

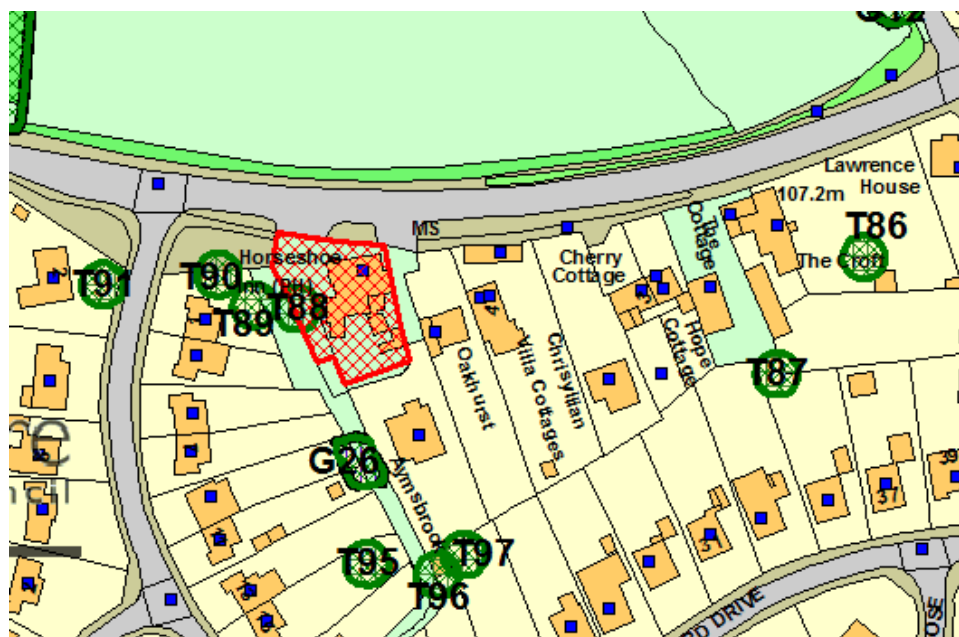
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

<u>Application Number:</u> 21/01844/OUT	<u>Parish:</u>	Pontesbury
<u>Proposal:</u> Outline planning application to include means of access for the demolition of an existing public house and erection of up to 4No. dwellings		
<u>Site Address:</u> The Horseshoes Inn Minsterley Road Pontesbury Shrewsbury Shropshire		
<u>Applicant:</u> Mrs T Challenor		
<u>Case Officer:</u> David Jones	<u>email</u>	:

Grid Ref: 339364 - 306055



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

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application is submitted in outline form with all matters except for access reserved for future consideration, the proposal is for the demolition of the existing public house and the development of up to four dwellings. An indicative layout has been submitted which illustrates a staggered terrace of four dwellings facing Minsterley Road to the north. Each dwelling is shown to have an indicative footprint of 5.5 by 9.5 metres in width, it has been confirmed that the dwellings would be two storeys in height. Supporting information is included with the planning application detailing that the public house has been available for sale since August 2018 but that no offers have been received. The planning application is also accompanied by an arboriculture report and a Heritage Impact Assessment.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Horseshoes Inn is located within the western part of the settlement of Pontesbury. The A488 Minsterley Road is located adjacent to the north and the public highway here extends to the frontage of the public house. The public house is of traditional appearance including facing brick and rendered walls and a plain tile roof. The public house is two-storey and has been extensively altered including a flat roof dormer window, a conservatory and a flat roofed extension at the rear. The levels of the application site rise to the south and buildings present at the rear are single storey. There is a large cypress hedge and a silver birch in close proximity to the boundary of the site to the south and the west.
- 2.2 There is a residential property located to the rear of the property which has a vehicular access abutting the east of the public house. There are also residential properties in proximity to the east and west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council view is contrary to the Officer recommendation. The Local Ward Member has requested determination by Committee. The Principal Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised in this case warrant the application being determined by Committee.

4.0 Community Representations

Consultee Comment

- 4.1 Pontesbury Parish Council - Objects for the following reasons:

- The Parish Council has applied for the property to be on a Community Asset Transfer list.
- Supports the view of the council's Conservation Officer in relation to policies CS6 and MD2, local character and carbon emissions if demolition and rebuild are undertaken. The Parish Council also note that further emissions would be produced as local people would need to get in their vehicles and travel further.
- It is considered that the public house is a community asset and agree with the Conservation Officer that more information is required to be able to value the asset.
- The houses are out of keeping with surrounding properties.
- Overdevelopment.
- The village population is rapidly expanding with another sizeable development (40 houses) proposed within walking distance of this public house.

