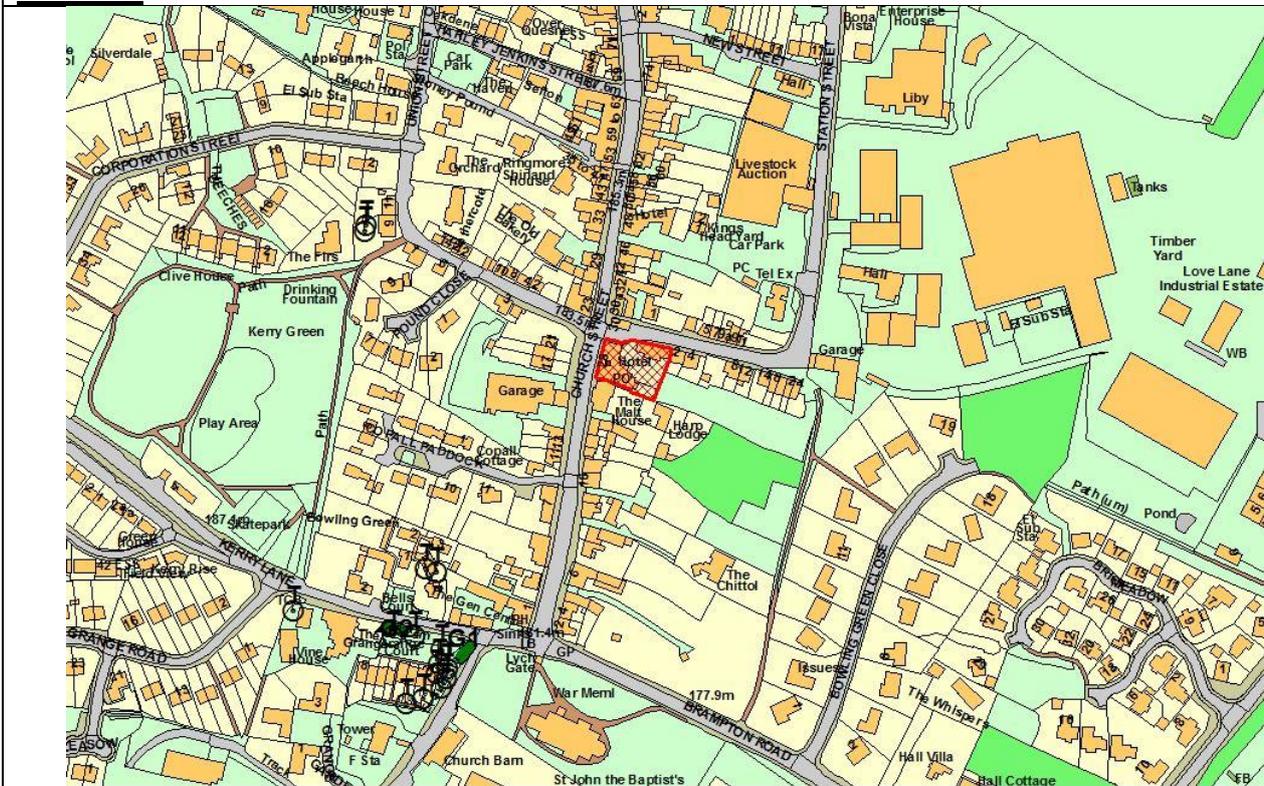
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### Summary of Application

<b>Application Number:</b> 19/03996/FUL	<b>Parish:</b>	Bishops Castle
<b>Proposal:</b> Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension); erection of one new dwelling		
<b>Site Address:</b> Boars Head Hotel Church Street Bishops Castle SY9 5AE		
<b>Applicant:</b> Mr D Price		
<b>Case Officer:</b> Trystan Williams	<b>email:</b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	

