



Committee and date
Northern Planning Committee

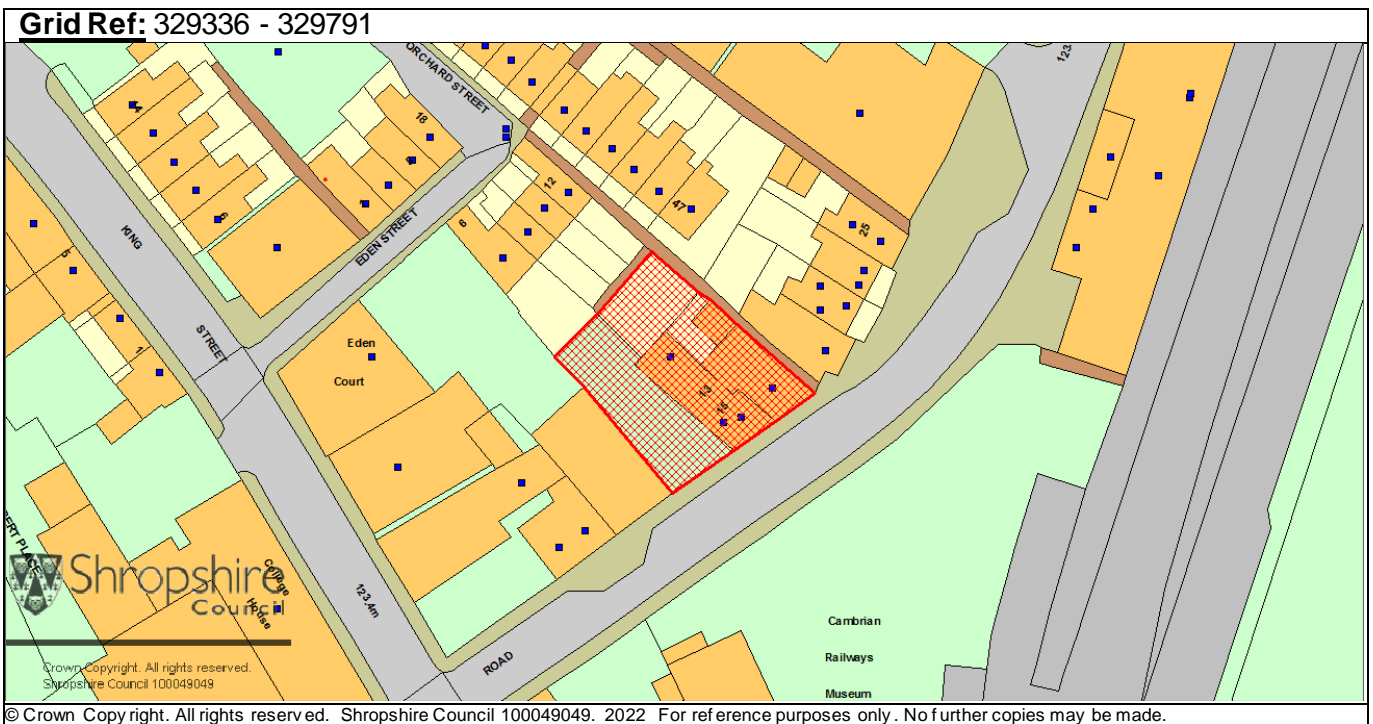
6th December 2022

Development Management Report

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

Summary of Application

Application Number: 22/03805/FUL	Parish:	Oswestry Town
Proposal: Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors		
Site Address: Oswald House 13 Oswald Road Oswestry Shropshire SY11 1RB		
Applicant: Mr D Wainwright		
Case Officer: Melanie Williams	email: melanie.williams@shropshire.gov.uk	



Recommendation:- Approval subject to the conditions as set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal relates to a five-storey property (including basement) located within the centre of Oswestry. The property is situated within an area of mixed use with a vacant former commercial building to the west, a tattoo parlour to the east, the Cambrian Railway Museum to the south and residential uses to the north.

