

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 31 October 2022

Committee:
Northern Planning Committee

Date: Tuesday, 8 November 2022

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting. The Agenda is attached
There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:
<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard
Assistant Director – Legal and Governance

Members of the Committee

Joyce Barrow
Garry Burchett
Geoff Elnor
Ted Clarke
Nat Green
Vince Hunt
Mark Jones (Vice Chairman)
Mike Isherwood
Edward Towers
David Vasmer
Paul Wynn (Chairman)

Substitute Members of the Committee

Gerald Dakin
Steve Davenport
Ed Potter
Julian Dean
Nigel Hartin
Pamela Moseley
Alex Wagner

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 11th October 2022. Minutes to Follow.

Contact: Emily Marshall on 01743 257717; or
Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5pm on Wednesday, 2nd November 2022.

4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 Pavement O/s 2 Claremont Bank, Shrewsbury, Shropshire - 22/03903/FUL (Pages 1 - 10)

Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens

6 Pavement O/s 2 Claremont Bank, Shrewsbury, Shropshire - 22/03904/ADV (Pages 11 - 20)

Erect and display 1No 75" LCD advert screens

7 Junction At Smithfield Road And Chester Street, Shrewsbury, Shropshire - 22/03895/FUL (Pages 21 - 30)

Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens

8 Junction At Smithfield Road And Chester Street, Shrewsbury, Shropshire - 22/03896/ADV (Pages 31 - 40)

Erect and display 1No 75" LCD advert screens

9 Pavement O/S 22 St. Marys Street, Shrewsbury, Shropshire, SY1 1DE - 22/03897/FUL (Pages 41 - 52)

Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks

- 10 Pavement O/S 22 St. Marys Street, Shrewsbury, Shropshire, SY1 1DE - 22/03898/ADV** (Pages 53 - 62)
- Erect and display 1No 75" LCD advert screens
- 11 Pavement O/S H And M 14 Castle Street, Shrewsbury, SY1 2BW - 22/03901/FUL** (Pages 63 - 72)
- Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks
- 12 Pavement O/S H And M 14 Castle Street, Shrewsbury, SY1 2BW - 22/03902/ADV** (Pages 73 - 82)
- Erect and display 1No 75" LCD advert screens
- 13 Pavement O/s 25-28 Market Street, The Square, Shrewsbury, Shropshire - 22/03891/FUL** (Pages 83 - 92)
- Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks
- 14 Pavement O/s 25-28 Market Street, The Square, Shrewsbury, Shropshire - 22/03892/ADV** (Pages 93 - 102)
- Erect and display 1No 75" LCD advert screens
- 15 Pavement O/s Market Entrance, Shrewsbury, Shropshire, SY1 1HF - 22/03893/FUL** (Pages 103 - 112)
- Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks
- 16 Pavement O/s Market Entrance, Shrewsbury, Shropshire, SY1 1HF - 22/03894/ADV** (Pages 113 - 122)
- Erect and display 1No 75" LCD advert screens
- 17 Trefarclawdd Farm, Tref-ar-clawdd, Oswestry, Shropshire, SY10 9DE - 22/02774/EIA** (Pages 123 - 172)
- Construction of a new intensive dairy complex, (to include means of access off the adjacent public highway, and wider area surface water drainage and landscaping) (part retrospective)
- 18 Site Of Oakland County Primary School, Glebe Road, Bayston Hill, Shrewsbury, Shropshire - 22/02517/FUL** (Pages 173 - 200)
- Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space

19 Roundabout Junction A53/Shrewsbury, Market Drayton, Shropshire - 22/03790/ADV
(Pages 201 - 208)

Erect and display three sponsorship signs placed on the A53/Shrewsbury Road roundabout.

20 Roundabout Junction A53/A529 Adderley Road, Market Drayton, Shropshire - 22/03791/ADV (Pages 209 - 216)

Erect and display five sponsorship signs on the A53/A529 Adderley Road roundabout

21 Appeals and Appeal Decisions (Pages 217 - 272)

22 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 6th December 2022.

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Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03903/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens		
Site Address: Pavement O/s 2 Claremont Bank Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 348802 - 312480



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

It is considered that the proposed hub due to its scale, design and digital display screen and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application for planning permission for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens' has been submitted concurrently with an application for advertisement consent (22/03904/ADV).
- 1.2 The proposed hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.
- 1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:
- Ultrafast public and encrypted Wi-Fi
 - Secure power-only USB ports for rapid device charging
 - Free phone calls
 - Direct 999 call button
 - Display community and emergency (i.e. police) awareness messaging
 - Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
 - A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
 - Boost 4G and 5G with installed small cells, improving coverage and capacity
- 1.4 The supporting information also indicates that each hub will also provide the following community benefits:
- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year
 - Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet

- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for a BT hub proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement at the junction with Claremont Bank and at the top of Claremont Hill.
- 2.2 The site is situated within the Conservation area and surrounded by listed buildings and associated historic walls and structures. Opposite this site is the Grade II listed Quarry Gate Lodge, the Grade II listed ornate cast and wrought iron gates to the Quarry Park and the historic listed terraces running down each side of Claremont Bank. On the other side of Claremont Hill is the Grade I listed Church of St Chad. The only additions to the pavement in this location is a small bench, a planter, a few cycle hoops and a small parking sign.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

- 4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00290 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an

impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined

with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location at the top of Claremont Bank, the proposed street hub in this particular context would appear particularly visually incongruous within this wide pavement and somewhat open streetscape setting, where it would be positioned to the front of a traditional brick wall with tall trees and hedge above it, and opposite the Grade II listed ornate cast and wrought iron gates to the Quarry Park and directly opposite the Picturesque Grade II listed Quarry Gate Lodge. The top of Claremont Bank is devoid of modern buildings, with its predominant built forms being important designated heritage assets including the Grade I listed Church of St Chad, the Quarry Park entrance boundary features and buildings, and the historic listed terraces running down each side of Claremont Bank. This is a very sensitive area and the introduction of this tall modern structure with its illuminated screens would be very much out of character within this historic context and setting.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.1.3 **SC Highways:** *Shropshire Council as Highway Authority can not support this application at this time. The proposed hub would restrict the footway to an unacceptable width. Shropshire Council have undertaken significant work within Shrewsbury Town Centre as part of the Shrewsbury Integrated Transport Package (SITP) as part of these works, footway widening has been undertaken at the junction with Claremont Bank, the proposals would reduce the footway width where widening has been undertaken to help promote sustainable travel within the Town Centre.*

4.1.4 **SC Drainage:** *The proposal is acceptable from the drainage perspective.*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

- 4.1.3 **One letter form a local resident:** *As a resident whose internet access comes from the existing BT box on the opposite side of the road to this proposed installation, I have to wonder about the "1gps" broadband speed mentioned in the application. Currently, the existing BT box does not support fibre broadband and would need to be replaced for this proposed device to offer the speeds mentioned. We have tried for a number of years to get fibre broadband to our address, to be told it is not possible and there is no proposal to upgrade the BT street box. Therefore this application causes some confusion. Do BT not in fact realise the situation - I wonder?*

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

- 6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.

- 6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.

6.2 Character and appearance and impact on heritage assets

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.

6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) relevant to this location indicates that the proposed sign will replace an existing BT phone kiosk. However, there is no existing phone kiosk in this location. The submitted HS also indicates the following:

'...the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

6.2.5 It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*'. It is also not considered that the proposal is an acceptable scale, design or appearance in this particular location which is not '*a busy street scene*' but a recently widened pavement surrounded by listed buildings, historic structures, protected trees and minimal street furniture.

6.2.6 It is agreed with the Conservation officer that the proposal would appear

particularly visually incongruous within this wide pavement and somewhat open streetscape and that the introduction of this tall modern structure with its illuminated screens would add visual clutter to the street scene, would be very much out of character within this historic context and setting and undermine the setting and appearance of nearby listed buildings. The proposal would have an adverse impact on the character and appearance of the conservation area and visual amenity in this location.

- 6.2.7 Paragraph 199 of the NPPF requires that '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*'.
- 6.2.8 Paragraph 202 states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*'
- 6.2.9 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

- 7.1 It is considered that the proposed hub due to its scale, design and digital display screen and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SSGTDIHK00>

List of Background Papers: File 22/03903/FUL
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

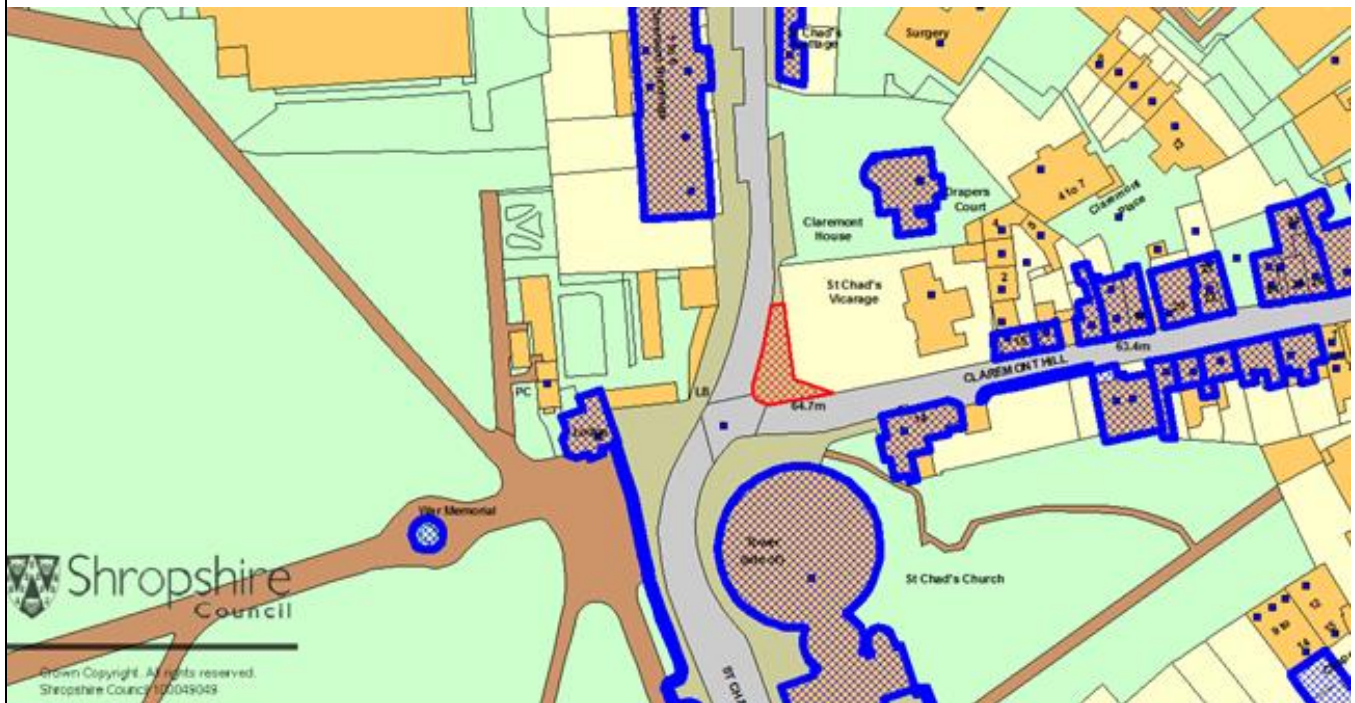
Development Management Report

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

Summary of Application

Application Number: 22/03904/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Pavement O/s 2 Claremont Bank Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 348802 - 312480



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Recommendation: Refuse

Recommended Reason for refusal:

1. It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also reduce the footway to an unacceptable width in this location resulting in a potential adverse impact on pedestrian (public) safety. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03903/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement at the junction with Claremont Bank at the top of Claremont Hill.
- 2.2 The site is situated within the Conservation area and surrounded by listed buildings and associated historic walls and structures. Opposite this site is the Grade II listed Quarry Gate Lodge, the Grade II listed ornate cast and wrought iron gates to the Quarry Park and the historic listed terraces running down each side of Claremont Bank. On the other side of Claremont Hill is the Grade I listed Church of St Chad. The only additions to the pavement in this location is a small bench, a planter, a few cycle hoops and a small parking sign.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on

the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location at the top of Claremont Bank, the proposed street hub in this particular context would appear particularly visually incongruous within this wide pavement and somewhat open streetscape setting, where it would be positioned to the front of a traditional brick wall with tall trees and hedge above it, and opposite the Grade II listed ornate cast and wrought iron gates to the Quarry Park and directly opposite the Picturesque Grade II listed Quarry Gate Lodge. The top of Claremont Bank is devoid of modern buildings, with its predominant built forms being important designated heritage assets including the Grade I listed Church of St Chad, the Quarry Park entrance boundary features and buildings, and the historic listed terraces running down each side of Claremont Bank. This is a very sensitive area and the introduction of this tall modern structure with its illuminated screens would be very much out of character within this historic context and setting.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.1.3 **SC Highways:** *Shropshire Council as Highway Authority can not support this application at this time. The proposed hub would restrict the footway to an unacceptable width. Shropshire Council have undertaken significant work within Shrewsbury Town Centre as part of the Shrewsbury Integrated Transport Package (SITP) as part of these works, footway widening has been undertaken at the junction with Claremont Bank, the proposals would reduce the footway width where widening has been undertaken to help promote sustainable travel within the Town Centre.*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

6.1.2 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include *'the safety of persons using any highway'*.