### Grid Ref: 332339 - 288626



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

**REPORT**

## **1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission to:
- convert a public house into a pair of semi-detached, two-storey open-market dwellings following demolition of single-storey additions at the rear (east);
  - convert a detached outbuilding (known as the ‘Curley Tail’) from four bed-and-breakfast rooms with en-suite bathrooms into one dwelling (again following demolition of a previous extension, and also including erection of an attached car port at the rear (south) and weatherboarding over the western gable end); and
  - erect an entirely new 1½-storey, 82m<sup>2</sup> two-bedroom dwelling clad in timber under a gabled slate roof, within what is currently a car park behind.
- 1.2 The latter element replaces original plans for a pair of rendered, two-storey semi-detached houses. Certain aspects of the conversion proposals have also been amended in response to consultee comments.
- 1.3 The conversions also require listed building consent, to which ‘sister’ application 19/03997/LBC relates.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The Boars Head Hotel is located in Bishop’s Castle’s town centre and conservation area, in a 0.09-hectare plot southeast of the junction of the B4385 Church Street and Station Street. Despite its name it is perhaps more of a pub with an ancillary food and visitor accommodation offering. The principal building, containing the pub/restaurant and a first floor residential apartment, fronts Church Street to the west, and is a Grade II-listed former coaching inn of timber-framed construction dating back to the 17<sup>th</sup> Century, but refaced in stuccoed limestone during the 19<sup>th</sup> Century, and with 20<sup>th</sup> Century additions behind. The Curley Tail is a curtilage-listed former barn fronting Station Street to the north, now faced in render and synthetic stone under slate roofs stepped down at the west, and with a flat-roofed extension behind. The two buildings are separated by the entrance to the car park at their rear, in whose southeast corner the proposed new house would stand.
- 2.2 Although the car park is private, there is a right of entry through it into an adjacent yard used for parking by neighbours and a firm of auctioneers. North of that, and abutting the Curley Tail’s east end, is a row of two-storey houses of varying ages and styles. Immediately south of the pub is Grade II-listed and part timber-framed Harp House, and on a ‘back land’ plot behind it, diagonally opposite the site of the proposed new dwelling, a modern two-storey house named Harp Lodge. Opposite the pub is a variety of residential and commercial properties.

## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In accordance with the Council’s adopted ‘Scheme of Delegation’, the application is referred to the planning committee since the officer recommendation of approval is contrary to an objection from the Parish Council, and the Shropshire Council Local Member has requested Committee determination. The chairman and vice chair of the south planning committee, in consultation with the Principal Officer, consider that the issues raised warrant the full committee’s consideration.

## 4.0 COMMUNITY REPRESENTATIONS

### 4.1 Consultee comments

#### 4.1.1 Shropshire Council Ecology:

12/9/19 – objection:

The application triggers the need for bat survey work. A licensed ecologist should complete a preliminary roost assessment, and depending on its outcome a presence/absence survey, roost characterisation, mitigation measures, compensation and enhancement proposals, a lighting plan and a European Protected Species licence from Natural England may also be required.

4.1.2 Additionally, swifts are known to nest in the area.

#### 4.1.3 24/10/19 – comment:

The buildings have now been surveyed by a licensed ecologist. No physical evidence of bats was found, and there is negligible potential for roosting. As a precaution, however, any permission granted should include an ‘informative’ advising on the legal status of bats, whilst in order to minimise disturbance to foraging or commuting bats, a condition should restrict any external lighting.

4.1.4 One old bird’s nest was found in the main building. Compensatory bird boxes should therefore be secured by condition, and an informative should advise on the legal status of any active nests.

#### 4.1.5 7/11/19 – comment:

Since the site is upstream of the River Clun Special Area of Conservation (SAC), a Habitats Regulations Assessment (HRA) has now been completed. This concludes that developments of up to ten dwellings connected to the Bishop’s Castle sewage treatment works would not affect water quality in the SAC.

4.1.6 Previous comments regarding bats and nesting birds are reiterated.

#### 4.1.7 27/11/19 – comment:

The Council’s HRA has now been updated to reflect the reduction in the number of new-build dwellings proposed, but its conclusions remain unchanged. The previous comments on bats and birds also remain applicable.

#### 4.1.8 Shropshire Council Flood and Water Management – comment:

Full surface water and foul drainage details should be secured by condition.

#### 4.1.9 Severn Trent Water – comment:

Since the impact on the public sewerage system would be minimal, no objection is raised and no further details need be secured by condition. The applicant should, however, be informed of the possible presence of recently adopted sewers within the site area, and the statutory protection they would have.

#### 4.1.10 Shropshire Council Highways Development Control:

27/9/19 – objection:

Along the Station Street frontage are steps leading into the pub, a basement hatch and a proposed parking space. These appear to be on land forming part of the public

highway. Either this should be stopped up, or a copy of any previous stopping up order submitted.

4.1.11 27/11/19 – comment:

No objection, subject to the development being carried out in accordance with the submitted details, and to certain conditions and informatives.

4.1.12 The amended plans omit the parking space on the Station Street frontage. Moreover, with the new-build element now reduced to one dwelling, the remaining parking provision within the site area would be sufficient. However conditions should ensure that the parking and turning areas are completed before the development is occupied, and, given the nature of the surrounding streets, secure a construction traffic management plan.

