

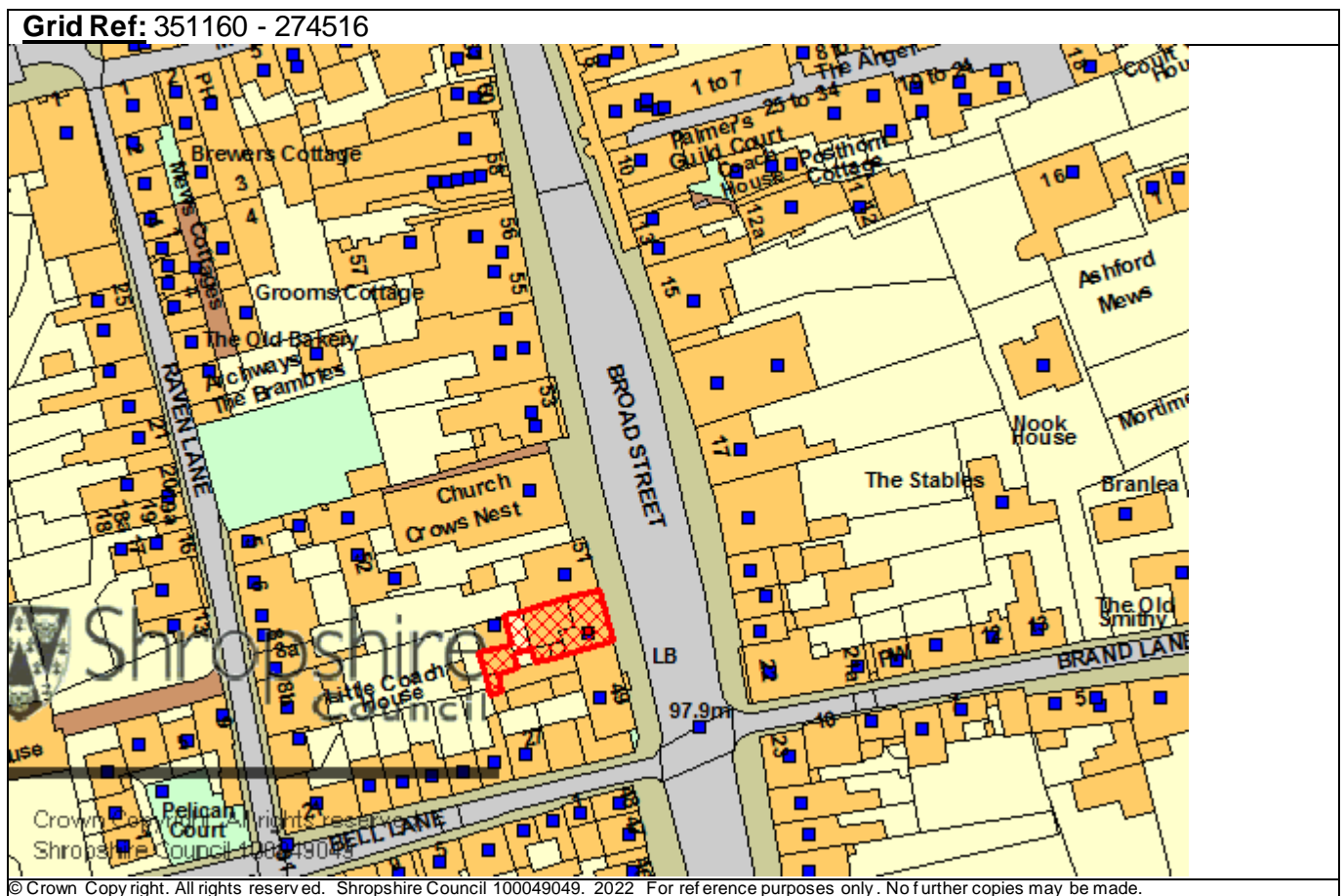
	<p><u>Committee and Date</u></p> <p>Southern Planning Committee</p> <p>26 July 2022</p>
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Development Management Report

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

Summary of Application

<p>Application Number: 22/01790/FUL</p>	<p>Parish:</p>	<p>Ludlow Town Council</p>
<p>Proposal: Alterations and extension to include change of use to form a residential townhouse</p>		
<p>Site Address: Golden Moments 50 Broad Street Ludlow Shropshire SY8 1NH</p>		
<p>Applicant: Barratt</p>		
<p>Case Officer: Elizabeth Griffiths</p>	<p>email : elizabeth.griffiths@shropshire.gov.uk</p>	