4.2 Drainage & Suds – Conditional planning permission recommended requiring the submission of a scheme for foul and surface water drainage.

4.3 Tree Team 28.04.21 - No objection in principle but there are a number of significant trees, shrubs and hedgerows present on or adjacent to this site. The development of this land has the potential to impact upon these trees, including the possibility of damaging them to a point that they cannot be safely retained and/or create a situation whereby the trees affect or exert an influence over the proposed development in the longer term. It is expected that any proposed development would make provision to retain any trees identified as significant or potentially significant in the terms of public amenity or provide substantial justification and mitigation where their removal is proposed. Where trees are retained, it must be demonstrated that they can be integrated into the site layout and protected to the minimum standard recommended in BS 5837: 2012.

Landscaping and the planting of trees is an essential element of any sustainable development and provision must be made within the site layout to provide space to plant long lived, large canopy trees for the long-term benefit of the site and surrounding area. The AIA should take the opportunity to identify locations where new trees, appropriate to the context of the site and local landscape character, can be planted and allowed to develop to maturity without coming into conflict with other land uses on the site. These areas must be identified and protected during the construction phase of the development to prevent soil degradation. As this is an outline application the information should demonstrate that there is adequate space to allow for the proposed numbers of structures and associated infrastructure and to provide the required protection / separation zones around retained and proposed trees. If this information is not forthcoming it must be considered that the proposed development will have a substantial negative impact on the adjacent trees and the wider amenity and it would be recommended that the application be refused as it would be contrary to the principles of sustainable development outlined in the NPPF and the Shropshire Local Development Framework; adopted core strategy policies CS6

& CS17 and policies MD2 & MD12 of the adopted SAMDev plan.

Trees Team 22.07.21 - There are a number of trees on this site and an Arboriculture Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 1 individual tree and 2 hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The application is for outline planning permission and the AIA indicates that the site can be accessed and developed without significant impact to trees that are important in the amenity of the area.

Landscape planting of trees forms an important element of a development of this type, particularly where existing trees are scarce. The indicative layout has limited space for new planting and it is difficult to see how it would be able to provide a reasonable level of new tree planting as would be expected from a sustainable development.

Whilst no objection is raised to the application at this stage, the final layout must be adapted to take account of the tree constraints identified in the AIA and make provision to sustainably plant new trees that will enhance the development and contribute to the amenity of the wider area.

The final site layout submitted as Reserved Matters, must be supported with an updated version of the AIA, assessing any impacts that arise and demonstrating that any retained trees can be protected to the minimum standards recommended in BS5837: 2012. The application should also be supported by a landscape proposal including trees planting prepared in accordance with BS8545:2014

4.4 Environmental Protection In May 2007, The Horseshoes Inn along with a number of other properties located at Minsterley Road, Pontesbury were determined as Statutory Contaminated Land in accordance with Section

78(B)(3) of the Environmental Protection Act 1990 (EPA 1990) under the Councils EPA 1990 Part 2A responsibilities. This was because the land on which they are constructed was historically a former lead smelting works. Therefore, the answers to question 6 (Existing Use) in respect of

contamination on the application form, have been answered incorrectly. A remediation statement (CL6/07/RS dated 6th March 2009) was issued and the property entered on the Public Register of Contaminated Land (EPA 1990 Section 78(R)).

In summary the remediation comprised of the excavation of contaminants and contaminated soils, treatment, off-site disposal, placement of a geotextile membrane followed by clean soils. However, the remediation works were only

carried out in what was the former beer garden of the Inn, which is now occupied by a residential property, but the extent of the land that is determined includes the area of land subject to this application.

No remediation was carried out where hardstanding existed and the extent of remediation undertaken is reported in the following reports: The Horseshoes Inn, Minsterley Road, Pontesbury Validation Report SH0120017 March 2009; and Remediation of Part IIA Contaminated Land:

Minsterley Road, Pontesbury Verification Report Final SH0120017 October 2009.

The lead smelter can be dated back to at least 1831 and the Horseshoes Inn building as it occupies the site today, can be dated back to at least 1954. Therefore, there is the potential that significant concentrations of contamination, primarily heavy metals will be present in the soil beneath the existing building and hardstanding areas.

