

Development Management Report

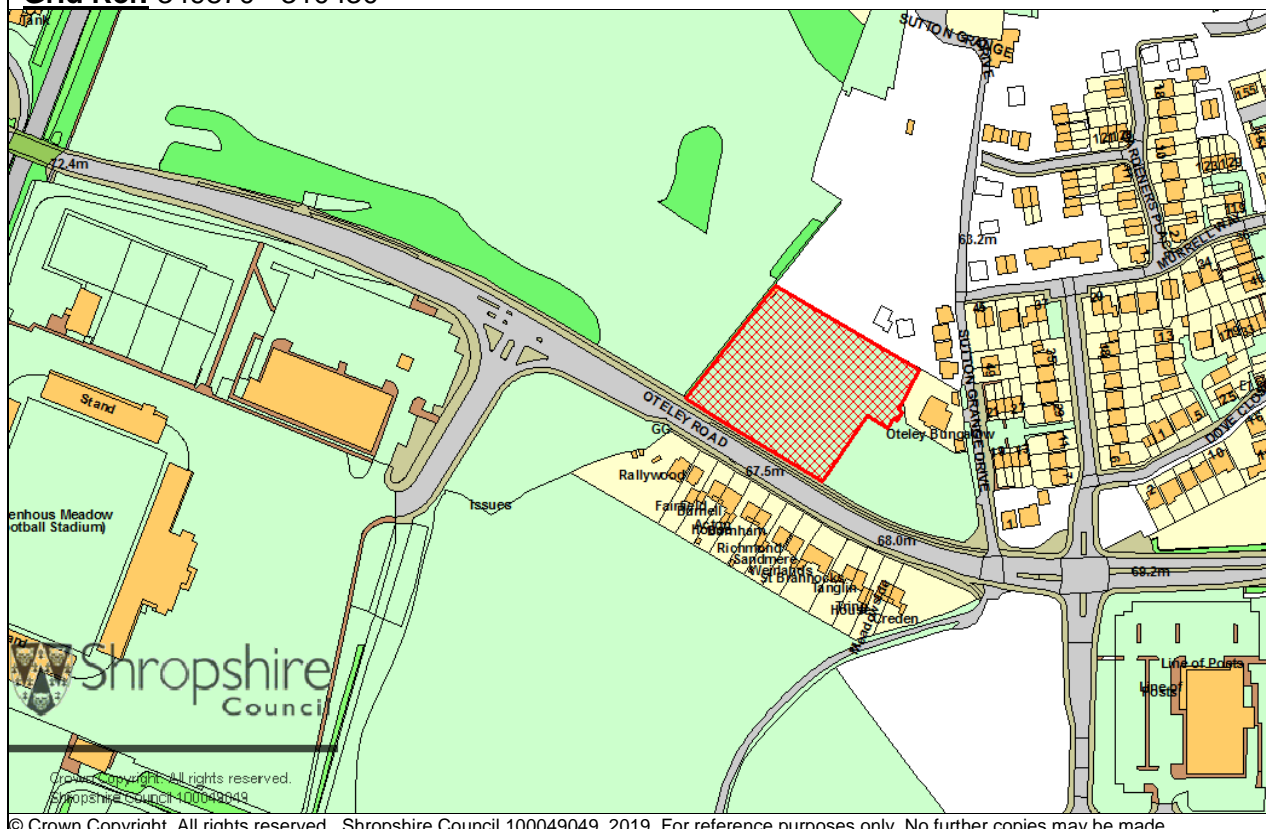
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 19/02494/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development		
<u>Site Address:</u> Oteley Road Shrewsbury Shropshire		
<u>Applicant:</u> Marston's Estates Ltd, Carter Lauren Ltd and Morris Property		
<u>Case Officer:</u> Philip Mullineux	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 349870 - 310430



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes erection of a family pub/restaurant (Class A4) including managers flat and a hotel (Class C1) with associated car parking and ancillary development on land at Oteley Road, Shrewsbury.
- 1.2 The application is accompanied by a set of proposed elevation and floor plans, site location plan, block plan, design and access statement, planning statement, arboricultural report, bat (received during the application processing period), and ecological assessment, preliminary ecological assessment, drainage statement, coal mining risk assessment, site investigation report, noise assessment, transport statement, and a statement of community involvement. Amended site layout plans and further information on odour prevention, (food cooking), was received during the application processing period.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the recognised development boundary for Shrewsbury being approx. 2km south of the town centre and located within the recognised 'Shrewsbury South Sustainable Urban Extension'. The site fronts onto and will take access from Oteley Road (B4380). The site extends to 0.67 hectares (1.66 acres) and forms part of a grassland field.
- 2.2 To the east of the site boundary is a dwelling known as Oteley Bungalow, (this site and its immediate area was subject to a separate application (19/03924/FUL), for intensive residential development, (two apartment blocks, and subsequently withdrawn by the applicants in accordance with the Council's scheme of delegation. Further east and to the rear of the site is recently constructed residential development. To the western side of the site is located Meole Brace Golf Course, which is separated from the site itself by a row of semi-mature and mature trees and shrubs. The southern boundary of the site (alongside the adjacent public highway), has had a row of lime trees recently served with a Tree Preservation Order. On opposite side of this highway are more mature two-storey dwellings located in reasonably large residential curtilages.
- 2.3 The application proposes alongside its frontal side with Oteley Road a 180 cover family pub restaurant with waitress service and a 3 bedroom manager's flat. Back of house staff facilities to include office, staff changing and WC facilities, plant space, general storage, yard to provide enclosure for recycling skips and refuse bins External layout to accommodate delivery route with level access to yard area and from PH bays to main entrance and 65 car parking spaces. To the rear of the site is proposed a hotel containing 39 bedrooms aimed at both business and leisure customers. Range of room types offering different bed configurations. Back of house areas for housekeeping and linen storage. Limited reception facility to provide 24/7 control. In order of 32 car spaces plus 13 spaces that were indicated to be shared with adjacent residential development (110 total spaces), (as originally submitted). Dedicated waste and recycling yard.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council and local member raises objections to this application and the Chair and Vice consider that based on the layout of the proposed development that in this instance Committee consideration is required.

