

Committee and Date

Northern Planning Committee

15<sup>th</sup> September 2020Item

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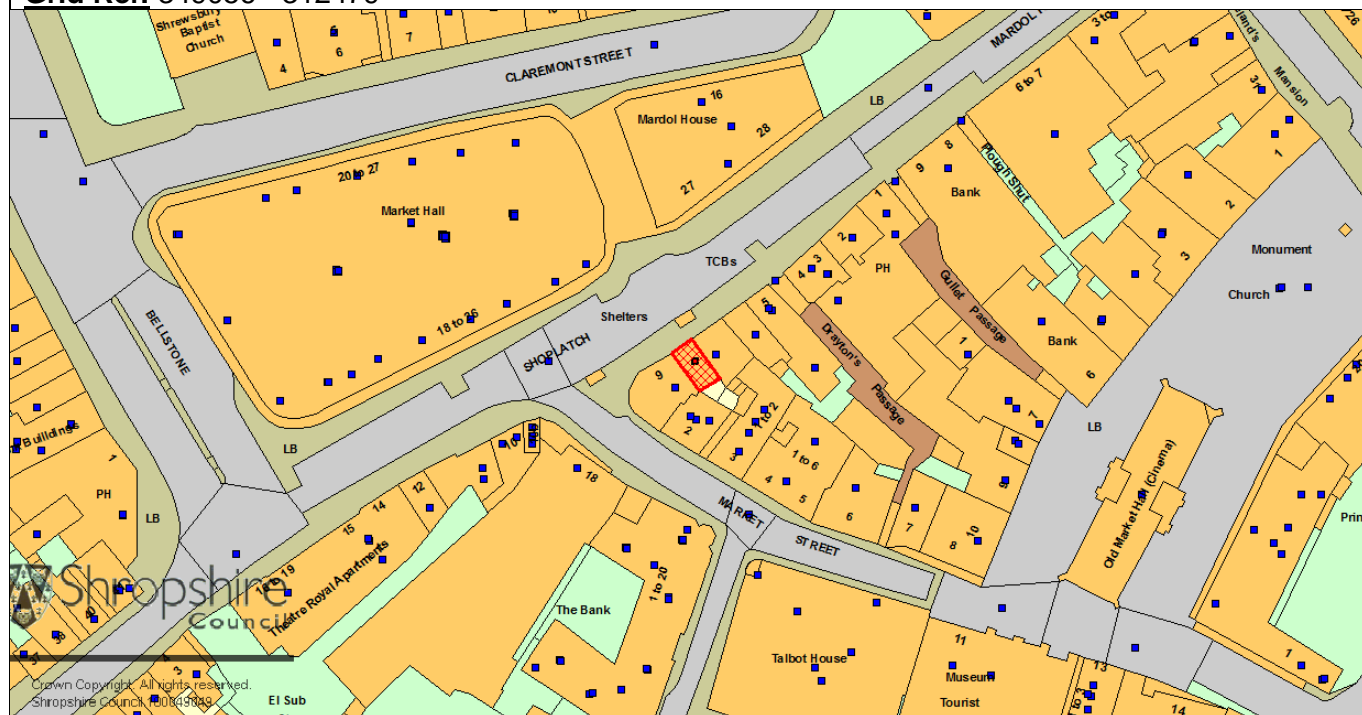
Public

**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> 20/02490/COU	<b><u>Parish:</u></b>	Shrewsbury Town Council
<b><u>Proposal:</u></b> Application under Section 73a of the Town and Country Planning Act 1995 for the retrospective change of use from A3 (cafes/restaurants) to combined A3/A5 (cafe/restaurant/hot food takeaway)		
<b><u>Site Address:</u></b> 8 Shoplatch Shrewsbury SY1 1HF		
<b><u>Applicant:</u></b> Miss Gwen Burgess		
<b><u>Case Officer:</u></b> Aileen Parry	<b><u>email :</u></b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	

**Grid Ref:** 349056 - 312479

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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is seeking the retrospective change of use from A3 (cafes / restaurants) to combined A3/A5 (cafe /restaurant /hot food takeaway).