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks to change the use of 50 Broad Street, Ludlow from an Indian restaurant with associated living accommodation to a town house including internal alternations and a rear extension.
- 1.2 The proposal is the subject of two applications:
22/01790/FUL – application for full planning permission
22/01791/LBC – application for listed building consent

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located with Ludlow Conservation Area and on the west side of Broad Street. The building is Grade II listed and is currently used as a Indian restaurant with living accommodation above. The building extends over three levels including a basement, with a single storey range of buildings that extends west into rear garden spaces. There are stepped levels to the rear and several flying freeholds, as built-over and built-under adjoining the property to the south at No 49. The agent has confirmed via email that the Restaurant lease expired in 2020 and is currently in holdover and has been given notice by the landlord.
- 2.2 The building was originally a town house then was converted into a public house and obtained permission under SS/1987/49/P for its current use.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The Town Council view is contrary to the Officer recommendation and the local ward member has requested Committee determination. The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Planner, consider that the material planning considerations raised in this case warrant determination by Committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 Ludlow Town Council - Objection
The proposed development would have a detrimental effect on the character of the local area.
- 4.1.2 Shropshire Council Historic Environment - Comments
Further to our previous comments, photographs have been provided which are useful. Based on the information provided the alterations proposed are generally considered acceptable in conservation terms. We would recommend the following

conditions be imposed on any approval: Joinery details, Roof details, Samples of external materials, Metal rainwater goods, Scribe around historic features, Hitherto unknown evidence, Retain & protect architectural features.

More information required (18/05/22)

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; 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), the National Planning Policy Framework (NPPF) published July 2021, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes alterations and extension to include change of use to form a residential townhouse at Golden Moments, 50 Broad Street, Ludlow a Grade II listed building within the Ludlow Conservation Area. Whilst in principle there are no conservation objections to the change of use of the building to residential use, it is slightly unclear the impact upon the fabric and character of the building. The Heritage Assessment is currently lacking in any photographic evidence. Photographs of the areas to be altered to support an assessment of the impact would be useful. Please reconsult conservation when this is available

4.1.3 Shropshire Council Drainage - no objection, recommended informative

4.1.4 Shropshire Council Affordable Housing - No objection.

The proposed development falls below the threshold by which the Local Planning Authority are able to require a contribution towards affordable housing, therefore no affordable housing obligations apply in this instance

4.1.5 Shropshire Council Archaeology - No comment

4.1.6 Shropshire Council Trees - Comments

There development falls to the rear of the property and any trees or shrubs that might be affected are not visible from a public open space and so do not contribute significantly to the character and amenity of the area. Therefore, from an arboricultural perspective the Tree Team have no sustainable objection to the proposed development

4.2 Public Comments

4.2.1 A notice at the site has advertised the application and 29 objections have been received in response to this publicity and are summarised as follows:

- Importance and value of having a quality dining establishment in town is imperative to bring footfall and secondary trade into Ludlow.
- Golden Moments is a thriving, successful, well run business. Business would have to move into town centre where rents higher or left with 1 indian restaurant.
- Premises has had a ground floor business since 1960's.
- Security have been raised as possible issues relating to the restaurant,

although there has never been a complaint related to Golden Moments.

- The restaurant does not cause any undue noise or nuisance.
- Trying to cash in on the domestic property values
- If approved will result in unwelcome change to broad street. Too many retail buildings being converted to dwelling, the street has always been of mixed use.
- Will not improve the amenity of the neighbourhood.
- The D&A states that this will restore a former town house, which if followed to its logical conclusion would be the resurrection of the medieval timber frame.
- Draws attention to an illegal flue - can be addressed by landlord and SC Enforcement team
- Quiet residential areas are fine but closed properties with unopen shutters and no signs of life in a number of those buildings on Broad Street is not conducive to good urban crime prevention.
- The Design and Access Statement (DAC) states that the proposed development would "meet the needs of people with local connections". I would contend the existing use of the building is doing exactly that; people with local connections need to eat.
- Ludlow is already meeting and exceeding its housing quotas, largely due to the developments at Foldgate Lane and the former quarry at Fishmore Road. Therefore the statement in the DAC that the proposed development would "help to deliver housing need within the community" is arrant nonsense

Cllr Andy Boddington - objection

I object to this application in the strongest terms. Ludlow has seen over the years retail properties being converted to homes and that is a national trend. But those businesses had been struggling or had closed. Golden Moments is thriving. The closure is simply because the new owner of the property lives next door and has ambitions to "restore the property to a former townhouse and return the street scene to a more quiet residential setting."

