

Recommendation:- Grant Listed Building Consent subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks listed building consent for the physical works required to enable the change of use of the ground floor from retail to a one bed residential apartment and is the counterpart of planning application 20/01496/FUL.
- 1.2 No external alterations are proposed. Internal alterations are proposed to enable the formation of a bathroom and bedroom and consist of the following:
- Removal of two sections of stud wall.
 - Installation of new stud walls to infill the gaps around the existing load bearing walls to form new shower room.
 - Installation of new stud wall and door to form bedroom.

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 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.

4.2 Public Comments

- 4.2.1 This application has been advertised for 21 days via site and press notice and directly in writing to 11 neighbouring properties. No response received.

5.0 THE MAIN ISSUES

Impact on special architectural character and historic interest of listed building.

NOTE: The impact on broader planning matters are considered within the officers report associated with planning application 20/01476/FUL.

6.0 OFFICER APPRAISAL

6.1 Special architectural character and historic interest of listed building

- 6.1.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that LPA's should, in considering whether to grant listed building consent have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.1.2 This is supported at part 16 of the National Planning Policy Framework (NPPF) and at local level through policies CS17 and MD13 which emphasises new development should conserve designated heritage assets in particular.
- 6.1.3 In this case no external alterations are proposed. The internal alterations are considered to be relatively minor and does not require the removal of any historic fabric.
- 6.1.4 The Conservation Officer notes that the proposed changes are predominately reversible and is content that the scheme would not harm the principal special architectural character or historic interest of the listed building.

7.0 CONCLUSION

- 7.1 The scheme would secure the listed buildings viable long-term use, and the proposals to enable the change of use would not result in the loss of significant historic fabric and the special architectural character and historic interest of the listed building would be preserved. The application therefore accords with the main objectives of the relevant development plan policies and it is recommended that listed building consent is 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 Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

Site Allocation and Management of Development (SAMDev) Plan

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=Q8J8VVTDLZQ00>

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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. All works shall be carried out in complete accordance with the terms of the application and approved plans.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

Contact: Tim Rogers (01743) 258773

3. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirting's, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

4. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure architectural features are recorded during development.

Informatives

1. This listed building consent notice 20/01497/LBC must be read in conjunction with the planning permission notice 20/01476/FUL where additional conditions are attached.
2. 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.

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