2.2 The property lies within the Oswestry Conservation Area in a fairly prominent location opposite both the Grade II listed Old Railway Station and Goods Shed and is in itself considered to be of architectural interest to warrant consideration as a non-designated heritage asset.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council objects to the proposals as does the ward member. The officer recommendation is contrary to the views of the Town Council and Ward Member. The matter was referred to the Chair/Vice Chair who determined in conjunction with the Development Manager and Principal Officer that the application should be determined by the Northern Planning Committee as the Town Council have raised material reasons

4.0 Community Representations

4.1 Consultee Comment-

4.1.1 **Cllr Duncan Kerr (Ward Councillor)** - Following the decision of Oswestry Town Council to recommend refusal of this application I am formally requesting that if officers are minded to grant approval the case is referred to the Northern Planning Committee.

4.1.2 Shropshire Council Highways:
No objection subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

4.1.3 Shropshire Council Public Protection:
No objection subject to an informative pertaining to a HMO licence

4.1.4 Shropshire Council Drainage:
No objection subject to informatives

4.1.5 Shropshire Council Conservation:
Initially objected as the scheme proposed the removal of the existing shop front and

replacement with uPVC windows. However following these comments the applicant has submitted amended drawings which would retain the existing timber shop front and entrance doors with some smaller amendments to the frontage which is acceptable.

4.2 Public Comment-

4.2.1 Oswestry Town Council:

Object

Resolved to recommend that Shropshire Council refuse planning permission for the change of use to provide a 14 bedroom house of multiple occupation at Oswald House, 13 Oswald Road. Members cited the following material considerations:

- The development is not suitable for the location contrary to the National Planning Policy Framework s 127 which sets out a requirement for "development which will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development". The scale and density of the proposal will amount to a significant overdevelopment of the area and will have a considerable (negative) impact on the functioning of the street;
- The area is already suffering from significant problems caused by drug use and crime, this would be exasperated by this development and have a negative impact on the quality of life of other residents in the area;
- The development would result in the overcrowding of the dwelling with the lack of kitchen amenity space or recreation space for the number of residents. It was felt that this overcrowding, the lack of kitchen space and the lack of any amenity space will have a significant and detrimental impact on the quality of life of the residents of the property;
- Concerns also exist regarding the noise and nuisance that will be created at the location that will impact on the health and well-being of immediate residents;
- Oswald Road is a busy one with limited space for residents car parking, the additional cars would exacerbate the existing on-street parking difficulties;
- Concerns exist over the amount of refuse that will be generated and stored.

In addition to the points above members highlighted the fact that the building is within the town centre conservation area and the development is unsuitable for HMO licenced accommodation.

Oswestry Town Council request that if the Shropshire Council Planning Officers are mindful to approve the application then the Town Council formally ask the Northern Area Planning Committee to call the application in for elected Member consideration.

4.2.2 Six letters of objection have been received from neighbouring properties and other members of the public. These highlight a number of issues including the following:

- Lack of Amenity
- Drainage issues
- Concerns regarding potential occupants
- Health & Safety
- Impact on surrounding residents and businesses
- Internal facilities to be provided

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The National Planning Policy Framework (2018) at Para 127 (f) advocates that development should seek to ‘create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.’
- 6.1.2 Shropshire Core Strategy Policy CS6 requires development to ‘Protect, restore, conserve and enhance the natural, built and historic environment’ and to be ‘appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character’. Furthermore development is required to be ‘designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision.....’
- 6.1.3 It is further stated that development should be ‘designed to be adaptable, safe and accessible to all...and, in relation to housing, adapt to changing lifestyle needs over the lifetime of the development in accordance with the objectives of Policy CS11’ and should contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.’
- 6.1.4 CS11 requires that all developments are designed capable of adaption to accommodate lifestyle changes, ‘including the needs of the elderly and people with disabilities’. The policy supports the provision of housing for vulnerable people and specialist housing provision, including nursing homes, residential and extra care facilities, in appropriate locations and where there is an identified need...’
- 6.1.5 The Council’s Supplementary Planning Document (SPD) ‘Shropshire Type and Affordability of Housing SPD 2012’ supplements the Shropshire Core Strategy and seeks to help deliver the following strategic objective 5:
- ‘Provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly.’
- 6.1.6 Section 2.13 relating to ‘Design of Residential Homes and Care Homes’ states that where such schemes are conversions / extensions of existing buildings the development should be capable of taking place so as to be sympathetic to the character and appearance of the existing building. Such developments are discouraged in cases where ‘they do not leave a satisfactory level of parking, service areas and external amenity space for the occupants of

the home’.

