

## Development Management Report

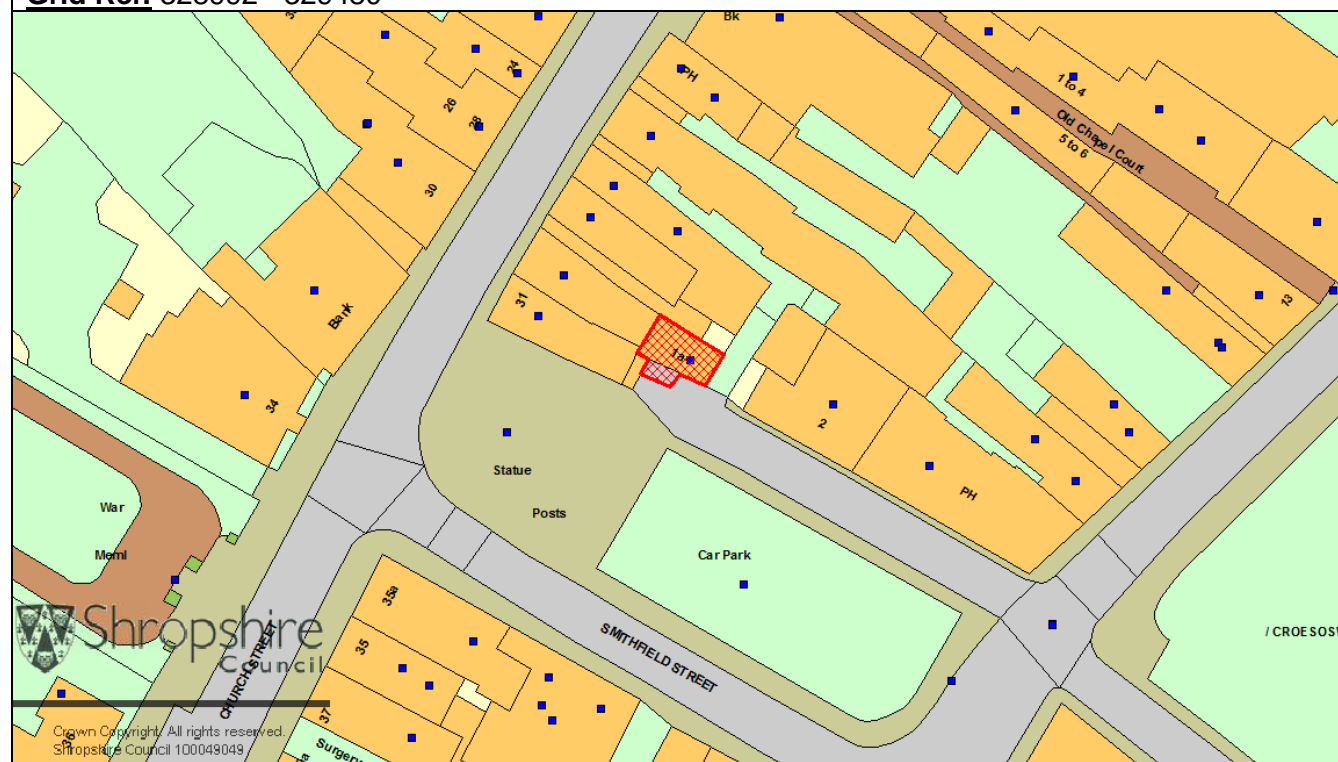
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 19/05193/FUL	<b><u>Parish:</u></b>	Oswestry Town
<b><u>Proposal:</u></b> Installation of new shop front and internal alterations		
<b><u>Site Address:</u></b> Carolines 1A English Walls Oswestry Shropshire SY11 2PA		
<b><u>Applicant:</u></b> Beleva Ltd		
<b><u>Case Officer:</u></b> Melanie Williams	<b><u>email:</u></b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	

**Grid Ref:** 328992 - 329480



**Recommendation:- Refusal for the following reason:**

The development is considered inappropriate in relation to the location, in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and render, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework.

**REPORT****1.0 THE PROPOSAL****1.1 Installation of new shop front and internal alterations *and change of use of the first floor***

- 1.2 Since the previous committee consideration amended plans have been received altering the glazing detail on the frontage and amending the description of the proposal to include the change of use of the 1<sup>st</sup> floor.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Located with the centre of Oswestry, Church Street, Festival Square and English Walls is a mixed use area boasting residential units, professional services and public houses. The ground floor at no. 1A English Walls was most recently used as a cake shop and patisserie (Caroline's) and has been vacant for some months. The locality boasts much local design character, and falls within the Oswestry Conservation Area.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the support from the Parish Council, which is contrary to the officer's recommendation. The application was considered at the Council's Planning Committee Agenda Setting Meeting and deemed appropriate to be heard by the Planning Committee.

