

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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

- 1.1 Seeks the conversion of a redundant pharmacy store from Use Class A1 to Use Class C3 (Dwelling house)
- 1.2 Some modest works are proposed in order to facilitate the conversion; this is primarily the introduction of windows in place of doors. A porch was proposed however following objections from neighbours, the town council and Shropshire Councils Conservation team this was omitted from the plans.
- 1.3 This application was deferred from Committee in order for more information to be submitted with reference to the following considerations:
- A retail assessment confirming that loss of the retail storage facility would not impact on the ability of the remaining unit to accommodate a wide range of A1 uses in the future.
 - Detailed confirmation of areas owned by the applicant and / or within the 'communal' courtyard area.
 - Confirmation is required of the detailed separation distances between the facade of the site and the property to the north east.
 - Additional picture showing context of property.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The property to which this application relates is a modest structure forming a more recent addition to the rear on an existing A1 premise. The structure is a modest single storey extension at the rear of 4 Church Street. 4 Church is a grade II listed building occupying a prominent position on Church Street, within Cleobury Mortimer conservation area. The building is early C18 with later additions, and is constructed principally of brick under a tile roof with decorative ashlar details. The application concerns the single storey outbuilding attached to the rear of the building, previously used as a store room, which is accessed via a central passageway from the front of the building. The outbuilding is considered listed by virtue of being attached to the main listed building, although is a much later mid C20 structure, and does not in itself appear to be of any historic interest. However, works to this part of the building will result in an impact on the main listed building.
- 2.2 There are a number of residential units already accessed via the rear of 4 Church Street, there is one self contained flat adjacent to the building related to this application with a number of windows facing out towards to application building, the primary window that will most likely be visible from the application building serves kitchen/ living room area.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment.

4.0 Community Representations**4.1 Consultee comments****4.1.1 Shropshire Council Conservation – comments received 22nd June 2015**

From visiting the site, it does not appear that the conversion will involve any works to the historic fabric of the listed building, and will solely involve works to the mid C20 outbuilding to the rear. The materials and finishes of the building currently have little cohesion with the main listed building, and therefore conversion of the building may be a good opportunity to improve its visual appearance. Therefore, generally no objection is raised to the proposals; however we would recommend that the following amendments could be made:

-As part of the conservation, improvements could be made to the visual appearance of the building by replacing the existing roof covering with either slate or plain clay tiles. This would allow it to blend better with surrounding buildings in the conservation area.

-The existing brickwork is also of little merit; therefore the proposed rendered insulation coating should improve the appearance of the building, and is supported. We would recommend that a system is considered which has a traditional lime finish, which would be appropriate to the adjacent listed building. Details are required of the texture and colour, and also how the render will be finished at ground and eaves level- however this could be secured as a condition.

-It is considered that the proposed porch will be visually intrusive to the courtyard/ passageway area to the rear of the building, and could be omitted in order to retain the existing linear building line.

-The proposed alterations to window openings, and the installation of patio doors to the gable are considered acceptable. All new windows should be flush fitting timber casements (without trickle vents). Joinery details could be secured by condition.

-Further improvements could be made to the setting of the listed building by replacing the existing concrete courtyard/ passageway with appropriate paving or sets.

Recommendation

Overall, no objection is raised to the proposed conversion, and providing consideration is made to the above recommendations; it is felt that this should preserve and enhance the character of both the listed building and conservation area, in accordance with parts 66 and 72 of the Planning (Listed Buildings and

Conservation Areas act) 1990.

Case officer note: The comments were submitted prior to amendments and it is therefore considered that comments relating to the porch have been resolved.

Suggested conditions:

J5- Rainwater goods

J8- Roof details

C2- Material samples (for render coating)

J24-Joinery details

4.1.2 Shropshire Council Archaeology – Comments received 12th June 2015

The proposed development is located within the Medieval urban form of Cleobury Mortimer (HER PRN 05478) as defined by the Central Marches Historic Towns Survey, a group of tenement plots, south of Church Street (HER PRN 05473) and within a possible Anglo Saxon Minster enclosure tentatively based on stream and minor streets (HER PRN 05468). In light of this the proposed development site may have some archaeological potential and any below ground archaeological remains may be affected by the construction of the proposed entrance lobby.