- 6.1.7 Section 2.15 additionally states that the design, layout, parking, servicing and access should avoid detrimental impacts on neighbours, such as noise and disturbance, excessive traffic and overshadowing.
- 6.1.8 The importance of maintaining acceptable living standards for the occupants of dwellings, in terms of the internal size of living accommodation and the provision of external private amenity space is also dealt with in section 2.16. It is stated that developments must not provide cramped accommodation and minimal outside amenity space.
- 6.1.9 In assessing planning applications for residential developments, including multiple and single plots, extensions, subdivisions and conversions, the Council is required to ‘take account of the internal and external space provided, with a view to ensuring reasonable living space requirements for the occupants, as well as protecting the living conditions of neighbours who might be affected. Developments providing unacceptably cramped accommodation will be resisted’.
- 6.1.10 ‘With regard to private open space / storage facilities, developments will normally at least provide for a satisfactory level of external drying of washing, storage of tools and garden equipment, secure bicycle storage, water butts, waste, compost and recycling bins.’
- 6.1.11 ‘All developments should provide acceptable facilities / conditions for the storage and collection of waste and recycling....’
- 6.1.12 In addition to planning permission, the proposed HMO would be subject to a separate HMO license which sets out the legislative requirements for satisfactory management and maintenance of appropriate physical standards. A HMO application would specifically deal with issues of maximum occupancy numbers, mandatory conditions in relation to gas, electrical and fire safety and preventative conditions in the event of anti-social behaviour. Any breach of licence conditions can ultimately result in landlords being prosecuted and their licence being revoked and it should be noted that it is not the role of the planning system to duplicate control of other regulations in making land use planning decisions.
- 6.1.13 In view of the site’s location within Oswestry Conservation Area policies relating to the protection of the historic environment, including Core Strategy Policy CS17 (Environmental Networks) and SAMDev Policies MD2 (Sustainable Design) and MD13, are also deemed to be relevant in the consideration of this application.
- 6.1.14 Therefore in terms of the sites location within Oswestry Town Centre, in consideration of the nearby services, facilities, recreational and employment opportunities the principle of development is considered acceptable subject to further checks discussed below.

6.2 Details of the proposal

- 6.2.1 The proposal is to convert the building to a **14 bedroom house in Multiple Occupation (HMO) with 2 self contained residential units.**
- 6.2.2 The existing building is described within the submitted details as a former mixed use

property which comprised commercial uses on the ground floor and basement with the upper floors used for residential (as a single 5/6 bedroom dwelling). It is assumed this residential unit is currently vacant. Part of the ground floor is occupied by a Health care practise with the remaining commercial space vacant.

- 6.2.3 The 2 residential apartments are to be located on the ground floor (1 x 1 bed **flat 2** and 1 x 2 bed **flat 1**) each containing a separate kitchen and living space with a garden/service yard area which will be allocated to flat 1.
- 6.2.4 The first second and third floor will be converted to a 14 bedroom HMO (which are all to be en-suite) with communal kitchen/dining/living space and laundry area on the 2nd floor.
- 6.2.5 The proposal will involve a number of internal alterations including the removal of some partition walls. Plus there will be a small extension to the rear at second floor level building up over the existing staircase to provide an escape from the communal kitchen area.
- 6.2.6 To the rear of the building a communal yard, waste storage is to provided with parking area to the side.