6.1.1 Shropshire Council have undertaken significant work within Shrewsbury Town Centre as part of the Shrewsbury Integrated Transport Package (SITP) and as part of these works, the footway where this hub is proposed to be located has recently been widened. The proposed sign would reduce the footway width, and Highways have objected as the proposal would restrict the footway to an unacceptable width. A reduction in the width of the pavement in this location has the potential to adversely impact on pedestrian (public) safety.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that '*The quality and character of places can suffer when advertisements are poorly sited and designed*'.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed advert (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where

the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

- 6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) relevant to this location indicates that the proposed sign will replace an existing BT phone kiosk. However, there is no existing phone kiosk in this location. The submitted HS also indicates the following:

'...the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

- 6.2.8 It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*'. It is also not considered that the proposal is an acceptable scale, design or appearance in this particular location which is not '*a busy street scene*' but a recently widened pavement surrounded by listed buildings, historic structures, protected trees and minimal street furniture.
- 6.2.9 It is agreed with the Conservation officer that the proposal would appear particularly visually incongruous within this wide pavement and somewhat open streetscape and that the introduction of this tall modern structure with its illuminated screens would add visual clutter to the street scene, would be very much out of character within this historic context and setting and undermine the setting and appearance of nearby listed buildings. The proposal would have an adverse impact on the character and appearance of the conservation area and visual amenity in this location.
- 6.2.10 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.

7.0 CONCLUSION

7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also reduce the footway to an unacceptable width in this location resulting in a potential adverse impact on pedestrian (public) safety. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SSHTDIHL00>

List of Background Papers: File reference 22/03904/ADV
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member - Councillor Nat Green

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Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03895/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens		
Site Address: Junction At Smithfield Road And Chester Street Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email	: jane.raymond@shropshire.gov.uk

Grid Ref: 349364 - 312919



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed hub due to its scale, design and digital display screen sited in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT

1.0 THE PROPOSAL

- 1.1 This application for full planning permission is for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens'. The application has been submitted concurrently with an application for advertisement consent (22/03896/ADV).
- 1.2 The proposed BT hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.
- 1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:
- Ultrafast public and encrypted Wi-Fi
 - Secure power-only USB ports for rapid device charging
 - Free phone calls
 - Direct 999 call button
 - Display community and emergency (i.e. police) awareness messaging
 - Interactive tablet that provides a series of icons with access to local council services, four national charities for support , BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
 - A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
 - Boost 4G and 5G with installed small cells, improving coverage and capacity
- 1.4 The supporting information also indicates that each hub will also provide the following community benefits:
- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year

- Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located in a prominent position on the pavement at the junction with Smithfield Road, Chester Street and Castle Street.
- 2.2 The site is situated within the Conservation area and the hub is proposed to be sited in front of the 19th Century Corbett and Castle Point Building that is part of a row of non-designated heritage assets. There are listed buildings in close proximity to the site including Shrewsbury Castle, Shrewsbury Station and 13 Castle Street.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

- 4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00257 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an

impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined

with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location at the junction of Smithfield Road and Chester Street, the proposed street hub is shown positioned within the wide expanse of pavement to the immediate front of the large ornate later 19th Century historic red brick buildings comprising the Corbett and Castle Point buildings which while not listed are considered to comprise an important and visually prominent group of non-designated heritage assets within the Conservation Area along with the stone-faced Chronicle Building to the immediate south, where these buildings all contribute strongly to the character and appearance of this area, which is a gateway to the town centre. As shown in the photo mock-up provided, the street hub in this location would be co-visible in views from Smithfield Road with one of the landmarks of the town centre, the Shrewsbury Castle, which is Grade I listed and within a wider Scheduled Monument designation, where the Castle is also visible above a series of listed buildings running along the north side of Castle Foregate leading into the town centre, where again this wider group would be co-visible with the street hub in views from Chester Street. The proposed street hub in this context would appear particularly visually incongruous within this wide pavement and open streetscape setting where main views feature the historic built forms set out above, where there is a very limited amount of illuminated features or signage cluttering this area. We would highlight the sensitive nature of this area where the introduction of this type of tall modern structure with its illuminated screens would be out of character within this historic context and setting, and disrupt wider views which take in important historic buildings such as the Castle.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council.*
- 4.1.4 **SC Drainage:** *The proposal is acceptable as the footprint of the BT Street Hub is only 0.42m².*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.

6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and

appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.

6.2 Character and appearance and impact on heritage assets

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.

6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) relevant to this location indicates that the proposed hub will replace two existing BT phone kiosks and states the following:

'Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside an apartment building allows for the removal of two conjoined kiosks which are intrusive on the surrounding heritage assets for the installation of a Street Hub unit whose features benefit the surrounding community.'

It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any

impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal

- 6.2.5 There are no existing telephone booths in this location and it is not considered the proposed hub will be sited within 'modern commercial surroundings'. The hub will be viewed in the context of the red brick 19th century Corbett and Castle Point building and also the nearby listed buildings including Shrewsbury Castle, Shrewsbury Station and the 13 Castle Street. It is not agreed that the proposal would assimilate into the street scene or that the impact on this wider setting of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*'.
- 6.2.6 It is agreed with the Conservation officer that the proposal would be co-visible with significant listed buildings from different vantage points and would appear visually incongruous and that the introduction of this tall modern structure with its illuminated screens would be very much out of character within this historic context and setting and undermine the setting and appearance of nearby listed buildings and disrupt wider views. The proposal would have an adverse impact on the character and appearance of the conservation area and visual amenity in this location. It is considered that the harm identified would be less than substantial.
- 6.2.7 Paragraph 199 of the NPPF requires that '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*'.
- 6.2.8 Paragraph 202 states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*'
- 6.2.9 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

- 7.1 It is considered that the proposed hub due to its scale, design and digital display screen sited in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage

assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SQOTDIH000>

List of Background Papers: File
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03896/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Junction At Smithfield Road And Chester Street Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349364 - 312919



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal: is considered that the proposed double sided illuminated sign due to its scale, design and method of display and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF

REPORT

1.0 THE PROPOSAL

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03895/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located in a prominent position on the pavement at the junction with Smithfield Road, Chester Street and Castle Street.
- 2.2 The site is situated within the Conservation area and the hub is proposed to be sited in front of the 19th Century Corbett and Castle Point Building that is part of a row of non-designated heritage assets. There are listed buildings in close proximity to the site including Shrewsbury Castle, Shrewsbury Station and the 13 Castle Street.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital

street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location at the junction of Smithfield Road and Chester Street, the proposed street hub is shown positioned within the wide expanse of pavement to the immediate front of the large ornate later 19th Century historic red brick buildings comprising the Corbett and Castle Point buildings which while not listed are considered to comprise an important and visually prominent group of non-designated heritage assets within the Conservation Area along with the stone-faced Chronicle Building to the immediate south, where these buildings all contribute strongly to the character and appearance of this area, which is a gateway to the town centre. As shown in the photo mock-up provided, the street hub in this location would be co-visible in views from Smithfield Road with one of the landmarks of the town centre, the Shrewsbury Castle, which is Grade I listed and within a wider Scheduled Monument designation, where the Castle is also visible above a series of listed buildings running along the north side of Castle Foregate leading into the town centre, where again this wider group would be co-visible with the street hub in views from Chester Street. The proposed street hub in this context would appear particularly visually incongruous within this wide pavement and open streetscape setting where main views feature the historic built forms set out above, where there is a very limited amount of illuminated features or signage cluttering this area. We would highlight the sensitive nature of this area where the introduction of this type of tall modern structure with its illuminated screens would be out of character within this historic context and setting, and disrupt wider views which take in important historic buildings such as the Castle.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation

would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council.*

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

- 4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

- 6.1.2 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public

safety include *'the safety of persons using any highway'*.

6.1.1 It is considered that the proposed signs and the hub on which they will be displayed would have no adverse impact on public safety.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that *'The quality and character of places can suffer when advertisements are poorly sited and designed'*.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed advert (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.'

This might mean that a large poster-boarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

- 6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) relevant to this location indicates that the proposed sign will replace two existing BT phone kiosks and states the following:

'Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside an apartment building allows for the removal of two conjoined kiosks which are intrusive on the surrounding heritage assets for the installation of a Street Hub unit whose features benefit the surrounding community.

It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal

- 6.2.8 There are no existing telephone booths in this location and it is not considered the proposed sign will be sited within 'modern commercial surroundings'. The hub will be viewed in the context of the red brick 19th century Corbett and Castle Point building and also the nearby listed buildings including Shrewsbury Castle, Shrewsbury Station and the black and white 13 Castle Street. It is not agreed that the impact on this wider setting of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*', or that it would assimilate into the street scene.

- 6.2.9 It is agreed with the Conservation officer that the proposal would be co-visible with significant listed buildings from different vantage points and would appear visually incongruous and that the introduction of this tall modern structure with its illuminated screens would be very much out of character within this historic context and setting and undermine the setting and appearance of nearby listed buildings and disrupt wider views. The proposal would have an adverse impact on the character and appearance of the conservation area and visual amenity in this

location.

- 6.2.10 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the character and appearance of the locality.

7.0 CONCLUSION

- 7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and siting in this prominent location and having regard to the character of the area in which it will be located, would be detrimental to the visual amenity of the locality and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SQOTDIH100>

List of Background Papers: File 22/03896/ADV

Cabinet Member (Portfolio Holder): Councillor Richard Marshall

Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03897/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks		
Site Address: Pavement O/S 22 St. Marys Street Shrewsbury Shropshire SY1 1DE		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349306 - 312542



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application for full planning permission is for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'. The application has been submitted concurrently with an application for advertisement consent (22/03898/ADV).
- 1.2 The proposed hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.
- 1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:
- Ultrafast public and encrypted Wi-Fi
 - Secure power-only USB ports for rapid device charging
 - Free phone calls
 - Direct 999 call button
 - Display community and emergency (i.e. police) awareness messaging
 - Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
 - A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
 - Boost 4G and 5G with installed small cells, improving coverage and capacity
- 1.4 The supporting information also indicates that each hub will also provide the following community benefits:

- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year
- Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside 22 St Marys Street.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a modern building in place of an existing call box. Opposite the site is the Grade 1 listed St Mary's Church. There are other listed buildings within the vicinity of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

- 4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would

replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide,

block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location on the south-west side of St Mary's Street, the proposed street hub would be placed to the front of a long modern building with consistent rows of large windows above attractive non-illuminated modern shop fronts, where the photo mock-up provided with this application also shows a further long modern building beyond to the north. Directly opposite this position however, and not illustrated in the photo mock-up, is the historic Grade I listed Church of St Mary set back within its open green church yard bounded by low hedging and large trees, where additionally the church square formed by St Mary's Place is ringed by a series of historic buildings, most of which are listed, including the Draper's Hall at Grade II. This is a particularly sensitive street scene with its predominant built forms being important designated heritage assets, most prominently St Mary's Church, where its sense of openness and the way it is experienced as a Grade I listed building set amongst other historic built forms may be detrimentally impacted with the introduction of this tall modern structure with its illuminated screens which would be very much out of character within this historic context and setting.*

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.1.3 **SC Highways:** *Whilst the proposed Street Hub would replace the existing phone kiosk, the footway width at the proposed location would be reduced as a result of the proposals (approximately 346mm), it is recommended that an alternative location is found that does not reduce the footway width to less than 2 metres.*

4.1.4 **SC Drainage:** *The proposal is acceptable as the footprint of the BT Street Hub is only 0.42m².*

4.1.5 **Regulatory Services:** *No comment*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.2.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

4.2.3 **Two letters of objection received summarised as follows:**

The installation of a bright digital advertising screen in place of the current BT phone box is not in keeping with the historic conservation area of Shrewsbury, particularly opposite St Mary's Church.

