



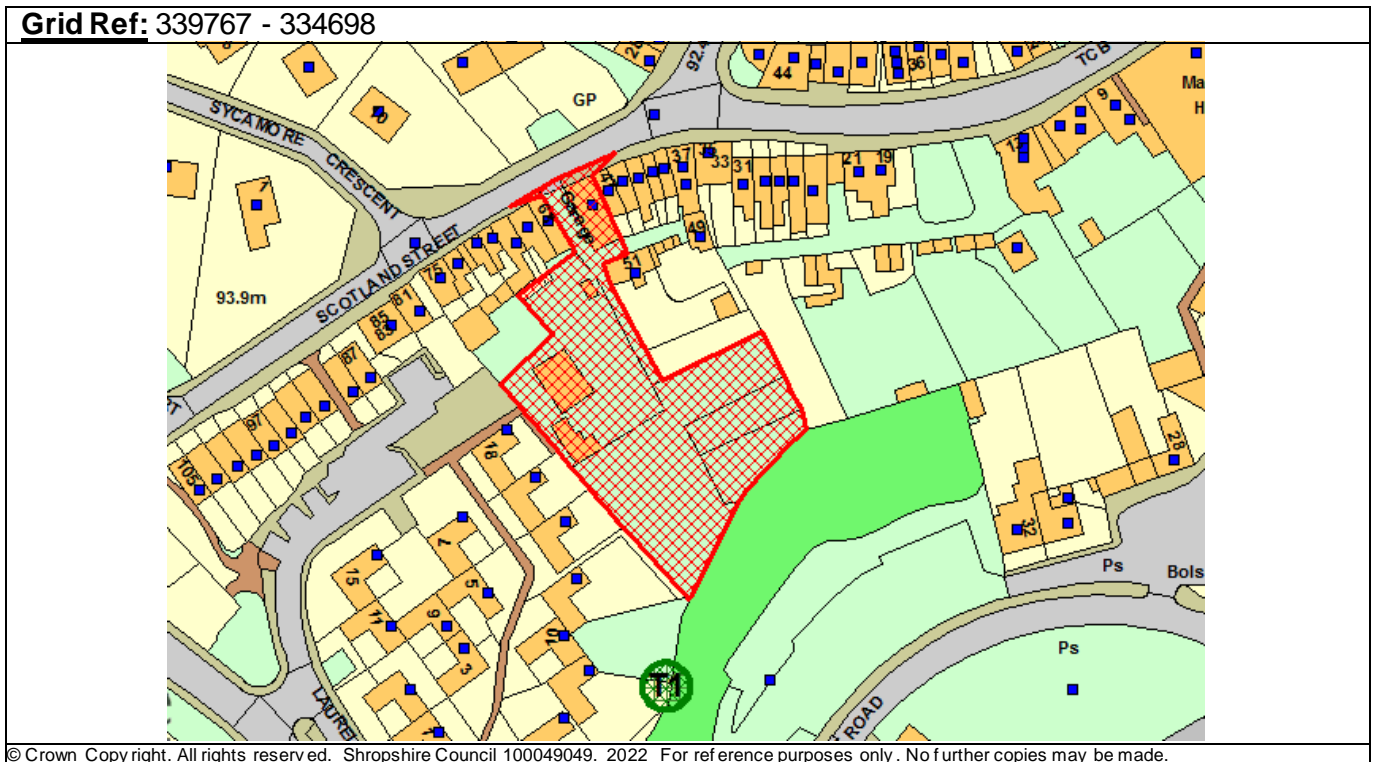
Northern Planning Committee
7th March 2023

Development Management Report

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

Summary of Application

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| Application Number: 22/05178/FUL | Parish: Ellesmere Urban |
| Proposal: Demolition of existing garage building, re-aligned access onto Scotland Street and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with associated parking and garden areas | |
| Site Address: Victoria Garage Scotland Street Ellesmere Shropshire SY12 0DG | |
| Applicant: Haigh Developments Ltd | |
| Case Officer: Mark Perry | email: mark.perry@shropshire.gov.uk |



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

REPORT

1.0 THE PROPOSAL

1.1 The submitted application seeks full planning permission for the demolition of buildings, including the existing garage workshop building, creation of a new wider vehicles access and the erection of 8 dwellings. The proposed dwellings comprise of two rows of 3 terraced dwellings and one pair of semi-detached dwellings.

