



Committee and date  
Central Planning Committee  
12 February 2015

## Development Management Report

Responsible Officer: Tim Rogers  
email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/05115/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erection of Class A1 convenience store including ATM with dedicated external servicing, refuse and plant area, associated car parking and landscaping		
<b>Site Address:</b> The Charles Darwin Sutton Road Shrewsbury SY2 6HN		
<b>Applicant:</b> New River Retail Property Unit Trust, No.4		
<b>Case Officer:</b> Andrew Gittins	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 350544 - 310733



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Contact: Tim Rogers (01743) 258773

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

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1** The application is for the erection of a local convenience store which falls under Class A1 of the Use Classes Order. The building includes the provision of an ATM on the north facing front gable adjacent to the store entrance. The existing vehicle access at the rear of the public house off Tilstock Crescent will be retained for deliveries to service both the public house and the convenience store, whilst the existing vehicular access off Tilstock Crescent to the front will be retained as a customer access. New pedestrian accesses will be created on the junction of Tilstock Crescent and off Tilstock Crescent to the side of the proposed store where a bicycle store will be sited. The scheme proposes the provision of 11 food store car parking spaces to include one disabled space and one parent and child space to the front, with 24 spaces retained for the public house. The proposal would result in the net loss of 8 parking spaces.
- 1.2** The store will have a rectangular footprint measuring 326 square metres. The building will measure 3.5 metres to eaves and a maximum ridge height of 6.79 metres with a lower (5.82m) hipped roof to the rear elevation adjacent to 165 Tilstock Crescent and will be enclosed by a 2.7 metre high acoustic fence to protect the amenities of the neighbouring property. The building will have a triple gable on the front and two side elevations with the plans showing the indicative location of signage; however this would be subject to a separate application for advertisement consent. The store would be constructed in plain concrete roof tiles, off-white smooth self-coloured render, facing brick to match the local vernacular, clear glazed aluminium shop front, with a powder coated external security shutter brought down over the entrance door out-of-hours. The plant will be located on the concealed flat roof behind the 40 degree mono-pitch roof.
- 1.3** The application form indicates that 6 full-time and 14 part-time jobs would be created and that the store would be open between 7am and 11pm, Monday to Sunday including Bank Holidays.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1** The site is located within the large residential suburb of Sutton Farm, within the car park of 'The Charles Darwin' public house. The plans propose the siting of the convenience store to the east of the public house adjacent to Tilstock Crescent. The site is located within the Shrewsbury Urban Area where the principle of new build commercial floorspace is acceptable subject to compliance with the development plan and any other material considerations. The public house and application site are surrounded on three sides by the public highway with a parade of local centre A1 retail units and private residential dwellings situated adjacent.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

**3.1** Shrewsbury Town Council have submitted a view contrary to officers recommendation for approval based on material planning which cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager or Principal Planning Officer in consultation with the committee chairman, vice chairman and the Local Member 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 Consultee Comments**

##### **4.1.1 Shrewsbury Town Council: Object**

Members felt that the plans would increase the amount of traffic in this residential area and questioned the parking arrangements on the proposed site. Members would also like to see the plans incorporate designs to reduce the risk of anti-social behaviour in and around the development.

##### **4.1.2 SC Highways DC: No objection**

The local highway authority makes no objection to the granting of consent.

We have reviewed the transport statement provided with the application which includes a survey of the car park usage for the pub during a normal weekend, we understand that there were no fixtures at Shrewsbury Town FC on the dates surveyed. The statement also includes predicted parking demands for the proposed convenience store. We would comment that the figures provided appear to be reasonable and from our observations the existing pub car park is generally under-utilised and there is capacity for some development on the site. The proposed level of parking for both the pub and the convenience store exceed local saved policy requirements (SABC Local Plan 2001 – Appendix 2, maximum requirements no longer enforced) and the locally surveyed requirements.

The Charles Darwin pub does offer match-day parking for the nearby stadium, for which they make a small charge and undoubtedly this service does assist the viability of the pub. Local observations suggest that the car park can be full on match days, so clearly a reduction in available car parking spaces will limit or possibly remove this service offer which could impact the viability of the pub. We would expect that discussions have taken place between the site owners and prospective operators for the convenience store, as clearly there will be a need to protect the 11 parking spaces linked to the store as on street parking is not permitted on the surrounding streets on match days due to the residents parking scheme in force, with exception to those residents displaying a valid permit. Whilst a local convenience store like this will attract many trips on foot, we would expect an operator to seek to protect the availability of parking at the site during opening hours.

