

# Development Management Report

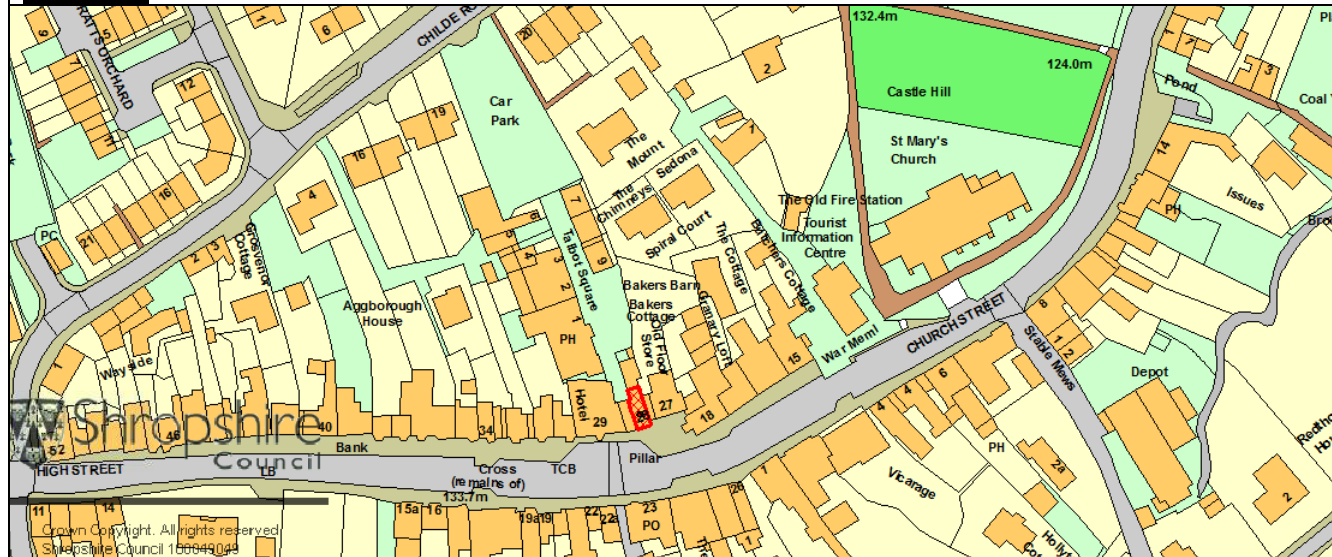
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

## Summary of Application

<b><u>Application Number:</u></b> 20/01496/FUL	<b><u>Parish:</u></b>	Cleobury Mortimer Town Council
<b><u>Proposal:</u></b> Change of use of from retail to residential together with minor internal alterations		
<b><u>Site Address:</u></b> 28 High Street Cleobury Mortimer DY14 8DQ		
<b><u>Applicant:</u></b> Mr G Butler		
<b><u>Case Officer:</u></b> Heather Owen	<b><u>email:</u></b> planning.southern@shropshire.gov.uk	

**Grid Ref: 367315 - 275736**



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2019 For reference purposes only. No further copies may be made.

**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 for the change of use of the ground floor from retail to a one bed residential apartment.
- 1.2 No external alterations are proposed. Internal alterations are proposed to enable the formation of a bathroom and bedroom.
- 1.3 An application seeking listed building consent for the physical works to the building has also been submitted and is also on the agenda for consideration by Planning Committee Members – 20/01497/LBC.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 28 High Street is a grade II listed building of two storeys currently comprising of a vacant retail space at ground floor with residential accommodation above. The building is of red brick construction with a traditional shop front with central entrance door.
- 2.2 The building sits centrally within the town of Cleobury Mortimer on the north side of the High Street which runs through the centre of the town. The property adjoins an existing residential unit on the east side. On the west side at first floor the property adjoins the Talbot Hotel Public House, at ground floor the public house is separated from the application site by a pedestrian access which leads to a public car park at the rear. To the rear of the site lies a converted outbuilding which forms a one bedroom residential unit.
- 2.3 The site is within the conservation area for Cleobury Mortimer.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application requires determination by planning committee as the application is made by and relates to the property of an elected member of Shropshire Council.