4.0 **Community Representations**

- 4.1 **Shrewsbury Town Council** have responded to the application indicating:

Following the Planning Committee meeting held on 10.03.20, Members considered the amendments to this application and were disappointed that their original concerns in relation to the architectural design and the provision of renewable energy sources have not been addressed. Whilst noting Shropshire Council's Highways Department comments on the reduction of parking spaces from 94 to 92, Members feel that further erosion of parking provision on the site will result in patrons to the establishment parking in the neighbouring residential development. Members expressed concerns that the access road to this development, which also forms the access to the proposed adjacent residential development, has the potential to cause problems for both sites. Members would welcome measures to alleviate problems for both developments, particularly on football match days. Members also expressed concerns that this access road has the potential to cause problems for emergency vehicle access to both sites, and respectfully request that Shropshire Fire & Rescue Service is consulted to ensure that access meets their requirements. The Town Council objects to this application on the grounds that the parking provision is being eroded; the access road has the potential to cause problems for the neighbouring residential development; and access for emergency services vehicles may be hampered by the narrow width of the access road.

An earlier response indicated:

At the Planning Committee meeting held on 10.12.2019, Members considered the amended plans submitted for this application and were disappointed with the reduction in the number of car parking spaces for the premises. Members would like to see a comprehensive plan for the whole of this development site to fully appreciate the plans they have been asked to consider. Members were also disappointed that plans for a bold design for the building to reflect the diverse range of historical buildings in Shrewsbury or the provision for renewables had not been included in the revised plans. Members felt that their original comments on this planning application should stand. The Town Council restates its original position to this planning application.

The previous response indicated:

The Town Council does not object to this application per se, but Members expressed their disappointment with the plans submitted for one of the major entrances to the town. Members would like to see more ambitious designs for both the pub/restaurant and the lodge to reflect the town's diverse range of historical buildings in Shrewsbury. Members would also like to see renewable energy provisions within the plans.

4.2 **Consultee Comments**

4.3 Shropshire Fire and Rescue have responded to the application indicating:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <https://www.shropshirefire.gov.uk/safety-at-work/planning-Applications>

4.4 SC Planning Ecology have responded indicating:

I have read the above application and the supporting documents including the:
- Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019
- Lighting plan prepared by Kingfisher Lighting received 5th June 2019
- Bat ecological impact assessment prepared by Torc Ecology (August 2019) received 8th August 2019

(Recommended conditions and informatives can be found at the end of this document)

Recommendation:

Conditions and informatives are recommended for inclusion on the decision notice.

Site

The majority of the site is improved grassland with areas of tall ruderal vegetation. There is a hedgerow interspersed with standard trees along the western boundary of the site and a small copse-grouping of trees along the northern boundary. There is a line of lime trees along the southern boundary that forms part of a longer line of trees along Oteley Road.

The site has low botanical interest and the hedgerow was not considered to be 'important' under the Hedgerow Regulations 1997.

The site has suitable terrestrial habitat for great crested newts, though it is reasonable to assume individuals are unlikely to commute to the site as there is no suitable connective habitat between the site and the closest ponds.

The site is unlikely to be suitable for reptiles though there are records within the locality.

The western and northern hedgerows will be retained and enhanced with additional planting of native species.

Bird boxes should be installed on site (preferably on the northern elevation of the hotel) to enhance the site for wildlife.

Any vegetation to be removed or cut back should be carried out outside of the bird breeding season. Ground vegetation to be removed should be checked by an ecologist for the presence of amphibians, reptiles, and hedgehogs. An ECoW should be appointed to carry out the searches and any other duties as necessary.

Bats

Several trees were recorded as having bat roost suitability and commuting routes were identified along the hedgerows and line of lime trees. Further surveys were recommended of the trees recorded as having bat roost suitability, and activity surveys to identify key commuting route and foraging areas for bats. A mature

oak along the western boundary has significant potential to support a bat roost, though no bat roosting activity was recorded during activity surveys.

Four species of bats were recorded on or adjacent to the site during nocturnal surveys. The majority of bat passes were recorded along the hedgerow on the western boundary and along the line of lime trees adjacent to the southern boundary of the site.

The bat roost in the bungalow close to the site will not be affected by the proposed development, provided indirect impacts that may occur during works are mitigated using the recommendations in section 6.4 of the bat survey report.

Any lighting installed on site will be highly directional and there will be minimal illumination of the southern and western boundaries.

Conditions

1. Prior to commencement of development (or each phase of development with prior agreement of the Local Planning Authority), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that ecological mitigation and enhancement measures recommended in the Preliminary Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019 are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place. Where any protected species licences amend the previously approved mitigation scheme then a revised updated and amended mitigation scheme, and a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection native biodiversity in accordance with MD12, CS17 and section 175 of the NPPF.

2. No vegetation clearance shall take place at any time within the bird breeding season (March 1st to August 31st inclusive) unless and until the developer submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or they have left the nest and there is no evidence of their returning.

Reason: To ensure the protection of nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended).

3. A minimum of four artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development. The boxes shall be sited at least 2m from the ground on a suitable structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

4. All landscaping shall be completed within 12 calendar months of commencement of the development or in such phases as may be agreed in writing with the Local Planning Authority. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

Informative:

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

An earlier response indicated:

The Preliminary Ecological Appraisal (Torc Ecology, May 2019) recommends bat surveys, as follows:

6.3.5. It is recommended that static nocturnal surveys of the mature oak tree standard within the hedgerow forming the western boundary of the site be carried out. This oak tree has been assessed as having moderate bat roost suitability along a likely bat commuting route/foraging area. The surveys should be designed to obtain the required bat roost data based on the tree's specific features i.e. the surveys should be reasonable and proportionate with regards the likely proposed felling and/or remedial works and therefore the likely impacts to bats and their roosts, and in-line with current best practice guidelines.