RECOMMENDATION:

In view of the above it is recommended that an archaeological inspection of the ground works for the proposed entrance lobby be made a condition of any planning permission for the proposed development. An appropriate condition of any such consent would be: -

Suggested Conditions:

No development approved by this permission shall commence until the applicant has notified Shropshire Councils Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide him/her with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.

Officer comments: The above condition was recommended prior to the omission of the porch from the proposals.

4.1.3 Shropshire Council Affordable Housing – Comments received 28th May 2015

Listed Buildings are noted as an exemption in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. Therefore no contribution will be required in this instance.

4.1.4 Shropshire Council Drainage – Comments received 27th May 2015

No objection informative advised.

4.1.5 Cleobury Mortimer Parish Council – Comments received 23rd June 2015

Cleobury Mortimer Parish Council OBJECT to both these planning applications due to the impact, especially from the proposed entrance lobby, on the amenity of the neighbours. This lobby would severely reduce the light to the property opposite and is proposed to be built on the communal access area. There are some anomalies in the application paperwork ie the property opposite has windows which will be directly overlooked and there will be works affecting both the interior and exterior of the building which is not noted in the application form. Council is also concerned with the Change of Use which will remove a business property from the town.

4.2 - Public Comments

4.2.1 Two representations have been received in respect of the application, detailing OBJECTIONS to the proposals, full details are available on the planning file, a summary of the key material considerations raised is provided as follows:

- Impingement of light and privacy if porch and elevation is built by way of its height and proximity to adjacent dwelling.
- Former windows will be lowered, reducing privacy of opposite neighbour
- Bin stores not fundamentally necessary and will be a permanent intrusion into an area specifically designated in leases for an un-encumbered benefit of all occupiers.
- Building would be better used for the purpose it intended.
- Lack of amenity, parking will be exacerbated by the creation of a new dwelling.
- Three properties already occupied here, creation of an additional dwelling will be over crowding given limited access and number of inhabitants already occupying the dwelling space.
- Would have a marked effect on privacy, access for building operatives, emergency services and facilities in the Communal Area previously enjoyed by the present tenants which are included in the deeds to the property.
- Q10 applicant has answered no to works to interior/exterior when the formation of kitchen/ bathroom/ porch and doors and windows will involve such works.
- Q19 applicant has answered no to the question regarding the presence of trees when in fact there is a well established Perry Pear Tree which would affect the development.
- Design and Access Statement doesn't use plural for properties or gardens, could be taken to imply that existing premises are used by fewer people than they actually are.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impact on amenity

Impact on character and appearance of Conservation Area

Parking

Trees

Archaeology

Additional information following deferral at Planning Committee

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The town of Cleobury Mortimer is a historic Market town, within the Shropshire Core Strategy. Policy CS3 advocates support for development within the town that balances environmental constraints whilst helping to meet local needs. The property is located within a central town centre location and subsequently is considered to be a sustainable location, where there is easy access to services, facilities and public transport to the wider County, it is therefore considered that residential development in this location would meet the principles of the NPPF in that the reliance upon private modes of transport for carrying out day to day activities would be reduced. In this regard it is considered that the principle of residential development within the town of Cleobury Mortimer is supported by the Council.

6.1.2 The Local Planning Authority in approving applications for change of use does not seek to encourage the loss of A1 space in a town centre location. However, the Design and Access statement sets out that the A1 space retained under the proposals will be 25.5sqm including 12.5sqm for storage and staff welfare provisions. The unit has been successfully let as a Barber Shop (A1) and subsequently it is considered acceptable for some storage provision to be lost without jeopardising future A1 facilities.

6.1.3 As the application site is within a designated Conservation Area proposals also need to meet policy CS17: Environmental Networks, which seeks to protect and enhance the historic environment and the character and appearance of the locality. Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2 Siting, scale and design of structure

6.2.1 The application originally proposed the addition of a porch to the exterior of the property; this was omitted from the proposals on grounds of the impact on the character and setting of the listed building. Subsequently there are minor alterations proposed to the exterior of the building, these include the addition of doors and windows to facilitate the conversion into a habitable dwelling. In considering the revised proposals it is considered that the alterations are

sympathetic to that character and appearance of the existing property and will not unacceptably impact upon the visual amenity of the area. In this regard the proposals are therefore considered acceptable under policy CS6 of the Shropshire Local Development Framework Core Strategy.

6.3 Impact on residential amenity

6.3.1 Concerns have been raised with regards to the impact on the amenity of neighbouring occupiers, a number of separate issues have been raised in this remit and for clarity each issue shall be assessed separately.