### 4.0 Community Representations

- 4.1 Consultee Comments
  - 4.1.1 Cleobury Mortimer Town Council: No objection.
  - 4.1.2 SUDS: No comment from the drainage and flood risk perspective, regarding this proposal as there are no proposed changes to the footprint of the building.
  - 4.1.3 SC Highways: No objection.
  - 4.1.4 SC Historic Environment (Archaeology): No comments to make on this application with respect to archaeological matters.
  - 4.1.5 SC Historic Environment (Conservation): No objection – The internal alterations

would be predominantly reversible. The change of use would preserve the fabric and character of the listed building and character of the conservation area.

4.1.6 SC Affordable Housing: No objection. There are no affordable housing obligations associated with this proposal.

4.1.7 SC Regulatory Services: No comment.

#### 4.2 Public Comments

4.2.1 This application has been advertised for 21 days via site and press notice and directly in writing to 11 properties.

No response has been received.

### 5.0 THE MAIN ISSUES

Principle of development  
Scale and design of structure  
Character and appearance of Conservation Area  
Highway Safety – Parking

Note: The impact on the special architectural interest and historic character of the listed building is considered within the officer report associated with listed building application 20/01497/LBC.

### 6.0 OFFICER APPRAISAL

#### 6.1 Principle of development

6.1.1 A key objective of both national and local planning policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. Specifically, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within Market Towns, other 'Key Centres' and certain named villages ('Community Hubs and Clusters') as identified in the Council's SAMDev Plan.

6.1.2 The application site is within Cleobury Mortimer which is identified in policy CS3 as one of Shropshire's sustainable settlements suitable for development. SAMDev Plan settlement policy S6 sets out the expected housing development for Cleobury Mortimer. The policy requires new housing development to be delivered through the allocated sites alongside additional infill and windfall development within the towns development boundary as delineated on the SAMDev S6 Insert Map 1. The application site falls well within the development boundary, however it also highlights that the application site is with the identified town centre.

6.1.3 It is acknowledged that the change of use in this case would result in the loss of a retail unit. The important contribution of facilities and services to social and economic vitality is recognised at a local level in Policy CS1: *Strategic Approach* where it is acknowledged that intangible assets such as social fabric do contribute

to the sustainability of a community. Additionally Policy CS8: *Facilities, Services and Infrastructure Provision*, recognises that facilities, services and infrastructure have a direct effect on the quality of life of Shropshire's residents and includes shops.

6.1.4 SAMDev policy MD10a identifies Cleobury Mortimer's town centre as a category 'A' centre where there is a presumption in favour of proposals for 'main town centre uses' within the defined town centre. 'Main town centre uses' are defined within Annex 2 of the National Planning Policy Framework and includes leisure, offices, entertainment facilities such as cinemas and restaurants, and cultural and tourism development, as well as retail. Residential uses do not fall within the definition of a main town centre use, however policy MD10a goes on to states that for category 'A' centres proposals for non-town centre uses within the town centre are accepted where they would not undermine the vitality and viability of the town centre.

6.1.5 The ground floor unit has an internal floorspace of around 44sqm, which is divided into the retail unit, a storage area and W.C. for staff. For a retail unit this space is considered to be relatively small scale. Further internal layout of the listed structure and the lack of space around the building makes the unit fairly restrictive for any potential major alterations to increase the size of the unit. These factors limit retail options as well as other alternative town centre uses. The applicant's agent advises that the property has been marketed with local estates agents and via the national sales websites since November 2019 when the last tenant vacated. No offers or interest have been registered.

6.1.6 The Council also acknowledges that there is an acute need for small accommodation, particularly for young people. In addition the scheme would secure the immediate conservation of a listed building. When all these factors are weighed into the planning balance it is considered in this instance these benefits would outweigh the loss of this retail unit and the vitality and viability of the town centre would not be significantly undermined to justify refusal of the application.