4.1.13 Informatives should advise on refuse collection arrangements, the need to avoid surface/waste water from the site discharging onto the highway or into highway drains, and the requirement for a licence for any works on or abutting highway land.

4.1.14 Bishop's Castle Town Council:

23/9/19 – neutral:

Owing to members' interests, the Council was not quorate and so was unable to discuss the application.

4.1.15 19/11/19 – objection:

- The pub's closure would spell the loss of a community asset.
- The loss of visitor accommodation could harm the local tourism economy.
- The scheme would change a building of historic interest, and also the wider street scene.
- The new dwelling's south-facing windows would overlook both of the adjacent properties.
- Local knowledge suggests drainage could be an issue.

4.1.16 Shropshire Council Historic Environment (Archaeology) – comment:

The site lies within Bishop's Castle's medieval core, on the postulated line of the town defences. It is also within a group of historic tenement plots. It therefore has moderate-to-high archaeological potential, and any underground remains are likely to be affected by the proposed development.

4.1.17 In view of this a programme of archaeological work should be secured by condition. This should include trial trenching across the area of the new-build development, informed by sufficient desk-based assessment. Depending on the results of this, a watching brief of groundworks may also be appropriate.

4.1.18 Historic England:

27/9/19 – objection:

There are concerns about the proposals on heritage grounds. It is therefore recommended that further analysis of the site and its buildings is undertaken, in order to inform a more sympathetic scheme.

4.1.19 The submitted Heritage Impact Statement says this Grade II-listed former coaching

inn is believed to date back to 1597, and was first licensed in 1642. As such it has been an integral part of the life and vitality of this this small rural town for over 400 years. Although altered and adapted during the 19<sup>th</sup> and 20<sup>th</sup> centuries the building retains much of its historic interest, and contributes positively to the character and appearance of a particularly prominent part of the Bishop's Castle Conservation Area.

- 4.1.20 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the preservation of the listed building and its setting, or any features of special architectural or historic interest which it possesses, and also to the desirability of preserving or enhancing the character and appearance of the conservation area. Section 16 of the National Planning Policy Framework (NPPF) highlights the need to fully understand the significance of heritage assets and to assess the impacts of development upon them. Furthermore it expects great weight to be given to conserving designated heritage assets, with any harm requiring clear and convincing justification in terms of public benefits. Particularly relevant to the proposed new-build housing, meanwhile, is Section 12, which emphasises the importance of appropriate and well-designed development sympathetic to local character and history.
- 4.1.21 Given the previous alterations to the pub, its associated outbuilding and the wider setting, there would in principle be no objection to further sympathetic adaptation. However, any changes should be underpinned by a thorough understanding of the site as a whole, and its contribution to the wider conservation area. Whilst the current Heritage Impact and Design and Access Statements are helpful, they lack the level of assessment and analysis expected for such an important building and sensitive site.
- 4.1.22 If the Council accepts the justification put forward for conversion, consideration should be given to securing a less intensive scheme with greater regard to the existing buildings' character. The new-build dwellings are considered a particularly incongruous addition to the current building complex, and would require robust justification. Analysis of the existing built fabric, supported by map regressions and an assessment of the setting, would help to inform future proposals more strongly.
- 4.1.23 14/11/19 – no objection:  
In principle Historic England is satisfied with the revised proposals. Thus, provided any approval is subject to conditions to ensure a suitably high quality development, it is happy to defer to the Council's own Conservation Officer regarding the details.
- 4.1.24 Shropshire Council Affordable Housing – no objection:  
There are no affordable housing obligations associated with this scheme.
- 4.1.25 Shropshire Council Historic Environment (Conservation):  
30/10/19 – objection:  
Subdividing the pub itself appears feasible without impacting significantly upon the building's historic fabric and character. Since there would be no alterations to the roadside elevations, its appearance within the street scene would remain largely unchanged. A nod to its history as a public house could be considered, perhaps by

retaining traditional external features such as signage. It is also noted that the scheme aims to consolidate the building back to its early 19<sup>th</sup> Century form by removing the later rear additions, which is acceptable as they do not contribute to its character.