Note: As of 01.09.2020 The Use Classes Order In England for these use classes will change. A3 changes to E and A5 to Sui generis.

- 1.2 The applicant has confirmed that there will be no internal alterations to the premises associated with the change of use and that they do not use facilities for any cooking that would require the installation of an external flue system. No external changes to the premises are therefore required. In addition, the business does not have its own drivers but utilises external delivery companies. Limited seating for eating in is also proposed.
- 1.3 The applicant has also advised within their application that the existing business has had to adapt and change due to the Covid-19 outbreak. They now serve mexican food for delivery in the evenings and breakfast, sandwiches etc. during the day.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 8 Shoplatch which with adjacent No 7 is a Grade II listed building situated within Shrewsbury Town Centre within Shrewsbury Conservation Area and more specifically the Town Centre Special Character Area. The area is characterised in this part of the town by a mix of commercial, retail and residential properties.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the applicant is an elected member of the Council and therefore the application must be determined by Planning Committee.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 - Consultee Comments

##### Regulatory Services

As the premises is currently an A3 premises, the addition of an A5 takeaway aspect to allow food to be taken away from the property doesn't attract adverse comment from regulatory services. Any hot food takeaway after 2300 will require a licence from the licencing team.

##### Highways

Given the Town Centre location and proximity to on street parking and loading bays, from a highways perspective no objection is raised to the addition of takeaway food to the existing café/sandwich bar.

##### Conservation (Historic Environment)

While there is no objection in principle to this change of use application as it affects No 8 Shoplatch, it is noted that this building is Grade II listed along with No 7 adjacent, and is within the Shrewsbury Conservation Area (Town Centre Special Character Area) - if there are any internal alterations associated with this change of use, or external modifications such as new extraction flues, these type of works normally require listed building consent. If there are none, then no objection is raised on heritage grounds where the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended would be applicable.

4.2 - Shrewsbury Town Council

The Town Council raises no objections to this application.

4.3 - Public Comments

The site has been advertised in accordance with statutory provisions. No public representations have been received at the time of writing this report.

5.0 **THE MAIN ISSUES**

As there are no external or internal alterations proposed the main issue to consider is the principle of development.

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Shropshire Core Strategy Policy CS15 states that Shropshire's network of centres, and the principle that town centres are the preferred location for new retail, office, leisure, entertainment and cultural facilities, and other town centre uses. SAMDev policy MD10a (Managing Town Centre Development) which refers to secondary and primary frontages within the town centre primary shopping area and an emphasis on maintaining A1 use.

6.1.2 The building is situated within secondary shopping frontage within Shrewsbury town centre. Policy indicates that within the secondary frontages changes of use from A1 retail to other main town centre uses will be acceptable where they would maintain an active and continuous street frontage and would not result in an over concentration of non-retail uses.

6.1.3 The site along with No 7 adjacent is a Grade II listed situated within Shrewsbury Town Centre within Shrewsbury Conservation Area (Town Centre Special Character Area) and which is characterised in this part of the town by a mix of commercial, retail and residential properties and is therefore considered to be a sustainable location for the proposed new use.

6.1.4 The unit is currently a Class A3 use and is on the edge of the shopping area and is considered would continue to encourage footfall in this part of town as well as offer its customers a different food experience as a combined A3/A5 (cafe /restaurant /hot food takeaway) use (new use classes E and Sui generis respectively).

