



Committee and date
Northern Planning Committee
19th November 2024

Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

Summary of Application

Application Number: 24/03682/AMP	Parish:	Shrewsbury Town Council
Proposal: Non material amendment to amend the proposal description to allow for the provision of public toilets relating to Planning Permission 23/05402/FUL		
Site Address: Riverside Shopping Centre Pride Hill Shrewsbury Shropshire		
Applicant: C/O BNP Paribas Real Estate		
Case Officer: Ollie Thomas	email: ollie.thomas@shropshire.gov.uk	

Grid Ref: 349132 - 312736

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Recommendation:- Grant permission, due to proposed amendment being considered non-material when having regard to the effect of the original planning permission.

REPORT

1.0 THE PROPOSAL

1.1 This application is seeking permission for a non-material amendment to the previously approved planning application, ref: 23/05402/FUL, to amend the description of development to include for the provision of public toilets, as part of the redevelopment of Riverside Shopping Centre, Shrewsbury. No further changes to plans and/or drawings are proposed as part of this application, instead these will be dealt with under a separate variation application, that incorporates a series of amendments to the previously approved plans.

1.2 The application is submitted in accordance with Section 96A of the Town and Country Planning Act 1990, which confers power to the Local Planning Authority (LPA) to make non-material changes to planning permissions already granted.

1.3 The original full planning permission (ref: 23/05402/FUL) consented the following description of development:

"Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the Site".

1.4 The amended description of development being sought under this application is as follows:

*"Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, **public toilets**, flood attenuation and temporary meanwhile uses across the site".*

1.5 The application is being made on the basis that in order to meet funding deadlines as prescribed under the Levelling Up Fund scheme, a greater package of works needs to be delivered in early 2025 - all of which relate to the public park and public realm areas. Whereas the public toilets (and other 'podium' related development) was expected to be part of the package of works relating to the second phase of works as part of a further planning application, this has now been brought forward within the overall programme.

2.0 SITE LOCATION/DESCRIPTION

2.1 Smithfield Riverside, as a whole is approximately 4 hectares and lies within the river loop, to the north-west of Shrewsbury's town centre. Smithfield Riverside is bound by the river to the north-west and the Darwin Shopping Centre and Pride Hill

Shopping Centre to the south-east. The site that this application relates to is the far western end of Smithfield Riverside, comprising the former Riverside shopping centre, police station and GP surgery.

- 2.2 At the time of this application, demolition has commenced on the Riverside Shopping Centre, police station and GP surgery, in accordance with the original planning permission. Resultantly, the site is currently secured through hoarding and is experiencing increased levels of activity associated with its demolition.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation', given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.

4.0 Community Representations

- 4.1 As an application to make a non-material amendment is not an application for planning permission, the provisions relating to statutory consultation and publicity do not apply. The Local Planning Authority has discretion in whether and how they choose to inform other interested parties or seek their views.
- 4.2 As by definition the changes sought are non-material, the LPA has not carried out any consultation or publicity during the determination of this application.

5.0 THE MAIN ISSUES

Whether the proposed amendment is considered 'non-material' to the original grant of permission.

6.0 OFFICER APPRAISAL

6.1 Flexibility for planning permissions

- 6.1.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. Notwithstanding, it is accepted that new issues may arise after planning permission has been granted. Where these modifications are less substantial, the planning system has provisions in place to make non-material amendments (and minor material amendments) to the original permission. Such amendments can take the form of revisiting planning conditions imposed on the original permission, imposing new conditions or altering the proposal description.
- 6.1.2 There is no statutory definition of 'non-material', instead it is dependent on the context of the overall scale of development and regard must be had to the effect of the change, together with any previous changes. It can therefore be said that if a change is to be considered as 'material', it must be of significance and conversely

for a change to be 'non-material' where there is no resultant harm (in planning terms), this can be considered as lacking in materiality.