- 4.1.26 That said, further information on the main building's historic fabric, and on the evolution of both it and the Curley Tail, may help to justify the scheme. It is also suggested that conditions should require recording of the buildings in their current form, plus full details of new internal features and finishes, including staircases.
- 4.1.27 The plans for the Curley Tail include inserting dormer windows. This would be inappropriate given the building's semi-agricultural nature, and roof lights should be used instead. Other changes to fenestration should also be minimised, with the pattern of the existing windows followed where possible. Additionally, it would be preferable to replace the current synthetic stone on the gable end with weatherboarding rather than render, whilst the proposed car port and also solar panels should be omitted.
- 4.1.28 Two new-build dwellings as currently proposed could appear overly cramped in this context. However draft amended plans show a reduction to one unit, whose design reflects a small and fairly unobtrusive outbuilding. This is considered appropriate, especially as historic mapping suggests there may once have been an outbuilding in this position. That said, its porch and solar panels should be omitted in order to achieve a simple uncluttered north elevation and roofline.
- 4.1.29 Boundary treatments between the various units should be given careful consideration. Low stone walling and soft landscaping, as found elsewhere in the town, may be more appropriate.
- 4.1.30 18/11/19 – no objection:  
The amended plans and additional information now submitted take account of the previous comments. There are no further issues from a conservation perspective, and it is considered that the revised proposals generally accord with the relevant policies.
- 4.1.31 Conditions should secure precise details of both external and internal joinery (including staircases), external materials, landscaping, and features to be removed and stored pending reinstatement. They should also require recording of the existing buildings to Historic England's 'Level 2' standard, and specify Conservation-type roof lights and metal rainwater goods.

## 4.2 Public comments

- 4.2.1 Nineteen separate households plus the Campaign for Real Ale (CAMRA) have objected, on the following grounds:
- Loss of what was until recently, and still could be, a successful business, local employer and important community/visitor facility.
  - Applicant's reasons for closure are personal rather than commercial.

- Property initially marketed at grossly inflated price, subsequently reduced but still too high for area, and with conflicting figures and particulars. Since withdrawn from market altogether.
- Little or no consideration given to CAMRA's 'Public House Viability Test'.
- Greater scope for business diversification. Previous permission to convert former post office in pub's rear rooms into additional visitor accommodation remains unimplemented.
- Increased opening hours, new management and/or better marketing could increase business' viability. Pub closed during recent real ale trail event, and often closed at lunch times, alienating customers.
- Applicant's claims of competition from other pubs and holiday accommodation in Bishop's Castle are exaggerated. Two of the other pubs mentioned do not serve food, while some of the bed-and-breakfast businesses listed have now closed. Boars Head also offers different beers, a venue for live bands and good accessibility. In fact maintaining a choice of six unique pubs gives town a 'critical mass' for ale fans and tourists, and closure of any one would threaten the commercial centre's vitality and viability.
- Subdivision and change of use would harm listed building's historic layout, fabric and significance, and deprive general public of opportunity to appreciate it.
- Density of development too high.
- Adverse impact on conservation area.
- Proposed dwellings and their gardens too small.
- Overlooking of neighbouring properties.
- Insufficient parking provision.
- One of proposed parking spaces shown on highway land.
- Increased traffic on already busy road junction.
- Access to adjacent yard could be blocked.
- Insufficient drainage details.
- Separate change of use application should be made.

4.2.2 Three individuals support the application for the following reasons:

- Huge decline in local trade over past decade. Many people ostensibly wish to save the pub but do not actually use it.
- Current owners have made every effort to run a successful business and support local community.
- Business valued by established estate agents and marketed for over three years, including at significantly reduced price, but still without serious interest.
- Number of pubs remaining would still be proportionate to size of town.
- Strong local need for additional housing.

**5.0 THE MAIN ISSUES**

- Procedural matters
- Principle of development
- Affordable housing contribution
- Scale, design and impact on historic environment
- Residential amenity
- Highway safety
- Ecology and foul drainage

- Surface water drainage

## **6.0 OFFICER APPRAISAL**

### **6.1 Procedural matters**

6.1.1 The proposed change of use of the pub will be considered as an integral part of this full application, and does not require a separate application as one of the objectors claims.

### **6.2 Principle of development**

6.2.1 The Council's Core Strategy Policy CS3 identifies Bishop's Castle as one of Shropshire's larger, 'sustainable' settlements, and Policy S2 of the Site Allocations and Management of Development (SAMDev) Plan sets a guideline of around 150 additional dwellings to be provided in the town throughout the period 2006-2026, on an allocated greenfield site plus 'windfall' sites within a defined development boundary. A key objective of the NPPF, meanwhile, is to boost significantly the supply of housing in general.

6.2.2 In this case the site is inside the development boundary, and adjacent to established housing as well as town centre services, amenities and employment opportunities. Moreover the numbers of new dwellings already built and permitted still leaves 'headroom' for more within the aforementioned guideline. In these respects the proposed residential development is therefore acceptable in principle.