1.2 Each of the dwellings would be two storey, of a traditional cottage style and would provide 3 bedrooms with a GIA of 82.4sqm.

1.3 The application is accompanied by a site location plan, block plan, elevation and floor plans, drainage assessment, site layout plan, transport statement, ecology assessment, arboricultural assessment, flood assessment, heritage assessment, planning statement and design and access statement.

1.4 AMENDMENTS

During the course of the application amended plans have been submitted showing the following amendments:

- Retention of part of the garage building wall to a height of 2.4m to create the bin enclosure.
- Visitor parking to repositioned to protect private right of way
- Repositioning of plots 7 and 8 further from no. 51.
- Internal layout changes to plots 7 and 8

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site measures 0.22 hectares and is located within the town's development boundary and Conservation Area. The application site comprises of the frontage building and the land to its rear. The land at the rear also includes a building used for storage in association with the vehicle garage business. The land and its buildings have been used as a vehicle repair garage since 1910 when it also originally sold fuel. The garage ceased operating in November 2021. The southern portion of the site contains an area of grassland which has also been used for the occasional parking of vehicles in connection with the garage business, part of the site has previously been used as an allotment with a

greenhouse still present; although any cultivation of the land appears to have ceased a number of years ago.

- 2.2 To the south west of the site there is a development of bungalows, some of which back onto the application site. To the east and to the south east is an area of trees and shrubs. Beyond there is a band of trees, to the south is an area of wasteland which is currently used for parking and slightly further from the site there is the Tesco superstore.
- 2.3 There are two dwellings that are accessed from within the application site. These are no's 51 and 49 Scotland Street and these are located to the east of the application site, behind the frontage properties.
- 2.4 There are three terraced properties to the western side of the existing access (no's 63 to 67 (odd)) and front onto Scotland Street and back onto the application site; these are covered by a single listing entry and are grade II listed.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee because the officer recommendation of approval is contrary to an objection from the Town Council which is based on material planning reasons, cannot reasonably be overcome by negotiation or conditions and the Team Manager (Planning) in consultation with the committee chairman or vice chairman agrees that the Town Council has raised material planning issues and that the application should be determined by committee

4.0 **Community Representations**

4.1 **Ellesmere Town Council**

Ellesmere Town Council **STRONGLY** objects to this application based on the view that the proposed development will add additional traffic directly into a problematic part of a problematic road and that the entrance is completely unsuitable.

Scotland Street has already been identified as too narrow and has been the location of several incidents of either actual road traffic accidents, collisions with pedestrians or many reported near misses.

The Town Council feels **VERY** strongly about the current health and safety issues already present on Scotland Street and has been continually asking for these concerns to be addressed by Shropshire Council Highways since long before the Cambridge Court development was built further along the road.

Fundamentally, Scotland Street is too narrow for large vehicles to pass each other. This development will add to the problem by increasing traffic onto Scotland Street - both large vehicles during building works, and then an increase of local traffic from new houses, there are also worries regarding the close

proximity of the proposed entrance to the mini roundabout.

It was also highlighted that the brownfield site is not a redundant site, there is a great need for small units in the town. Recently the community almost lost a long-serving local commercial business as they were unable to find suitable land within the town to relocate to, with this in mind councillors are of the opinion that this particular site should be retained for commercial use.

4.2 **Consultee Comments**

4.3 **SC Archaeology-** Concur with the contents of the submitted Heritage Assessment regarding the limited archaeological potential of the site.