Conditional permission is recommended requiring a contaminated land scheme

4.5 Economic Development - No objection. The site has been marketed for two years with little commercial interest. The public house is one of two in the village with others in the rural hinterland. Pontesbury and Minsterley are designated as a joint key centre in the SAMDev Plan with a range of social and community facilities. It is considered that the loss of the public house will have no significant impact with on this function

4.6 SC Conservation – Comment:

The Horseshoes Inn is a road-side public house positioned at the westerly edge of the settlement of Pontesbury. Referring to sequential historic OS mapping, the ‘Horseshoe BH’ (Beer House) is denoted on the First Edition 1881 map as part of a cluster of buildings and a historic milestone existing at that time some distance to the west of the historic core of the settlement, and again is denoted as such on the subsequent re-surveyed 1901 OS map. The buildings associated with the Horseshoes on this mapping are set back from the highway further than the existing Horseshoes Public House of today – this ties in with Shropshire Archives holdings found in the ‘Discovering Shropshire’s History’ website where in October 1901 an application was made by W.T Southam for ‘conversion of the Horseshoe Inn into two dwelling units’, and additionally where a concurrent October 1901 application was made for ‘rebuilding of the Horseshoe Inn’ also by W.T. Southam:

Referring to current and historic mapping overlays, the earlier buildings associated with the original Inn appear to still be in place for the most part and converted to other uses, where additionally there is to the immediate east of the group a Historic Environment Record entry (HER 20380) denoting the site of a former lead smelter in use until about 1845 where this area was known as Smelthouse Yard on the 1842 Tithe Map.

This Outline planning application proposes demolition of the existing public house and development of the site for up to 4 dwellings, where an indicative plans has been submitted showing a row of four units running parallel with the highway with

parking to the front.

We would advise that in considering this application, due regard to the following local and national policies and guidance relevant to the historic environment would be required: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF).

We would specifically draw attention to the need to consider the requirements of CS6 and MD2 which require the need to take account of local character and context, responding appropriately to the form and layout of existing development including streetscape, scale and proportion. These policies also state that proposals should protect, conserve and enhance the historic context and character of heritage assets, their significance and setting, in accordance with MD13 which seeks to avoid harm to designated and non-designated heritage assets, where this building complex may represent non-designated heritage assets within a road-side edge of settlement context. It is noted that a planning statement has been submitted with this application however this does not specifically address historic environment matters and no heritage impact assessment has been prepared or submitted as part of this statement where we would refer to the requirements of Paragraph 189 of the NPPF and our local policy MD13.

Given that this application involves the complete demolition of an existing building, we would also highlight Historic England research (Heritage Counts – Reuse and Recycle to Reduce Carbon) which demonstrates the sustainable benefits of continuing to adapt and re-use existing buildings through retrofit and refurbishment where these assets hold historic embodied carbon and where their retention and reuse can reduce the need for new carbon-generating construction activities, reducing the need for new material extraction and reducing waste production, in line with our own local policies on sustainable energy.

Retention and reuse of the existing building for a new use would also be in line with the historic reuse of buildings on the wider site. We would raise the above noted issues on this outline application where it is not considered that sufficient information has been provided with reference to the policy considerations and guidance referenced above.

SC Conservation 22.07.21 - Following on from our earlier consultee comments, the agent has now prepared a Heritage Impact Assessment which provides some history and evolution of this site and immediate area including a sequential map analysis, along with consideration of the full demolition of the existing Horseshoes Inn building and its replacement with four new dwellings ' in order to address the requirements of the revised NPPF and our local policy MD13.

The HIA notes that the current Inn is a traditional building constructed from brickwork and rendered walls with a plain tile roof but also notes that the building has been subject to modern extension and alteration of vary design and scale with a lack of cohesiveness to the original building which affects its significance, where there is general agreement with that assessment.

We do contend however that the Inn is a substantial structure which has been established in this roadside position since the very early 20th Century as a rebuild of an earlier beer house and given the overall appearance and form of this building it would appear that it could comprise a relatively easy residential conversion project which would find a new use for an existing traditional building which fits in with the form, context and pattern of development here while better addressing the potential environment costs of full demolition. There is scope for the removal of some of the more overtly modern elements of this building which could free up additional space on the site. We would still recommend that opportunities for conversion and reuse of this building should be more fully explored as part of potential redevelopment of the wider site.