6.2.3 Another fundamental issue is the loss of the pub and visitor accommodation. Part 8 of the NPPF says planning decisions should promote the retention of established local services and facilities, including pubs, and guard against their unnecessary loss, whilst Part 7 seeks to maintain the vitality and viability of town centres. Similarly the Council's Core Strategy Policy CS8 seeks to protect existing facilities, services and amenities which contribute to the quality of life of both residents and visitors.

6.2.4 In this case there have been clear attempts to diversify the business, for example by housing a post office branch within the main building, and using the former barn as holiday accommodation and a hairdressing salon before that. Additionally the property has been marketed by specialist agents, both locally and nationally, and on a freehold, leasehold and tenancy basis, for over three years up to August 2019, including at drastically reduced prices since January 2018. However officers do also acknowledge the community concerns regarding those points, plus the fact that the applicant and his estate agents partly attribute a recent decline in trade, and hence the business' limited appeal to prospective purchasers, to personal factors. It is therefore difficult not to conclude that the business might prove more viable under different management, if only a sale or lease could be agreed.

6.2.5 Nevertheless, for the following reasons (some of which reflect CAMRA guidance) it is, on balance, suggested that the proposed change of use would be unlikely to threaten the vitality and viability of Bishop's Castle's town centre and tourist economy, or community vibrancy, so significantly as to warrant refusing planning permission:

- Under SAMDev Policy MD10a, Bishop’s Castle (unlike larger towns) lacks a designated Primary Shopping Area where changes to non-town centre uses are necessarily resisted.
- The Boars Head has not been formally registered or nominated as an Asset of Community Value.
- Of the five other pubs in the town, at least one already has a broadly similar food offering. Meanwhile two serve ale brewed on-site, which would in all probability would remain a significant draw. Certainly the annual real ale trail and various other community/visitor events went ahead in 2019, despite the Boars Head allegedly not participating.
- Besides pubs and hotels there are other eateries in Bishop’s Castle, along with other visitor attractions and community facilities (including a theatre, swimming pool, library, town hall etc.).
- Bishop’s Castle does still offer alternative visitor accommodation despite the apparent decline, and in fact the Council has recently received planning applications for new provision in the local area. Indeed it may be that closure of the Curley Tail would stimulate further provision elsewhere in the town.
- Similarly, if demand was perceived other established pubs could change or expand their offerings to compensate for the loss of the Boars Head, or potentially further premises could open as micro-pubs, as has happened in Ludlow and Church Stretton.

6.2.6 Additionally, it is felt that some weight can be given to:

- the desirability of keeping these listed buildings in viable long-term use consistent with their conservation (the first floor of the Boars Head itself is currently somewhat underutilised, and unsuitable as guest accommodation on account of its layout);
- the high level of local need for smaller and therefore more affordable housing; and
- the NPPF’s recognition (in Paragraph 85.f)) that residential development also often plays an important role in ensuring the vitality of town centres.

### 6.3 **Affordable housing contribution**

6.3.1 Core Strategy Policy CS11 and an associated Supplementary Planning Document require most market housing schemes to contribute towards provision of designated affordable housing to meet specific local needs. However proposals to convert listed buildings are specifically exempted, in recognition that build costs are usually higher. In any event the requirement is now effectively superseded by the latest version of the NPPF, which states categorically (in Paragraph 63) that affordable housing provision should not be sought in connection with small-scale developments (i.e. those comprising fewer than six units in designated rural areas such as Bishop’s Castle parish). It must therefore be accepted that the Council’s policies in this respect are out-of-date and can no longer be given significant weight, meaning no contribution would be required in this instance.

### 6.4 **Scale, design and impact on historic environment**

6.4.1 The NPPF at section 12 places an emphasis on achieving good design in development schemes. Its themes are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and

design taking into account the local context and character, and those features that contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 seeks to ensure that developments respond positively to local design aspirations set out in Neighbourhood Plans, with the protection, conservation and enhancement of the historic context and character of heritage assets, their significance and setting, being sought by policy MD13.