**4.0 Community Representations**

- Consultee Comments

**Shropshire Council Conservation:**

**Object** – These comments supplement those previously submitted on 9/12/19, where there were objections to the proposed alterations to the existing front principal elevation of a non-designated heritage asset that lies within the Oswestry Conservation Area, where it is considered that the proposal would consist of 'less than substantial harm', where it would harm the character and appearance of the existing conservation area as well as harm and detriment to the existing non-

designated heritage asset.

Comments made by the North Planning Committee are noted, where members consider that the proposal's design is not 'in keeping'.

The proposed revised plans have been consulted, where the principal design of the proposal remains broadly the same albeit tweaks to the proposed fenestration where there is the introduction and reconfiguration of the glazing bars. It is considered that these amendments do not overcome the principal concerns of the proposal, where it would still result in a significant intervention to the elevation of the building and thereby the existing character and appearance of the existing non-designated heritage asset and removal of historic fabric that would also be detrimental and harmful to the character and appearance of the immediate setting of the conservation area.

Therefore previous objections are upheld, where it is still considered that the proposal is harmful to a non-designated heritage asset and therefore contrary to paragraph 197 of the NPPF and policy MD13 of SAMDev as well as being harmful to the character and appearance of the conservation area and thereby contrary to paragraphs 192 and 196 (where it is considered to consist of 'less than substantial harm') of the NPPF, policies CS6 and CS17 of the Core Strategy and MD13 of SAMDev, as well as the principles set out in the Oswestry Conservation Area Appraisal (loss of traditional locally distinctive materials and features).

Shropshire Council Drainage:

No comments

Shropshire Council Archeaology

No comments

- Public Comments

Oswestry Town Council:

**Support** – *The Council support this application and were pleased to see the quality of the design as proposed. It was felt that the development would add value to the location.*

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all

planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'.

- 6.1.2 Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework ('NPPF') has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 Paragraph 8 of the NPPF makes it clear that the planning system should support development from an economic perspective (amongst other objectives), 'to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure'.
- 6.1.5 This is expanded upon within Part 6 of the NPPF, 'Building a strong, competitive economy', stating that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development' (Paragraph 80). In addition, Local Planning Authorities are encouraged to 'set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth' (Paragraph 81).
- 6.1.6 Policy CS13 of the Shropshire Core Strategy indicates support for Shropshire's Market Towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands in accordance with Policy CS3, which indicates balanced housing and employment development of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure.
- 6.1.7 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.8 Policy MD13: The Historic Environment in the SAMDev states that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect.

#### 6.1.9 Paragraph 195 of the NPPF states:

‘Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use’.

6.1.10 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets and makes reference to ‘Conservation Areas’ as a designated asset.

6.1.11 The acceptability of the development therefore rests upon any identified material planning considerations.

## 6.2 Economic Consideration

6.2.1 The development of economic uses, including cafés and restaurants, is encouraged within town centres. Policy CS15: Town and Rural Centres reinforces this by encouraging development which positively contributes to the mix and diversity of uses within town centres, without undermining their primary retail function. Church Street and Festival Square exhibits a mixture of uses, including; retail, residential, business and drinking establishments.

6.2.2 The premises although currently vacant is historically classed as a mixed use. In 1975 planning permission was granted for change of use of the 1<sup>st</sup> floor as a café area ancillary to the retail use at ground floor (labelled as ‘Shop’ on the submitted plans with the 75 application). Previously to this the ground floor was used as a hairdressing salon (also A1 use) with residential at first floor. The most recent use of the premises prior to being vacant was as a cake shop and patisserie, with the first floor seemingly unused. In light of the time that has passed since this application it is not too straight forward to classify the existing use of the premises especially at first floor. The use operating from the site would seem to be A1 at ground floor with the first floor not being used. The proposal drawings submitted with the present application would appear to show the existing use for both ground floor and 1<sup>st</sup> floor as a café i.e. A3 use.