6.3.6. It is recommended that as a minimum two static nocturnal surveys be carried out by an appropriate number of surveyors at the oak tree within the western boundary hedgerow. One survey should be carried out mid-late May when night time temperatures are generally sufficient to support regular bat activity and the other survey should be when maternity roosts are well established in July. The licensed bat surveyor supervising the surveys will determine if a dusk or dawn static survey is appropriate. The spread of these two surveys will help determine the roost status, however a later third static nocturnal survey may be required based on the results of the initial surveys e.g. should a roost be suspected but not confirmed or should a further count of bat numbers at the roost be required to determine type of roost (maternity or satellite roost, etc.).

6.3.7. Due to the potential for the development to have a significant effect on commuting/foraging bats, it is recommended that bat nocturnal activity surveys be undertaken on site to identify bat species and key bat commuting routes/foraging areas on site, particularly principal key commuting routes from known and/or potentially yet to be identified bat roost sites. The surveys should be designed to obtain the required bat activity data based on the site specific circumstances i.e. the surveys should be reasonable and proportionate with regards the scale of the development and the likely impacts to bats and their roosts, and in-line with current best practice guidelines.

6.3.8. It is recommended that as a minimum two transect surveys in conjunction with remote bat detector deployment be carried out on, and where access is permissible adjacent to site, to determine bat commuting and foraging activity on and adjacent site. Again, one survey should be carried out mid-late May when night time temperatures are generally sufficient to support regular bat activity, and the other survey should be when maternity roosts are well established in July. The licensed bat surveyor supervising the surveys will determine if a dusk or dawn transect survey is appropriate. The spread of these two surveys will help determine the bat activity in the late spring and during the main bat maternity period, however again a later third transect survey in conjunction with remote bat detector deployment may be required based on the results of the initial surveys e.g. should confirmation of bat use of a particular feature on site be required during a later transitional period (September/October).

6.3.9. The above approach to bat activity surveys (transects and remote surveys) is based more in-line with a low suitability habitat for bats, however combined with the data from the static surveys at the oak tree along the western boundary hedgerow, the data generated should be sufficient to inform an impact

assessment in relation to the bat status of this specific site. However, provision has been made to undertake further bat activity surveys should the need arise.

Please re-consult Ecology once the results of these surveys have been received.

4.5 SC Regulatory Services Manager has responded indicating:

The information provided is accepted. Should the application be granted there should be an ongoing condition for odour management plan to account for maintenance, periodic monitoring and commitment to resolve any matters arising from monitoring.

On a second note, looking at the plans for the external areas, please can acoustic fencing be provided along the Oteley road to help attenuate any noise from customers in the outdoor areas to protect residents from any noise.

Previous responses indicated:

With Reference to the Odour abatement and management system. The first issue is that the author used the withdrawn DEFRA guidance whereas I specified the DW172 guidance. Nonetheless the risk assessment identifies that there is a high risk of odour problems and outlines mitigation with system of mitigation by Plasmaclean. The author has opted for mitigation proposal against option 3 for DEFRA Guidance for Very High-Level Odour Control, being "Fine filtration or ESP followed by UV ozone system to achieve the same level of control and previous options" and describes the system, as being pre grease filters and Electrostatix PLC 75000 with UV c Component leading to final Plasmaclean Sitesafe Discarb x 45 carbon filters to vertical discharge at 9m/sec. This system would appear to achieve this requirement though this should be cross referenced with DW172. It is very important that as part of a odour abatement management plan that a schedule is produced for maintenance and cleaning as per manufacturers recommendations. The noise attenuation aspect of this system has not been calculated and such calculations would be required.

Earlier responses indicated:

The applicant would still have to provide sufficient information of odour abatement and extraction system to ensure that residents are not adversely impacted by odour. The odour management pan can incorporate the principle as described below, but it has to be part of an odour management plan and not in lieu of details of odour abatement. Which is to say that the applicant cannot have the condition to achieve after its built instead of proper details of extraction from a competent person and based on the equipment to be used, the type of foods, covers etc , then potentially fail due to reliance on such a condition. It will be part of the plan and basically highlights, as an enduring condition for the need for maintenance, servicing, cleaning and monitoring.

Earlier response indicated:

Thank you for the plans of the proposed extraction and odour abatement for the restaurant. I am primarily concerned with the potential of odour nuisance and dis-amenity, especially to existing residents opposite the proposed site (who are more

in the prevailing wind direction) and the existing estate. The restaurant is relatively large and will have a large number of covers per night and given the proximity of the hotel, it will also be likely to offer breakfasts for those guests. Such premises typically offer a wide selection of grilled foods, charcoal grilled, pan fried and deep fat fried foods which have a high grease, odour and smoke content.

The illustrations on the plan implies that the abatement consists of 2 x Electrostatic Precipitators (ESPs) and an ON 100 odour neutralizer. It is important to note that ESPs, whilst valuable in a holistic odour management plan, are only intended to remove visible smoke from the airstream rather than the gaseous phase which tends to carry the cooking odours and therefore not a primary odour control mechanism. The ON 100 basically uses a chemical odour, from a small topped-up every few weeks to bind and mask the smell. There are a range of technologies which have not been mentioned which are typically installed but are not specifically mentioned including appropriately prefilters and graded charcoal filters but such technologies are not limited to activated Charcoal filtration as ultra violet and ozone units can form part of a successful odour management. The plan is not a satisfactory odour management plan. Each technology has advantages and drawbacks which require careful selection along with maintenance, servicing and replacement which have not been described. I would also consider a future condition that odour from cooking shall not be detectable from the premises at a certain range, which will naturally be a shorter distance to the nearest properties, would be appropriate.

Previous responses indicated:

Noting the location of delivery bay and the location of the as yet built residential properties to the rear .Please can commercial deliveries and refuse collection times be conditioned for the hotel and pub/restaurant so no AM deliveries before 7.30am Monday to Friday, 8am Saturday and Bank Holidays and 9am Sunday. Regarding PM deliveries , no deliveries after 8pm

2. The type of premises is likely to be a high turnover of grilled and charcoal and fried foods which can be odorous to nearby receptors. To date there is no extraction or odour management plan of details of any extraction system. Can extraction and odour abatement system information and odour management plan be submitted. Specification should be to DW 172 guidance.