- 6.4.2 Under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 there is a duty placed on Local Authorities in exercising their statutory duty to have regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. Section 72 of the same Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions. At paragraph 185 the NPPF advises that local planning authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- 6.4.1 It is acknowledged that the proposals would spell the end of the principal listed building's centuries-old use as a public house, and clearly this would change its commercial and communal character and restrict public access. However it is not included on CAMRA's list of pubs whose interiors remain particularly important, unlike another in Bishop's Castle. Meanwhile, as mentioned already, the NPPF recognises that keeping heritage assets in viable use often helps to ensure their continued conservation. Furthermore, both Historic England and the Council's Conservation Officer are satisfied that the revised proposals would not harm any key elements of either the main building's or the Curley Tail's historic fabric, their physical character, outward appearance or setting, or the character and appearance of the wider conservation area, subject to certain conditions as set out below (including one controlling fenestration, for which only partial details have been submitted upfront). This follows the submission of a more detailed Heritage Impact Statement, the reduction to one new-build dwelling of modest scale and barn-like style appropriate to its context, plus the omission of solar panels and dormer windows on the Curley Tail. Although new boundaries between the plots would still utilise 1.8-metre fencing to ensure adequate privacy, this would not be prominent in the street scene, especially as officers recommend a condition requiring precise details of supplementary planting.
- 6.4.2 Given the above it is considered that the relevant statutory provisions and planning policies, as referenced in Historic England's initial comments, are satisfied. The proposed development would not harm the special architectural or historic interest of the listed buildings and would not detract from the character or appearance of the conservation area. The Archaeology Team's interest is also addressed, by Condition 4.
- 6.5 **Residential amenity**
- 6.5.1 Core Strategy policy CS6 seeks to safeguard neighbour amenity.

- 6.5.2 Residential use of the pub and Curley Tail should not impact unduly on neighbours' privacy or noise levels since both buildings are directly aligned with those immediately adjacent, reasonably well separated from those opposite, and already used for other, more intensive and potentially noisier purposes. The main impact would arise from the new-build dwelling, which would be more visible from the neighbouring properties. Nevertheless, being limited to 1½ storeys, and with no first floor fenestration apart from escape hatches, roof lights and a small window to light the stairs, it should not cause significant overlooking or overshadowing, especially as it would not align directly with either the Station Street properties to the north or Harp Lodge to the south, and the latter's main windows/living spaces face in other directions.
- 6.5.3 The plans appear to maintain the private right of access to the yard to the east, although in any event that is a civil matter.
- 6.5.4 The revised scheme would also provide each of the proposed dwellings with a small, but adequate and reasonably private garden (provided a bathroom window on the side of Unit 2 has frosted glazing as per suggested Condition 15), whilst the dwellings themselves would meet the national minimum space standards.
- 6.6 **Highway safety**
- 6.6.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph... it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:  
 “- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”  
 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and consequently development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.
- 6.6.2 The proposed dwellings would probably generate less traffic than the established pub and holiday lets, which utilise the same access. Moreover there are several public car parks nearby, and it is emphasised that the Highways Development Control Team has no fundamental objection following containment of the proposed parking provision on private land.
- 6.7 **Ecology and foul drainage**
- 6.7.1 Core Strategy policies CS6 and CS17, along with SAMDev Plan policy MD12, seek to ensure developments do not have an adverse impact upon protected species, and accord with the obligations under national legislation.

6.7.2 As summarised above the Ecology Team accepts that conditions and informatives would offer adequate mitigation for protected and priority species, although restricting external lighting may in fact be unreasonable given the site's established use without any such restriction in place. It also accepts that using the mains sewerage system (which has phosphate-stripping equipment) would avoid any significant impact on the River Clun SAC. In that respect the full HRA can be viewed on the 'Planning' pages of the Council website, appended to the Ecology Team's latest comments.

6.7.3 Additionally it is noted that Severn Trent Water, as the utility provider, has no objection to the use of mains sewerage. Its point about protecting any sewers within the site area can be addressed through an informative and under the Building Regulations.

6.8 **Surface water drainage**

6.8.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. Although the site itself has a low flood risk, a condition requiring full surface water drainage details is reasonable in this case in order to avoid exacerbating an already higher risk of pluvial and groundwater flooding on adjacent land.

7.0 **CONCLUSION**

7.1 Despite some possibility of the business proving more successful under new management, and claims that it should have been marketed at an even lower price, the loss of the existing pub and holiday accommodation is considered acceptable on balance as it should not significantly affect the town's vitality and viability, or community vibrancy. The proposed new residential use and development is also acceptable in principle given the location adjacent to established housing within the town's development boundary. The scheme as amended would not harm the intrinsic significance of the listed buildings or the character and appearance of the conservation area, and there are no undue or insurmountable concerns regarding archaeology, residential amenity, highway safety, ecology or drainage. Furthermore, greater weight is given to Paragraph 63 of the updated NPPF than to the Council's own policy requirement for an affordable housing contribution. Overall, therefore, the application is felt to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

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.
- 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

## 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 are 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.

## 10.0 **BACKGROUND**

### **Relevant Planning Policies:**

#### Central Government Guidance:

National Planning Policy Framework

#### Shropshire Local Development Framework:

Core Strategy Policies:

