



Committee and date
NORTHERN
21 June 2022

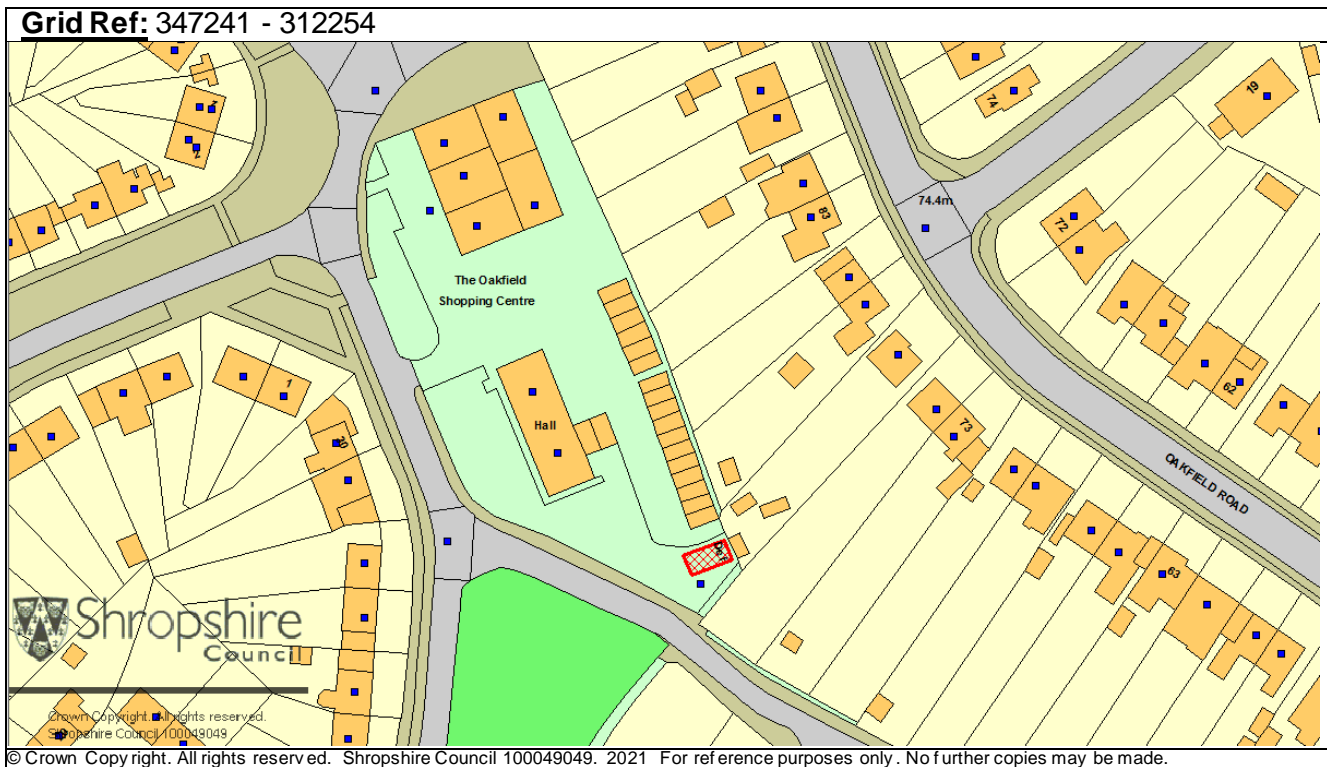
Item
Public

Development Management Report

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

Summary of Application

Application Number: 22/02030/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of a telecoms shelter with fencing		
Site Address: Land to the rear of Scout Hut Adj. To Rad Valley Gardens Shrewsbury Shropshire		
Applicant: VX Fibre		
Case Officer: Jane Raymond	email: jane.raymond@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for the erection of a telecoms shelter with security fencing.
- 1.2 The application form indicates that the shelter will allow up to 8000 homes in the surrounding area to gain access to fibre to the premises with speeds of 1Gbps.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is an area of grass adjacent to an access drive to the rear of 77 Oakfield Road that is accessed via a car parking area and row of garages to the rear of the scout hut at Rad Valley Gardens.
- 2.2 The site is owned by Shropshire Council and should planning permission be granted the following informative advice is recommended to be included on the decision notice:

INFORMATIVE ADVICE

The application site is owned by Shropshire Council and although the required Certificate B has been completed and notice served on the landowner this planning permission granted by Shropshire Council as the Local Planning Authority does not give the permission of Shropshire Council as landowner to implement the development on Shropshire Council owned land.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the application relates to land owned by the Council for development that is not in line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.2 **WSP on behalf of SC Drainage:** Provides informative advice.

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:**

5.0 THE MAIN ISSUES

Principle of development
Visual impact

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Part 10 of the National Planning Policy Framework (NPPF) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
- 6.1.2 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and Site Allocations and Management of Development (SAMDev) Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.
- 6.1.3 The application is to house telecommunications equipment that would support the provision of fibre broadband to more households improving internet speeds and is therefore acceptable in principle with regards to these policies.

6.2 Visual Impact

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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. CS6 also seeks to ensure that all development contributes to the health and well-being of communities, including safeguarding residential and local amenity.
- 6.2.2 The proposed shelter will have a pitched roof and the external dimensions of the shelter are 4.76m long x 2.36m wide and 2.727m high at the apex. A galvanised steel, palisade 1.8m high fence is proposed to be installed around the shelter for security. Both the shelter and fencing are proposed to be in a shade of PPC Green – RAL 6005.
- 6.2.3 The proposed building is relatively small and will be located in a discreet location to the rear of the scout hut and in an area occupied by garages. In this location it is considered that it would have no adverse visual impact on the character and appearance of the locality.

6.3 Other matters

- 6.3.1 The site is adjacent to the rear garden boundary of 75 and 79 Oakfield Road and adjacent to the driveway and gated access to the rear of 79. The proposal would not block access to these gates.
- 6.3.2 The submitted information indicates the following: *'The shelter is to contain active telecoms equipment, and will therefore require power, and contain backup batteries. It will be earthed, and secured, and will only require sporadic access. It*

will not require plumbing, nor generate waste, as it will not be in constant use' and 'it is ventilated and emits sound in the region of a quiet whisper'.

6.3.3 Having regard to the proposed location and the boundary fencing and hedgerow that separates the site from the long rear gardens of 75 and 79 Oakfield Road it is considered that the proposal would not result in any significant adverse impact on residential amenity with regards to noise and disturbance.

7.0 CONCLUSION

7.1 It is considered that the siting of the proposed building to house telecommunications equipment is acceptable in principle and would support the provision of communications infrastructure in accordance with Local Plan policies CS7, CS8 and MD8. The proposal would have no significant adverse impact on the character and appearance of the locality or residential amenity, and is therefore considered to accord with Local Plan policies CS6 and MD2.

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 Site Allocations and Management of Development (SAMDev) Plan:

CSD2, CS7, CS8, MD2 and MD8.

11. Additional Information

List of Background Papers

22/02030/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RB0FFLTDFN700>

Cabinet Member (Portfolio Holder): Councillor Ed Potter

Local Member: Councillor Julia Evans

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.