



Committee and Date

Northern Planning Committee

6th December 2022

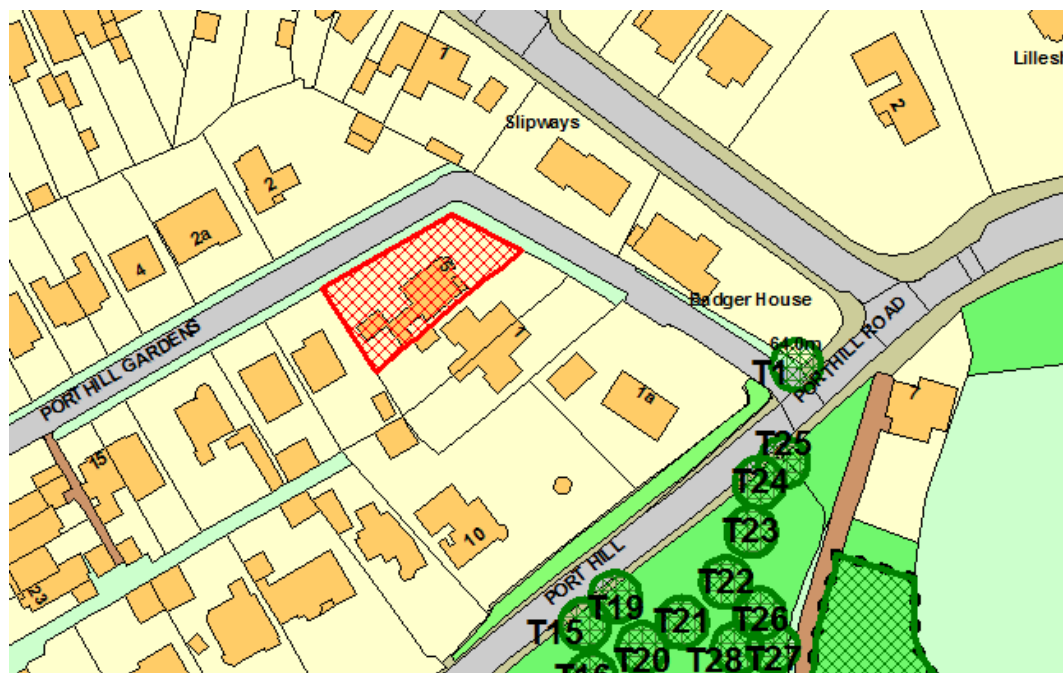
Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/03912/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Replacement kitchen and gym		
<u>Site Address:</u> 5 Porthill Gardens Shrewsbury Shropshire SY3 8SH		
<u>Applicant:</u> Dr & Mrs A & E Booth		
<u>Case Officer:</u> Nia Williams	<u>email:</u> nia.williams@shropshire.gov.uk	

Grid Ref: 348288 - 312594



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

- 1.1 This proposed development seeks full planning permission for a replacement kitchen and gym to the property known as 5 Porthill Gardens.
- 1.2 Planning history – (19/04483/FUL) Erection of garage building; single storey extension, formation of retaining wall - GRANTED
- 1.3 The extension will be sited at the rear of the property on the south – west and will measure approximately 12.27m in length, 7.58m in width, 5.52m to the ridge and 4.72m to the eaves.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The existing large dwelling occupies an elevated position in a corner site on Porthill Gardens, which is an attractive private road with a mixture of detached and semi-detached properties of similar age accessed from Porthill Road in Shrewsbury.
- 2.2 The property has an existing single storey garage, and the rear outbuilding has been demolished to allow for the previous granted extension (19/04483/FUL)

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme complies with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

- 4.2 **SC Archeology (Historic Environment)** - We have no comments to make on this application with respect to archaeological matters.

- 4.3 **SC Highways** - No Objection Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Shropshire Council as Highway Authority has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application

- 4.4 **Drainage & SUDS** - All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Informative Notes:

A sustainable scheme for the disposal of surface water from the development

should be designed and constructed in accordance with the Councils SuDS Handbook which is available in the Related Documents Section on the Councils Website: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/> Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. 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.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook. Shropshire Council will not permit new connections to the Highway Drainage network. Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

4.5 SC Conservation (Historic Environment) - Porthill Gardens is characterised by attractive high quality traditional dwellings along a narrow road in a verdant setting, where many of these houses were constructed from circa 1907 and within several years following. Referring to the 1925 revised OS map, much of the building forms along Porthill Gardens had been established, including Number 5 Porthill Gardens positioned at the south corner of the easterly bend in the street as well as its neighbours to the south, west and north. Porthill Gardens is positioned north of and outside of the northerly boundary of the Shrewsbury Conservation Area and we are aware there is local interest in including Porthill Gardens within a conservation area designation.

This application follows on from application 19/04483/FUL which approved a flat roof garage building to the front elevation of the dwelling along with single storey extension to the rear, replacing existing a more modest rear range. This new application proposes a larger rear extension than approved under the 2019 application, to house a kitchen and a gym. In considering this proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, and the National Planning Policy Framework (NPPF).