The inappropriate light noise will attract unsociable behaviour.

We are the only high end gallery in Shrewsbury attracting clientele locally and from all over the country and endeavour to display and promote the gallery in a tasteful manner with sympathy to the environment of Shrewsbury.

Have paid a huge amount in Business rates over the years they have been in St Marys Street and have objected to the BT phone box as it has not been maintained properly by BT and only ever attracts unsociable behaviour.

The removal of a facility to the general public potentially being replaced by a commercial advertising space to generate income for BT is not providing any benefit to the general public of Shrewsbury.

No need for such a large bright screen on the street.

Would be a hazard to oncoming traffic and would be unsightly to St Marys Street.

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.
- 6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.
- 6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.
- 6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.
- 6.2 Character and appearance and impact on heritage assets**
- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.
- 6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1

metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards'

and that

'The development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

- 6.2.5 There are no bus shelters on this side of St Marys Street and the pavement has minimal street furniture. It is accepted that the proposed hub will replace an existing BT call box but it will be almost a metre higher than the phone box it will replace. The advertising material on the existing phone box is not illuminated and the shop front in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and the illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area. It is not considered that it will assimilate into the street scene or that the impact would be minimal.
- 6.2.6 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be imposing and visually incongruous in this location and would be very much out of character within the context of the site and would negatively impact on visual amenity, the setting of nearby listed buildings and the character and appearance of the conservation area.
- 6.2.7 Paragraph 199 of the NPPF requires that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*.
- 6.2.8 Paragraph 202 states that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 6.2.9 Although the proposal will provide public benefits outlined in paragraphs 1.3 and

1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury.

6.2.10 Whilst a BT hub of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Shrewsbury. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

7.1 It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SR1TDIH500>

List of Background Papers: File

Cabinet Member (Portfolio Holder): Councillor Richard Marshall

Local Member : Councillor Nat Green

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Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03898/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Pavement O/S 22 St. Marys Street Shrewsbury Shropshire SY1 1DE		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email	: jane.raymond@shropshire.gov.uk

Grid Ref: 349306 - 312542



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also unacceptably reduce the width of the pavement with a potential adverse impact on public safety. The proposal is considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03897/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside 22 St Marys Street.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a modern building in place of an existing call box. Opposite the site is the Grade 1 listed St Mary's Church.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location on the south-west side of St Mary's Street, the proposed street hub would be placed to the front of a long modern building with consistent rows of large windows above attractive non-illuminated modern shop fronts, where the photo mock-up provided with this application also shows a further long modern building beyond to the north. Directly opposite this position however, and not illustrated in the photo mock-up, is the historic Grade I listed Church of St Mary set back within its open green church yard bounded by low hedging and large trees, where additionally the church square formed by St Mary's Place is ringed by a series of historic buildings, most of which are listed, including the Draper's Hall at Grade II. This is a particularly sensitive street scene with its predominant built forms being important designated heritage assets, most prominently St Mary's Church, where its sense of openness and the way it is experienced as a Grade I listed building set amongst other historic built forms may be detrimentally impacted with the introduction of this tall modern structure with its illuminated screens which would be very much out of character within this historic context and setting.*

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above

which seek to protect and enhance the historic environment.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application in relation to LCD advert screen. However, consideration should be given to highway comments submitted in relation to planning application 22/03897/FUL with regard to the proposed location of the proposed BT Street Hub..*

Response to 22/03897/FUL: Whilst the proposed Street Hub would replace the existing phone kiosk, the footway width at the proposed location would be reduced as a result of the proposals (approximately 346mm), it is recommended that an alternative location is found that does not reduce the footway width to less than 2 metres.

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

- 4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

6.1.2 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include '*the safety of persons using any highway*'.

6.1.1 The proposed hub will replace two existing BT phone boxes but is wider than these and will therefore reduce the width of the pavement to less than 2 metres. Whilst Highways have not objected to the proposed adverts they consider that the structure on which they will be displayed should be relocated so that the pavement width is not reduced. It is considered that the reduction in the width of the pavement has the potential to impact on public safety.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that '*The quality and character of places can suffer when advertisements are poorly sited and designed*'.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-boarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

- 6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards'

and that

'The development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.

- 6.2.8 There are no bus shelters on this side of St Marys Street and the pavement has minimal street furniture. It is accepted that the proposed hub will replace an existing BT call box but it will be almost a metre higher than the phone box it will replace. The advertising material on the existing phone box is not illuminated and the shop front in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and the illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area. It is not considered that it will assimilate into the street scene or that the impact would be minimal.
- 6.2.9 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be imposing and visually incongruous in this location and would be very much out of character within the context of the site and would negatively impact on visual amenity, the setting of nearby listed buildings and the character and appearance of the conservation area.

- 6.2.10 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the locality.
- 6.2.11 It is also agreed with the Conservation officer and the Civic Society that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Shrewsbury. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Shrewsbury.

7.0 CONCLUSION

- 7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also unacceptably reduce the width of the pavement with a potential adverse impact on public safety. The proposal is considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS1

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SR2TDIH600>

List of Background Papers: File 22/03898/ADV
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03901/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks		
Site Address: Pavement O/S H And M 14 Castle Street Shrewsbury SY1 2BW		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349321 - 312688



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT

1.0 THE PROPOSAL

1.1 This application for full planning permission is for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'. The application has been submitted concurrently with an application for advertisement consent (22/03902/ADV).

1.2 The proposed hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.

1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:

- Ultrafast public and encrypted Wi-Fi
- Secure power-only USB ports for rapid device charging
- Free phone calls
- Direct 999 call button
- Display community and emergency (i.e. police) awareness messaging
- Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
- A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
- Boost 4G and 5G with installed small cells, improving coverage and capacity

1.4 The supporting information also indicates that each hub will also provide the following community benefits:

- 5% screen time (876 hours per unit or 438 hours per screen) of free council

advertising per year

- Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside 14 Castle Street currently occupied by H and M.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a row of commercial shops at ground floor level. There is some street furniture in this location including the BT kiosk that the proposed hub will replace and a non-illuminated interpretation board which is part of a series of such installations in the town centre to improve wayfinding and information provision for the public. Opposite the site is a row of listed buildings.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

- 4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00289 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would

replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined

with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Referring specifically to this proposed location along Castle Street, the proposed street hub would be placed on a stretch of pavement to the immediate front of several relatively modern buildings with commercial shop fronts at ground floor level. While there is a level of some street furniture here, these are of a modest scale and the type not unexpected in this commercial streetscape. A recent addition to the pavement is a non-illuminated interpretation board which is part of a series of such installations in the town centre to improve wayfinding and information provision for the public. Directly across Castle Street at this location is a more historic row of town centre buildings, with a number of these being Grade II listed, as identified in the heritage statement for this particular street hub installation, where the potential of minor harm on the setting of these buildings and the Conservation Area is also identified in the impact assessment section of that statement. Looking at the wider street scene here the predominant built forms are historic buildings including a series of designated heritage assets, and as such it is our view that the introduction of this tall rectangular modern structure with its pair of illuminated screens would be very much out of character within this historic context and setting, comprising a visually dominant form of street furniture within the public realm.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council*

4.1.4 **SC Drainage:** *The proposal is acceptable as the footprint of the BT Street Hub is only 0.42m².*

4.1.5 **SC Regulatory Services:** *No comment*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully*

supported the comments raised by the Conservation Officer.

- 4.2.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

- 6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.

- 6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

- 6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.

6.2 Character and appearance and impact on heritage assets

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.
- 6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) states the following:

'It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

- 6.2.5 It is accepted that the proposed hub will replace an existing BT kiosk in this location but the proposal will be almost a metre higher and it is considered that the scale of the hub is totally out of proportion to its setting. The wider setting of the locality comprises the listed buildings immediately opposite and also along Castle Street to the north east. It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*' or that it will assimilate into a busy street scene.
- 6.2.6 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site that would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.

- 6.2.7 Paragraph 199 of the NPPF requires that '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*'.
- 6.2.8 Paragraph 202 states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*'
- 6.2.9 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury.
- 6.2.10 Whilst a BT hub of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance than within Shrewsbury they are not appropriate in this location. Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be considered more appropriate for installation in smaller historic towns such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

- 7.1 It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SS4TDIHF00>

List of Background Papers: File
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member : Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03902/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Pavement O/S H And M 14 Castle Street Shrewsbury SY1 2BW		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349321 - 312688



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03901/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside 14 Castle Street currently occupied by H and M.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a row of commercial shops at ground floor level. There is some street furniture in this location including the BT kiosk that the proposed hub will replace and a non-illuminated interpretation board which is part of a series of such installations in the town centre to improve wayfinding and information provision for the public. Opposite the site is a row of listed buildings.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Referring specifically to this proposed location along Castle Street, the proposed street hub would be placed on a stretch of pavement to the immediate front of several relatively modern buildings with commercial shop fronts at ground floor level. While there is a level of some street furniture here, these are of a modest scale and the type not unexpected in this commercial streetscape. A recent addition to the pavement is a non-illuminated interpretation board which is part of a series of such installations in the town centre to improve wayfinding and information provision for the public. Directly across Castle Street at this location is a more historic row of town centre buildings, with a number of these being Grade II listed, as identified in the heritage statement for this particular street hub installation, where the potential of minor harm on the setting of these buildings and the Conservation Area is also identified in the impact assessment section of that statement. Looking at the wider street scene here the predominant built forms are historic buildings including a series of designated heritage assets, and as such it is our view that the introduction of this tall rectangular modern structure with its pair of illuminated screens would be very much out of character within this historic context and setting, comprising a visually dominant form of street furniture within the public realm.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.2.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

4.2.3 One letter of support summarised as follows:

They will enhance the town centre by de cluttering pavement spaces

Will bring free WIFI to the town centre

Will provide advertisement including local council ads (should the council wish to advertise public messages on them)

Will bring 4G and 5G to the area in the town

Will provide free 30 mins calls and USB charging and a 999 emergency button

Doesn't consider they would do any harm to the town or ruin historical buildings and block views of the town centre as they will create extra space

There is an issue with the location on one of the proposed hubs but considers BT can work around the issue with Shrewsbury County council.

As an occasional visitor to Shrewsbury considers the street hubs will be beneficial and improve the town centre by removing the old phone boxes and replacing with modern BT Street hubs.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

6.1.1 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include '*the safety of persons using any highway*'.

6.1.2 It is not considered that the proposal would adversely impact on public safety or the safety of persons using the highway.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that '*The quality and character of places can suffer when advertisements are poorly sited and designed*'.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.'

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) states the following:

'It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

6.2.8 It is accepted that the proposed hub will replace an existing BT kiosk in this location but the proposal will be almost a metre higher and it is considered that the scale of the hub is totally out of proportion to its setting. It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be 'minimal' or that it will assimilate into a busy street scene. Although the sign will be outside a more modern retail units the fascia signs to these premises are more modest and non-illuminated as are many fascia signs on shopfronts within Shrewsbury town centre. The wider setting of the locality comprises the listed buildings immediately opposite and also along Castle Street to the north east.

6.2.9 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent

feature in the immediate and wider street scape and also in longer views of the site that would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.

6.2.10 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would therefore not assimilate into the street scene or make a positive contribution to the street scene.