4.4 **SC Conservation-** The removal of the building will need to be taken into consideration in the determination of this application and a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset, as required by paragraph 203 of the NPPF and MD13 of SamDev.

Overall we consider the retention and repair of the historic boundary walls to the site should be secured by condition to ensure there will be some mitigation provided in relation to the loss of the garage building.

The provision of sensitively designed and scaled dwellings on this site is likely to provide some enhancement, although it was historically an open space between the commercial historic timber yard and the dwellings to Scotland Street frontage.

4.5 **Affordable Housing-** National policy prevails and no affordable housing contribution would be required in this instance.

4.6 **SC Drainage-** It is recognised that the revised flood modelling demonstrates that the development is outside of Flood Zones 2 and 3, comments regarding the flood extents associated with any revised flood modelling should be further explored in conjunction with the Environment Agency.

Full cross sectional details and specification of the permeable paving must be submitted for approval.

4.7 **Environment Agency-** Whilst the site is located within Flood Zone 3 based on the 'indicative' flood the site may not be at significant risk based on the site specific FRA and information provided. The FRA refers to more detailed modelling that was carried out as part of the Tetchill/Newnes Brook (BWB) study, as part of the FRA undertaken in relation to planning application 19/05445/REM (Residential Development of 99 Dwellings including Associated Access via Canal Way, Landscaping and Flood Mitigation Works (Phase 1 of Application 14/04047/OUT). We were satisfied, in principle, with the study outputs at that time.

In terms of current climate change allowances, the 'Central' allowance for the Severn Middle Shropshire management catchment is 33%, for peak river flow.

The FRA confirms that the 35% allowance applied in the Tetchill and Newnes Brook modelling study is valid (and marginally conservative).

With reference to the more detailed Tetchill and Newnes Brook modelling study, it is suggested that this development site and surrounding land is located in flood zone 1 (low annual probability of fluvial flooding) and not flood zone 3 as presented on the Flood Map for Planning.

4.8 **SC Highways**-no objection subject to conditions and informatives.

The development has been reviewed and reconsidered and is considered unlikely to result in conditions detrimental highway safety to sustain an objection. The Highway Authority therefore raises no objection to the development subject to the conditions listed above being included on any approval.

4.9 **SC Regulatory Services**- no objection subject to conditions regarding the investigation and remediation of any contaminated land.

4.16 **Public Comments**

5 letters of objection and 3 of support received, commenting on the following issues:

Object

Pedestrian and Highway safety

Insufficient visibility

Air and Noise pollution

South wall of existing garage should be retained to provide noise protection from road.

Location of bin storage

Impact on private right of way

Insufficient landscaping

Increased traffic

Impact on flooding

Loss of privacy

Loss of building will impact on area

Support

Makes use of existing site

Shortage of more affordable types of housing

Scheme will generate less traffic than garage use

Improved wider access

Improved outlook

Proposal will prevent land becoming wasteland

Enhancement to area

5.0 **THE MAIN ISSUES**

- Principle of development

- Design, layout and scale
- Biodiversity
- Drainage
- Highways Safety
- Historic environment
- Residential amenity
- Land contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The site falls entirely within the Ellesmere development boundary. Policy CS3 of the Core Strategy identifies that the Market Towns and other Key Centres will maintain their roles in providing foci for economic development and regeneration. The policy goes on to state that balanced housing and employment development, of an appropriate scale and design that respects the town's distinctive character will take place within the development boundary.

6.1.3 Policy S8 of the adopted SAMDev plan details that the town would accommodate around 800 dwellings during the plan period 2006- 2026.

6.1.4 The proposed development would involve the redevelopment of what comprises a brownfield site. Paragraph 4.83 of the SAMDev plan details that in Ellesmere, and in addition to the 250 dwellings on the allocated housing site, there are significant opportunities for development of windfall sites on brownfield land within the established Development Boundary.