## 6.2 **Scale and design of structure, visual impact, character and appearance of the conservation area**

6.2.1 In terms of scale the proposed residential unit would provide a one bedroomed property of approximately 44sqm in size which is of sufficient size recommended under the Department for Communities and Local Government document 'Technical Housing Standards – nationally described space standard', March 2015.

6.2.2 The scheme seeks no external alterations, retaining the shop windows and entrance as such the change of use would have little impact on the external appearance of the existing property. In this instance it is concluded that the impact on the character and appearance of this part of the Conservation Area would be minor and accords with policy CS17 and MD13 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which seeks to preserve or enhance the character and appearance of a Conservation Area.

## 6.3 **Highway Safety - Parking**

6.3.1 The scheme does not provide for parking and there is no land with the property

which is accessible to a vehicle for parking to be provided. Shropshire Council has no set local parking standards for residential and non-residential development. At paragraph 3.15 of the SAMDev Plan, which is part of the explanation to policy MD2 (Sustainable Design), it states that developments must be designed so as to not result in an unacceptable adverse impact on local infrastructure, and gives as an example that adequate on-site parking should be incorporated within a development site to ensure that cars do not overspill onto surrounding roads and thereby negatively impact on the local road network. In determining whether a developments level of parking is suitable the Local Planning Authority takes into account factors set out in the NPPF, including consideration of the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport.

- 6.3.2 The site is within a town centre location and due to the historic origins of the town there is an existing mix of commercial and residential units along this main road which have no availability to private off street parking. The majority of existing properties therefore rely on available on street parking and the existing town car parks. There is therefore pressure on this part of the town's infrastructure with both residents, visitors and workers in the town centre all vying for parking spaces. A balanced assessment has to be made as to whether the addition of one, one bedroom flat would realistically result in detrimental harm to existing infrastructure and highway safety. As with many of the town houses existing, the site is within walking distance of the main public car parks and the majority of services and facilities available in Cleobury Mortimer, which includes primary and high school, a Drs, shops, restaurants and public houses. There is also public transport routes in the town to provide access both around the town and further afield. The site is in a sustainable location and on balance whilst it is acknowledged that the proposal would add to competition for public parking spaces given the close proximity of the site to town centre services, on street parking and public car parks and that the aim of the NPPF and development plan to promote sustainable development it is considered that the lack of off road parking for such a small scale development would not result in a significantly adverse impact on existing infrastructure and highway safety to justify refusal of the planning application on those grounds.

## **7.0 CONCLUSION**

- 7.1 The loss of an existing retail unit is regrettable however in this case it is acknowledged that the small scale of the retail unit and the listed nature of the structure limits commercial opportunities. Securing a viable use for the ground floor unit would assist with securing the immediate future of the listed building for its preservation. Further the unit would contribute towards the supply of smaller units of residential accommodation within the town. It is considered that these benefits outweigh the small impact the loss of the retail premises may have on the viability and vitality of Cleobury Mortimer's Town Centre. Furthermore the change of use would not detract from the character and appearance of the Conservation Area or result in severe harm to highway safety. The proposed change of use is considered to comply with the main objectives of relevant development plan policy and it is recommended that planning permission be granted.

## **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:  
CS6 - Sustainable Design and Development Principles  
CS8 - Facilities, Services and Infrastructure Provision  
CS15 - Town and Rural Centres  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

Site Allocations and Management of Development (SAMDev) Plan:  
MD2 - Sustainable Design  
MD10A - Managing Town Centre Development  
Settlement: S6 - Cleobury Mortimer

RELEVANT PLANNING HISTORY:  
None.

## 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=Q8J8VSTDLP00>

List of Background Papers Design and Access Statement
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Gwilym Butler & Cllr Madge Shingleton
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.

**Informatives**

1. Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://new.shropshire.gov.uk/planning/faqs/>

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

The applicant should in the first instance contact Shropshire Councils Street works team.

This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.



2. This planning permission notice 20/01496/FUL must be read in conjunction with the listed building consent notice 20/01497/LBC where additional conditions are attached.
3. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
4. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

-