Reason :To protect amenity of the area and residential properties.

An earlier response indicated:

Noting the location of delivery bay .Please can commercial deliveries and refuse collection times be conditioned for the hotel and pub/restuarant so no AM deliveries before 7.30am Monday to Friday, 8am Saturday and Bank Holidays and 9am Sunday. Regarding PM deliveries , no deliveries after 8pm.

2. Please can extraction and odour abatement system information and odour management plan be submitted. Specification should be to DW 172 guidance.

Reason :To protect amenity of the area and residential properties.

Having considered the noise assessment I note the conclusions. I consider the noise assessment appropriate and agree with its conclusions. As a result I would recommend that glazing specification given in the conclusion is conditioned.

An earlier response indicated:

The following 2 environmental reports and coal mining risk assessment have been submitted in support of this planning application:

- *Crossfield Consulting; for Morris Property Ltd, Land at Oteley Road, Site Investigation Report; Report No. CCL02958.CE06, June 2017*
- *Enzygo Environmental Consultants; Phase 2 Geo-Environmental Report, Land off Oteley Road, Shrewsbury, for Marston PLC and Carter Lauren Construction Ltd; Report Ref SHF.1014.021.GE.R.001.A, FINAL, dated May 2019.*
- *Enzygo Geo-Environmental; Coal Mining Risk Assessment; Report ref. SMB/SHF.1014.021, dated 15th May 2019.*

No remedial works are considered necessary for the proposed development, on the basis of all the presently available information and therefore Regulatory Services has no comments to make in respect of contaminated land.

4.6

SC Archaeology Manager has responded to the application indicating *no comments on this application.*

4.7

SC Tree Manager has responded to the application indicating:

Following amendments to the proposed landscaping and replacement of the 2 Lime trees removed for access I raise no further objection to the proposal. The choice of 3 Koster Oak which are narrow forming upright trees will be suitable mitigation in the longer term. I note however that size of stock at planting is missing from the plan so I would ask that the following condition is imposed:

Landscape Condition (including replacement trees)

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the LPA.

Replacement trees shall be Quercus robur Fastigiata "Koster" minimum girth of stem 14 – 16cm planted into properly prepared planting pits in accordance with BS8545: 2014 "Trees: from nursery to independence in the landscape: Recommendations" with specific reference to the procurement of tree stock, species selection, aftercare and maintenance.

Any trees that, within a period of five years after planting, are removed die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To mitigate for the lost of mature trees.

Earlier responses indicated:

These comments need to be read in conjunction with 19/02476/VAR - Variation of condition 4 (tree protection) attached to planning permission reference 17/02732/FUL- formation of access / Land on The North Side Of Oteley Road.

Approved application 17/02732/FUL for creating an access to the site proposed to remove 1 Lime tree (later amended to 2 for sight lines) from an avenue of 10 trees on the site frontage along Oteley Road.

Adequate mitigation was required for the loss of these important amenity trees and 3 new trees were conditioned as part of the approval to be planted either side of the new access (shown below).

Application 19/02476/VAR has been submitted to reposition the planting of the 3 new Lime trees which are now shown planted to the west of the access in a small planting area as shown below.

I have already suggested that there is inadequate space proposed for 3 trees to reach maturity in this location (the mature proportions of a Lime tree crown can be seen indicatively below as T19 and T20).

As very little open space is provided across the whole site for new landscaping (and barely any appears to be proposed), I previously recommended that new planting sites for the trees are identified within proposed hard standing areas. Replacement trees can then be sustainably planted in suitably designed underground pit systems with adequate soil volumes (e.g.StrataCell and Rootspace by GreenBlue Urban).

Clearly on the latest plan submitted for 19/02494/FUL this advice has not been implemented with the indicative landscaping still showing the replacement trees crammed into a small planting area with no details on species, planting pits, soil volumes or maintenance. Other proposed landscaping has been removed from the plan.

On this basis the amended application would still appear to be contrary to the principal of sustainable development outlined in the NPPF and Shropshire Council SAMDev plan policy MD2

An earlier response indicated:

Summary: I cannot support the current layout due to proximity to protected trees.

The proposed layout has the potential to impact on the existing lime trees along the site's frontage which are a significant contribution to the character of the surrounding area.

A larger frontage amenity area with the building set further back would create a better visual juxtaposition between the buildings and the trees and reduce shading, conflict and maintenance issues.

The application would appear to be contrary to the principals of sustainable development outlined in the NPPF and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17.

Comments

Advice is given in BS 5837 which notes:

“A realistic assessment of the probable impact of any proposed development on the trees and vice versa should take into account the characteristics and condition of the trees, with due allowance for space for their future growth and maintenance requirements” and advises that the following factors are given consideration:

Shading

Privacy and Screening

Direct Damage

Future Pressure for Removal

Seasonal Nuisance

The current proposal is to build up to the current root protection areas of the trees (RPA) and air spades have been used to locate the extent of existing roots currently on site.

Root protection areas represent below ground constraints and are protecting the minimum soil volumes required for the trees at their current size to survive the development process. The presence or absence of roots in the RPA does not therefore mean this area can be reduced for development to be brought closer.

These Lime trees are not fully mature and have the potential to increase to an ultimate size of 20m depending on their access to useable soil and other factors. The distance from the Lime avenue trees on the other side of the road to the existing houses is between 12m and 15m which I suggest is more sustainable.

Landscaping

As stated in my previous comments I acknowledge that giving the Lime trees more space at the front reduces other areas for planting, however there is a requirement to replant 4 new trees under application 17/02732/FUL. The current spacing given for these trees along with the proposed tree pit sizes does not allow for these trees to achieve long term maturity along with a Quercus robur (Oak) in the extreme eastern corner in a constrained border (shown below as QR) which would also have insufficient space to achieve any meaningful size.