6.2.3 Initially the application only included the exterior work and no change of use. However since the previous committee consideration the agent has requested that the description of the proposal be changed to *Installation of new shop front, internal*

*alterations and change of use of the first floor*

- 6.2.4 Oswestry is recognised within SAMDev policy MD10a: Managing Town Centre Development as a settlement with a recognised Town Centre with Primary and Secondary Shopping Areas. The policy states that within the Secondary Frontage Areas additional main town centre uses will be acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses.
- 6.2.5 The site is set within a secondary shopping frontage within Oswestry Town Centre and represents a non-retail A1 use. It is also recognised that the building is vacant and its use as cafe would reintroduce an active frontage to this vacant unit. It is further recognised that the proposal would not result in an over concentration or undue dominance of non-retail uses at this location as there is a healthy amount of A1 outlets located in close proximity to the site. A3 and A4 premises are intermingled throughout the area however this does not appear to have been to the detriment of the main shopping area of Oswestry.
- 6.2.6 It is felt in light of this that this use would be welcomed in this location; it would bring a vacant unit back into use and re-introduce further vitality to this part of Oswestry Town Centre. The Local Authority are not looking to discourage the re-use of Town Centre premises to promote a healthy local economy and vibrant town centre. Therefore the principle of the use in this location would be acceptable.
- 6.2.7 Therefore with regard the present application the main issue that would arise therefore is only in terms of its design within the location proposed.

**6.3 Visual impact**

- 6.2.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policy CS6 'Sustainable Design and Development Principles' requires development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Furthermore, development is required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.
- 6.2.2 Paragraph 127 of the revised NPPF reinforces that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'.
- 6.2.3 The proposal affects a non-designated heritage asset that lies within the Oswestry Conservation Area, and adjacent 29-31 Church Street, which are grade II listed. The surrounding built environment is characterised by mostly 2 storey buildings with 3 storey in the vicinity on Church street; again mostly clad in red brick with some in painted render; many with traditional shop fronts at ground floor and sash windows to the first floor.

<facing NW>



<facing SW>



<facing SE>



6.2.4 The existing building is constructed in red brick with slate tiles, it is a considered a



non-designated heritage asset.



It is felt the proposal would deface and remove features of significance that characterise the building and Oswestry Conservation Area. Thereby unacceptably altering features that currently make a positive contribution to the existing character and appearance of the conservation area.

- 6.2.5 The scheme would introduce a prominent and discordant design in terms of the excessive glazing proposed to the frontage as well as the large company lettering to be fixed above the first floor window. Amended plans have been received since the last consideration by committee which reduce the size of the glazing to the new stairway and adding of glazing bars to the windows on the frontage. However the changes are relatively minor and do not address the concerns of the Local Planning Authority; the glazing is still considered excessive and the addition of glazing bars would clutter the frontage.
- 6.2.6 An additional amendment from the original is that the proposed materials and finishing has been altered from dark render to dark painted brick with dark rain water goods. Predominantly the buildings in the area are constructed using dark red brick with some buildings in white or cream render.
- 6.2.7 Apart from being described as dark the actual colour of the finishing has not been specified and again as per the render depending on the shade would dramatically alter the appearance of the premises. If the scheme were to be successful this colour choice would be pivotal and therefore should be a pre-development condition on any approval notice.
- 6.2.8 Therefore cumulatively (and indeed separately) and depending on the colour choice these proposals would not be considered in keeping with the existing structure and would dominate and overpower views of the adjacent listed buildings and other heritage assets in the area plus the surrounding built vernacular.
- 6.2.9 The design of the scheme although results in a modern frontage to the proposed café building that would be attractive and acceptable in some locations. It is felt



however that this part of Oswestry Town Centre is not one of them, the proposal is alien and out of keeping with the surrounding vernacular.

## **7.0 CONCLUSION**

**7.1** The Local Planning Authority supports development that promotes Shropshire as an attractive location for enterprises to establish themselves, grow and prosper for the benefit of the vitality of the local area and wider Shropshire county. However, it is felt that this scheme would be inappropriate visually in this location as it is considered not in keeping with the surrounding premises, Oswestry Town Centre Conservation Area and local vernacular.

**7.2** The proposal is therefore considered to be contrary to the requirements of Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy, Policy MD2 'Sustainable Design' of the Shropshire Site Allocations and Management of Development (SAMDev) Plan and Central Government advice contained in the National Planning Policy Framework. The recommendation is therefore one of refusal for the following reason:

*The development is considered inappropriate in relation to the location in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and potential colour, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework*

## **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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/01593/ADV Erect and display 1no fascia sign GRANT 27th June 2013

19/05193/FUL Installation of new shop front and internal alterations PCO

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
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Local Member Cllr Paul Milner
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Appendices None
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