6.2 **Impact on neighbouring properties**

- 6.2.1 The applicant has confirmed that there will be no internal alterations to the premises associated with the change of use and that they do not use facilities for any cooking that would require the installation of an external flue system. No external changes to the premises are therefore required.
- 6.2.2 The site already operates as a coffee shop and sandwich bar. The applicant advises that the change to include a hot food takeaway and delivery is as a result of the business having had to adapt and change due to the Covid-19 outbreak. They now serve mexican food for delivery in the evenings and breakfast, sandwiches etc. during the day. The cooking is low odour, and they do not deep fry food. Additionally there is some limited seating for eating in provided. Officers consider that the unit is small therefore the numbers of seated customers will be limited.
- 6.2.3 With regards to hours of opening, the application form states that for seven days of the week the opening hours are proposed as Monday to Sunday 0800 to 2230. A condition will be placed on any planning permission that may be granted that restricts customer on site presence to within these times.
- 6.2.4 In addition, officers note that there are many cafes, bars and pubs in the vicinity and the town and with the location of the business on a busy road for through traffic in the town and also pedestrians, it is considered that any noise from customers entering and leaving the premises during the hours proposed would not be that noticeable above the existing activity and noise in the area at these times.

### 6.3 **Other Matters**

#### 6.3.1 Alterations

No internal or external alterations are proposed . An informative will however be included on any planning permission that may be granted to advise the applicant that in the future if any extraction system is required to be installed listed building consent may also be required and details will need to be submitted prior to installation. The applicant will also be advised that any internal or external alterations including adverts may need Listed Building Consent and/or advert consent and that the Historic Environment team must be consulted before carrying out any work.

#### 6.3.2 Parking for delivery

The business does not have its own drivers but utilises external delivery companies instead, therefore the parking of company vehicles is not required. Due to the premises location and close proximity to on street parking and loading bays, no objections have been raised by the Councils Highways with regards to these matters.

### 7.0 **CONCLUSION**

**Within the National Planning Policy Framework Section 7. Ensuring the vitality of town centres paragraph 85 it states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.**

**According to SAMDev Plan MD10A Shrewsbury is a Category C settlement**

**with a primary shopping area which includes primary and secondary frontages. The site falls within a secondary frontage.**

**The proposal affects the ground floor of a building that is situated on a secondary frontage shopping street and policy MD10a advises that within secondary frontages additional main town centre uses are acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses. Generally, there is a presumption in favour of proposals for main town centre uses within the wider town centre. The unit is currently a Class A3 use and is on the edge of the shopping area and is considered would continue to encourage footfall in this part of town. No internal nor external alterations are proposed.**

**The proposal for retrospective change of use from A3 (cafes/restaurants) new use class E, to combined A3/A5 (cafe/restaurant/hot food takeaway) new use class Sui generis, is considered to accord with policies CS6, CS15, CS16, MD2 and MD10a and regard and due regard has been made to the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as revised.**

**Officers recommendation is that planning permission for the change of use 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 and SAMDev Policies:  
CS6 - Sustainable Design and Development Principles  
CS15 - Town and Rural Centres  
CS16 - Tourism, Culture and Leisure  
MD2 - Sustainable Design  
MD10A - Managing Town Centre Development

### Relevant Planning History:

13/04846/LBC Application under Section 73a of the Town and Country Planning Act 1990 for the installation of retractable canopy to front elevation NPW 21st January 2014  
14/00095/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the installation of a replacement canopy to shop frontage (retrospective) GRANT 24th March 2014

**11. ADDITIONAL INFORMATION**

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
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Local Member
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Cllr Nat Green
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Appendices APPENDIX 1 - Conditions
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**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****CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

3. The premises shall not be open to the public/customers, nor any services be available to the public/customers, outside the following hours: 0800 to 2230 hours Monday to Saturday and 0800 to 2230 hours on Sunday and Bank Holidays.

Reason: To protect the amenities of occupiers of nearby dwellings and business properties from potential noise or disturbance and to protect local amenity.

**Informatives**

1. The applicant is advised that in the future if any extraction system is required to be installed listed building consent may also be required and details will need to be submitted prior to installation.

2. The applicant is advised that any internal or external alterations including adverts may need Listed Building Consent and/or advert consent and that the Historic Environment team should be consulted before carrying out any work.

3. 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.

4. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.

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