6.1.5 Core Strategy policy CS10 highlights that there is a priority for the re-use of previously developed sites where they are in sustainable locations whilst considering sites that are of historic or ecological value. Similarly, Section 11 of the NPPF places great importance on planning policies and decisions giving substantial weight to the value of using suitable brownfield land within settlements for homes. Paragraph 38 of the NPPF also states that decision-makers at every level should seek to approve applications for sustainable development where possible.

6.1.6 Ellesmere is identified as being a sustainable settlement in the current local plan containing a broad range of local services and facilities with good public transport links providing connections to Oswestry and Shrewsbury. The application site is located just outside of what is defined as the 'Town Centre' in the SAMdev Plan and therefore many facilities are within a short walk of the site.

6.1.7 It is considered that the proposed development would constitute a sustainable and effective re-use of an existing brownfield site within a settlement boundary, where the principle of additional residential development is acceptable subject to adequately addressing other Development Management matters such as heritage, highways, ecology, neighbour impact and flooding which are considered later in this report.

6.2 Design, Layout and Scale

6.2.1 Policy CS6 of the Core Strategy seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.

6.2.2 Policy MD2 'Sustainable Design' of SAMDev seeks to achieve local aspirations for design where possible. Policy CS17 recognises Shropshire's environmental assets, and that new development should contribute towards local distinctiveness including landscape and biodiversity. Both policies require high-quality landscaping to form an important part of development schemes with the new planting of trees, woodland and hedges required to be incorporated to reinforce existing landscape features.

6.2.3 As noted above the site is located within the town's Conservation Area and also within close proximity of a terrace of grade II listed dwellings. Policy CS17 of the Core Strategy requires development to identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources.

6.2.4 Similarly, policy MD13 requires that Shropshire's heritage assets are protected, conserved, sympathetically enhanced and restored. Achieved, wherever possible, by avoiding harm or loss of significance to designated or non-designated heritage assets, including their setting.

6.2.5 Policy MD12 'The Natural Environment' also discourages proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on the environment including upon visual amenity and landscape character and local distinctiveness unless:

- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
- b) the social or economic benefits of the proposal outweigh the harm to the asset.

6.2.6 Section 12 of the National Planning Policy Framework reinforces these goals at a

national level, by requiring development to add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

- 6.2.7 The application includes the demolition of the frontage garage building, except for a small part of the rear/ side wall which will be retained at a height of 2.4m to provide screening to the neighbours at no's 51 and 47. The retained wall will incorporate a bin area for use on collection day. Demolition of the building is needed to provide an improved vehicular access to the rest of the site. Currently the access is narrow and any visibility for vehicles is severely compromised by the position of the adjacent buildings. The removal of the building will introduce a much wider gap within the defined streetscene which in turn will provide broader views into the site and towards the front elevations of the proposed terraced dwellings. There is an opportunity to provide a mix of hard and soft landscaping to either side of the improved access drive to mitigate the visual impact of the larger gap in the streetscene; this can be secured by an appropriate landscaping condition.
- 6.2.8 The submitted Design and Access Statement identified the character, scale and detailing of other dwellings in the immediate area and how this has influenced the proposed scheme. The proposed dwellings are of a simple design which are not dissimilar to other dwellings on Scotland Street. The dwellings would be constructed of red brick under a natural slate roof and include details such as traditional casement style windows, reconstituted stone heads and cills and arched heads above entrance doors.
- 6.2.9 The proposed development would create a mews style development which would be entered into via a small private driveway. The dwellings would then be positioned around a central shared space. Plots 1-4 would have their car parking provided to the sides of the dwellings and plots 5-8 would have parking provided to the side of the semi-detached dwelling. Each of the properties would have two parking spaces available plus four additional visitor spaces. As such when viewed from Scotland Street most of the parked cars would not be visible, instead the proposed dwelling being the most dominant feature of the site.
- 6.2.10 All of the dwellings will benefit from private rear gardens ranging in depth from 8.9m to 10m. Plots 7 and 8 will also have larger front gardens due to their position within the site.
- 6.2.11 It is considered that the density of the proposed development is appropriate given its location within the heart of the town where a higher density of development is prevalent. Each of the dwellings would be afforded adequate private amenity space and a suitable level of parking provision. The removal of the frontage building will alter the character of this part of the streetscene, but this is not considered to be to its detriment; subject to appropriate detailing of the access and the areas of land to either side of the driveway.