There is no evidence provided in the application that Golden Moments causes any nuisance.

The application claims Golden Moments "is located some distance out side of the Town Centre Zone." The restaurant is 300 metres outside the designated town centre (SAMDev S10) and under the National Planning Policy Framework (NPPF), it is regarded as an edge of centre site:

"Edge of centre: For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary..."

"Main town centre uses: Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants..."

The NPPF of course assumes that applications would be to establish a business,

not close it down. However, it is clear that the location of Golden Moments is compatible with the current national planning framework.

Para 1 of the National Planning Policy Guidance (NPPG) for Town Centres and Retail states:

"Evening and night time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail. In fostering such activities, local authorities will also need to consider and address any wider impacts in relation to crime, noise and security."

As Shropshire Councillor for Ludlow North which includes the wider town centre area, I have never heard a complaint about Golden Moments relating to crime, noise and security. The existence of the restaurant is compatible with the NPPG.

This application has adverse impact for employment. Although there will be a short term and minor economic benefit should No 50 Broad Street be converted back to a town house, which it hasn't been for at least seven decades, there will be a longer term loss of jobs.

This is a family run business and the attempt to shut it down and increase the gentrification of Broad Street should be resisted through the planning system. Ludlow town centre needs businesses like Golden Moments.

I wish to call this application in to the Southern Planning Committee for consideration unless planning officers are minded to reject the application.

In my earlier comment, I said: "The restaurant is 300 metres outside the designated town centre". This should have read "The restaurant is within 300 metres outside the designated town centre".

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact
Residential amenity
Other matters

NOTE: The impact on the special architectural character and historic interest of the listed building is considered within the officer's report attached to the listed building application reference – 22/01791/LBC.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted

development plan ‘unless material considerations indicate otherwise’. Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

- 6.1.2 The ground floor is currently used as a restaurant and the proposed would see this converted into residential space, the first floor would see the current space reordered and the flat roof rear extension would be removed and replaced with a 2 storey extension. The proposed change of use would see the building revert to residential accommodation under Use Class C3.
- 6.1.3 Ludlow is one of the towns within Shropshire to which Core Strategy Policy CS3 – The Market Towns and Other Key Centres, applies. This policy supports ‘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 towns’ development boundaries and on sites allocated for development’.
- 6.1.4 Ludlow is a market town which has a focus of development for around 875 dwellings for the period between 2006 and 2026. Policy S10 of the Site Allocations and Management of Development, (SAMDev) Plan indicates that new housing development would be delivered, primarily on allocated housing sites with additional infill and windfall development within the towns development boundary.
- 6.1.5 The site falls within the development boundary for Ludlow and is located in a mainly residential area consisting, of properties of various sizes and/or form. The site is outside the designated town centre and primary shopping area (SAMDEV S10 map) where Shropshire Council have policies under the Core Strategy and SAMDev that protected business.
- 6.1.6 If the building had not been listed then this change could take place under Schedule 3 Class MA of the Town and Country Planning (General Permitted Development) (England) (Amended) Order 2015 which is development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.
- 6.1.7 The property also has good access to local facilities including public transport and would provide sustainable development. The principle of development is therefore satisfied.
- 6.2 Siting, scale and design of structure
 - 6.2.1 Shropshire Core Strategy Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. Policy MD2 in the adopted SAMDev Plan reinforces CS6 by making sustainable design a critical element of any new development.