6.2.11 It is also agreed with the Conservation officer and the Civic Society that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance than within Shrewsbury they are not appropriate in this location. Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be considered more appropriate for installation in smaller historic towns such as Shrewsbury.

7.0 CONCLUSION

7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SS4TDIHG00>

List of Background Papers: File reference 22/03902/ADV
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member : Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03891/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks		
Site Address: Pavement O/s 25-28 Market Street The Square Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email	: jane.raymond@shropshire.gov.uk

Grid Ref: 349182 - 312483



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT**1.0 THE PROPOSAL**

1.1 This application for planning permission is for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'. The application has been submitted concurrently with an application for advertisement consent (22/03892/ADV).

1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.

1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:

- Ultrafast public and encrypted Wi-Fi
- Secure power-only USB ports for rapid device charging
- Free phone calls
- Direct 999 call button
- Display community and emergency (i.e. police) awareness messaging
- Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
- A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
- Boost 4G and 5G with installed small cells, improving coverage and capacity

1.4 The supporting information also indicates that each hub will also provide the

following community benefits:

- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year
- Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub although addressed as outside 25-28 Market Street, is proposed to be located on the pavement outside 25-26 The Square on the High Street frontage and occupied by Starbucks.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located between two existing bus shelters on the south west side of the High Street in front of a long modern building with commercial shop fronts to the ground floor. Opposite the site is the bottom of Grope Lane and on both sides of the High Street are a long series of important listed buildings many timber framed and Grade II* listed.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*
- 4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00255 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT*

phone kiosks with these contemporary structures known as 'street hubs'.

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into

the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location on the High Street just outside the historic town centre Square, the proposed street hub would be placed to the front of a long modern building with commercial shop fronts to the ground floor, and positioned between two existing bus shelters. This location is directly opposite and at the bottom of the historic narrow passage known as Grope Lane, where on both sides of the High Street there are a long series of important designated heritage assets including timber framed Grade II listed buildings forming each corner of Grope Lane. Historic buildings also characterise and are prominently visible at the north-west corner of The Square where these also run along that side of the High Street and include the Grade II* listed Ireland's Mansion. Within both immediate and longer street scene views in this sensitive area, looking in both directions along the High Street, the proposed street hub would be co-visible with these varied and important historic built forms, and as a result of the street hub being a tall solid rectangular modern structure with large illuminated screens it would feature prominently in these views, being very much out of character within this historic context and setting, and comprising a visually dominant and disruptive form of street furniture within the public realm.*

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment. .

4.1.3 SC Highways: *Whilst the proposed Street Hub would replace the existing phone kiosks, the footway width at the proposed location would be reduced as a result of the proposals, it is recommended that an alternative location is found that does not reduce the footway width to less than 2 metres.*

4.1.4 SC Drainage: *The proposal should be acceptable as the footprint of the BT Street*

Hub is only 0.42m2.

4.1.5 **SC Regulatory Services:** *No comments*

4.2 Public Comments

4.1.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.

6.1.3 This is supported by local plan policy through Core Strategy Policies CS7

(Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

- 6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.

6.2 Character and appearance and impact on heritage assets

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.
- 6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'The application site is located along a well-lit stretch of pavement of the High Street which is a busy public highway for both vehicular and pedestrian traffic. The area is predominantly made up of historic buildings which is why the Street Hub is to be placed outside of large more modern buildings with retail outlets at ground level including the HSBC and Starbucks directly adjacent to the site. There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards.

Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre

Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside HSBC is one that is dominated by modern shop frontages and illuminated advertisements with fascial signage'.

- 6.2.5 It is accepted that the proposed hub will replace an existing BT call box but it will be almost a metre higher than the phone box it will replace and the adjacent bus shelters. The advertising material on the existing phone box to be removed is not illuminated and the majority of shop fronts in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub will be totally out of proportion to its setting and out of keeping with the character of the area.
- 6.2.6 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area. It would be the first structure of this type within Shrewsbury town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.7 Paragraph 199 of the NPPF requires that '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*'.
- 6.2.8 Paragraph 202 states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*'.
- 6.2.9 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury.
- 6.2.10 Whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Shrewsbury. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-

scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

7.1 It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SPYTDIGQ00>

List of Background Papers: File 22/03891/FUL
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03892/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Pavement O/s 25-28 Market Street The Square Shrewsbury Shropshire		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349182 - 312483



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal

1. It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also unacceptably reduce the width of the pavement in this busy location, obstructing the way for pedestrians and impacting on public safety. The proposal is considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03891/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub although addressed as outside 25-28 Market Street, is proposed to be located on the pavement outside 25-26 The Square on the High Street frontage and occupied by Starbucks.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located between two existing bus shelters on the south west side of the High Street in front of a long modern building with commercial shop fronts to the ground floor. Opposite the site is the bottom of Grope Lane and on both sides of the High Street are a long series of important listed buildings many timber framed and Grade II* listed.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these

relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Turning specifically to this proposed location on the High Street just outside the historic town centre Square, the proposed street hub would be placed to the front of a long modern building with commercial shop fronts to the ground floor, and positioned between two existing bus shelters. This location is directly opposite and at the bottom of the historic narrow passage known as Grope Lane, where on both sides of the High Street there are a long series of important designated heritage assets including timber framed Grade II listed buildings forming each corner of Grope Lane. Historic buildings also characterise and are prominently visible at the north-west corner of The Square where these also run along that side of the High Street and include the Grade II* listed Ireland's Mansion. Within both immediate and longer street scene views in this sensitive area, looking in both directions along the High Street, the proposed street hub would be co-visible with these varied and important historic built forms, and as a result of the street hub being a tall solid rectangular modern structure with large illuminated screens it would feature prominently in these views, being very much out of character within this historic context and setting, and comprising a visually dominant and disruptive form of street furniture within the public realm.*

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment. .

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application in relation to the LCD Screen. However, reference should be made with regard to the comments submitted in relation to planning application 22/03891/FUL and the proposed location of the screen and impact on footway widths at this location.*

Response to 22/03891/FUL: Whilst the proposed Street Hub would replace the existing phone kiosks, the footway width at the proposed location would be reduced as a result of the proposals, it is recommended that an alternative location is found that does not reduce the footway width to less than 2 metres.

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

- 4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

6.1.2 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include '*the safety of persons using any highway*'.

6.1.1 The proposed hub will replace two existing BT phone boxes but is wider than these and will therefore reduce the width of the pavement to less than 2 metres. Whilst Highways have not objected to the proposed adverts they consider that the structure on which they will be displayed should be relocated so that the pavement width is not reduced. The location is a busy public highway for both vehicular and pedestrian traffic and the existing bus shelters already impact on the pedestrian use of the pavement. It is considered that a further restriction in the width of the pavement due to the size of the signs compared to the phone boxes would hinder pedestrian movements making it more difficult to pass safely as pedestrians might be forced to use the road rather than the pavement. This will result in the potential for an adverse impact on the safety of pedestrians.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that '*The quality and character of places can suffer when advertisements are poorly sited and designed*'.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development

protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.'

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'The application site is located along a well-lit stretch of pavement of the High Street which is a busy public highway for both vehicular and pedestrian traffic. The area is predominantly made up of historic buildings which is why the Street Hub is to be placed outside of large more modern buildings with retail outlets at ground level including the HSBC and Starbucks directly adjacent to the site. There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards.'

Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside HSBC is one that is dominated by modern shop frontages and illuminated advertisements with fascial

signage'.

- 6.2.8 It is accepted that the proposed hub will replace an existing BT call box but it will be almost a metre higher than the phone box it will replace and the adjacent bus shelters. The advertising material on the existing phone box to be removed is not illuminated and the majority of shop fronts in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area.
- 6.2.9 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.
- 6.2.10 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.11 It is also agreed with the Conservation officer and the Civic Society that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Shrewsbury. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Shrewsbury.

7.0 CONCLUSION

- 7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposed sign would also unacceptably reduce the width of the pavement in this busy location, obstructing the way for pedestrians and impacting on public safety. The proposal is considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the

character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SPZTDIGR00>

List of Background Papers: File 22/03892/ADV
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03893/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks		
Site Address: Pavement O/s Market Entrance Shrewsbury Shropshire SY1 1HF		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email	: jane.raymond@shropshire.gov.uk

Grid Ref: 349034 - 312479



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Recommendation: Refuse subject to the conditions set out in Appendix 1.

Recommended Reason for refusal:

1. It is considered that the proposed hub due to its scale, design and digital display screen and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application is for full planning permission for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks. The application has been submitted concurrently with an application for advertisement consent (22/03894/ADV).
- 1.2 The proposed hub measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.
- 1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:
- Ultrafast public and encrypted Wi-Fi
 - Secure power-only USB ports for rapid device charging
 - Free phone calls
 - Direct 999 call button
 - Display community and emergency (i.e. police) awareness messaging
 - Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
 - A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
 - Boost 4G and 5G with installed small cells, improving coverage and capacity
- 1.4 The supporting information also indicates that each hub will also provide the following community benefits:

- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year
- Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
- Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
- Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
- Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

2.0 SITE LOCATION/DESCRIPTION

2.1 This is one of 6 applications for advert consent to be displayed on BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside the entrance on the south side of the Market Hall in Shoplatch.

2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a row of modern buildings forming the Market Hall, with commercial shop fronts at ground floor level. There is a low level of street furniture in this location, including the existing pair of BT call boxes to be removed. On the opposite side of the road is a series of Grade II listed buildings.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00256 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided.

Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone

kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Looking specifically at this proposed location along Shoplatch, similar to the Castle Street location, the proposed street hub would be placed on the pavement to the immediate front of a row of modern buildings forming the Market Hall, with commercial shop fronts at ground floor level, none of which however are particularly characterised by illuminated signage. There is a low level of street furniture here, all of a very modest scale and the type not unexpected in this commercial streetscape. Directly across Shoplatch at this location however are a series of Grade II listed buildings forming a historic built form row where these buildings with their varied architectural designs and treatments contribute strongly to the Shoplatch street scene and the appearance and character of the Conservation Area. Looking at the longer streetscape from lower Shoplatch up towards Mardol Head and Pride Hill to the north, the proposed street hub would be co-visible with historic built forms featuring in these longer views, and as a result of the street hub being a tall rectangular modern structure with large illuminated screens it would feature prominently in these views and would be very much out of character within this historic context and setting, comprising a visually dominant form of street furniture within the public realm. Longer views from Mardol Head looking south towards the historic building forms comprising Shoplatch and St John's Hill would similarly be negatively impacted and visually disrupted.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council.*
- 4.1.4 **SC Drainage:** *The proposal is acceptable as the footprint of the BT Street Hub is only 0.42m².*
- 4.1.5 **SC Regulatory Services:** *No comments*

4.2 Public Comments

4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

The main issues in determining this application are:

Principle

Character and appearance and impact on heritage asset

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.

6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

6.1.4 The proposed BT hub and the services it will provide is acceptable in principle

provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.

6.2 Character and appearance and impact on heritage assets

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should also safeguard local amenity.

6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards. Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside Blacks is one that is dominated by modern shop frontages and illuminated advertisements with fascial signage.'

6.2.5 There is not a bus shelter located at this proposed site but a wooden planter and a few timber bollards appropriate to the street scene in this location. It is accepted that the proposed hub will replace an existing BT call box but it is considered that the scale of the hub is totally out of proportion to its setting and will be almost a metre higher than the phone box it will replace.