There is the possibility that during some events at the pub the demand for parking could exceed the 24 spaces allocated and in which case people are likely to park in

the convenience store bays, at the local centre and in Tilstock Crescent. We would expect such events to be the exception, so we don't anticipate any significant highway issues to arise; the adjacent junctions are already protected by 'at any time' parking restrictions so any safety implications from (legally) parked vehicles on the highway are unlikely.

The proposal looks to utilise the existing access onto Tilstock Crescent opposite the local centre and we are of the opinion that this access is of a suitable standard to accommodate both site uses. The existing 'rear' access is to be utilised for deliveries to the proposed convenience store and track plots have been provided to demonstrate how service vehicles will access this. Whilst we understand this access has not been used for some time, the fabric of the access remains intact and therefore a new licence for its use will not be required unless engineering works are required in the adjacent public highway. From a highway perspective, this access is considered to be appropriate for the proposed use.

A trip rate assessment has been provided in the transport statement, however we would not expect there to be a notable increase to the number of trips made to Tilstock Road resulting from the development, due to the location of the existing Co-op store at the local centre opposite. So any vehicular trips to the new convenience store are likely to be transferred from Rowley Court, as people may consider the new site to be more convenient to access.

The existing site benefits from a good level of pedestrian 'permeability' and the applicant proposes to enhance this by providing additional pedestrian accesses near the store entrance. Cycle parking is also proposed for the convenience store and we would clarify that our local requirements are for the 'Sheffield' type parking stands.

- 4.1.3 SC Drainage: No objection as the drainage details, plan and calculations could be conditioned if planning permission were to be granted.**
- 4.1.4 SC Public Protection (27<sup>th</sup> January 2015): No objection subject to conditions.**

I do not anticipate any noise to be generated at the proposed development that would cause a significant detrimental effect at nearby residential receptors. In order to ensure that deliveries do not have a negative impact in this predominantly residential area a condition could be proposed to ensure that no deliveries take place before 7am Monday through to Saturdays with no deliveries before 8am on Sundays.

**17<sup>th</sup> December 2014:**

I have considered the application and the only reason for comment is noise. I have noted the innovative design on the roof where a recess screens the plant and equipment from the surrounding area. I have also noted the 2.7m acoustic fence proposed around the external ground level plant. In theory this may be suitable however without details of the actual noise levels expected and details of the acoustic fence I cannot make any conclusions. Please can the applicant provide noise output for all of the externally located equipment and details of the acoustic

fence. I will then be able to get a cumulative noise level for noise inside the acoustic fencing and calculate how much noise is expected at nearest residential premises.

## **4.2 Public Comments**

**4.2.1** 196 letters of objection have been received in response to the Neighbour Notification letters sent on the 11<sup>th</sup> December 2014 and Site Notice posted on the 16<sup>th</sup> December 2014. The objections can be summarised under the following categories:

- Highway safety, traffic and parking
- Impact on local and residential amenities
- Design, scale and external appearance of building

Objections have also been made on the following non-material planning grounds:

- Viability and unsustainability
- Loss of view

**4.2.2 Cllr Jon Tandy:** The proposed new building is in front of the building line, and is overlooked on all sides by residential properties. The outer wall of the proposed building is approximately within a yard of the Charles Darwin pub's property boundary wall. It is directly opposite a group of residential houses in Tilstock Crescent. The rear entrance of the proposed building is referred to as an existing vehicle access. This highlighted entrance has NEVER been used by commercial traffic and has been permanently locked. Lorries turning into this new entrance will be disturbing houses less than 10 yards away, usually very early in the morning. The proposed building will be out of keeping with the area. The existing shopping area opposite the pub, is designed as a shopping area, and should be kept as such. The car park is used on a daily basis by people using the existing pub and on football match days, it is full of supporters. If this proposal is accepted, these cars will be parking in residential areas and causing obstructions to residents daily life. The proposal is to have half the car park kept as use for the Charles Darwin's customers and the other half for the proposed Co-operative store's customers. This is unrealistic and obviously cars will be parking within residential streets. The proposed store will also be in direct competition with another Co-operative store as they are different franchises of the same company. Obviously both stores would not be sustainable and so this will not be creating new employment within the local area. This is a bad application and has caused a lot of concern from residents within the area. As such, I would recommend that this application goes to committee.

