

## Committee and date

Central Planning Committee

12 March 2015

## Development Management Report

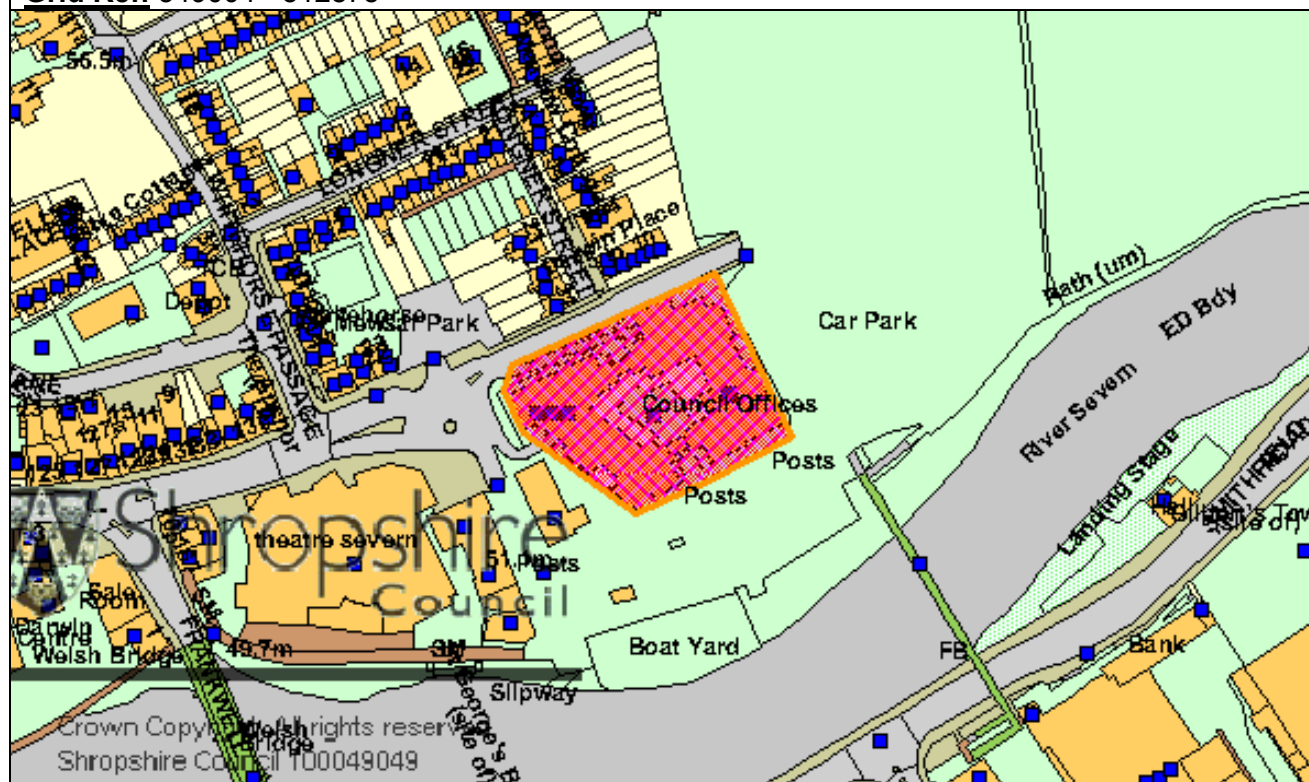
Responsible Officer: Tim Rogers

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## Summary of Application

<b>Application Number:</b> 15/00160/COU	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Change of use of the building (excluding part of the first floor to be retained as B1 use) from Offices (B1) to non-residential educational (D1) (amended description)		
<b>Site Address:</b> Guildhall Frankwell Quay Shrewsbury Shropshire SY3 8HQ		
<b>Applicant:</b> University Of Chester		
<b>Case Officer:</b> Jane Raymond		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 349004 - 312875



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**Recommendation:** Officers recommend that members resolve to grant planning permission subject to the conditions set out in Appendix 1 and give officers delegated authority to issue the planning permission subject to the following:

- receipt of a satisfactory FRA
- confirmation from the EA that they do not object to the proposal
- a S106 agreement to secure the required financial contribution to the EA
- the imposition of a condition regarding a FEMP

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application relates to change of use of the Guildhall (excluding part of the first floor to be retained as B1 office use) from Offices (B1) to non-residential educational (D1). No internal or external alterations are proposed. This proposal to provide teaching and education services alongside the application to use Rowleys House as an administration and education centre will help create an Education Quarter in and around Frankwell, making use of existing Council physical assets as part of the teaching, research and learning support in association with the arrival of 'University Centre Shrewsbury'.