SC Conservation 03/11/21 - If the application concerned the demolition of the original beer house which perhaps more clearly represented a non-designated heritage asset then a site visit would be necessary and hopefully we would be trying to retain the building for adaptive reuse. The HIA is in the main its fine but a bit on the short side. We would normally recommend for any buildings being demolished that date to pre-1948 or are of some interest if later that a photographic recording exercise is completed and this added as a pre-commencement condition – see standard condition JJ30 photographic recording – which would include a recording of the interior (as well as the exterior and the context) which the HIA does not include – so a Level 2 recording as per Historic England guidance would be appropriate.

SC Conservation 10.11.21 - No objection to granting consent. It is considered that the proposed residential use of the site is likely to generate less trips than the existing use. However, we would need to ensure that any proposals do not encroach into the public highway as the block seems to indicate that the proposed planting is within the public highway boundary. However, it is acknowledged that the application under consideration is outline with only access included for consideration. On that basis we raise no objection to the granting of consent, subject to relevant planning conditions being attached to any permission granted.

- 4.7 Highways 10.11.21 As previously outlined, in terms of principle of development, Shropshire Council as Highway Authority raises no objection to the granting of consent. It is considered that the proposed residential use of the site is likely to generate less trips than the existing use. However, we would need to ensure that any proposals do not encroach into the highway boundary. Please find attached a plan indicating Shropshire Council as Highways Authority's understanding of the extent of highway in this location. Whilst the red line boundary does not appear to include the highway, the attached block plan does indicate proposed planting within the highway boundary. However, it is acknowledged that the application under consideration is outline with only access a matter for consideration. On that basis, we raise no objection to the granting of consent, subject to relevant planning conditions (Construction Traffic Management Plan) being attached to any permission granted.

Public Comments

4.7 The planning application has been advertised with a site notice and the publicity period expired on the 26.05.21.

One objection has been received on the following grounds:

- Demand for public houses remains, applying for planning permission for residential development is not the answer.
- Proposal will not safeguard the public house but instead lead to its loss.
- Whilst this is not the last public house in the village the population here is increasing.
- To state that if planning permission is granted there is no intention to implement do not sit comfortably with each other.
- Conditional permission here would be inappropriate.

4.8 Councillor Nick Hignett – Objection on the following grounds:

- Whilst the applicant's reasoning for submitting this proposal is understood, a "fallback position" is not a valid justification for the demolition of an existing substantial building to be replaced with 4 modern dwellings.
- The proposal does not comply with CS6 and MD2 with reference to the character and layout of existing nearby dwellings. The proposal does not sit comfortably with adjoining properties.
- The carbon offset from this proposal would have a negative impact compared with re-purposing the property.
- Pontesbury is a large and expanding village with the capability to support 3 public houses particularly as they are well spaced within the development area.

5.0 THE MAIN ISSUES

- Principle of development
- Considerations relating to the loss of a community service
- Consideration of the loss of a non-designated heritage asset
- Relationship of the development with its surroundings
- Visual impact and landscaping
- Residential amenity considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 CS1 Core Strategy sets out the overall provision of new homes in the plan period and the overall settlement strategy.
- 6.1.2 Policy CS 3 of the Core Strategy 2011 states that the market towns and other key centres will maintain and enhance their roles in providing facilities and services to their rural hinterlands and providing foci for economic development and regeneration. Further that balanced housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure will take place within the town's development boundaries and on sites allocated for development. Ministerley and Pontesbury are identified under the provisions of this policy as a combined key centre which will accommodate development to enhance their linked roles providing employment and services in the local area, whilst retaining their distinctive and separate identities.
- 6.1.3 Policy MD1 (Scale and Distribution of Development) of the SAMDev 2015 states sufficient land will be made available for the plan period to enable the delivery of development planned in the Core Strategy. Further that sustainable development will be supported in accord with the hierarchy of settlements listed and the policies and guidelines listed. Ministerley and Pontesbury are designated as Market Towns and Key Centres under Schedule MD1.1 (Settlement Policy Framework) and 40% of housing provision is planned for such settlements in accord with policy CS1 of the Core Strategy. At section S12 of the SAMDev it is explained that Ministerley and Pontesbury as joint centres will continue to provide facilities and services for their wider rural hinterland. It is stated that to support this role a combined target of 260 houses is proposed through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites.
- 6.1.4 The application site comprises a previously developed infill site and the principle of the developing four residential units aligns with the settlement strategy and detailed planning policy framework described above. It is also understood that capacity exists in the forecast housing provision for the settlement in the development plan.