6.3 HMO description & detailing

- 6.3.1 The Housing Act 2004 clarifies the definition of a house in multiple occupation (HMO), replacing the definition under the Housing Act 1985. The definition of an HMO is found in Part 7 of the 2004 Act.

England.Shelter states that: To be defined as an HMO, a building, or part thereof, must fall within one of the following categories:

- a building or flat in which two or more households share a basic amenity, such as bathroom, toilet or cooking facilities: this is known as the 'standard test' or the 'self-contained flat test'
- a building that has been converted and does not entirely comprise of self-contained flats: this is known as the 'converted building test'
- a building that is declared an HMO by the local authority
- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied: this is known as a section 257 HMO

These tests are explained in detail below.

Standard test for HMOs

A building is an HMO under the standard test if the:

- occupants share one or more of the basic amenities (defined as a toilet, personal washing facilities and cooking facilities) or the accommodation lacks one or more of these amenities
- building does not entirely consist of self-contained flats (it may, however, comprise some self-contained units)
- building is occupied by at least three people who constitute more than one

household

- building is the occupants' main residence (or should be treated as such)
- occupation constitutes the only use of the accommodation, and
- rents are payable, or some other form of consideration, for at least one person's occupation

This test applies to the most common type of HMO. It applies to shared houses (shared by more than one household such as students) and purpose-built bedsit accommodation. It may also apply to a hostel if the accommodation does not entirely comprise of self-contained units.

- 6.3.2 As stated at section 6.1.12 above if a property is running as a house in multiple occupation in England or Wales the owner will need to apply for a separate HMO licence from the Local Authority. This license will be subject to conditions to ensure the following is acceptable:
- the house is suitable for the number of occupants (this depends on its size and facilities)
 - the manager of the house is considered to be 'fit and proper', for example they have no criminal record or breach of landlord laws or code of practice

6.4 Internal area provision & space standards

- 6.4.1 The ground floor flats will have a gross internal floor area of 65m² for the 1 bed roomed flat and 85m² for the 2 bed flat. An extract is shown below from **Table 1 of *The technical housing standard in relation to nationally described space standards***.

Table 1 - Minimum gross internal floor areas and storage (m²)

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		

- 6.4.2 It is the requirement that a single storey 1 bed property should have a minimum internal floor area of 39m² and a 2 bed property at least 50m².
- 6.4.3 The bedroom units to be provided will all have an en-suite bathroom and range in size with bedrooms 1 & 7 measuring at the lower end at 14.5m² to the larger rooms contained on the 3rd floor (11-14) measuring 18.5m² up to 22.6m².
- 6.4.4 The guidance states that in relation to a double bedroom the standard requires an internal floor area to be at least 11.5m².
- 6.4.5 In consideration of the above it is concluded that all the units including the flats would meet the national requirement in terms of space standards and the level of internal accommodation is therefore considered acceptable.

6.5 Amenity & Parking provision

6.5.1 The parking area for the site is to be provided to the side and rear of the main building off the main access. 5 car parking spaces will be provided including a turning area, a cycle stand and cycle storage unit will also be included providing for 16 bicycles in total. Given that the proposal is for 14 singles units and 2 enclosed flats this provision would seem inadequate. However Highways have no objection to the proposal and provide the following comments:

6.5.2 *The site is located in the centre of Oswestry close to local amenities and employment opportunities. It is also located close to the bus station providing opportunities for sustainable travel. The redevelopment of the site is retaining 5 parking spaces. Whilst this is not a desirable provision, the development is nonetheless providing some onsite facility together with cycle parking facilities to further promote/encourage alternative means of transport.*

The nature of the occupancy of the proposed rooms is unlikely to be occupied by family groups and more likely to be occupied by tenants not owning their own vehicle resulting in a lower parking demand than would normally be reasonable anticipated with an apartment/flat.

On balance therefore whilst a greater parking provision would be desirable it is considered that a highway objection to the proposal in this location would be difficult to sustain purely on highway safety grounds generated from a potential degree of on street parking demand.