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

- 2.1 The Guildhall is located in Frankwell adjacent to the river and is currently used as office accommodation by Shropshire Council and the Town Council. The application does not relate to the part of the first floor which is to remain as B1 office use and can continue to be used as offices by the Town Council.

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

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as it relates to an application made by the Council on land owned by the Council where the development is not in line with statutory functions.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 SC Conservation (Historic Environment):**

The Guildhall is a large modern building sited in a visually prominent position on the north side of the River Severn within the Shrewsbury Conservation Area, and features within views from the Town Centre looking across the river towards both

the Frankwell and Mountfields Special Character Areas which make up part of the larger Conservation Area. The application proposes that the building is used for University student accommodation along with part of the building remaining occupied by the Shrewsbury Town Council offices.

**Principles of Scheme:**

There is no objection in principle to the proposed new use of this modern building for student accommodation. As noted in our earlier comments on a similar application affecting Mardol House in the town centre, it is not clear from the application what if any modifications would be made externally to the building and this is of course important to assess given the building's prominent location within the Conservation Area. Additional information is required in this regard. We would, as previously, recommend that all windows to student rooms are kept free of decoration/banners/flags etc to ensure that the appearance of the building is maintained as such decoration could have a detrimental impact on the character and appearance of the area and views of the building and its setting within the Conservation Area.

**RECOMMENDATION:**

No objection in principle subject to further information regarding any external modifications proposed or required.

**4.1.2 SC Archeology (Historic Environment):**

We have no comments to make on this application with respect to archaeological matters.

**4.1.3 SC Public Protection – Specialist:**

Having considered the application and have no objections.

**4.1.4 Environment Agency (Initial advice provided to the applicant):**

Flood Risk

Based on the EA Flood Map for Planning (Rivers and Sea) the proposed development site is located within Flood Zone 3 of the River Severn and benefits from the Frankwell Flood Defence Scheme (FDS). The FDS partially comprises of demountable sections which need to be erected prior to the onset of flooding. The defence provides protection to the 100 year standard with some 'freeboard' allowance. Shropshire Council's Level 2 Strategic Flood Risk Assessment (SFRA) confirms that the Frankwell Scheme would overtop during a 100 year plus climate change flood event, in considering the lifetime of the development.

Where residual risk from areas protected by flood defences occurs, National Planning Practice Guidance (NPPG) states that SFRA's should indicate the nature

and severity of the risk remaining, which should be used to inform the site-specific FRA. The Executive Summary in the Level 2 SFRA states "Breach scenarios at Frankwell have demonstrated that if a breach occurred during the 1 in 100 year event, inundation would be rapid, with fast, deep waters producing areas of extreme flood hazard. The area of inundation would be equal to if the defence wasn't there." Therefore, the EA recommend that undefended levels should be assessed as a worst case scenario.

#### Development Proposals and the National Planning Practice Guidance:

The proposed development is classified as 'More Vulnerable' in accordance with 'Table 2: Flood Risk Vulnerability Classification' of the NPPG; non-residential educational establishments.

#### Sequential and Exception Test

The EA note that the application is for a change of use, which in line with the National Planning Policy Framework (NPPF) and the NPPG, the Sequential Test (ST) and Exception Test (ET) 'do not need to be applied' but will still have to meet the requirements of a site specific FRA'.

#### Flood Risk Assessment

Paragraph 103 (Footnote 20) of the NPPF requires a site specific FRA for all proposals in Flood Zones 2 and 3 and for proposals of 1 hectare or greater in Flood Zone 1. In accordance with the NPPG the FRA should identify and assess the risks of all forms of flooding to and from the development and demonstrate how these flood risks will be managed so that the development remains safe throughout its lifetime, taking climate change into account without increasing flood risk elsewhere.