6.2 **Considerations relating to the loss of a community service**

- 6.2.1 The parish council and the local councillor have objected to the proposal and one of the grounds is that the village population is rapidly expanding with another sizeable development of 40 houses proposed within walking distance of this public house. The objections of the parish council also explain that the public house is considered to be a community asset and that an application has been submitted to include it on the Community Asset Transfer list. Objections have also been received on these grounds from the public which additionally contend that demand exists for public houses and that proposal will result in the loss of the public house as opposed to safeguarding it.
- 6.2.2 As explained in the preceding section policy CS 3 of the Core Strategy 2011 states that the market towns and other key centres such as Ministerley and Pontesbury will maintain and enhance their roles in providing facilities and services to their rural hinterlands and providing foci for economic development and regeneration. The loss of a public house is a material consideration within this planning policy context which needs to be weighted in the assessment. Core Strategy policy CS8 relates to facilities, services and infrastructure provision and seeks to protect existing facilities, services and amenities that contribute to the quality of life of residents and visitors.
- 6.2.3 The supporting information included with the application indicates that the public house has been for sale since August 2018 with the asking price reduced in February 2020, but that there have only been four viewings and no offers received. The submissions also indicate that this is symptomatic of the general decline of United Kingdom public houses trade which is likely to have been exacerbated by the current pandemic with the proposal subject to this application being an attempt to secure a viable use for the property. The submission also explains that there is another public house in the village (The Nags Head) and others in proximity in the rural hinterland.
- 6.2.4 The consultation response from the council's Economic Development section states that on the basis that the property has been marketed for two years and because there is another public house in the village that it is considered that the loss of this public house will have no significant impact with on function of Ministerley and Pontesbury having regard to its role in the settlement strategy.
- 6.2.5 Taking all these matters into consideration it is not considered that that objection can be raised to the proposal on the grounds that it will result in the loss of a public house in that adequate evidence has been submitted of efforts to sell the property as a public house, alternate provision exists and it is not considered that the proposal would unacceptably impact on the role of the settlement.
- 6.2.6 It is also stated that an application has been made for the property to be on a Community Asset Transfer list. It is understood that this is a process whereby community-based groups or organisations can nominate a property such as a public for listing as an "Asset of Community Value". If the listing is successful, the legislation provides a six month notice of disposal period where the community can attempt to raise finances purchase the property but there is no obligation on the seller to accept the bid. It is understood that no application register "The Horseshoe

Inn” as a community asset has been received at the time of writing. Irrespective of this registration as an “Asset of Community Value” is a separate legislative process which is not decisive in the determination of this planning application.

6.3 Consideration of the loss of a non-designated heritage asset

6.3.1 Objection was initially raised by the council’s Conservation Officer to due to the fact that the proposal would result in the loss of a non-designated heritage asset and that the retention and re-sue of the existing building should be considered having regard to material planning policy requirements and notably policy MD13 which seeks to avoid harm to non-designated heritage assets. The supporting information indicated that the property’s scale, characteristics and lack of external space meant that its change of use to a residential dwelling was not considered a viable option.

Additional information was also submitted in the form of a Heritage Impact Assessment which amongst other considerations explained how the existing had been extensively altered. The council’s Conservation Officer have now withdrawn their original objections ostensibly because the application does not concern the demolition of the original beer house which would have more clearly represented a non-designated heritage asset, as opposed to the extensively altered building which currently exists.

6.4 Relationship of the development with its surroundings

6.4.1 Policies CS6 and MD2 which require the need to take account of local character and context, responding appropriately to the form and layout of existing development including streetscape, scale and proportion.

6.4.2 The planning application is submitted in outline form with only the means the access of access included for consideration. The appearance, layout, scale and landscaping are reserved for future consideration. An indicative layout has been submitted which illustrates a staggered terrace of four two storey dwellings facing Ministerely Road (A488).