## **5.0 THE MAIN ISSUES**

### **Principle of development**

### **Design, scale and external appearance**

### **Highway safety, traffic and parking**

### **Impact on local and residential amenity**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

**6.1.1** Applications for planning permission must be determined in accordance with the development plan unless material considerations indicated otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. Given the stage of advancement of this Plan, it is considered that some weight can be given to the proposed policies within it.

**6.1.2** The site is located within the Shrewsbury urban area and is therefore within both the SABC adopted urban development boundary and the proposed SAMDev development boundary. The development of this site accords with CS2 which identifies that Shrewsbury will provide a primary focus for development in Shropshire and development of its role as Shropshire's primary retail, office and commercial provider, with the vitality and viability of the town centre to be promoted, protected and enhanced.

**6.1.3** Policy CS15 identifies that in accordance with national planning policy preference will usually be given to town centre retail and office development along with other town centre uses, taking into account sequential and impact assessments. Relevant policies contained within the emerging SAMDev document include Policy MD10 that also relates to Town Centre Impact Assessments. This policy identifies that proposals for new retail development will require a retail impact assessment for developments that have a gross floorspace of over 500 sqm. As this proposal is for a retail unit with a gross floorspace of 326 sqm sequential and retail impact assessments are not required in this instance. Policy CS15 also states that the provision of neighbourhood based shopping and other community facilities will be supported where this will help consolidate and improve existing provision or will serve significant new developments. Whilst the application site is not located directly within a significant new residential development, it is within 1 mile of the Shrewsbury South Sustainable Urban Extension which will deliver up to 900 new homes, although it is noted that this will be served by its own local centre adjacent to Percy Throwers and Waitrose. The proposed site is situated within an established residential area, which whilst benefiting from existing neighbourhood shopping and services including convenience store, it is considered that the provision of an additional retail unit will improve the existing provision on offer in the area. The proposal is therefore considered acceptable in this respect and as it would have no adverse impact on the vitality and viability of Shrewsbury Town Centre.

**6.1.4** With regards to the specific retail use at the site Policy MD10 advises that where retail proposals on the edge of or outside town centres are permitted, restrictive conditions will normally be applied to the percentage of floor space dedicated to the sale of comparison retail items in order to protect the primacy of town centres as the preferred retail destination. Convenience goods relate to food and non-alcoholic beverages, tobacco, alcoholic beverages, newspapers and non-durable household goods whereas comparison goods relate to any other goods, including clothing, shoes, furniture, household appliances, tools, medical goods, games and toys,

books and stationery, jewellery and other personal effects. This proposal is for a local convenience store and a condition has been attached restricting the use to convenience goods. It is therefore considered that the proposal will promote economic growth in accordance with the NPPF without a negative impact on the Town Centre.

## **6.2 Design, scale and external appearance**

**6.2.1** Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

**6.2.2** Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

**6.2.3** The store will have a rectangular footprint measuring 326 square metres. The building will measure 3.5 metres to eaves and a maximum ridge height of 6.79 metres with a lower (5.82m) hipped roof to the rear elevation adjacent to 165 Tilstock Crescent and will be enclosed by a 2.7 metre high acoustic fence to protect the amenities of the neighbouring property. The building will have a triple gable on the front and two side elevations with the plans showing the indicative location of signage; however the signage would be subject to a separate application for advertisement consent. The building includes the provision of an including ATM on the north facing front gable end adjacent to the store entrance. The store would be constructed in plain concrete roof tiles, off-white smooth self-coloured render, facing brick to match the local vernacular, clear glazed aluminium shop front, with a powder coated external security shutter brought down over the entrance door out-of-hours. The site benefits from excellent natural surveillance which will limit opportunities for unobserved anti-social behaviour which as been cited as a concern by the Town Council. The plant will be located on the concealed flat roof behind the 40 degree mono-pitch roof. The design, scale and external appearance of the building is considered to protect the character of the local area in accordance with the requirements of CS6 and the NPPF.