6.3 Impact on Heritage

- 6.3.1 The application site is located within the town's Conservation Area and within close proximity to the grade II listed buildings. The applicant has submitted a Heritage Impact Assessment (HIA) which is considered to satisfy the requirements of paragraph 194 of the NPPF and policy MD13 of SAMdev.
- 6.3.2 The garage building proposed to be demolished was originally built as a chapel in 1840. It then became a vehicle repair and petrol filling station in the 1940's after being used as a cycle shop. Contrary to the submitted HIA the Council's Conservation Officer considers that the existing garage building is a non-designated Heritage Asset; as defined by Annex 2 of the NPPF.
- 6.3.3 The site is located entirely within the conservation area, which is a designated heritage asset. Therefore Section 72 of the Planning (Listed Building & Conservation Area) Act 1990 is applicable requiring decision takers to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.3.4 In this case the Conservation Area will be impacted by the loss of the existing garage building and then by the subsequent development of the site which involves the creation of the new wider access. It is considered by Officers that the level of harm amounts to less than substantial harm.
- 6.3.5 Paragraph 200 of the NPPF details that any harm to the significance of a designated heritage requires that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 then requires that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.3.6 Other than the very front section, most of the development site makes little contribution towards the character of the Conservation because of its back-land position and its largely unkempt appearance. The loss of the garage building will result in a larger gap within the frontage which will be replaced with a more substantial and engineered access to service the proposed dwellings. This is in contrast to the narrow and discreet access arrangement that currently exist and will therefore, to a limited extent, change the character of this part of the Conservation Area by creating a break within the frontage development. The development of the houses themselves will have only a limited impact on the Conservation Area because of the sites position behind existing frontage development.
- 6.3.7 The proposed development will deliver the improvement of a sub-standard

access and the provision of additional housing on a brown field site in a sustainable town centre location. It is considered that that a sensitively designed development, such as the one proposed, would provide some enhancement to this site. It is considered by Officers that without the site being redeveloped it would likely remain unkempt which could be to the detriment of the Conservation Area. Overall, it is considered that that the less than substantial harm to the Conservation Area is outweighed by the public benefits.

- 6.3.8 Listed buildings front onto Scotland Street and sit immediately to the western side of the access. These are designated heritage assets with the single listing entry relating to numbers 63, 65 and 67, which are modest early C19 terraced dwellings. As such paragraph 66 of the Planning (Listed Building & Conservation Area) Act 1990 requires that in considering whether to grant planning permission special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this case it is the setting that may be affected by the proposed development. The tests set out in paragraphs 199, 200 and 202 of the NPPF are once again applicable.
- 6.3.9 At the rear of the listed dwellings there has been a series of extensions some of which do not have the character or value of their listed status. As such it is considered that the primary historic value of the dwellings are their front elevations and how they address Scotland Street. Nonetheless, despite the proposed development being to the rear of the listed buildings, how development impacts upon their setting is a key material consideration
- 6.3.10 The proposed development is positioned directly to the rear of the listed buildings, there would be a distance of 18m between the side elevation of proposed plot 1 and the nearest part of the listed building. It is considered that the distance of separation, the positioning and scale of the proposed development ensures that there would be no detrimental harm to their setting. The proposed development would provide the opportunity for some enhancement to the rear of the listed buildings by providing sympathetic hard and soft landscaping and the removal of the unsympathetic car park and wasteland appearance of the rest of the site.
- 6.3.11 As noted above the existing garage building is considered by Officers to be a non-designated heritage asset. Paragraph 203 of the NPPF requires that the effect of an application on the significance of a non-designated heritage asset be taken into account in determining the application. It requires a balanced judgement to be undertaken having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.3.12 In this case the garage building will be completely lost with the exception of part of the rear and side walls. These will be retained, and reduced in height, to provide a visual screen for the nearest neighbours. The retention of this section along with the photographic record submitted as part of the application will also help evidence the historic existence of the building. The existing building has