CS1 - Strategic Approach  
CS3 - The Market Towns and Other Key Centres  
CS6 - Sustainable Design and Development Principles  
CS7 - Communications and Transport  
CS8 - Facilities, Services and Infrastructure Provision  
CS9 - Infrastructure Contributions  
CS11 - Type and Affordability of housing  
CS15 - Town and Rural Centres  
CS16 - Tourism, Culture and Leisure  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

**SAMDev Plan Policies:**

MD1 - Scale and Distribution of Development  
MD2 - Sustainable Design  
MD3 - Managing Housing Development  
MD10A - Managing Town Centre Development  
MD12 - Natural Environment  
MD13 - Historic Environment  
S2 – Bishop’s Castle Area Settlement Policy

**Supplementary Planning Documents:**  
Type and Affordability of Housing

**Relevant Planning History:**

SS/1988/24/P/ & SS/1988/24/L/ – Conversion of disused bar and toilets into holiday bedroom accommodation (permitted March 1988)

SS/1/2434/P & SS/1/2435/L/ – Erection of extension to public house (permitted May 1992)

SS/1/7405/P/ & SS/1/7406/L – Erection of additional guest accommodation and demolition of boundary wall (permitted October 1997)

SS/1/00/11091/LB – Demolition of upper section of chimney (permitted June 2000)

10/01227/LBC – Replacement of window with door in north elevation, and blocking of internal doorway (permitted May 2010)

17/00726/FUL & 17/00727/LBC – Alterations to former post office to form hotel accommodation; alterations to existing porch and installation of gates to car park (permitted May 2017)

19/03997/LBC – Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension) (pending consideration)

**11.0 ADDITIONAL INFORMATION**

**View details online:**

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PXF8TZTDHMS00>

**List of Background Papers:**

Application documents available on Council website

**Cabinet Member (Portfolio Holder):**

Cllr Gwilym. Butler

**Local Member:**

Cllr Ruth Houghton

**Appendices:**

Appendix 1 – Conditions and Informatives

## **APPENDIX 1 – CONDITIONS AND INFORMATIVES**

### **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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### **CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES**

3. No development, including demolition works, shall commence until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period, and shall include provision for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials
  - iv. the erection and maintenance of security fencing/hoardings
  - v. wheel washing facilities
  - vi. control of dust, dirt and noise emissions during construction
  - vii. timing of construction works and associated activities
  - viii. recycling/disposal of waste resulting from demolition and construction works

Reason: In the interests of highway safety, and to help safeguard the visual and residential amenities of the area, in accordance with Policies CS6 and CS7 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

4. No development, including demolition works, shall commence until the applicant/owner/developer has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any evidence associated with known archaeological features on and in the vicinity of the site is recorded/preserved satisfactorily, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since

it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

5. No development shall commence until precise details of surface water drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
- Percolation test results and sizing calculations for any surface water soakaways
  - Provision for installation of a silt trap or catch pit upstream of any drainage field
  - Details of any alternative or supplementary Sustainable Drainage Systems (SuDS) to be incorporated
  - A drainage layout plan

The approved drainage system(s) shall be implemented in full prior to the first use/occupation of any part of the development, and shall be retained thereafter.

Reason: To ensure that the development is provided with satisfactory means of drainage and avoid causing or exacerbating flooding or pollution on the site or elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

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

6. No works in connection with the conversion of the existing buildings (including stripping of internal or external fixtures or features, and/or demolition works) shall commence until there has been submitted to and approved in writing by the local planning authority a record of those buildings and their fabric as existing, to accord with 'Level 2' standards as defined in the Historic England document 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016).

Reason: To provide an adequate record of the listed buildings' existing form and fabric, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy and Policy MD13 of the Shropshire Council Site Allocations and Management of Development Plan.

7. No works to the existing buildings shall commence until there has been submitted to and approved in writing by the local planning authority:
- a schedule of existing features and fabric of potential architectural or historic interest (including windows, doors, ornamental plaster, joinery, staircases, fireplaces etc.) which are to be removed, altered, repositioned or replaced; and
  - a method statement for these works.

The works shall thereafter be undertaken and completed in strict accordance with the approved details.

Reason: To safeguard the architectural and historic interest, character and fabric of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

8. Prior to their use/application, samples/precise details of all external materials/finishes, including those for any repair works, shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To safeguard the character and appearance of the listed buildings and the Bishop's Castle Conservation Area, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

9. No above-ground development in connection with the new-build dwelling hereby permitted shall commence until samples/details of its roofing materials and finishes, to include detailing of ridges, eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and thereafter retained.