An earlier response indicated:

1)I have concerns with proximity of the proposed building and car parking built up against minimum existing root protection areas of 2 of the important frontage Lime trees (T17 and T18) both for the health and future growth of the trees and expected conflict between buildings and protected trees.

A larger frontage amenity area with the buildings set further back would create a better visual juxtaposition between the buildings and the trees and reduce shading, conflict and maintenance issues.

2) There is insufficient space allocated on site for landscaping including 2 replacement Lime trees (required under 19/02476/var for T19 and T20) and for a proposed Oak tree (replacement for T4).

Report

The protected frontage Lime trees are part of a distinctive feature of Oteley Road which combined with mature hedgerows form a broad green corridor and contribute positively to the landscape.

Air spading to identify the current spread of the roots from trees T17 and T18 has been carried out by the applicant and roots found at 7.38m and 8.1m respectively. The footprint of the pub has been proposed at the outer edge of this spread. The report states that the position of the proposed pub building is acceptable as the RPAs of T17 and T18 are not adversely affected.

Whilst this meets the root protection area criteria found in BS 5837 2012 BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection" it does not allow for future expansion of the roots and crown as the tree reaches maturity. There will be an on-going requirement to cut back annual growth of the crown to prevent encroachment issues. Lime trees can be problematic in relation to buildings due to amounts of deadwood and in relation to car parking with deposits of honey dew.

New Landscaping

Proposed new planting includes the replacements for the removal of 2 mature frontage trees for the new access approved under application 17/02732/FUL. The current proposal is for 3 new Lime trees, *Tilia cordata* close together at the access in planting pits measuring 900 x 900 x root depth.

The spacing given for these trees along with the proposed tree pit sizes does not allow for these trees to achieve long term maturity – this issue is highlighted in the applicants own submitted tree report as follows:

"Trees need to be planted in appropriate positions where they have sufficient space to grow and sufficient access to light and other necessities. Potential space to replant may be found to the east of the new proposed driveway, and potentially west of the new driveway although there is less space here. Due to the relative lack of space, replanting may therefore have to include smaller species types which are suitable to the available space and conditions. This may be especially relevant considering the closeness of the new car parking areas to the new driveway".

The planting of trees within confined urban environments should consider the use of appropriately designed planting pits specifically engineered to promote tree health and longevity. The aim will be to provide an adequate volume of quality soil for roots to suitably develop by calculating the amount of available soil volumes needed and selecting species whose mature size is compatible with the site.

Recommendations

New planting including 2 of the replacement Tilia cordata (required under 19/02476/VAR) need to be relocated within the site with the use of appropriately designed planting pits to allow the trees to reach maturity.

A Quercus robur (Oak) is proposed in the extreme eastern corner in a constrained border which would appear to have insufficient space to achieve any meaningful size and should be relocated within the site to a more sustainable location.

SC Highways Manager has responded indicating:

4.8 *It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.*

Conditions

Access Prior to other operations Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to acceptable standard as shown on the application drawing 2191-01-GA102 (dated the 14/12/17 of planning permission 17/02732/FUL), before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions, at all times, and in perpetuity. Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

Informative notes:

Mud on highway The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway. Extraordinary maintenance The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).

HIGHWAY ADVICE NOTE

Disabled needs The attention of the applicant is drawn to Section 175A (3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

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/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, or*

- otherwise restrict any part of the public highway (inc.footway, verge or waste) in any way, for the purposes of constructing the development (i.e., scaffolding, hording/safety fencing, material storage, skips or construction traffic, etc.)

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

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.

An earlier response indicated:

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met."

Recommended Planning Conditions

1. *Prior to the development hereby permitted being first brought into use/occupied the access layout and visibility splays shall be implemented in accordance with Drawing No 2191-01-GA102 dated the 14/12/17 of planning permission 17/02732/FUL.*

Reason: To ensure a satisfactory means of access to the highway.

2. *No development shall take place, including any works of demolition, 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. The Statement shall provide for:*

- the parking of vehicles of site operatives and visitors*
- loading and unloading of plant and materials*
- storage of plant and materials used in constructing the development*
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- wheel washing facilities*
- measures to control the emission of dust and dirt during construction*
- a scheme for recycling/disposing of waste resulting from demolition and construction works*
- a traffic management and HGV routing plan*

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

Observations/Comments:

Access

The proposed development is accessed off the B4380 Oteley Road. The design of the proposed access is shown on drawing 2091-01-GA102 of planning permission 17/02732/FUL. The construction detail will have to include dropped pedestrian crossing points, as part of the anticipated s278 agreement of works within the adopted highway.

Layout

The internal highway and parking layout is acceptable. Note, that even if the apartment development went ahead, the Council would not adopt any part of the internal highway layout.

Offsite Highway Works

The new access will require works within the existing adopted highway (Oteley Road). This works can only be carried out with the permission of the highway authority.

Informative notes:

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. 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.

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Recommended Planning Conditions

1. Prior to the development hereby permitted being first brought into use/occupied the access layout and visibility splays shall be implemented in accordance with Drawing No 2191-01-GA102 dated the 14/12/17 of planning permission 17/02732/FUL.

Reason: To ensure a satisfactory means of access to the highway.

2. No development shall take place, including any works of demolition, 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. The Statement shall provide for:

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- storage of plant and materials used in constructing the development*
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
- wheel washing facilities*
- measures to control the emission of dust and dirt during construction*
- a scheme for recycling/disposing of waste resulting from demolition and construction works*
- a traffic management and HGV routing plan*

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

Observations/Comments:

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- 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. 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.

SC Drainage Manager has responded indicating:

4.9

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

The Drainage Statement, drainage calculations and the Drainage Layout Plan should be revised in accordance with the latest amended Proposed Site Plan and re-submitted for approval.

Condition:

No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4.10 **SC Conservation Manager** has responded indicating ‘No comments in conservation terms’.