been significantly altered from its original chapel use with the HIA detailing that very little evidence of its original use surviving. It is considered that the benefits of developing the site, which does necessitate the removal of the existing building, outweighs the harm resulting from the loss of a non-designated heritage asset.

- 6.3.2 It is considered that the proposed development and any impacts on the historic environment are acceptable and broadly in accordance with the NPPF and the local plan as a whole, and therefore acceptable in relation to Sections 66 and 72 of the Planning (Listed Building & Conservation Area) Act 1990 and CS17 and MD13

6.4 Ecology

- 6.4.1 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.4.2 The site has been used for the repair and maintenance of vehicles with the open space being used for parking storing vehicles and the outbuilding used as associated storage. A portion of the site was historically used as allotments, but this has become unkempt over more recent years.
- 6.4.3 The application is accompanied a Preliminary Ecological Assessment and this has been considered by the Council's Ecologist who raises no objections to the proposed development and recommends conditions with regards to ecological mitigation, bat and bird boxes, landscaping plan and lighting plan should planning permission be granted.
- 6.4.4 With regards to biodiversity, the proposed development with mitigation as discussed above is considered acceptable and in accordance with policies CS5 and CS17 of the Shropshire Core Strategy, MD12 of the SAMDev and objectives of the NPPF.

6.5 Drainage/ Flooding

- 6.5.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff.
- 6.5.2 The application site, according to the Environment Agencies Indicative Flood

Map, shows the site as falling within flood zone 3. In response to this the applicant has provided a site specific Flood Risk Assessment to demonstrate that the site may in fact not be at significant risk from flooding.

- 6.5.3 The submitted FRA refers to more detailed modelling that was carried out as part of the Tetchill/ Newnes Brook (BWB) study which was undertaken in relation to a planning application for a nearby site off Canal Way which was for 99 dwellings (19/05445/REM). On the basis of the FRA and the previously detailed modelling the Environment Agency are satisfied that the current application site is located in flood zone 1 and therefore has a low annual probability of fluvial flooding and not flood zone 3 as presented on the Flood Map for Planning.
- 6.5.4 The applicant has detailed that foul drainage would be to the existing mains sewer and that surface water would be to a sustainable drainage system and mains sewer via a perforated pipe. The Council's Drainage Officer raises no objections to the scheme but further details concerning the cross-sections, details of the permeable paving are required; these could be secured by an appropriate planning condition.
- 6.5.5 It is considered the flood and drainage matters are satisfactory and in accordance with policies CS6 and CS18 of the Shropshire Core Strategy and the NPPF.

6.6 Highway Safety

- 6.6.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 111 it states that, "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".
- 6.6.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
- 6.6.3 As noted above, the authorised use of the buildings and the wider site is as a vehicle repair garage. The transport statement submitted indicates that the business carried out vehicle servicing, MOT's and repairs as well as car sales, with the business ceasing in November 2021.
- 6.6.4 Access to the premises was via the narrow entrance to the side of the garage building. The Transport Statement indicated that there were around 25 arrivals and 25 departures a day as the 3 employees attend the site along with customers dropping off and picking up their vehicles.
- 6.6.5 The existing junction with the adopted highway provides only 4.2m of visibility in a westerly direction and 4.4m in an easterly direction. By demolishing the existing building and widening the access the extent of visibility would be increased to 11.2m to the west and 10.7 to the east, this is a significant improvement over the

existing arrangement.