6.2 Significance and harm

- 6.2.1 The original planning permission granted *inter alia* a new public park, public event space and public realm development, to both complement and support the redevelopment of the Shopping Centre and the wider town-centre. Indeed the redevelopment of Riverside Shopping Centre was designed on one of the core design principles of 'Movement and Access' (Smithfield Riverside Strategic Development Framework (SRSDF), adopted February 2022). The adopted Illustrative Masterplan was developed with a high-quality public realm and new public garden and square.
- 6.2.2 The public park was previously considered at the time of the original planning permission, to which it was outlined that "*the park would comprise a series of landscaped, garden terraces which form differing character areas*" and "*would help link the historic core of the town to the River Severn and comply with the 'Big Connection' regeneration strategy of the Big Town Plan and meet a key design aim of the [SRSDF] which is to provide a good, active pedestrian and cycle connection between Smithfield, the town centre and Frankwell across the river.*"
- 6.2.3 The public park has always been predicated on providing a high-quality public realm connection, with improved pedestrian accessibility and the provision of open-space in a multi-functional approach. The provision of public toilets within the public park is therefore seen as an ancillary use that supports and supplements the wider use of the park, whilst reinforcing the objectives to provide an enhanced, accessible and multi-functional public realm. Hence, it is the Officers judgement that the provision of public toilets, to be listed in the proposal description, is not material when having regard to the effect of the change on the original planning permission.
- 6.2.4 As mentioned, this application is seeking to amend the proposal description only. It is not seeking to approve any amended plans or drawings that show the public toilets in their position - instead, this is being dealt with under a separate Section 73 variation application. Resultantly, this application is required to consider whether there is any harm of providing public toilets within the wider package of works, as opposed to whether the design, siting, scale of the public toilets amounts to harm.
- 6.2.5 The provision of public toilets, within a wider public park and public event space, is seen as a complementary use that is ancillary in nature. Whilst the consideration of public toilets does raise material considerations. When considered in-combination with material considerations already determined under the original planning application, their inclusion does not result in any additional harm (amenity, highways or other impacts). Nor does the inclusion of public toilets increase the size or clearly change the appearance of the development, such that the change is considered material or requiring a new planning application.
- 6.2.6 Furthermore, the siting, scale and design of the public toilets will be dealt with

under the separate variation application, to which Officer's can apply further assessment of material considerations to ensure the public toilets are compliant with all relevant adopted planning policies.

6.3 The effect of the change on the original permission, as granted

6.3.1 In determining the above judgment that the proposed change is neither of any significance or harm, when considered against the original planning permission. Therefore, this application can be approved.

7.0 CONCLUSION

7.1 The provision of including 'public toilets' within the proposal description to the original planning permission is considered non-material, when having regard to the effect of the change proposed, on the planning permission as granted.

7.2 It is Officer's recommendation that permission be **GRANTED**.

7.3 It is Officers' view that in granting this application, no new conditions need imposing, or the deletion or altering of existing conditions attached to the original permission. Instead, any relevant conditions considered necessary to the public toilets can be imposed on the separate minor-material application that seeks permission for its siting, scale/amount and design (should this be approved).

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There is one principal risk associated with this recommendation as follows:

- 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.

This risk needs to be balanced against the risk of not proceeding to determine the application.

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 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 HISTORY:

PREAPP/11/01119 Proposed redevelopment of existing Shopping Centre PREAIP 7th June 2011

23/02123/FUL Building clearance, asbestos removal and partial demolition of Units 2, Units 44-48, and the pedestrian walkway canopy to make access for a geo-environmental ground investigation GRANT 31st July 2023

23/04914/SCR Screening Opinion for demolition of the Riverside Shopping Centre, walkways/bridges between the centre, Raven Meadows car park and Pride Hill Shopping Centre and enabling works to facilitate future development EAN 5th December 2023

23/05402/FUL Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the Site. GRANT 22nd March 2024

24/02204/DIS Discharge of conditions 4 (demolition management plan), 5 (construction management plan), 9 (surface water pre-demolition) and 19 (hoarding details) relating to Planning Permission 23/05402/FUL DISAPP 16th August 2024

24/02508/DIS Discharge of conditions 8 (tree protection and arboricultural method statement) and 11 (flood warning and evacuation plan) relating to planning permission 23/05402/FUL DISAPP 19th July 2024

24/02631/DIS Discharge of Condition 3 (Written Scheme of Investigation) relating to Planning Permission 23/05402/FUL DISPAR 19th July 2024

24/02993/DIS Discharge of condition 7 (habitat management plan) relating to Planning Permission 23/05402/FUL DISAPP 2nd August 2024

24/03134/SCR Request for EIA screening opinion is made in support of an application under Section 73 of the Town & Country Planning Act 1990 to amend the previously consented scheme (ref. 23/05402/FUL). EAN 13th September 2024

24/03440/DIS Discharge of Condition 12 (Contamination) relating to Planning Permission 23/05402/FUL DISPAR 11th October 2024

24/03681/VAR Variation of condition no.2 (approved drawings) attached to planning permission 23/05402/FUL PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SKBWZPTDKKT00>

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 Chris Schofield
Local Member
Cllr Nat Green
Appendices - N/A