6.3.2 The representations made referred to the impact the proposed porch would have on the light available for the occupier of the opposite dwelling, having had this omitted from the proposals it is considered that given there will be no external additions to the building there will be no impact upon the light available to the occupier of the adjacent dwelling.

6.3.3 The representations made refer to the increased risk of overlooking. There will be three windows on the North Eastern elevation of the property facing towards The officer has considered the proposals and considers that the presence of windows and doors approximately 3.7 metres adjacent to the window on the South Western elevation of the neighbouring property elevation will already create an element of overlooking if the building was used for its lawful use. Notwithstanding this it is accepted that with a residential occupation it is likely that there may be greater likelihood of continued usage which may increase the amount of overlooking between the two properties. Subsequently the officer considers it appropriate to utilise a condition to ensure that the proposed door and window serving the lobby and window serving the kitchen area on the North Eastern elevation should be conditioned to remain obscure glazed. Given that the main living accommodation will likely gravitate towards the rear French doors it is not considered that the use of an obscure glazed window within this living area will unacceptably harm the amenity that should rightfully be expected to be enjoyed by future occupiers of the property. This condition will ensure that the overlooking between the two properties is reduced substantially to a level considered to be acceptable.

6.3.4 It is considered that the increased footfall using access to the proposed dwelling will be minimal given the dwelling will likely only be occupied by 1-2 people given its proposed size. It is therefore considered that this will have a minimal degree of disturbance to occupiers of dwellings who already utilise the access at 4 Church Street.

6.3.5 Reference has been made in representations to the deeds which allow right of access to all occupants. This is a civil matter and not one that can be taken as a material consideration. With regards to the impact of bin storage facilities, there already exists some form of external storage at the same point on the building, whilst the bin storage will be slightly larger it is not considered that this will create an obstruction that could be argued to unacceptable impact on the amenity of occupiers of dwelling within the vicinity of the site. Furthermore, the visual amenity may be improved by containing waste facilities in a less obvious and prominent manner. Having considered the existence of similar bins within the courtyard area

the officer considers that the waste facilities will provide some improvement upon existing.

6.4 Impact on character and appearance of the Conservation Area

- 6.4.1 Given the location of the property and modest external alterations proposed it is not considered that the proposals will alter significantly the character and appearance of the Conservation Area. In this regard it is considered that the proposals will accord with policy CS6 and CS17 of the Shropshire Core Strategy.

6.5 Parking

- 6.5.1 The proposals will create one additional dwelling in a central market town location which is considered to be sustainable in that it is in a well served location with access to key services, facilities and public transport that are required for day to day functioning. In this regard it is considered that the necessity of a car will be reduced. Notwithstanding this it is considered that the addition of a single bedroomed dwelling will not rise to such an increase in parking requirements that it could be considered unacceptable. Subsequently it is considered that the proposals will not increase substantially the parking issues that are believed to be prevalent in the locality to such a degree that it would be considered harmful to highway safety.

6.6 Trees

- 6.6.1 There is a tree located at the rear of the site, although this was not noted in the submitted application form it was visible on the Officers site visit and photos submitted by the agent clearly show this tree. It is not considered that the proposals will give rise to substantial harm to the tree, given that there will be no works taking place in the vicinity of the tree that would require disturbance to the tree root area. Furthermore, the tree, being located in a Conservation Area, would require a Tree Protection application in the event of ambitions to prune or remove this tree. It is subsequently considered that the proposals, being for change of use, will not unacceptable harm a protected tree and resultantly it is considered the proposals accord with policy CS17 of the Shropshire Core Strategy.

6.7 Archaeology

- 6.7.1 Archaeology requested conditions relating to an archaeological inspection prior to ground works commencing. Having had the porch omitted from the plans the officer has confirmed with Archaeology Officers that this condition is not longer required, it should subsequently be omitted from any decision.

6.8 Additional Information requested by Councillors at South Shropshire Planning Committee

6.8.1 *Loss of retail space:*

Members requested further information to justify that there would remain sufficient space to support a range of future uses in the primary retail frontage. A Retail Assessment was submitted as an appendix to the Design and Access statement

setting out the existing mix of retail premises within Cleobury Mortimer. The officer has considered this information and considers that there is sufficient evidence to reflect that the loss of some retail storage space will not largely impact upon the marketability of the premises. As it stand the premises are currently let out to a barbers, the assessment sets out that in calculating the retail space rental amount this would increase from £425 to £725, would impact upon business rates paid and in considering that this space is not currently utilised by the existing occupier, would not create any further income for the tenant in order to justify this increased expense.