- 6.6.6 In addition to the improvements to the access, the Traffic Statement anticipates that the removal of the car servicing, MOT, repair garage to be replaced by eight dwellings would result in a reduction in the number of vehicle trips over an entire day.
- 6.6.7 The Council's Highways Officer has considered the proposal and submitted Transport Statement and considers that the development of eight dwellings is unlikely to result in conditions that are detrimental to highway safety to sustain an objection. The Highways Officer suggests a number of conditions should permission be granted.
- 6.6.8 The Town Council have made comments and objections in respect of highways matters, in particular regarding the narrow width of Scotland Street and its ability to accommodate increased traffic movement. As noted above the existing commercial use of the site could generate more vehicle movements through the existing poor access than the proposed residential use would though the much improved access. In order to minimise any impact on the highway network during construction it would be necessary for the developer to provide a Construction Method Statement.
- 6.6.9 As such in respect of highway matters the application is considered acceptable and in accordance with local plan policies CS6 and MD2 and the overall aims of the NPPF.

6.7 Residential Amenity

- 6.7.1 The authorised use of the site as a vehicle repair garage is a use that is not ordinarily suited to a location within close proximity of dwellings because of the potential for noise or nuisance to be caused. Whilst an impact on amenity may not have been an issue historically on this site, this may not necessarily be the case were a new operator to take over the site and there may be compatibility issues between the vehicle garage and residential land uses. As such it is considered that the redevelopment of the site for eight dwellings would be a more appropriate use for the site, thereby removing the potential for neighbour disturbance. As noted above the proposed use would also generate less vehicle movements than the existing use does which would also be of benefit to existing residents in terms of amenity.
- 6.7.2 The dwellings to the south west consist of four L-shaped single storey properties. Each of these dwellings has a gable projecting out towards the application site with the wall closest to the boundary containing no windows. The projecting gable on the neighbouring dwellings are around 5.6m off the shared boundary which is defined by the tall historic brick wall referred to earlier in this report. The rear gardens of proposed plots have depths of 9.3m and the distance between the rear windows of the proposed dwellings on plots 1-6 and the rear windows on the neighbouring dwellings is around 20m. It is considered that taking into account the distance of separation and the boundary treatment there would be no

detrimental loss or privacy to these neighbours. The orientation of the site would also mean that there would not be any loss of light experience by the neighbour.

- 6.7.3 Plots 7 and 8 would be positioned perpendicular to plots 1-6 with their front elevation facing towards no's 49 and 51 Scotland Street. These neighbouring dwellings sit behind the Scotland Street frontage and are accessed by the same access as the development site. There would be around 31 m distance between the front elevation of the proposed dwelling and the rear elevation of no 51. There would also be a distance of 9m between the front elevation of the proposed dwellings and the shared boundary. It is considered that given the distance of separation that there would be no detrimental loss of privacy to the neighbour.
- 6.7.4 At present no. 51 fronts onto the rear wall of the garage building that is to be demolished. By removing the building no.51 would then be exposed to the passing traffic on Scotland Street, albeit at a reasonable distance. To address the concerns of the neighbours part of the rear/ side walls of the existing garage building would be retained and lowered to 2.4m; providing screening and protection for the neighbour and also providing an enclosure for bins to be kept on refuse collection day.
- 6.7.5 Officers have been made aware of a private right of way that provides access to the land at the rear of no. 51. Whilst this is a civil matter and not something that can be taken into account in the consideration of this planning application, the applicant has amended the plans to show that the private right of way will remain available and unobstructed.
- 6.7.6 It is considered overall that the proposed development would not detrimentally impact upon the amenities of neighbouring occupiers. Some of the neighbours would benefit from the improvement to the access and also it would remove any potential of a vehicle repair garage becoming a 'bad neighbour' in respect of any noise and disturbance that could be caused if the use was to continue.
- 6.8 Land Contamination**
- 6.8.1 Due to its historic use as a garage its location that backs onto a former timber yard, the application site has been identified as potentially contaminated land under Shropshire Councils Environmental Protection Act 1990 Part 2A responsibilities.
- 6.8.2 The Council's Environmental Protection Officer has commented on the application and has not raised any objections subject to a condition requiring the submission of a Site Investigation Report. This report will assess the nature and extent of any contamination on the site and any necessary remediation.
- 6.9 Conclusion**
- 6.9.1 The proposed development would deliver eight dwellings on a previously developed site in a sustainable location where there are various services and