6.4.3 The original building has been extended and altered having a flat roof dormer, flat roofed two storey extension and a UPVC conservatory and windows. All these additions are visible on the frontage of the building from the public highway and are considered to be generally unsympathetic such that the building is of no particular architectural merit nor contributes to the visual amenities of the area such that it merits retention.

6.4.4 Objections have been received on the grounds that the proposal comprises overdevelopment which is out of keeping with adjoining properties. It is acknowledged that the density of the development is higher than that of the detached and semi-detached properties adjacent to the application site. It is not considered that a higher density terraced type development would be out of character in this location and indeed similar examples are present along Ministerely Road (A488). The appearance, layout, scale and landscaping are reserved for future consideration and would need to be subject to a further reserved matters

application where detailed consideration of the detailed design and appearance would be undertaken.

6.5 Visual Impact and landscaping

6.5.1 There is a large cypress hedge and a silver birch in close proximity to the boundary of the site to the south and the west and the arboriculture assessment submitted with the planning application indicates that the site can be developed without significant impact on these hedges and trees. This is accepted by the council's Tree Officer, but it is recommended that an updated arboriculture assessment accompanies any reserved matters which takes account of the detailed designs. The Tree Officer also states that the indicative layout currently submitted has limited space for new planting which would be expected from a sustainable development perspective. These landscaping details will be provided as part of any reserved matters application and a judgement can then be made on the acceptability of these details.

6.6 Residential amenity considerations

6.6.1 Policy CS 6 (Sustainable Design and Development Principles) amongst other matters seeks to ensure that all development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. There is a residential property located to the rear of the property which has a vehicular access abutting the east of the public house, there are also residential properties in proximity to the east and west.

6.6.2 Public houses can have detrimental impact on the amenities of occupants of residences in the vicinity and the amenities of the area generally by virtue of noise and general disturbance. The redevelopment of this site for residential purposes can be attributed positive weight as the amenities of the properties adjacent are likely to be improved. In addition, as explained in the comments of the council's Highway Section the proposal is also likely to result in less vehicle movements which again will have a positive impact in terms of amenity.

6.6.3 It is also material to assess the impact of the proposals on the outlook and in terms of overlooking of the adjacent residential properties. The presence of the existing buildings on the application site and the levels of the site which rise to the south are material in this assessment. Generally, the proposal is considered acceptable on residential amenity grounds but based on the indicative block plan submitted the distances from the rear elevations of two plots to the southern or boundary adjacent to the existing property to the rear is insufficient. These details are, however, indicative and this matter can be assessed as part of the reserved matters.

6.7 Other matters

6.7.1 No objections are raised by the council's Highways Section and it is stated that the proposal would generate less traffic movements than the existing use as a public house. A planning condition is recommended requiring the submission of a Construction Traffic Management Plan to mitigate highway impacts in the demolition and construction of the development. The applicant has also submitted amended plans which shows that the application site does not encroach onto the

public highway.

- 6.7.2 The Council's Regulatory Services advise that historically there was a lead smelter present on the application and that there is the potential for significant concentrations of contamination comprising predominantly heavy metals to be present. As part of any planning permission granted it is therefore recommended that a contaminated land condition is attached which requires a scheme of remediation of potential contaminants present to be approved by the council.

7.0 CONCLUSION

- 7.1 The application site comprises a previously developed infill site within the settlement boundary and the principle of the developing four residential units aligns with the settlement strategy and detailed planning policy framework. As the existing building has been extensively altered from the original beer house objection is not raised on the basis that it should be retained as a non-designated heritage asset. Whilst four two storey house houses in a terrace form are not considered inappropriate it must also be borne in mind that the application is in outline form and matters of detailed design including consideration of existing and proposed landscaping and consideration of residential amenity can be undertaken at the reserved matters stage.
- 7.2 It is not considered that that objection can be raised to the proposal on the grounds that it will result in the loss of a public house in that adequate evidence has been submitted of efforts to sell the property as a public house, alternate provision exists and it is not considered that the proposal would unacceptably impact on the role of the settlement.