6.5.3 In addition there are parking facilities in close proximity to the site including on the street frontage; there is public carparking immediately opposite over the adjoining highway with further parking facilities located adjacent to the Cambrian Railway Museum Building, the Cambrian surgery and nearby vacant superstore. As the Highways Department refer to consideration needs to be given to the town centre location in terms of the sustainable transport methods afforded to the area. A scenario to consider is the likelihood that the units will be occupied as starter accommodation for single persons either students or individuals professionally employed within the nearby vicinity. It should additionally be considered that the upper floors of the building are already in residential use with the ground floor currently being used as commercial; therefore there is already an existing level of traffic movement and parking that has not generated any issues or complaints. The proposal may increase this to a certain extent but in consideration of the parking facilities nearby, the location of the proposal, the sustainable transport available it is felt that this increase would not be unacceptable nor detrimentally impact on the amenity of the area or cause a parking issue. Plus in this case, given the sustainable location it is officer opinion that the development would not likely have a significant effect on traffic generation or road safety within the area.

6.5.4 External amenity is provided to the rear of the building including an enclosed garden area for Flat 1. The landscaping shows a communal yard space, area for cycle storage, bin storage and a decorative seating area at the northwest edge. The space provided equals 91m² in total area with approx 74m² considered useable amenity space.

6.5.5 Again this would seem inadequate given the level of residential accommodation to be provided. However this must be weighed against the nearby amenity areas available within short walking distance of the site; Cambrian Park is located across the road approx 70m distance, a green space approx 5Ha in size with scenic walks, play areas and other attractions including a 40m grass maze. The development site is also adjacent to Oswestry Town Centre and Primary Shopping Area with the facilities available within the town centre itself only a short walk away.

6.5.6 In addition the applicant has indicated that they are willing to enter into an agreement to provide an off-site contribution for public amenity. This would be calculated against the current prevailing rate and the procurement would form part of a future section 106 agreement to secure this fund.

6.6 Summary

6.6.1 It is officer opinion that this is a very finely balanced application with a number of points in favour and against the proposal. The points in favour include the re-use of the building, the benefits to the local economy and the provision of housing; the negatives would include the level of accommodation to be provided especially when considering the amount of car parking and amenity space provision.

6.6.2 In consideration of this it is noted that these sort of developments are typically located within urban areas often with limited onsite parking facilities and amenity provision.

6.6.3 The factors have to be weighed up in the planning balance and it is officer opinion that the benefits of the scheme would outweigh the negatives and therefore the proposal is recommended for approval subject to conditions and a section 106 securing a monetary contribution for off-site amenity provision.

6.7 Other matters

6.7.1 It is noted a member of the public has raised concerns about drainage from the site. The Council's Drainage Manager raises no objections to the application on drainage matters.

6.7.2 The development is considered acceptable in relation to the historic environment.

7.0 Conclusions

7.1 It is considered that the proposed development is acceptable in principle and will provide much needed lower cost residential accommodation in a sustainable location within the Oswestry urban area and at the same time ensuring that the property and grounds will be maintained. It is further considered that the proposal would have no significant adverse impact on the locality or residential amenity, as such health and safety issues along with occupants amenity is considered acceptable in planning terms. (A license for a dwelling in multiple occupation will be required). The proposal is therefore considered on balance to accord with CS3, CS6 & CS11 of the adopted Core Strategy plus MD2 & MD13 of the SAMDev and it is recommended that the application is approved.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

22/03805/FUL Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGTOQ4TDICB00>

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 Duncan Kerr
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 drawings including the amended drawing received on the 4th October 2022 (ref: 13-17OR-304-BR Rev A)

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

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Proposed Site Plan Drawing No. 13-170R/200/BR prior to the rooms and residential units being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

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

5. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected

during the approved works.

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

Informatives

1. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, pedestrian crossings, and all trafficked areas of highway (i.e., footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

2. This property shall be subject to the Mandatory House in Multiple Occupation (HMO) Licensing Scheme. The owners/managers responsible for operating the property, will be required to apply for a HMO Licence. For more information on this, please contact the Housing Enforcement Team.

3. 1. 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.

2. In 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.

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