## **6.3 Highway safety, traffic and parking**

**6.3.1** The existing vehicle access at the rear of the public house off Tilstock Crescent will be retained for deliveries to service both the public house and the convenience store, with the existing vehicular access off Tilstock Crescent to the front retained as a customer access. New pedestrian accesses will be created on the junction of Tilstock Crescent and off Tilstock Crescent to the side of the proposed store where a bicycle store will be sited. The scheme proposes the provision of 11 food store car parking spaces to include one disabled space and one parent and child space to the front, with 24 spaces retained for the public house. The proposal would result in the net loss of 8 parking spaces. The application has been subject to substantive objection on highways grounds principally to the loss of car parking for the public house on Shrewsbury Town Football Club match days. However the application has been thoroughly assessed by the Council's Highways DC Manager whose full

comments are provided at 4.1.2 of this report. Therefore whilst the concerns of local residents are acknowledged, the very nature of the local convenience means that it will serve the local community with a large proportion of these utilising the excellent pedestrian and cycle links. Nonetheless, the existing site has an over provision of car parking and the proposed level of parking for both the pub and the convenience store exceed local saved policy requirements (SABC Local Plan 2001 – Appendix 2, maximum requirements no longer enforced) and the locally surveyed requirements. The offer of chargeable match day parking is an open market service and not a material planning consideration, which would have to be withdrawn if there is no additional capacity, with on-street parking restrictions preventing any highway issues. Accordingly Officers do not consider that the proposal will result in any highway safety or local amenity issues and there is no objection to the proposed development from a highways perspective.

#### **6.4 Impact on local and residential amenity**

**6.4.1** The store is proposed to be sited adjacent to 165 Tilstock Crescent but as noted will be enclosed by a 2.7 metre high acoustic fence, which together with the retention of two existing trees will protect the amenities of the neighbouring property. The application has been assessed by the Council's Public Protection Specialists who following the submission of details pertaining to the noise output for all of the externally located equipment and details of the acoustic fence do not anticipate any noise to be generated at the proposed development would cause a significant detrimental effect at nearby residential receptors. In order to ensure that deliveries do not have a negative impact in this predominantly residential area conditions have been recommended to ensure that no deliveries take place before 7am Monday through to Saturdays with no deliveries before 8am on Sundays and restricting the opening hours to customers to between 7am and 11pm. Accordingly it is considered that the development is capable of protecting local and residential amenities in accordance with the requirements of CS6.

#### **7.0 CONCLUSION**

**7.1** The erection of the local convenience store is acceptable in principle and in accordance with adopted and emerging policy. The proposed building would have no adverse impact on the character and appearance of the locality. The proposal will provide adequate car parking for the public house and convenience store, with no highway safety implications. The proposal therefore accords with the NPPF and Core Strategy policies CS2, CS6, CS11, CS15 and CS17.

#### **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:  
NPPF and PPG

Core Strategy and Saved Policies:  
CS2, CS6, CS11, CS15 and CS17.

RELEVANT PLANNING HISTORY:

- 11/04010/FUL Erection of entrance porch (amended description) GRANT 9th November 2011
- SA/97/0108 Construction of a play area and provision of play equipment. REFUSE 12th March 1997
- SA/96/0904 Creation of grassed beer garden to replace part of existing tarmaced car park. WDN 18th December 1996
- SA/96/0153 Provision of childrens play equipment. REFUSE 3rd April 1996

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) Cllr M. Price
Local Member  Cllr Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

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

3. The external materials and their colour shall be as shown on the deposited plan number RF10-0305.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

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

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

5. The premises shall be used as a Local Convenience Store within the A1 Retail Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

6. The premises shall not be open for customers outside of the following hours:

0700 - 2300 Monday - Sunday, including Bank Holidays.

Reason: In order to maintain and protect the amenities of the area.

7. Deliveries to the proposed retail units shall not occur outside of the following times:  
Monday to Saturday 07:00-19:00, Sunday 08:00-13:00.

Reason: to protect the amenity of the area.

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

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

9. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.