Reason: To help safeguard the settings of the adjacent listed buildings and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

10. No new or replacement windows or doors, or new/altered internal joinery (including staircases) within the existing buildings, shall be installed until precise details of their/its form and style (including details of glazing bars, mullions, sill mouldings and surface treatments/decorative finishes) have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and thereafter retained.

Reason: To safeguard the character, appearance and setting of the listed buildings, and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

11. All roof lights included in the development hereby permitted shall be of the traditional flush-fitting 'Conservation' type, in accordance with precise product details which shall be submitted to and approved in writing by the Local Planning Authority prior to installation. They shall be retained thereafter for the lifetime of the development.

Reason: To safeguard the character and appearance of the listed buildings and the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

12. Prior to the first use/occupation of any part of the development hereby permitted, artificial nesting opportunities for wild birds shall be provided at the site in accordance with details which shall first be submitted to and approved in writing by the local planning authority. These shall include a minimum of three nesting boxes or integrated 'bricks' suitable for sparrows (32mm hole, terrace design) and small birds (32mm hole, standard design), which shall be retained for the lifetime of the development.

Reason: To maintain and enhance nesting opportunities for wild birds, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

13. The site shall be landscaped in accordance with the approved, amended block plan, and with precise details/schedules/specifications of the proposed planting, which shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development. All fences, hardstandings and other hard landscaping features comprised therein shall be completed prior to the first occupation of each associated dwelling, whilst the agreed planting/seeding shall be completed during the first planting/seeding seasons following the substantial completion or first occupation of the associated dwelling, whichever is the sooner. Thereafter all hard landscaping features shall be retained in accordance with the approved details, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To help safeguard the setting of the listed buildings and the character and appearance of the Bishop's Castle Conservation Area, and in the interests of residential amenity, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

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

14. All new/replacement gutters, down pipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the character and appearance of the listed buildings in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

15. The first floor bathroom window on the north elevation of the proposed dwelling/unit 2 shall be fitted with obscured/frosted glazing and a mechanism to restrict its opening to a maximum of 450mm. It shall thereafter be retained in that condition.

Reason: To help ensure a reasonable standard of privacy in the adjoining unit and its garden, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy.

16. Prior to the first occupation of the new dwellings, their respective vehicle parking and turning areas shall be laid out and surfaced in accordance with the approved plans. These shall thereafter be retained in that condition for their intended purposes throughout the lifetime of the development.

Reason: In the interests of highway safety, in accordance with Policies CS6 and CS7 of the Shropshire Local Development Framework Adopted Core Strategy.

17. Notwithstanding the provisions of Schedule 2, Parts 1 and 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order

modifying, revoking or re-enacting that Order), no external alterations, extension, garage, car port, other building/structure, fence, wall, gate or hardstanding shall be erected, installed or provided on or around the site without a further express planning permission having first been obtained from the Local Planning Authority.

Reason: To help safeguard the settings of the listed buildings and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

## INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. The Council's Archaeological Advisor advises that the programme of archaeological work required under Condition 4 above should include an initial evaluation in the form of trial trenching on the site of the proposed new-build dwelling, informed by appropriate desk-based research, and, depending on the results of that evaluation, further mitigation as appropriate. As a minimum the latter is likely to involve an archaeological watching brief on the final stages of demolition works and the excavation of the current car park surface. If you require further clarification please contact Charlotte Orchard ([charlotte.orchard@shropshire.gov.uk](mailto:charlotte.orchard@shropshire.gov.uk)).
3. This planning permission should be read in conjunction with listed building consent No. 19/03997/LBC, to which further/alternative conditions may be attached.
4. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team ([cil@shropshire.gov.uk](mailto:cil@shropshire.gov.uk)).
5. This planning permission does not authorise the applicant to:
  - construct any means of access over the publicly maintained highway (including any footway or verge);
  - carry out any works within the publicly maintained highway;
  - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or

- disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

6. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.
7. If the vehicular access and/or parking/turning areas would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.
8. Before any new connection to the public mains sewer is made, including any indirect connection or reuse of an existing connection, consent from the service provider must be obtained.
9. There may be a public sewer within the site boundary. Public sewers have statutory protection and cannot be built over or diverted without consent. In many cases where development is proposed within three metres of a public sewer, Severn Trent Water can direct the building control officer to decline an approval under the Building Regulations. You are therefore advised to discuss the proposals with Severn Trent Water at an early opportunity.
10. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
11. Ideally, in order to minimise disturbance to bats (which are European protected species), any external lighting at the site should be designed to take into account the advice set out in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
12. 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, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings

and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.

13. 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 in the National Planning Policy Framework Paragraph 38.