The EA FRA Guidance Note 3 provides comprehensive advice, relevant to a number of development types to varying degrees, and in addition the EA would offer the following advice:

#### Finished Floor Levels

The EA usually advise that Finished Floor Levels (FFLs) for new buildings should be set no lower than 600mm above the 100 year river flood level plus climate change, and that where conversion of a building makes this challenging, that other protection is provided.

In this instance, the EA would expect sufficient information to be provided to confirm the FFLs, how this relates to flood risk, and if appropriate (e.g. services vulnerability at a lower level) flood proofing techniques are considered to minimise damage. For more information on resistance and resilience techniques see: [http://www.planningportal.gov.uk/uploads/br/flood\\_performance.pdf](http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf)

#### Safe Access and Evacuation

As a More Vulnerable use, the EA preference would be for the FRA to demonstrate

'safe' pedestrian access, either above the 100 year river flood level plus climate change, or where this may not be achievable, pedestrian access maybe demonstrated as acceptable based on an appropriate assessment of 'hazard risk' including water depth, velocity and distance to higher ground (above the 100 year river flood level plus climate change). Reference should be made to DEFRA Hazard risk (FD2320) – 'Danger to People for Combinations of Depth & Velocity' (see Table 13.1 – DEFRA/EA Flood Risk Assessment Guidance for New Development FD2320 at: <http://www.hydres.co.uk/tools/FD2320%20TR2%20Final%20Jan%2006.pdf> ).

However, in the absence of safe pedestrian access, as outlined above, in this instance the EA would not be minded to object to the proposed development. This is on the basis that whilst the use would be More Vulnerable, as it does not include overnight accommodation and the users of the site are unlikely to include children, the elderly and the infirm, it is considered to be at the lower end of that classification.

The proposal would need a Flood and Evacuation Management Plan (FEMP). It would appear that there are two options for inclusion within the FEMP; firstly, a scheme to show how the building might be evacuated 'dry' i.e. upon the issue of a flood warning linked to an appropriate flood level, or secondly, a scheme to account for a 'wet' escape, for example if demountable defences are not deployed, or the defences overtop or breach. This may include evacuation via an alternative route if practical, and provision for vehicular exit. The Plan would also include receipt of appropriate flood warning notification. The Council's Emergency Planning Officer might assist you in this.

#### Developer Contribution

As above, the site benefits from the Frankwell Flood Defence Scheme, maintained and operated by the EA, in addition to the EA flood warning service.

The EA seek a developer contribution towards maintaining and operating these. This is in line with the Council's Developer Contributions Supplementary Planning Document (SPD) and for context was agreed with two recent adjacent proposals at the Stew, and Frankwell Quay Warehouse.

The EA seek a £27,000 contribution to take into account the benefit to the proposed use of deploying the demountable defences over the lifetime of the development. This figure has been based on EA maintenance and operation costs for the Frankwell defences, worked out as a proportion for the lifetime of the development (taken as 60 years for commercial development). The EA would also seek £5,000 towards maintaining and operating the EA flood warning service, giving a total of £32,000.

This sum would need to be agreed and secured prior to any planning permission being granted through a unilateral undertaking or a Section 106 agreement. It could

be spread over 3-5 years and would be received by the EA via the Council.

#### **4.2 - Public Comments**

4.2.1 Shrewsbury Town Council - SUPPORTS -The Town Council supports this development. It does however seek clarification for since the narrative within the application retains the Town Council element of the building for BI Office use, the proposed plans suggest change of use to D1 Educational use.

4.2.2 Shrewsbury Civic Society - SUPPORTS - Having a University in Shrewsbury might enrich the town and are delighted that this building has a sustainable further use and no external alterations are proposed that may affect the Conservation area.

#### **5.0 THE MAIN ISSUES**

Principle of the proposed change of use  
Flood Risk

#### **6.0 OFFICER APPRAISAL**

6.1.1 This application relates to change of use of the Guildhall offices to non-residential educational D1 use. The new use is proposed in association with the arrival of 'University Centre Shrewsbury' in September 2015, a division of Chester University which will be based in Shrewsbury.