6.2.6 The submitted HS also indicates the following:

'...the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

- 6.2.7 It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*' or that it will assimilate into a busy street scene. The wider setting of the locality comprises the listed buildings opposite and also the buildings in lower Shoplatch to the south and Mardol Head and Pride Hill to the north.
- 6.2.8 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site that would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.
- 6.2.9 Paragraph 199 of the NPPF requires that '*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*'.
- 6.2.10 Paragraph 202 states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*'
- 6.2.11 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Shrewsbury.
- 6.2.12 Whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance than within Shrewsbury they are not appropriate in this location. Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. The applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be considered more appropriate for installation in smaller historic towns such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

7.0 CONCLUSION

7.1 It is considered that the proposed hub due to its scale, design and digital display screen and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SQA TDIGV00>

List of Background Papers: File 22/03893/FUL
Cabinet Member (Portfolio Holder): Councillor Richard Marshall
Local Member: Councillor Nat Green



Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/03894/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display 1No 75" LCD advert screens		
Site Address: Pavement O/s Market Entrance Shrewsbury Shropshire SY1 1HF		
Applicant: Mr James Browne		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349034 - 312479



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Recommendation: Refuse

Recommended Reason for refusal

1. It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screen'. The application has been submitted concurrently with an application for full planning permission (22/03893/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This is one of 6 applications for advert consent to be displayed on BT hubs proposed to be sited at 6 locations within Shrewsbury town centre. This particular hub is proposed to be located on the pavement outside the entrance on the south side of the Market Hall in Shoplatch.
- 2.2 The site is within the Conservation area and the BT hub is proposed to be located in front of a row of modern buildings forming the Market Hall, with commercial shop fronts at ground floor level. There is a low level of street furniture in this location, including the existing pair of BT call boxes to be removed. On the opposite side of the road is a series of Grade II listed buildings.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Archaeology:** *We have no comments to make on this application with respect to archaeological matters.*

4.1.2 **SC Conservation:** *These concurrent applications follow on from PREAPP/22/00258 on which our Team provided comments where this is one proposed site of a total of six in the Shrewsbury town centre where free-standing structures with illuminated digital screens are proposed to be installed within the public realm along the pavement where the intention is to replace existing BT phone kiosks with these contemporary structures known as 'street hubs'.*

Again with these formal submissions, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in the Shrewsbury town centre and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to each location.

Each of the six digital street hubs proposed in Shrewsbury are all within the boundaries of the Shrewsbury Conservation Area, and more particularly within the 'Town Centre Special Character Area', where additionally in most cases there are listed buildings and historic built forms in relatively close proximity or within the wider co-visible and inter-visible context of the historic street scene.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our comments at the Pre-application stage, having considered these relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre

streetscape near these proposed installations.

We previously also referred to the BT product statement brochure where the digital street hubs are illustrated and presented within large urban centres of some scale and modern appearance characterised by contemporary built forms, with a high level of wider urban activity within which these digital structures would sit. The Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape. Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. These existing kiosks particularly contrast with the tall, wide, block-like design of the modern street hubs, where their scale and height combined with the bright colourful appearance of their large digital screens would result in imposing and visually incongruous street furniture being introduced as replacement structures within the street scene.

Looking specifically at this proposed location along Shoplatch, similar to the Castle Street location, the proposed street hub would be placed on the pavement to the immediate front of a row of modern buildings forming the Market Hall, with commercial shop fronts at ground floor level, none of which however are particularly characterised by illuminated signage. There is a low level of street furniture here, all of a very modest scale and the type not unexpected in this commercial streetscape. Directly across Shoplatch at this location however are a series of Grade II listed buildings forming a historic built form row where these buildings with their varied architectural designs and treatments contribute strongly to the Shoplatch street scene and the appearance and character of the Conservation Area. Looking at the longer streetscape from lower Shoplatch up towards Mardol Head and Pride Hill to the north, the proposed street hub would be co-visible with historic built forms featuring in these longer views, and as a result of the street hub being a tall rectangular modern structure with large illuminated screens it would feature prominently in these views and would be very much out of character within this historic context and setting, comprising a visually dominant form of street furniture within the public realm. Longer views from Mardol Head looking south towards the historic building forms comprising Shoplatch and St John's Hill would similarly be negatively impacted and visually disrupted.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation

would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway Application forms and charges | Shropshire Council.*

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application as the proposed BT hubs are out of character for the Shrewsbury Conservation Area. Members felt the hubs could encourage anti-social behaviour and they fully supported the comments raised by the Conservation Officer.*

- 4.1.2 **Civic Society:** *Shrewsbury Civic Society fully endorses the comments of the Conservation Officer.*

To our knowledge, these 'hubs' have been appearing in urban locations around the country over the last twelve months . Whilst these structures may be appropriate for a city location they are not suited to historical areas and, in our opinion, will just produce unnecessary visual 'noise'.

Shrewsbury Civic Society objects to this application.

5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

- 6.1.2 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public

safety include *'the safety of persons using any highway'*.

6.1.1 It is not considered that the proposal would adversely impact on public safety or the safety of persons using the highway.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) 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 and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Shrewsbury Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that *'The quality and character of places can suffer when advertisements are poorly sited and designed'*.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. 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.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

6.2.6 The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.'

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

- 6.2.7 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards. Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Shrewsbury Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside Blacks is one that is dominated by modern shop frontages and illuminated advertisements with fascial signage.'

- 6.2.8 There is not a bus shelter located at this proposed site but a wooden planter and a few timber bollards appropriate to the street scene in this location. It is accepted that the proposed hub will replace an existing BT call box but it is considered that the scale of the hub is totally out of proportion to its setting and will be almost a metre higher than the phone box it will replace.

- 6.2.9 The submitted HS also indicates the following:

'...the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.'

- 6.2.10 It is not agreed that the impact of a hub measuring almost 3 metres high with an illuminated sign on both sides would be '*minimal*' or that it will assimilate into a busy street scene. The wider setting of the locality comprises the listed buildings opposite and also the buildings in lower Shoplatch to the south and Mardol Head and Pride Hill to the north.

- 6.2.11 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site that would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.

- 6.2.12 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Shrewsbury town centre and would appear out of place and prominent and would therefore not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.13 It is also agreed with the Conservation officer and the Civic Society that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance than within Shrewsbury they are not appropriate in this location. Shrewsbury town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be considered more appropriate for installation in smaller historic towns such as Shrewsbury.

7.0 CONCLUSION

- 7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Shrewsbury Town Centre Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Core Strategy and Saved Policies: MD2, MD13, CS6 and CS17

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SQBTDIGW00>

List of Background Papers: File 22/03894/ADV

Cabinet Member (Portfolio Holder): Councillor Richard Marshall

Local Member: Councillor Nat Green



Committee and date
Northern Planning Committee
8 th November 2022

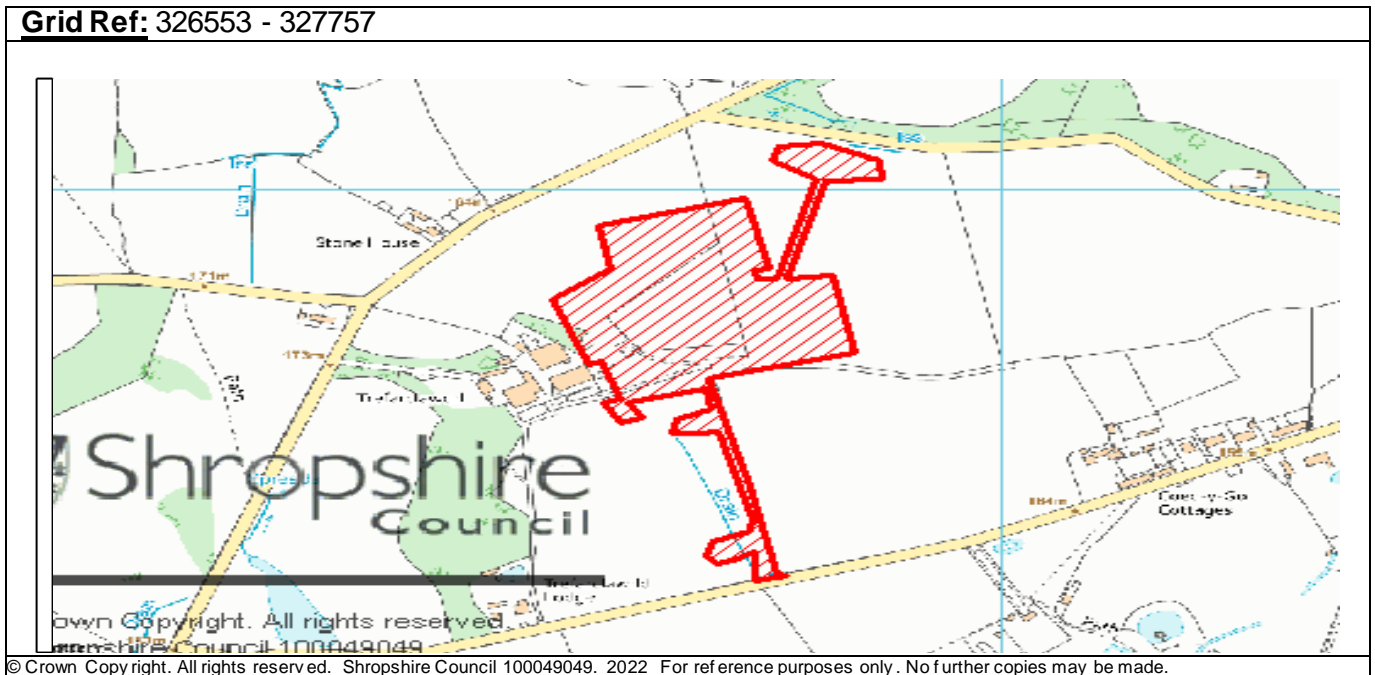
Development Management Report

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

Summary of Application

Application Number: 22/02774/EIA	Parish:	Oswestry Rural
Proposal: Construction of a new intensive dairy complex, (to include means of access off the adjacent public highway, and wider area surface water drainage and landscaping) (part retrospective)		
Site Address: Trefarclawdd Farm Tref-ar-clawdd Oswestry Shropshire SY10 9DE		
Applicant: Llanforda Estate		
Case Officer: Philip Mullineux	email	: philip.mullineux@shropshire.gov.uk

Grid Ref: 326553 - 327757



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REPORT

Recommendation: Delegated approval subject to the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Assistant Director.

1.0 THE PROPOSAL

- 1.1 Application is made in 'Full' and proposes construction of a new intensive dairy complex, (to include means of access off the adjacent public highway, and wider area surface water drainage and landscaping) (part retrospective) alongside the traditional farmstead at Trefarclawdd Farm, Tref-ar-clawdd, Oswestry, SY10 9DE.
- 1.2 The application is accompanied by an Environmental Statement, which includes reference to a non-technical summary, landscape and visual impact assessment, drainage report, ecology report, scail assessment, (ecology and ammonia), transport assessment, odour report, noise report, external lighting design scheme, manure management report and a schedule of landscape maintenance. Also included is a design and access statement, site location plan, block plan, landscaping plan, landscape character plan and elevations and floor plans of the various developments on site. During the application determination period further information was received in relation to ammonia impacts and drainage. Latterly a farm plan was also received, however this does not include reference to any further new information, but confirm land area for spreading of slurry generated on site.
- 1.3 The primary policies to assess this application are contained within the Shropshire Core Strategy and the SAMDev. Also of relevance is the National Planning Policy Framework and Environmental Impact Assessment Regulations 2017. The emerging revised local plan is at a relatively advanced stage, however it is at a stage where only limited weight can be given to its emerging policies and as such the key local plan policies as those as set out in the Shropshire Core Strategy and the SAMDev.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located to the rear of an existing traditional farmstead on the outskirts of the village of Trefonen and Coed-y-Go and fronts a public highway from which a new access has been constructed to the site. The development is approximately 135 metres away from the existing Trefarclawdd Farmhouse and approximately 60 metres away from the traditional and modern buildings of the holding.
- 2.2 Detail in support of the Environmental Statement indicates that the proposed development includes: - an attenuation pond to the north east of the site which will collect surface water run off from the farm yard. - A covered slurry lagoon measuring 60m x 20m and slurry separator - Two existing balancing ponds which have been constructed alongside the farm drive which will collect water from the surrounding landscape - Two existing silos - Overhangs on two existing agricultural buildings - Slurry channels underneath the two cattle housing buildings connecting to the proposed slurry lagoon - Covered cattle holding yard to the rear of the existing milking parlour - Parlour extension - Concrete yard areas