Furthermore, It has also been argued that during last marketing of the premise the majority of interest came from parties who required the showroom and a small storage area. The officer considers that there is insufficient information to indicate that the retail space provided in the event planning permission is granted would not be of detriment to the marketability of the premises and overall harm to the high street. This is further supported due to the current premises being occupied without the use of this storage area.

6.8.2 Confirmation of areas owned by applicant or within the communal courtyard area:

It must be noted that details relating to land ownership are not material considerations, whether the siting of bin storage and a disabled access ramp is included within the land ownership is not to be taken as a material consideration. The matters to be considered in this regard are whether the siting will be of detriment in planning terms.

The officer, having attended a site visit, considered that due to the existing siting of a storage facility adjoining the application property it could not be argued that the siting of bin storage facilities would amount to any increased detriment to the amenity of occupiers, as there will still remain sufficient and safe access to areas within and through the courtyard. Notwithstanding the above, with regards to the specific query raised in committee evidence, in the form of title deeds, has been submitted which indicates that all land as indicated on the submitted block plan and location plan is accurate and the land in question is within the ownership of the applicant. It stands that the matter of access rights is held as a civil matter and not one that can reasonably be considered within the planning remit and a material consideration.

6.8.3 Confirmation of the detailed separation distances between the facade of the site and the property to the north east.

Further drawings have been submitted which detail that the existing building which will change use is situated approximately 3.97metres at the greater and 2.82metres at the lesser. As set out in the officer report, the distance between windows, is not considered unacceptable given that this relationship exists already. In order to reduce any risk of overlooking, or perception of being overlooked obscure glazed windows have been conditioned to be included in the window most likely to overlook the neighbouring property.

6.8.4 Additional picture showing context of property

As requested an additional photograph has been submitted. The officer has considered the relationship between the two properties and considers that there may a slight increase in footfall within the courtyard area, but it will not be significant to an extent that could reasonably be argued to detriment the amenity of the neighbouring occupier.

7.0 CONCLUSION

7.1 It is considered that the proposals will still allow for provision of retail space in a key town centre area. The proposals will incur some increased footfall using the access via 4 Church Street, which is already utilised by a number of other dwellings, however, it is considered that given the dwelling proposed will provide the equivalent of one additional bedroom space the increase in footfall will not be to an extent that could be reasonably argued as being unacceptable. There will be some increased likelihood of overlooking into the neighbouring property given the change in use which would likely incur more frequent usage of space served by the two windows on the North Eastern elevation, however the officer considers that the use of obscure glazing would reduce this likelihood to an acceptable level.

7.2 Cleobury Mortimer is a sustainable settlement which can provide a relatively wide degree of services to cater for day to day living requirements, subsequently the reliance upon the private motor vehicle is reduced. Notwithstanding this it is considered that the increase in parking needed on street would be relatively minimal and could not be warranted as an unacceptable increase that would exacerbate current parking situations.

7.3 The proposals will not harm the character or appearance of the conservation area and will provide low cost residential accommodation in a sustainable settlement. It is therefore recommended that the application be APPROVED subject to conditions.

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:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

National Planning Policy Framework

Contact: Tim Rogers (01743) 258773

RELEVANT PLANNING HISTORY:

15/01976/FUL Conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

15/01977/LBC Listed Building Consent for works to facilitate the conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NNW22HTDK8Q00>

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(s) Cllr Gwilym Butler Cllr Madge Shineton
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 amended plans and drawings L (___) 001 REV B, L (___) 002 REV B, L (90) 000 REV D as received on 26th June 2015.

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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The external materials (for render coating) shall match in colour, form and texture those of the existing building.

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

4. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

5. The windows in the North Eastern elevation, with the exception of the window serving the bedroom accommodation shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

Informatives

1. The applicant should consider employing measures such as the following:
Water Butts
Rainwater harvesting system
Permeable surfacing on any new driveway, parking area/ paved area
Attenuation
Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

2. This planning permission should be read in conjunction with Listed Building Consent No. 15/01977/LBC, to which further/alternative conditions may be attached.
3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.