6.1.2 The proposal accords with the principles of the NPPF representing sustainable development on a previously developed site in this Town Centre location. It also complies with Core Strategy Policies CS2 which identifies Shrewsbury as the primary location for the provision of services and infrastructure in addition to commercial and residential uses. CS2 also supports development which promotes, protects and enhances the vitality and viability of Shrewsbury town centre. The university is expected to bring significant economic benefits to Shrewsbury and in particular the town centre economy.

6.1.3 CS8 (Facilities, Services and Infrastructure) promotes the provision and enhancement of facilities and services (including education) in appropriate locations that improves access to these facilities.

6.1.4 The site is situated close to the Town Centre and is easily reached by public transport and is in easy walking distance of the train and bus station, other buildings within the town centre that are to be used as student accommodation, and the administrative and education centre which is proposed to be located in Rowleys House. It is therefore considered that the proposed new use for this building

represents sustainable development and is acceptable in principle.

## 6.2 Flood risk

- 6.2.1 The site is within Flood zone 3 and as the proposed change of use is from a less vulnerable use to a more vulnerable use a site specific FRA is required to be submitted. This has been requested but at the time of writing a FRA has not been received and the EA have been unable to submit their final comments.
- 6.2.2 The EA have provided advice to the applicant regarding what is required to be included in the FRA including finished floor levels and how this relates to flood risk (i.e. the car parking will remain on the lower ground floor with highest risk of flooding), information to demonstrate safe means of pedestrian access and a Flood Evacuation Management Plan (FEMP) for both a dry and wet evacuation in the event that flood defences were breached or not deployed.
- 6.2.3 The EA have confirmed that in the absence of safe pedestrian access they would however not be minded to object to the proposed development as whilst the use is 'More Vulnerable' it does not include overnight accommodation and the users of the site are unlikely to include children, the elderly and the infirm and it is considered to be at the lower end of that classification.
- 6.2.4 The EA have also requested that a sum of £32,000 is secured by a S106 agreement (£27,000 contribution to take into account the benefit to the proposed use of deploying the demountable defences over the lifetime of the development and £5,000 towards maintaining and operating the EA flood warning service). A similar agreement was agreed with two recent adjacent proposals at the Stew, and Frankwell Quay Warehouse and is in accordance with the Council's Developer Contributions Supplementary Planning Document (SPD).
- 6.2.5 It is considered that subject to receipt of a satisfactory FRA to include a FEMP the future occupiers of the building would not be at risk from a flood event. Officers recommend that members resolve to grant planning permission and give officers delegated authority to issue the planning permission subject to receipt of a FRA, confirmation from the EA that they do not object and a S106 agreement to secure the required financial contribution to the EA.

## 6.3 Other Matters

- 6.3.1 **Parking** - The proposal includes no parking provision other than the existing car park on the lower ground floor. The majority of students are unlikely to own cars

and staff can either use public transport or pay for parking adjacent to the Guildhall.

- 6.2.2 **Impact on the building and Conservation Area** – The proposal includes no external or internal alterations so the character and appearance of the building and its setting within the Conservation Area will be preserved.

## 7.0 **CONCLUSION**

It is considered that the proposed use of the Guildhall for non residential education use is acceptable in principle in this sustainable location within Shrewsbury Town Centre and future occupiers would not be at risk from a flood event subject to the receipt of a satisfactory FRA to include a FEMP. The proposal includes no alterations to the building and would therefore have no adverse impact on the appearance of the building or local amenity. The proposal therefore accords with the NPPF and Shropshire LDF policies CS2 and CS8.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ⑦ 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.
- ⑦ 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

Core Strategy and Saved Policies:

CS2 : Shrewsbury – Development Strategy

CS8 : Facilities, Services and Infrastructure

### RELEVANT PLANNING HISTORY:

SA/02/0355/F Erection of a 4 storey office block, car parking and new access road to car park following demolition of buildings on site, except for the Holland and Broadbridge building PERCON 10th July 2002

## 11. Additional Information

[View details online:](#)

List of Background Papers: File 15/00160/COU
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Anne Chebsey
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.

### **Informatives**

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.