- 2.3 The development is centred around two large cattle holding buildings that were subject to previous applications approved by the Council which have not been constructed in accordance with the approved plans and therefore along with a recently constructed building which houses a milking parlour form part of the application under consideration.
- 2.4 The recent planning history of the site includes the following:
- 18/00485/FUL Erection of an agricultural building (floor area 875 square metres) – approved 23rd May 2018
 - 18/02895/FUL Erection of an agricultural building (floor area 2,000 square metres) – approved 23rd October 2018
 - 18/05455/FUL Erection of a livestock building and all associated works (floor area 1,500 square metres) – approved 25th April 2019
 - 19/03831/FUL Construction of a new access and all associated works – approved 24th March 2020
 - 20/00841/FUL Erection of covered holding yard and all associated works (site area 875 square metres, floor area 437.5 square metres) – Withdrawn
 - 20/04866/FUL Erection of a covered holding yard and all associated works (Area 875 square metres) – Screening opinion in accordance with EIA Regulations required and application withdrawn.
 - 21/00963/VAR To vary condition No. 2 on 18/05455/FUL and 21/00962/VAR to vary condition No. 2 on 18/02895/FUL in order to construct underground slurry stores (Application withdrawn in favour of the application under consideration).
 - 22/00169/SCR EIA Screening request for a covered holding yard and slurry lagoon.
- 2.5 A screening opinion (reference 22/00169/SCR), on site for a covered holding yard and slurry lagoon carried out in accordance with Environmental Impact Assessment Regulations 2017 (EIA), dated 11th February 2022 established that the area of the development exceeded the indicative criteria set out in the EIA Regulations Schedule 2 – 1(C) and 13(b) for determining significance. With reference to the guidance set out in the NPPG and noting the relevant considerations as set out in the assessment, it was concluded that an EIA was required, withstanding the importance of giving thorough consideration to landscape, visual and historic character, surface and foul water drainage, odour and noise impacts, potential highway impacts and any potential ecological impacts arising from the proposals. The screening opinion made reference to the need to assess the development cumulatively with other development as approved on site. This screening report acknowledged that any alterations would need to be assessed by the Local Planning Authority to consider whether this screening opinion remained valid for the amended development. The current application is for more development than that subject to the EIA Screening request, however it did refer to further unauthorised development on site and thus remains relevant in relation to the development under consideration. The applicants having submitted an Environmental Statement in support of this application. (Copy attached as appendix 2).
- 2.6 The development is in relation to a traditional farmstead where the farming business associated with the farmstead centred on the milking of a herd of approx 150 dairy cows. (These buildings no longer in use in relation to the milking of cows). The current

application is for a new milking complex to the rear of the previous site for a much more intensive milking unit holding up to 500 'Jersey cows' in a unit considered much more suitable for current farming practices and expectations.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is presented to Committee owing to the planning history of the site and concerns with regards unauthorised development on site.

4.0 Community Representations

4.1 **Oswestry Rural Parish Council** has responded indicating:

The Parish Council requests that Shropshire Council enforces the Enforcement Notice as the requirements for a suitable and sufficient EIA/ES have not been met.

Retrospective planning development should be refused.

The lighting and design scheme and the noise impact assessment should be rejected.

4.2 Consultee Comment

4.3 **Historic England** have responded with no objections indicating:

We suggest that you seek the views of your specialist conservation and archaeological advisers.

4.4 **The Environment Agency** has responded to the application stating:

Thank you for referring the above application which was received by us on 11th July 2022.

We do not regulate dairy operation as we would for poultry / pig operations. You may therefore wish to consult with your public protection team for guidance on wider emissions not subject to our control.

However, we make the following comments for your consideration:

Rules for farmers and land managers to prevent water pollution: In relation to the control of the impacts to water from manure management and agricultural activities the Environment Agency is responsible for enforcing The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018, which came into force on 2 April 2018.

The above Regulations are implemented under The Farming Rules for Water (Farming rules for water from April 2018 - GOV.UK (www.gov.uk)). All farmers and land managers are required to follow a set of rules to minimise or prevent water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock. The full information can be found at: <https://www.gov.uk/guidance/rules-for-farmers-and-land-managers-to-prevent-water-pollution>

It is an offence to break these rules and if they are breached the Environment Agency may take enforcement action in line with our published Enforcement and Sanctions guidance.

We provide advice and guidance on the storage and use of manures to minimise risks of pollution. Manure storage and use is also controlled by the Silage, Slurry and Agricultural Fuel Oil (SSAFO) Regulations, as detailed below.

Storage of silage, slurry or agricultural fuel, including slurry lagoons: Silage and

Slurry storage for agricultural purposes is subject to The Water Resources (SSAFO) as amended. Every farmer has to comply with the SSAFO regulations if they build a new store or substantially alter one built before 1 September 1991.

These regulations aim to prevent water pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing these substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water and have a 20-year life expectancy.

Farmers must notify their environmental regulator before construction of a facility (new or substantially altered stores). In England, farmers are required to notify us in writing prior to construction of a facility.

We note that the EIA does not provide relevant detail on capacity of the slurry store (e.g. How many months storage the slurry store has) and whether there is a silage clamp/store at the farm. These details are necessary to ensure compliance with SAFFO Regulations.

Further guidance on the above is available at:

https://www.gov.uk/guidance/storing_silage-slurry-and-agricultural-fuel-oil

DEFRA Code of Good Agricultural Practice (CoGAP): Further advice on the above is contained within the CoGAP, which is a practical guide to help farmers, growers and land manager's protect the environment in which they operate. The Guide can be found at: <http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>

Water Management: Clean Surface water can be collected for re-use, disposed of via soakaway or discharged to controlled waters. Lightly fouled water and dirty water are still nutrient rich and defined as a slurry. This is normally collected in dirty water tanks via impermeable surfaces. Any tanks proposed should comply with the SSAFO regulations. Yard areas and drainage channels around sheds are normally concreted. Buildings which have roof or side ventilation extraction fans present, may deposit aerial dust on roofs or "clean" yards which is washed off during rainfall, forming lightly contaminated water. On a regulated site the EP Permit will normally require the treatment of such water, via french drains, swales or wetlands, to minimise risk of pollution and enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via: <https://www.gov.uk/government/publications/rural-sustainable-drainage-systems>

4.5 **SC Landscape Consultant** has responded to the application indicating in conclusion:

The methodology for the LVIA is appropriate for the nature of the proposed development and scale of likely effects, and has been prepared in compliance with GLVIA3 and relevant supporting Technical Guidance, and if applied consistently to the assessment of effects can be expected to produce reliable results. The assessment of effects has been carried out in accordance with the requirements of the Environmental Impact Assessment Regulations 2017

Where effects are predicted, they are all adverse. Mitigation is predicted to reduce the adversity of effects over time so that at 10 years after completion, 5 receptors/receptor locations are predicted to experience adverse residual effects ranging from Moderate/minor adverse to Minor/negligible adverse. The mitigation proposals of woodland and hedgerow planting have the potential to create long term and permanent beneficial landscape effects, however, the LVIA assesses the effects on the landscape elements of the site as No effects. No effects are predicted to be

significant in EIA terms

The proposal site has the potential to accommodate a development of this nature given the location of the new built form on an area of hardstanding and within the context of existing agricultural buildings, albeit not built completely in accordance with that approved, and topography and vegetation in the vicinity. Given this, and the relatively low levels of residual adversity of effects with mitigation in place, we consider that the proposals comply with Local Plan policies on landscape and visual amenity. We have no recommendations to make as a result of this review

4.6 **SC Ecology** have responded indicating:

RECOMMENDATION:

No objection. Conditions (detailed below) are recommended to secure biodiversity mitigation and enhancement and protection of designated site, in accordance with the NPPF, MD12 and CS17.

COMMENTS

The application is accompanied by an Ammonia Impact Assessment v1, undertaken by Isopleth dated October 2022.

Three scenarios at the farm have been modelled to allow the cumulative impacts of the previous planning applications to be assessed alongside this planning application

These are:

- *Scenario 0 – Historic with 150 Friesian cows (slurry) and 50 heifers (straw) in old buildings. Slurry and farmyard manure storage.*
- *Scenario 1 – Existing with 500 Jersey cows (400kg) in two cubicle barns. Covered parlour holding area. Old slurry storage area.*
- *Scenario 2 – Proposed new lagoon (covered) with 500 Jersey cows (400kg) in two cubicle barns. Covered parlour holding area.*

The results of the modelling are presented in tables 5.1 – 5.6. Tables 5.3 and 5.6 are the most pertinent as they enable the examination of the cumulative effects of the previous developments and the current proposals on designated ecological sites. The difference between the historic (Scenario 0) and the current proposed development (Scenario 2) effectively assesses the cumulative effects of past applications on this site together with the proposed development.

Table 5.3 shows that the difference in process contributions between the historic baseline (scenario 0) and the previous and new proposed development combined (scenario 2) will be <1% of the critical levels for all of the sensitive sites within the screening distance. Impacts are therefore considered to be insignificant. At a limited number of sites there is a slight betterment in terms of lower ammonia concentrations (at Trefonen Marshes SSI, Craig Forda AW and Llyncllys Hill AW).

Table 5.6 shows that the difference in process contributions between the historic baseline (Scenario 0) and the previous and new proposed development combined (scenario 2) will be <1% of the critical loads for all of the sensitive sites within the

screening distance. Impacts are therefore considered to be insignificant. At a limited number of sites there is a slight betterment in terms of lower nitrogen deposition rates (at Trefonen Marshes SSI, Craig Forda AW, Craig Sychtyn AW, Llyncllys Hill AW and Nanat Uchaf AW).

It is stated in the Ammonia Impact Assessment report at 5.2 and 6.0 that 'Shropshire Council has confirmed that, due to impacts of the scheme being below 1% of the relevant critical levels and loads, there is no requirement to consider applications with the potential to act in-combination with the Trefarclawdd scheme.'

This is incorrect. In-combination assessment IS required even if the modelled impacts are below 1% of the relevant critical levels and loads, however, in this instance, no other plans or projects (other than the previous recent planning applications at Trefarclawdd Farm) have been identified for assessment of cumulative/in-combination effects.

The landscaping plans show tree and hedgerow planting as recommended in the Preliminary Ecological Appraisal by Arbor Vitae, dated 21/04/2022, which will serve to both provide ammonia mitigation and opportunities for wildlife such as nesting habitat for birds and foraging/commuting habitat for bats.

The PEA also recommended that any lighting erected on site is sensitive to wildlife. The submitted lighting plans do not show the specification for the proposed lighting and merely show the proposed location of lights on the buildings. A condition is therefore recommended to ensure details of the lighting be submitted for approval, prior to their erection.

The PEA also recommends that bird nesting and bat roosting boxes are erected on suitable trees around the site, to provide enhancements for biodiversity, and a condition to secure these is recommended.

CONDITIONS

No more than 500 cattle and only of the Jersey breed shall be kept in the buildings at any one time.

Reason: To prevent adverse impact on designated sites and ancient woodland from ammonia emissions, consistent with MD12 and the NPPF.

The lagoon cover as shown on drawing number 72967/RJC/104 'Slurry Lagoon Section' shall be maintained for the lifetime of the development in accordance with manufacturer's instructions and replaced as and when necessary.

Reason: To protect designated ecological sites in accordance with the NPPF, MD12 and CS17.

Prior to first use of the development the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- A minimum of 3 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 3 artificial bird nests suitable for common woodland birds such as tit, robin and wren.

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

Reason: To provide alternative/additional nesting provision to enhance biodiversity in accordance with the NPPF, MD12 and CS17.

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK and shall include technical specifications of the lighting hardware as well as projected lux levels through a light contour plan. The development shall be carried out strictly in accordance with the approved details.

Reason: To minimise disturbance to wildlife

An earlier response indicated:

No objection. Conditions (detailed below) are recommended to secure biodiversity mitigation and enhancement, in accordance with the NPPF, MD12 and CS17.

COMMENTS

The application is accompanied by a SCAIL assessment. The Critical Levels (CLE) utilised in the assessment for designated sites is not correct, 3ug/m³ is used instead of 1ug/m³, however, even by reducing the CLE to the appropriate level of 1ug/m³ each nationally designated site is well below 1% of the CLE and Critical Load (CLo) threshold for ammonia and nitrogen deposition, and therefore impacts can be considered to not be significant as there are no other projects to be taken into account cumulatively. There is one ancient woodland site within 2km of the proposal (Craig Fforda), which the SCAIL assessment has not analysed. SC Ecology have run SCAIL for this ancient woodland.