facilities available within a short walk. The proposal does include the demolition of the frontage building which Officers consider to be a non-designated heritage asset, the site is also located within the Conservation Area and adjacent to a grade II listed building. Whilst the loss of the building would result in less than substantial harm it is considered that this is outweighed by the public benefits of significantly improving the access to the site which in turn would facilitate the ability to utilise this brownfield site to provide additional housing.

- 6.9.2 Any issues relating to the flood risk of the site have been satisfied to the satisfaction of the Environment Agency.
- 6.9.3 The proposed design and scale of the development is considered to be acceptable in terms of its visual impact on the site, its surroundings, the conservation area and also the setting of the listed building. It is also considered that there would be no detrimental impact or harm caused to neighbours, highway safety or biodiversity.
- 6.9.4 It is considered that the proposal accords with the overall aims and provisions of the NPPF and as a whole and policies CS3, CS6, CS11, CS17, CS18 of the Core Strategy and MD1, MD2, MD3, MD12, MD13 and S8 of the adopted SAMDev plan. As such the application is recommended for approval subject the conditions as set out in Appendix 1.

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:

CS3 - The Market Towns and Other Key Centres
 CS6 - Sustainable Design and Development Principles
 CS10 - Managed Release of housing Land
 CS17 - Environmental Networks
 MD2 - Sustainable Design
 MD3 - Managing Housing Development
 MD12 - Natural Environment
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

PREAPP/22/00065 3-5 3 bed detached properties on the land to the rear of the garage NPW
 3rd March 2022

PREAPP/22/00435 Demolition of Existing Garage Building, Re-Aligned Access onto Scotland
 Street and Erection of 2 terraces of 3 x 3 Bedroom Houses and 2 x 3 Bedroom Semi Detached
 Houses with Associated Parking and Garden Areas PREUDV 20th September 2022

22/05178/FUL Demolition of existing garage building, re-aligned access onto Scotland Street
 and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with
 associated parking and garden areas PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RLEKVJTDKGG00>

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| 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 Geoff Elner |
| 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 development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

Means of enclosure

Hard surfacing materials

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design and enhancement of the conservation area.

4. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance 'Land

Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy 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.

5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- ' a traffic management and hgv routing plan and local community protocol
- ' the parking of vehicles of site operatives and visitors
- ' loading and unloading of plant and materials
- ' storage of plant and materials used in constructing the development
- ' wheel washing facilities

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

6. 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.

7. Prior to any built development commencing a scheme of foul drainage, and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Details shall include full cross sectional details, specification of the permeable paving and exceedance flow route plan. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding

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

8. The lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species.

9. - A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

10. The revisions to the access junction apron, radii and uncontrolled pedestrian crossing points shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to commencing development of any of the dwellings hereby approved.

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

11. Prior to the dwellings hereby permitted being first occupied the access, parking and turning areas shall be satisfactorily completed, laid out and maintained in accordance with the Proposed Site Plan Drawing No. W22/2778/02 Rev D and retained for the lifetime of the development.

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

12. No construction (and/or demolition) works shall take place before 0730 hours on weekdays and 0800 hours on Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

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