Public Comments

4.11

Two letters of objection have been received from members of the public. Issues

4.12 raised on planning matters can be summarised as follows:

- Impact on trees alongside Oteley Road.
- A public house will have a detrimental impact on the amenity of surrounding dwellings.
- Economic benefits are not outweighed by the harm.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact, tree impacts and landscaping
- Public highway access and transportation
- Ecology
- Drainage
- Residential amenity and privacy

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6.1.2 Policy CS2: Shrewsbury Development Strategy in the Core Strategy encourages a comprehensive and co-ordinated approach to the planning and development of Shrewsbury and refers to Shrewsbury South land off Oteley Road where development will assist in the expansion of Shrewsbury which includes provision for housing and business use alongside Oteley Road.

6.1.3 Policy CS6 indicates that to create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an

inclusive and accessible environment which respects and enhances local distinctiveness.

- 6.1.4 Policy S16: Shrewsbury Area in the SAMDev encourages appropriate development and re-development that accords with the Strategy on suitable sites within the town's development boundary referring to development of the area known as Shrewsbury South Urban Extension. (The area around Oteley Road forms part of this site).
- 6.1.5 As such the principle of development at this site is acceptable, subject to satisfactory consideration to national and local plan policies and matters as discussed below.

6.2 **Siting, scale and design of structures**

- 6.2.1 Core Strategy policies CS6 and CS17 requires development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value. SAMDev Plan policy MD13 seeks to protect, conserve, enhance and restore Shropshire's heritage assets.
- 6.2.2 Paragraph 127 of the National Planning Policy Framework, (NPPF), indicates that planning decisions should ensure that developments function well to the overall quality of the area and are visually attractive as a result of good architecture and layout, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, (such as increased densities).
- 6.2.3 Paragraph 130 of the NPPF indicates permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions
- 6.2.4 During the application processing the applicants submitted amended plans indicating the proposed public house set back slightly further into the site and the lodge/hotel also set further into the site further away from the rear boundary. The site layout was re-arranged in order that the access road to the adjoining site, (under a separate planning consideration subsequently withdrawn), went alongside the northern boundary, rather than through the centre of the site, acting as a barrier between the proposed public house and hotel/travel lodge. The understanding for this was owing to Officer concerns with regards amenity and the location of the hotel/travel lodge up against the rear boundary, the other side of which has recently been subject to residential development and therefore concerns about impacts on the residential amenity for future occupiers of these dwellings. The revised site layout plan indicates 20 metres distance from the two-storey hotel structure to the rear wall of the nearest dwelling located to the rear of the site. Otherwise scale and design of the proposal is as originally submitted and in accordance with detail as set out in paragraph 2.3 above.
- 6.2.5 Whilst the comments as made by Shrewsbury Town Council with regards to overall design are noted, on balance the proposed built development overall

could be conceived as appearing a little cramped, a primary issue on this matter is amenity and landscaping of the site and tree planting and mitigation and this matter is discussed in further detail below.

- 6.2.6 On balance in relation to the build form of the two main structures on site only, development in relation to siting, scale and design is considered acceptable and overall in Officers opinion in accordance with relevant local and national planning policies on this matter. It is considered development on site will have no harm on the surrounding historic environment.

6.3 **Visual impact, tree impacts and landscaping**

- 6.3.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Policy CS6 requires all development protects, restores, conserves and enhances the natural environment and takes into consideration local context and character and those features which contribute towards local character. Policy MD2 requires development to contribute to and respect locally distinctive or valued character and existing amenity by responding appropriately to the form and layout of existing development and the way it functions including mixture of uses.
- 6.3.2 The application proposes tree planting as mitigation for the loss of two lime trees located alongside the site's frontage with Otley Road, these trees are an important feature in the area and have recently been made subject to a tree preservation order owing to their significance in the local area. The two trees to be removed were as a result of planning approval reference 17/02732/FUL- formation of access. This approval is presently subject to 19/102476/VAR - Variation of condition 4 (tree protection) attached to the planning permission.
- 6.3.3 Approved application 17/02732/FUL for creating an access to the site proposed to remove 1 Lime tree (later amended to 2 for sight lines) from an avenue of 10 trees on the site frontage along Oteley Road. Adequate mitigation was required for the loss of these important amenity trees and 3 new trees were conditioned as part of the approval to be planted either side of the new access. .
- 6.3.4 Application 19/02476/VAR has been submitted to reposition the planting of the 3 new Lime trees which are now shown planted to the west of the access in a small planting area on the site plan in accordance with the application currently under consideration.
- 6.3.5 The Council's Tree Officer initially indicated that there was inadequate space proposed for 3 trees to reach maturity in this location. Also concerns were raised that very little open space was provided across the whole site for new landscaping (and barely any appears to be proposed). Replacement trees need to be sustainably planted in suitably designed underground pit systems with adequate soil volumes (e.g.StrataCell and Rootspace by GreenBlue Urban). Following amendments to the proposed landscaping and replacement of the 2 Lime trees removed for access the Council's Tree Officer in her final response to the application raises no objection to the proposal. The choice of 3 Koster Oak which are narrow forming upright trees she considers are suitable mitigation in the

longer term, although she notes that size of stock at planting is missing from the plan so recommends a condition to be attached to any approval notice to address this issue.

6.3.6 The avenue of lime trees along Oteley Road are considered an important feature in relation to the character of the surrounding area and as a result of concerns with regards recent pruning to some of these trees within close proximity to the site these trees have been made the subject of a Tree Preservation Order in order to protect their future well-being. It is clear when taking the Council's Tree Officer's comments into consideration the amended plans for development on site did not initially give adequate consideration to landscaping on site as well as consideration to the growth of the three trees that need to be planted on site as mitigation for the loss of the two lime trees subject to approval reference 17/02732/FUL and thus a change to the layout and species to be planted as discussed in the preceding paragraph.

6.3.7 On the basis of the above discussion, this application in relation to visual impact, tree impacts and landscaping is now considered by Officers to be marginally acceptable in relation to the principals of sustainable development as outlined in the NPPF and overall in accordance with Shropshire Council Shropshire Core Strategy Policies CS6 and CS17 and SAMDev policies MD2 and MD12.