SCAIL shows the ancient woodland as having a Process Contribution slightly higher than the 1% threshold for ammonia (ie 1.1%), however, it is considered that with the application of Best Available Technology (a cover to the lagoon) and the additional woodland planting proposed this is adequate to mitigate for the effects of ammonia on the ancient woodland. I note that a cover to the slurry lagoon is mentioned in the documentation, however, it is not shown on any drawings of the lagoon. This must be secured as part of any permission, in order to mitigate ammonia impacts therefore, a condition to secure this is required. The landscaping plans show tree and hedgerow planting as recommended in the Preliminary Ecological Appraisal by Arbor Vitae, dated 21/04/2022, which will serve to both provide ammonia mitigation and opportunities for wildlife such as nesting habitat for birds and foraging/commuting habitat for bats. The PEA also recommended that any lighting erected on site is sensitive to wildlife. The submitted lighting plans do not show the specification for the proposed lighting and merely show the proposed location of lights on the buildings. A condition is therefore recommended to ensure details of the lighting be submitted for approval, prior to their

erection. The PEA also recommends that bird nesting and bat roosting boxes are erected on suitable trees around the site, to provide enhancements for biodiversity, and a condition to secure these is recommended.

CONDITIONS

Prior to the construction of the lagoon, a plan showing the lagoon cover specification, construction and fitting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details. The lagoon cover shall thereafter be maintained for the lifetime of the development in accordance with manufacturer's instructions and replaced as and when necessary.

Reason: To protect designated ecological sites in accordance with the NPPF, MD12 and CS17.

Prior to first use of the development the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site: - A minimum of 3 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species. - A minimum of 3 artificial bird nests suitable for common woodland birds such as tit, robin and wren. The boxes shall be sited in suitable locations and at suitable heights from the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To provide alternative/additional nesting provision to enhance biodiversity in accordance with the NPPF, MD12 and CS17.

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK and shall include technical specifications of the lighting hardware as well as projected lux levels through a light contour plan. The development shall be carried out strictly in accordance with the approved details.

Reason: To minimise disturbance to wildlife.

4.7 **SC Archaeology Manager** has responded indicating no comments to make on the application.

4.8 **SC Drainage** have responded indicating:

The surface water parameters, design and layout are acceptable together with the riparian connection to the Chain Lane watercourse at a discharge rate of 5 l/s. Recent works to the existing drainage systems has established which is acceptable.

The recently supplied drawing ref: 72967/RJC/107 dated 2022/05/27 shows a drainage system conveying polluted water from the for the building insides and the external yard areas to the slurry lagoon.

Drawing 72967/RJC/001 dated 2022/05/07 confirms the surface water drainage from the building roofs only being conveyed in isolation to the attenuation pond which should ensure protection against pollution to the existing watercourse.

Although pollution in the Chain Lane watercourse has recently been reported, the proposals will mitigate against any pollution. Pollution of the watercourse will be monitored by Shropshire Council's highway and Land Drainage teams.

Suggested condition:

Prior to the development hereby permitted being first brought into use the foul and surface water drainage shall be implemented in accordance with Drawing Nos. 72967/RJC/001,106 and 107.

Reason: To ensure the satisfactory controlled discharge rate of surface water and pollution protection to the existing watercourse.

An earlier response indicated:

Whilst the surface water parameters, design and layout as shown are acceptable for a 1 in 100 year plus 40% critical storm event, a plan should be provided of all known existing drainage systems within the development area and any which have recently been installed as part of this development connecting the to wider drainage network.

The flow control restricting discharge to 1.5 l/s will require maintenance to ensure blockages do not occur. A more realistic outflow of 5 l/s might be more practical to reduce flood risk due to lack of maintenance.

The design calculations are based on the use of a vortex control device which should be shown on the plan to ensure its inclusion in the final scheme.

Figure 1 of the Drainage Rebuttal Letter dated 22nd August 2022 shows the catchment area as being from the roof areas only and that all other hard areas will drain to the slurry lagoon and not the watercourse. This is also confirmed in paragraph 3. However Shropshire Council's Highway and the Land Drainage teams have been informed of slurry entering the highway culvert and the existing watercourse flowing to the north, which is shown as the outfall for this development.

Further clarification is required of the drainage systems within the complex to clearly demonstrate that the yard and internal drainage systems discharge to the lagoon and is separated from the surface water system.

An earlier response indicated:

Comments

Chapter 9 - Water Resources of the Environmental Statement, references the SUDSmart Pro report which addresses the considerations for a satisfactory surface water drainage strategy.

For any future application, the following is required to be clarified:

- 1. A proposed drained area plan should be submitted and associated existing greenfield run-off calculations should be based on the same area to confirm the proposed discharge rate.*
- 2. A definitive watercourse between the proposed development site and the River Morda would need to be identified and any modification proposals would need to be submitted as part of the application.*
- 3. Specific details of how the contaminated water in the yard/lagoons from spillages or cleaning of sheds will be managed/ isolated from the main surface water system would be required.*
- 4. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related documents section on the council's website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>*

Appendix A1 - Surface Water Drainage Proforma for Major Developments must be completed and together with associated drainage details, be submitted for approval.

4.9 SC Environmental Protection have responded to the application indicating:

Based on the assumptions made within the revised noise report noise from the proposal is not likely to have a detrimental impact on the amenity of nearby residential properties. The revised noise report indicates that the process of filling bowzers with slurry will only happen in the day time and a frequency of no more than 1 bowser filling in any 1 hour period. If this process happened more frequently it has potential to impact on the amenity of surrounding properties.

Should it be considered appropriate to grant consent I recommend that the following condition is applied to the consent:

- 1. Bowzers shall only be filled with slurry between 0700 – 1900 hours and at a rate of no more than 1 bowser filled per hour.*

An earlier response indicated:

Environmental Protection has reviewed the reports provided in the EIA and has the following comments:

Noise report:

The assessment is a desk based report, it assumes background noise levels and calculates the potential impact based on very little site specific information. The report assesses noise from livestock, the slurry tractor movements and filling of the slurry bowser. Each of these activities is assessed independently as individual activities, an assessment of the cumulative impact of all the noise sources associated with the site has not been provided.

It is understood that the Environmental impact Assessment was required to consider the cumulative impact of the recent and proposed expansion of the business. Hence the noise report needs to consider the cumulative impact including all vehicle movements (such as feed deliveries, milk collections, calf movements and slurry/manure movements), any plant or machinery operating on the site (e.g refrigeration/extraction plant) and noise from livestock. The assessment needs to assume the farm is running at maximum capacity. Is 500 cows the maximum capacity of the current proposals?

The assessment report needs to include:

- assessment of all potential noise sources associated with the site e.g. vehicle movements, plant such as refrigeration or ventilation equipment, filling of slurry bowser, other forms of manure disposal such as umbilical cord system, loading solid manure, and deliveries to AD plant,*
 - Noise data specific to the plant being used, Note: unattended measurements are not appropriate for assessing the impact of commercial or industrial noise as the measured data cannot be correlated with specific activities.*
 - Measured background noise levels*
 - the location of any plant and operations such as filling the bowser with slurry needs to be clearly indicated on a plan,*
 - the assessment needs to consider the impact of all the operations cumulatively.*
 - vehicle movements need to be considered, including L_{Amax} levels where vehicle movements are at night.*
 - Where the assessment indicates an adverse impact the report should detail mitigation measures required to minimise any impact.*
- I would not recommend determining the application until a revised noise assessment has been provided to include the points raised above.*

Odour report

Although the odour assessment does indicate that the level of odour has increased the levels of odour is predicted to be below the threshold that is considered to be significant. This assessment was based on 500 jersey cows, if the maximum capacity of the farm is greater than this a further assessment would be required.

4.10 **SC Highways** have responded indicating:

Having regard to the application submission and supporting information I consider that the traffic movements generated can be accommodated on the local highway network.

In connection with previous applications at this site, and included within the Highways Assessment, a new access has been constructed onto the Trefonen Road to serve the

development. In addition improvements were implemented at the Oswestry Road junction. The supporting information sets out the number of and type of traffic movements, generated by the scale of development and also how those movements are split down into weekly and daily movements. As regards the spreading of manure, the applicant has provided a Manure Management Plan which shows where the manure would be spread and provision of a slurry lagoon will allow the slurry to be kept on site and spread as required throughout the year. Worse case scenario that the slurry would be taken to land by tanker but within the immediate vicinity of the site.

Having regard to the above, the highway authority do not consider that a highway objection is warranted and therefore raise no objection to consent being granted. It is considered however that the following Condition(s) should be imposed upon any consent granted.

- The development hereby permitted shall be implemented in accordance with the approved plans and description of the development and traffic movements as set out in the Highways Assessment. **Reason:** To properly manage the traffic movements to and from the site on the local highway network.*

An earlier response indicated:

I refer to the above mentioned planning application and more recent discussions, I offer the following highway comments.

The highways traffic generation information is set out in the Highways Statement submitted on the 14th June and further submitted as titled Highways Assessment dated 30th August. The latter assessment has provided the traffic movements in average daily and weekly figures. Both reports highlight the traffic generation of the various elements of the development, however there appears to be a variation in the more recent Highways Assessment in terms of the whether manure is taken from site. The previous Highways Statement indicated there would be 344 number 30 tonne manure vehicle movements going to and from Abertanat Farm to spread on land or taken to AD Plant. The current Highways Assessment suggest there will be no vehicle movements. I suspect this is an error as the overall total vehicle movements are the same in both reports, but for clarity suggest that this is made clear. It would be helpful also to understand the frequency of the manure removal, if indeed that is the case, to then provide clarity of the overall development traffic generation and pattern of daily and weekly movements.

An earlier response indicated:

I refer to the above mentioned planning application, which I am aware has some history and indeed this application is part retrospective.

As you are aware highways have commented on previous planning applications, which have led to highway improvements as set out in the Highways Assessment (HA). These include junction and visibility improvements at the Oswestry/Trefonen Road

junction and the construction of a new access to the farm complex off the Trefonen/Morda Road. With regard to the current application, there are no fundamental highway and safety related concerns. Recently Shropshire Council highways have carried out significant patching along the route to the site from both the Morda and Trefonen directions.

It is clear that this farm has grown into a significant dairy complex and therefore has become also a significant traffic generator. Traffic movements are set out in section 3 of the HA, although these are not helpful in presenting the figures as yearly totals. These need to be provided to understand the daily and weekly traffic movements and in order to provide a clearer context of how the dairy unit operates and how that translates into traffic movements on the network. I would ask therefore that further details are provided.

Section 4 within the HA shows a routing plan but no explanation of what this refers to and how traffic movements would gravitate to and from the identified blue route. Again referring to the above paragraph relating to the traffic information, how is the traffic generated by the dairy unit being assigned to the highway network.

Clarity is needed regarding manure spreading. The HA states that manure will be taken to Abertanat Farm to spread on land or taken to an AD Plant. The manure/slurry are a by-product of the operation but it is important to understand where it is being taken and when.

I would be obliged therefore if the above matters are taken up with the applicant/agent and I wait their response.

4.11 **SC Conservation** have responded indicating:

Background to Recommendation:

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published July 2021 and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

Paragraphs 199-201 and 202 advises that when considering the impact of a proposed development on the significance of the designated heritage asset/s, great weight should be given to the asset's conservation and that any harm to or loss of, the significance of the designated heritage asset should require clear and convincing justification.

Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that affect (directly or indirectly) non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.

MD13 states that Shropshire's heritage assets will be protected, conserved,

sympathetically enhanced and restored by ensuring proposals avoid harm or loss to significance of designated and non-designated heritage assets and ensuring that proposals affecting the significance of these assets are accompanied by a Heritage Assessment. It goes on to state that proposals which are likely to have an adverse effect on the significance of non-designated heritage assets, including their setting, will only be permitted where it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse impact.