While it is understood that the earlier approved more modest rear extension scheme was considered to satisfactorily address local policy considerations with respect to protecting and conserving the built environment, and matters of appropriateness relevant to scale, density, pattern and design, when taking into consideration local context and character and distinctiveness, the current proposal by virtue of its large extent and footprint within this corner property is not considered to respond particularly well to these important policy considerations. While of single storey and to some extent subservient to the main traditional dwelling in terms of height, the size and form of this extension is not particularly appropriate in character or design to the main dwelling or with others within the immediate context of this site, where it may be more visible in views from Porthill Gardens looking into the site given the position of this dwelling within the street

scene. The proposed scheme fills in the south-west corner of the property back from the rear elevation almost to the property line and again this is not considered to respect the scale or pattern of development which characterises this area, and when combined with the new garage built to the front of the property, the likely overall result would represent over-development of the site which is not sympathetic with the character and context of this mainly traditional neighbourhood. We would offer these comments in consideration of this proposal.

4.6 Public Comments

4.7 Shrewsbury Town Council - The Town Council objected to this application on the grounds of over development and the strong concerns already raised by residents. The size of the proposed extension was very large and appeared to be doubling the original footprint of the house.

4.8 Members of public – Multiple objections have been received regarding the application. The main reasons are,

- Size and proportion of the proposed
- Potential impact on trees, hedges and planting
- The plans not respecting the original Edwardian design of the house
- Land stability
- Heritage of the local area
- Safety of boundary between neighbouring properties

5.0 THE MAIN ISSUES

- **Principle of development**
- **Design and Scale**
- **Residential Amenity**

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area.

6.1.2 Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

6.1.3 Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring design policies to reflect local aspirations ensuring developments are sympathetic to local character, visually attractive and establish a strong sense of place.

6.1.4 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment but places the context of the site at the

forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.

- 6.1.5 MD13 of the SAMDev component of the Local Plan seeks to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored through appropriate and well considered design.

6.2 Design, Scale and Character

- 6.2.1 The proposed works are for a replacement kitchen and gym to the rear elevation which will measure approximately 12.27m in length, 7.58m in width, 5.52m to the ridge and 4.72m to the eaves.
- 6.2.2 The new single storey rear extension will replace an existing smaller extension and existing storage buildings, a garage which has been converted into a climbing room and a courtyard area. In this corner location, the new extension will be visible from side views, but replaces an existing older extension, older garage and outbuildings, and may be considered as an improvement to the existing dwelling's facilities.
- 6.2.3 The proposed works will not result in a significant loss of garden area and an appropriate level of amenity space for the enlarged dwelling will remain, however it will be appropriate to ensure the site does not become overdeveloped such that it will be appropriate to add a condition restricting permitted development with regard to further outbuildings.
- ## **6.3 Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The proposed single storey rear extension will lie close to the boundary with no.3 to the south which has an existing outbuilding adjacent. The eaves to the extension are approximately 4.72m, which will be above the existing fence, and the roof extends away from the boundary. There is no glazing to this elevation, so no impact upon privacy, and the orientation of the extension ensures that there will be no loss of light, that any additional shadowing to no. 3 will be very minimal, and there will be no significant impact on outlook from the rear of no.3 over the existing situation. It will be appropriate to include Party Wall Advice.

7.0 CONCLUSION

- 7.1 This is a finely balanced application in that the proposed scale, design and appearance of the proposed works will respect the existing character of the dwelling all be it on a significant footprint compared to that of the existing dwelling itself. Overall owing to the location and land topography it will not result in a substantial visual impact or cause any significant detrimental impact on neighbouring properties. It must also be recognised that permitted development rights do allow a significant increase onto dwelling's rear elevations provided certain planning criteria is met. The proposed development on balance is

considered to accord with the requirements of the adopted Core Strategy Policy CS6 and CS17 and SAMDev Policies MD02 and 12. The Recommendation is that permission is granted, subject to conditions as attached to appendix one of this report.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination of 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 – in so far 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

National Planning Policy Framework

CS17 - Environmental Networks

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

14/03309/FUL Construction of flat roof to pitched roofed garage GRANT 22nd September 2014

19/04483/FUL Erection of garage building; single storey extension, formation of retaining wall GRANT 17th March 2020

20/01725/DIS Discharge of Conditions 3 (AMS Tree Protection), 5 (Landscaping) and 8 (Implementation of AMS) on Planning Permission 19/04483/FUL for the erection of garage building; single storey extension, formation of retaining wall DISAPP 1st June 2020

21/00907/DIS Discharge of Conditions 6 (Garage Doors) and 7 (External Materials) on Planning Permission 19/04483/FUL for the erection of garage building; single storey extension, formation of retaining wall DISAPP 15th March 2021

22/03912/FUL Replacement kitchen and gym PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SU3TDII300>

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 Richard Marshall
Local Member Cllr Julian Dean
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, drawings and documents as listed in Schedule 1 below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until an Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. The AMS should include and provide detail as to any increase over current soil levels required across the site.

Reason: To ensure that due consideration is given to protecting the natural features which contribute to the amenity of the local area and which are important to the appearance of the development.

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**

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following development shall not be undertaken without express planning

permission first being obtained from the Local Planning Authority:-

- o Free standing buildings within the curtilage;
- o New fences, gates or walls

Reason: To maintain the scale, appearance and character of the development.

Informatives

1. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Informative Notes:

A sustainable scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SuDS Handbook which is available in the Related Documents Section on the Councils Website: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

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Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network. Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

2. The proposed works seem likely to fall within the scope of the Party Wall Act 1996.

Further information is available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523010/Party_Wall_Act_1996_-_Explanatory_Booklet.pdf