- 6.2.2 The proposed development has the potential to impact on the listed building and surrounding listed building in this conservation area and therefore the proposal has to be considered against Shropshire Councils policies CS17 and SAMDev MD13 and with national policies and guidance including PPS5 Historic Environmental Planning Practice Guide and Section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 6.2.3 The front elevation would see the removal of signage and external lighting only, while the rear elevation would see the existing flat roof extension removed and replaced with a 2-storey pitched roof extension of matching materials to ensure it blends in along with a single storey flat roof element that would allow for a small area of decking. Large areas of glazing would be added to this rear elevation to allow for as much natural light as possible while internally new openings would be formed to comply with fire safety. The agent has submitted a design and access statement and heritage statement that fully details the proposed works.
- 6.2.3 On balance it is considered that proposal is sympathetic to the size, mass, character and appearance of the original building and would be in accordance with Shropshire Core Strategy Policies CS6 and CS17 and SAMDev MD2 and MD13. All the proposed materials will be reinforced by condition to ensure that the materials used will match and complement those of the existing building.
- 6.3 Visual impact
- 6.3.1 The changes to the front elevation (ie removal of signage and external lighting) would have minimal visual impact upon the area. The changes to the rear elevation would be visible from the surrounding area however it is considered these changes would have minimal visual impact on the conservation area due to them being at the rear.
- 6.3.2 On balance, it is considered that the proposal would not detract from the visual amenity of the building, the surrounding area or cause harm to the conservation area.
- 6.4 Residential amenity
- 6.4.1 The proposed fenestrations to the rear of the dwelling are not considered to increase overlooking significantly as the proposed fenestrations are no more detrimental to amenity than the existing windows and doors and would not cause harm from overlooking.
- 6.4.2 No off-road parking is proposed for the scheme, however there is on street parking available in Broad Street along with on foot access to public transport, schools, facilities and services required for day-to-day living.
- 6.5 Other Matters
- 6.5.1 Objections have been received from the public stating that this is a thriving

business and popular restaurant, and that there are no security/noise issues and how the applicant is trying to cash in on domestic property values and too many buildings are being changed into dwellings. These are not planning matters however it should be noted that there are empty buildings within the designated town centre that would be more appropriate and supported by policy which the tenant could move into and operate the restaurant from.

7.0 CONCLUSION

The proposal is judged to be in scale and character with the original building and would have no significant adverse impact on the visual or residential amenities of the conservation surrounding area. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

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

National Planning Practice Guidance

West Midlands Design Charter

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

Adopted Shropshire Site Allocations and Management of Development (SAMDev) Plan

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

SS/1/07/20095/LB Construction of suspended ceiling; replace door, door frame, entrance screen and bar; remove plaster from chimney and expose brickwork PERCON 12th December 2007

SS/1/4836/L/ Demolition of 2 storey annexe and outbuildings, extension of existing lean-to buildings at ground floor level, internal alterations and installation of new windows PERCON 18th August 1994

SS/1/4835/P/ Demolition of 2 storey annexe and outbuildings, extension of existing lean-to buildings at ground floor level, internal alterations and installation of new windows PERCON 18th August 1994

SS/1987/49/P/ Change of use from Public House with living accommodation to licenced Restaurant with living accommodation. PERCON 5th March 1987

- SS/1972/3547 Alterations to 50 Broad Street GRANT 8th December 1972
- SS/1972/3547/L/459 Alterations to 50 Broad Street, Ludlow GRANT 8th December 1972
- SS/1970/2034 Installation of a new doorway REFUSE 2nd October 1970
- SS/1970/2034/L/193 Installation of a new doorway REFUSE 2nd October 1970
- SS/1/07/20095/LB Construction of suspended ceiling; replace door, door frame, entrance screen and bar; remove plaster from chimney and expose brickwork PERCON 12th December 2007
- SS/1/5815/U/ Application to fell a Lime tree OBJECT 20th July 1995
- SS/1/4836/L/ Demolition of 2 storey annexe and outbuildings, extension of existing lean-to buildings at ground floor level, internal alterations and installation of new windows PERCON 18th August 1994
- SS/1/4835/P/ Demolition of 2 storey annexe and outbuildings, extension of existing lean-to buildings at ground floor level, internal alterations and installation of new windows PERCON 18th August 1994
- SS/1987/49/P/ Change of use from Public House with living accommodation to licenced Restaurant with living accommodation. PERCON 5th March 1987
- SS/1/98/009390/TP Felling of an Ash tree REFUSE 17th December 1998

Appeal

SS/4/00/00022 Refusal of planning permission on 1/98/ 009390/TP ALLOW 3rd July 2000

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member Cllr Andy Boddington
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.

3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

4. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

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

5. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

6. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays, public and bank holidays.

Reason: To protect the health and wellbeing of residents in the area.

No construction works, demolition works and associated deliveries shall 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. Drainage

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at:

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and->

[maintenance/sustainable-drainage-systems-handbook/](#)

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.