6.4 **Public highway access and transportation.**

6.4.1 Core Strategy policy CS6 requires that all development is designed to be safe and accessible. SAMDev Plan policy MD8 states that development should only take place where there is sufficient existing infrastructure capacity. Policy CS17 seeks to protect and enhance environmental networks, including public rights of way.

6.4.2 The applicants have submitted a transport statement, and this concludes that the proposed development will be accessed by a safe and efficient vehicular access arrangement and that the proposed development benefits from being accessible on foot with the existing pedestrian links providing access to the surrounding residential and commercial areas. The development is ideally located to encourage journeys by bus and rail via the services available in the vicinity of the site. The proposed development can be adequately serviced. The development will be served by what Officer consider an adequate level of car parking. The proposals will have a negligible impact on the operation of the local highway Network and as such it is considered by Officers that the proposals will provide a sustainable development in transport terms.

6.4.3 SC Highways Manager has responded to the application indicating that it is considered the proposed development could be acceptable, from a highways and transport perspective, if conditions are imposed and subsequently met with regards to proposed vehicular access and visibility splays.

6.4.4 Whilst the concerns as outlined by Shrewsbury Town Council on highway matters are noted, on highway and transportation grounds the application is considered acceptable and in accordance with relevant local plan and national policy on this matter.

6.5 **Ecology**

- 6.5.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan Policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Policy MD12 states that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on specified ecological assets should only be permitted if it can be clearly demonstrated that:
- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
 - b) the social or economic benefits of the proposal outweigh the harm to the asset.
- It states that in all cases, a hierarchy of mitigation then compensation measures will be sought.
- 6.5.2 The applicants have submitted in support further ecological information and this included an ecological appraisal prepared by Torc Ecology (May 2019) lighting plan prepared by Kingfisher Lighting and a bat ecological impact assessment prepared by Torc Ecology (August 2019).
- 6.5.3 The Council's Planning Ecologist considers the information as submitted acceptable with suitable worded conditions attached to any approval notice issued. The response indicates that the majority of the site is improved grassland with areas of tall ruderal vegetation. There is a hedgerow interspersed with standard trees along the western boundary of the site and a small copse-grouping of trees along the northern boundary. There is a line of lime trees along the southern boundary that forms part of a longer line of trees along Oteley Road. The site has low botanical interest and the hedgerow was not considered to be 'important' under the Hedgerow Regulations 1997. The site has suitable terrestrial habitat for great crested newts, though it is reasonable to assume individuals are unlikely to commute to the site as there is no suitable connective habitat between the site and the closest ponds. The site is unlikely to be suitable for reptiles though there are records within the locality. The western and northern hedgerows will be retained and enhanced with additional planting of native species. Bird boxes should be installed on site (preferably on the northern elevation of the hotel) to enhance the site for wildlife.
- 6.5.4 As such on ecological grounds with conditions and informatives' attached to any approval notice subsequently issued, the development considered acceptable and in accordance with Policies CS17 and MD12 on this matter. Recommended conditions relate to an ecological clerk of works, on site vegetation clearance, bird boxes and landscaping in relation to the ecological aspect.
- 6.6 **Drainage**
- 6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.6.2

SC Drainage Manager has responded to the application raising no objections recommending that the Drainage Statement, drainage calculations and the Drainage Layout Plan should be revised in accordance with the latest amended proposed Site Plan and re-submitted for approval. However it is noted the response from SC Drainage indicates with an appropriately worded condition attached to any approval notice issued with regards to a scheme of surface and foul water drainage being submitted to and approved in writing by the Local Planning Authority, prior to any development on site, drainage matters are considered acceptable.

6.6.3

As such on drainage, the application is considered acceptable and in accordance with local plan policies once clarification is received on drainage calculations. With this matter addressed the application on drainage matters considered to be in accordance with Policy CS18.

6.7

Residential amenity and privacy

6.7.1

Core Strategy Policy CS6 states that development should safeguard residential and local amenity. Policy CS8 seeks to protect existing facilities and amenities

6.7.2

During the application processing as a result of Officer concerns a revised site layout plan was received in relation to residential and amenity issues, this was primary in consideration of concerns with regards to overlooking of adjoining residential land uses. (To the rear of the site residential development has recently been constructed).

6.7.3

The amended plans have to a degree remedied this matter, however the site is located in a primary residential area where significant development has recently taken place and there is also consideration required to the adjacent site alongside the site's eastern side to which access is obtained through the site subject to this application in relation to suggested residential use.

6.7.4

The Council's Regulatory Services Manager responded to the application requesting further information in relation to extraction and odour abatement system information and an odour management and that specification should be to DW 172 guidance.

6.7.5

Further information on this matter was eventually received from the applicants and it is noted that the Council's Regulatory Services in its final response to the application considered the information provided acceptable subject to an ongoing condition for an odour management plan to account for maintenance, periodic monitoring and commitment to resolve any matters arising from monitoring. Regulatory Services also requesting a condition to be attached to any approval notice issued with regards to acoustic fencing alongside the side with Otley Road in order to address any issues in relation to outside noise generated from the public house in consideration of surrounding residential amenity. Also in relation to surrounding residential amenity it is recommended a condition is attached to any approval notice issued in relation to collections and deliveries to the site and this includes waste, owing to the site's proximity to residential development.

6.7.6

As such in relation to residential amenity issues and the extraction and odour abatement issue, with conditions attached to any approval notice issued as

recommended by the Council's Regulatory Services, on balance Officers consider the application is in accordance with Policies CS6 and CS8 of the Shropshire Core Strategy.

7.0 CONCLUSION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered.

7.2 Having considered the proposal against adopted planning policy and guidance, it is considered that the proposal in Officers opinion on balance overall is in accordance with Policies CS5, CS6, CS8, CS17, MD2 and MD12 of the local plan and the NPPF.

7.3 Whilst the application represents development that Officers note has raises concerns with regards cumulative impacts and adjacent development, the siting scale and mass in relation to the application under discussion on balance is considered acceptable. However landscaping and tree mitigation and long term viability, although initially of concern with conditions attached as discussed in this report, overall considered to be in accordance with Policies CS6, CS17, MD2 and MD12 of the local plan on this matter.