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

Shropshire Core Strategy and SAMDev Plan Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS17 - Environmental Networks
CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD12 - Natural Environment
MD13 - Historic Environment
Settlement: S12 - Minsterley – Pontesbury

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY: _

09/01417/FUL Erection of a conservatory to side GRANT 14th August 2009
16/00279/FUL Demolition of one small extension and one shed and erection of new single storey extension. GRANT 22nd March 2016

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QRB615TDM8200>

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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Planning Statement Arboricultural Report Heritage Impact Assessment

Cabinet Member (Portfolio Holder) Councillor Ed Potter

Local Member

Cllr Nick Hignett

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the appearance of the development, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The details to be submitted for the written approval of the Local Planning Authority in accord with condition 1. shall:

- have a maximum of two storeys in height.
- ensure that the layout and design have no window(s) of any habitable room(s) overlooking an existing habitable room at a distance of less than 21 metres and any residential amenity area at less than 10 metres.

Reason To define the scope of this planning permission having regard to the assessed details and to safeguard the residential amenities of adjacent properties.

5. The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition (1) above shall include a scheme of landscaping and tree planting for the site. The approved scheme shall be implemented not later than the first planting season after the occupation of the buildings or completion of the development, whichever is the sooner.

Reason: In the interests of the visual amenities of the locality.

6. The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition (1) above shall include full details of a scheme indicating all of the proposed means of enclosure around and within the site whether by means of walls or fences and timetable for the implementation thereof. The approved means of enclosure shall be constructed or erected prior in accord with the details as may be approved in writing under the

provisions of this planning condition.

Reason: To ensure that the details and appearance of the development are acceptable to the Local Planning Authority and to safeguard residential amenities adjacent.

7. The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition (1) above shall include details of the proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land. The building(s) shall be constructed with slabs at levels that have been approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

8. No development shall take place until trade descriptions of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the implementation of the development.

Reason: To ensure a satisfactory appearance to the development.

9. a) No development (with the exception of demolition works where these are for the reason of making areas of the site available for site investigation) shall take place until a Site Investigation Report (to assess the nature and extent of any contamination present on the site and undertaken by a competent person in accordance with current Environment Agency guidance Land Contamination: Risk Management (LCRM)) has been submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy (including a timetable for the implementation thereof) shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

10. 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.

11. No development shall take place, including any demolition works, until a construction management plan incorporating a method statement has been submitted to and approved in writing by the Local Planning Authority. and shall provide for:

- i. A construction programme including phasing of works;
- ii. 24 hour emergency contact number;
- iii. Hours of operation;
- iv. Expected number and type of vehicles accessing the site:
Deliveries, waste, cranes, equipment, plant, works, visitors;
Size of construction vehicles;
The use of a consolidation operation or scheme for the delivery of materials and goods;
Phasing of works;
- v. Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- vi. Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
- vii. Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- viii. Locations for storage of plant/waste/construction materials;
- ix. Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- x. Arrangements to receive abnormal loads or unusually large vehicles;
- xi. Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
- xii. Any necessary temporary traffic management measures;
- xiii. Measures to protect vulnerable road users (cyclists and pedestrians);
- xiv. Arrangements for temporary facilities for any bus stops or routes;
- xv. Method of preventing mud being carried onto the highway;
- xvi. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The plan shall be adhered to throughout the construction period

The demolition and construction of the development hereby approved shall be undertaken

strictly in accord with any construction management plan approved in writing under the provisions of this planning condition.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development

12. Any trees or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.

Reason: In the interests of visual amenities of the locality.

13. The development hereby permitted shall be carried out in strict conformity with the details shown on the approved plans, and contained in the form of application and in any other documents accompanying such application as listed below, unless specified otherwise in any conditions of this planning permission:

Location Plan SA39355-BRY-ST-PL-A-0001_A

Reason To ensure that the development is implemented in accord with the approved details.

14. No construction (and/or demolition) works and associated deliveries shall not take place outside the hours of 7.30am to 6.00pm Mondays to Fridays; 8.00am to 1.00pm Saturdays; nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

Informatives

1. 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.

2. The site is classed as brownfield, therefore a 50% betterment to the current surface water flows should be provided in accordance with Shropshire Council requirements. The use of soakaways should be investigated in the first instance for surface water disposal. The betterment requirement will be assumed to have been achieved if all surface water is disposed of via soakaways. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting

other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Should soakaways are not feasible, drainage details and calculations to limit the proposed discharge, for the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonable practicable to the greenfield runoff volume for the same event as in accordance with the Non- Statutory Technical Standards for Sustainable Drainage Systems should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

3. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare	Change allowance % of impermeable area
Less than 25	10
30	8
35	6
45	4
More than 50	2
Flats & apartments	0

If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

On the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.

The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

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