7.4 Residential amenity in respect of odour issues has been the subject of considerable dialogue, as discussed in Section 6.7 of this report. On this matter with consideration to the further information received and the Council's Regulatory Services Manager's final response with conditions attached as discussed, the application considered in accordance with Policies CS6 and CS8 of the local plan.

7.5 Issues in relation to highway and transportation and ecology considered acceptable. Drainage with a condition attached with regards to sustainable drainage and drainage calculations also considered acceptable.

7.6 Comments from Shrewsbury Town Council with regards to scale and design on site have been noted, as well as objections from the members of the public who raised concerns with regards to impacts on trees alongside the site and landscaping.

7.7 On balance and with consideration to all the material considerations which includes consideration to the economic benefits, (that weigh in favour of the application), the application considered by Officers to be in accordance with Policies CS6, CS8, and CS17 of the Shropshire Core Strategy, Policies MD2 and MD12 of the SAMDev and the NPPF. Therefore the recommendation is one of approval subject to the conditions as outlined in appendix one attached to this report.

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.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework:

Shropshire Council Core Strategy (February 2011):

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Site Allocations and Management Development Plan (December 2016):

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD4 - Managing Employment Development

MD11 - Tourism Facilities and Visitor Accommodation

MD12 - Natural Environment

MD13 - Historic Environment

S16 - Shrewsbury

10.2 Relevant Planning History

PREAPP/16/00630 Erection of food store and no.60 bed care home NPW 22nd May 2017.

17/02732/FUL Formation of vehicular access GRANT 31st January 2018.

PREAPP/18/00261 Erection of a family pub/restaurant (Use Class A4) and hotel lodge (Use Class C1) together with ancillary development, landscaping and car parking PREAIP 6th July 2018.

19/02475/DIS Discharge of Condition 3 (Tree Protection) on Planning Permission 17/02732/FUL for the formation of vehicular access DISAPP 24th June 2019.

19/02476/VAR Variation of condition 4 (tree protection) attached to planning permission reference 17/02732/FUL formation of access PDE

19/02494/FUL Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development PDE

19/02494/FUL Erection of a Family Pub/Restaurant (Class A4) including Managers flat and a Hotel (Class C1) with associated car parking and ancillary development PDE

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 19/02494/FUL

Cabinet Member (Portfolio Holder) - Cllr Gwilym Butler

Local Member - Cllr Ted Clarke, Cllr Jane Mackenzie and Cllr Tony Parsons

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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner). The scheme will also make reference to drainage calculations and the Drainage Layout Plan will be revised in accordance with the latest amended Proposed Site Plan submitted in support of the application.

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4. No development shall take place, including any works of demolition, 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. The Statement shall provide for:
o the parking of vehicles of site operatives and visitors
o loading and unloading of plant and materials
o storage of plant and materials used in constructing the development
o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
o wheel washing facilities
o measures to control the emission of dust and dirt during construction
o a scheme for recycling/disposing of waste resulting from demolition and construction works
o a traffic management and HGV routing plan

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

5. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to acceptable standard as shown on the application drawing 2191-01-GA102 (dated the 14/12/17 of planning permission 17/02732/FUL), before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions, at all times, and in perpetuity.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

6. Prior to commencement of development (or each phase of development with prior agreement of the Local Planning Authority), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that ecological mitigation and enhancement measures recommended in the Preliminary Ecological Appraisal prepared by Torc Ecology (May 2019) received 5th June 2019 are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place. Where any protected species licences amend the previously approved mitigation scheme then a revised updated and amended mitigation scheme, and a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection native biodiversity in accordance with MD12, CS17 and section 175 of the NPPF.

7. No vegetation clearance shall take place at any time within the bird breeding season (March 1st to August 31st inclusive) unless and until the developer submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or they have left the nest and there is no evidence of their returning.

Reason: To ensure the protection of nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended).

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

8. Notwithstanding the approved plans, prior to any development on site details will be submitted to the local planning authority and approved in writing with regards to external construction materials for all external walls and external roofing materials.

Reason: In order to ensure external construction is of a satisfactory standard in relation to the location and the surrounding built environment.

9. All landscaping shall be completed within 12 calendar months of commencement of the development or in such phases as may be agreed in writing with the Local Planning Authority. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

10. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the LPA.

Replacement trees shall be *Quercus robur Fastigiata* "Koster" minimum girth of stem 14 - 16cm planted into properly prepared planting pits in accordance with BS8545: 2014 "Trees: from nursery to independence in the landscape: Recommendations" with specific reference to the procurement of tree stock, species selection, aftercare and maintenance.

Any trees that, within a period of five years after planting, are removed die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To mitigate for the lost of mature trees.

11. A minimum of four artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development. The boxes shall be sited at least 2m from the ground on a suitable structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

12. No building or use hereby permitted shall be occupied or the use commenced until there has been submitted to and approved in writing a plan by the Local Planning Authority, which will achieve the objective of minimising odour, such as those indicated by document 298-136-RPT-01 submitted in support of the application or subsequent improvements in available technology and an Odour Management Plan, setting out cleaning, maintenance and filter/technological replacement policies. The plan will include a written recording system to record and demonstrate when all such work is carried out. The approved odour management plan shall be complied with throughout the duration of the use. Any odour abatement system proposed and installed cannot be guaranteed to achieve minimal odour until it is actually being operated and further works may be required to safeguard the amenity of an area if required.

Reason: To safeguard the amenity of nearby premises and the area generally

13. Prior to first use of the site detail will be submitted to the Local Planning Authority and approved in writing with regards to plans of external acoustic fencing and design features to reduce and minimise the noise from patrons using outdoor areas such as beer garden external drinking and eating area affecting neighbouring properties.

Reason: To safeguard the amenity of nearby premises and the area generally

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

14. Deliveries to and waste collection from the proposed hotel and the public house shall not be within the hours 2100-0700.

Reason: To safeguard the amenity of nearby premises and the area generally