Legislatively Section 66 of the Planning (Listed Buildings and Conservation Areas) Act is not relevant to this application, where the Act requires the need to pay special regard to the preservation of listed buildings and their settings as we concur with the findings of the HIA that there will be no harm to any designated heritage assets as a result of the proposal. This is also applicable to paras 199-202 of the NPPF in relation to designated heritage assets (in terms of built form – SC Archaeology colleague has commented separately regarding below ground heritage).

RECOMMENDATION:

No objection is made from a built heritage perspective.

Previous comments made on this application (12.08.22) pointed out that a HIA had not been submitted, as indicated as necessary in the comments made on the screening application submitted for the proposal. These have now been submitted and we confirm that they fulfil the requirements of MD13 and Paragraph 194 of the NPPF and please note comments above regarding designated heritage assets ie as no harm is identified the relevant sections of the NPPF and Section 66 are not applicable to this application.

Having examined the findings of the HIA in terms of non designated heritage assets (built form) we concur that whilst there is some change within their settings, this does not result in any loss of significance as the proposal site does not contribute or has limited contribution to their significance. In the case of Trefarclawdd Farm itself, being directly associated with the proposal in terms of function, as a much altered farmstead the additional works that form the basis of this application to further extend the agricultural use of the site are not considered to cause harm to the limited significance of the remaining historic farmstead.

4.12 **Natural England** - No response received to further re-consultation.

4.13 Public Comments

4.14 Thirty five letters of objections have been received from members of the public. Key planning related issues raised can be summarised as follows:

- Location of development in relation to dwellings and detrimental impacts on residential amenity.
- Location as development of an industrial sized complex will have a detrimental impact and dominate the surrounding landscape.
- Increased traffic as a result of the proposal on surrounding public highways.
- Detrimental impacts on surrounding residents and their human rights.
- Development on site has occurred in a piecemeal fashion.

- Concerns with regards future and further development on site
- Concerns with regards impacts on surrounding drainage and disposal of slurry that will be generated on site. (Impacts on the River Morda).
- Detrimental biodiversity impacts.- Will harm local ecosystem.
- No farm management plan produced.
- Concerns with regards to the advertising of development on site.
- Sustainability of the site and the significant increase in cow numbers compared to the previous more traditional operations of the agricultural unit concerned.
- Lack of enforcement against breaches of planning regulations on site.
- The Landscape and Visual Impact submitted in support of the application lacks sufficient detail on the impacts of the proposal.
- Detrimental impacts as a result of the development on a local wedding business
- Concerns with regards to humanitarian grounds along with environmental issues.
- Recent development on site subject to this application has occurred by stealth.
- Concerns with regards to light pollution
- Insufficient economic benefits to warrant harm to the environment.
- Concerns with regards to animal welfare on site.
- Queries in relation to the standard of the information in support of the application in consideration of Environmental Legislation.
- Proposal represents intensive factory farming and increase in greenhouse emissions.
- Concerns that the development does not comply with the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil)(England) Regulations 2010 legislation
- Concerns that the Environmental statement in support of the application is not fit for purposes and also does not indicate author's qualifications.
- Concerns that development on site is piecemeal and that previous planning condition and procedures have not been adhered to.
- Insufficient public consultation on the proposals.

4.15 Thirty six letters of support have been received, key points raised are summarised as follows:

- Proposal will bring economic benefits to the surrounding area.
- Application provides for biodiversity enhancement.
- Proposal is typical of modern agricultural production.
- Proposal is for agricultural development that blends into the landscape satisfactorily.

5.0 THE MAIN ISSUES

- Principle of development
- Environmental Impact Assessment, (EIA).
- Siting, scale and design of structures
- Visual impact and landscaping
- Ecology

- Public highway and transportation
- Drainage
- Residential and local amenity

6.0 OFFICER APPRAISAL

6.1 Environmental Impact Assessment, (EIA).

- 6.1.1 A screening Opinion dated 11th February 2022 for a covered holding yard and slurry lagoon was carried out in accordance with EIA Regulations 2017 and concluded that the area of the development will exceed the indicative criteria as set out in the EIA Regulations Schedule 2 – 1(C) and 13(b) for determining significance. With reference to the guidance set out in the NPPG and noting the considerations set out in the screening assessment, it was concluded that an EIA was required in support of any formal planning application. Reference was made to cumulative impacts and other development on site, as referred to in paragraph 2.5 above. The applicants have submitted an Environmental Statement in support of the application and this application has been assessed in relation to this statement, detail of which is considered acceptable in relation to the assessment of the proposal.
- 6.1.2 **Principle of development**
- 6.1.3 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements (Par 2- NPPF).
- 6.1.4 The NPPF advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 7) and establishes a presumption in favour of sustainable development (para. 11) indicating that there are three overarching objectives to achieving this: economic; social; and environmental. The NPPF states that significant weight should be given to the need to support economic growth and productivity (para. 80). In respect of development in rural areas, it states that planning decisions should enable the sustainable growth and expansion of all types of business; and the development and diversification of agricultural and other land-based rural businesses (para. 83)
- 6.1.5 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic

activity associated with industry such as agriculture.

- 6.1.6 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy. In principle therefore it is considered that the provision of an extension to the existing farm complex in order to enable the operation of a more intensive dairy complex can be given planning consideration in support. Policies recognise that agricultural development can have significant impacts, and seek to protect local amenity and environmental assets. These matters are discussed below.
- 6.1.7 The development subject to this application is intensive in nature and entails development that has occurred on site over a period of some 5 years some of which has been previously granted planning approval as set out in Section 2 of this report. The primary use of the farm holding is in relation to the milking of cows. The proposals subject to the application under consideration is in relation to the milking of some 500 Jersey cows that are favoured for their high butterfat milk content.
- 6.1.8 The development on site is to be considered as a whole in accordance with the application under consideration as whilst some works on site are authorised, there has been significant deviation from previously approved plans and as such the applicants agreed to the submission of a fresh application to be considered as a whole and thus this application is for the complex as a whole that has been constructed on a 'green field' site adjacent to the existing farm complex which is traditional in scale and nature and less intensive in scale, whilst also acknowledging mostly outdated and in need of extensive refurbishment in relation to modern farming practices, however suitable for use complimentary to the development the subject of this application.
- 6.1.9 The development as a whole, is significant in scale and consideration has been given to cumulative impacts in accordance with EIA Regulations.
- 6.2 **Siting, scale and design of structure**
- 6.2.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. It states that development will be designed to a high quality using sustainable design principles. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible sited so that it is functionally and physically closely related to existing farm buildings. Policy MD12 of the SAMDev puts emphasis on the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration.
- 6.2.2 Detail in the Environmental Statement in support of the application indicates that the proposed development includes: - an attenuation pond to the north east of the site

which will collect surface water run off from the farm yard. - A covered slurry lagoon measuring 60m x 20m and slurry separator - Balancing ponds which have been constructed alongside the farm drive which will collect water from the surrounding landscape - Two existing silos - Overhangs on two existing agricultural buildings - Slurry channels underneath the two cattle housing buildings connecting to the proposed slurry lagoon - Covered cattle holding yard to the rear of the existing milking parlour - Parlour extension - Concrete yard areas

- 6.2.3 The above-mentioned is in connection to two steel framed cattle housing buildings and a steel framed milking parlour that have been granted planning permission previously in accordance with detail as set out in paragraph 2.4 of this report. The development is considered necessary in relation to the applicants aspirations for a modern dairy complex as part of the existing farming operations at the holding concerned.
- 6.2.4 The proposal includes retrospective planning for two modern agricultural buildings which will house the 500 dairy cows, with slurry channels below. Planning was granted for the first agricultural building which measured 80m x 25m and 4.27m to eaves and 7.826m to ridge (ref: 18/02895/FUL). The second agricultural building was granted planning which measured 80m x 25m and 4.27m to eaves and 7.826m to ridge (ref: 18/05455/FUL). The floor area of the two agricultural buildings has changed to 79.5m x 24.15m (28.99m including overhangs) and 4.165m to eaves and 8.25m to ridge. There is no increase in cattle housing area, the additional overhangs are for keeping the feed for the cattle dry. The buildings have mass concrete walls with Sussex boarding to the eaves. The east and west elevations will be open fronted. Retrospective planning is also sought for two silos which are located adjacent to the approved milking parlour, along with the parlour extension and the concrete yard area to the front, side and rear of the agricultural buildings.
- 6.2.5 The applicant in accordance with EIA Regulations has given consideration to cumulative impacts and on this matter in relation to other agricultural activities and scale and design the development considered acceptable. (Also in relation to other matters subject to satisfactory consideration as discussed further in this report).
- 6.2.6 An attenuation pond will be located to the north east of the site to collect surface water run off from the farm yard. There are also two drainage ponds alongside the entrance drive to the site from the public highway. These are all considered acceptable in scale and design and drainage on site as well as in relation to the wider area has been subject to extensive dialogue between the applicants and the Council's drainage team.
- 6.2.7 On balance the development on site as a whole is considered acceptable in relation to siting, scale and design representing a modern farm complex that does not look out of place in a rural setting with agricultural development in a predominantly livestock related area is the norm subject to satisfactory consideration to the issues discussed later in this report.
- 6.2.8 As such in relation to siting, scale and design the application is considered acceptable and in accordance with Policies CS6 of the Shropshire Core Strategy, MD2 of the SAMDev and the NPPF on this matter.

6.3 **Visual impact and landscaping**

- 6.3.1 Paragraph 195 of the NPPF indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.3.2 Whilst it is acknowledged there are dwellings and farmsteads dotted around the application site and some of which can be considered non-designated heritage assets in accordance with the NPPF, it is considered the development as a whole and as proposed will not have any detrimental impact on the historic environment.
- 6.3.3 The applicants have submitted as part of their Environmental Statement a landscape and visual impact assessment and this concludes that the proposed development comprises a retrospective permission aspect where the built structures have been constructed with minor amendments to the approved dimensions. As such, the impacts resulting from Buildings A – C as part of this new application are extremely minimal. Proposed Building D and the proposed covered slurry lagoon would also result in minimal impacts due to their siting adjacent to existing built form and the comprehensive planting proposals associated with this application. Over the wider landscape these existing buildings are generally not visible, due to screening from vegetation and topography, it is predominantly only in the immediate locality of Trefarclawdd that they are discernible and within which the proposed development would be discernible. Fieldwork and this assessment have both found that the addition of the proposed development would result in extremely limited changes to local views and landscape character and no changes to landscape fabric
- 6.3.4 The Council's Landscape Consultant has confirmed that in his opinion where effects are predicted, they are all adverse. Mitigation is predicted to reduce the adversity of effects over time so that at 10 years after completion, 5 receptors/receptor locations are predicted to experience adverse residual effects ranging from Moderate/minor adverse to Minor/negligible adverse. The mitigation proposals of woodland and hedgerow planting have the potential to create long term and permanent beneficial landscape effects, however, the LVIA assesses the effects on the landscape elements of the site as No effects. No effects are predicted to be significant in EIA terms. However his response concludes that the proposal site has the potential to accommodate a development of this nature given the location of the new built form on an area of hardstanding and within the context of existing agricultural buildings, albeit not built completely in accordance with that approved, and topography and vegetation in the vicinity. Given this, and the relatively low levels of residual adversity of effects with mitigation in place, he considers that the proposals comply with Local Plan policies on landscape and visual amenity. We have no recommendations to make as a result of

this review

6.3.5 Whilst Officers accept development on site is significant in scale, it is agricultural in nature and typical of the landscape it is located within all be it intensive in nature. It is considered with additional landscaping as proposed and with suitably worded conditions attached to any approval notice issued in order to ensure this, that in relation to landscape and visual impact the development as a whole can be mitigated and integrated into the rural landscape that it is located within and consequently on balance, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD12 and MD13 of the SAMDev and the NPPF in relation to this matter.

6.4 **Ecology**

6.4.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Therefore the application has been considered by the Council's Ecologist and Natural England.

6.4.2 The application is accompanied by an Ecological assessment this indicates that the proposed and approved planning applications mainly impact on improved grassland. This is of minor ecological value and the loss of this habitat type will have a low impact at a local level. Hedgerow removal has taken place on site as part of the enabling works which will lead to a loss in nesting sites for birds, habitat for other wildlife and a decrease in overall biodiversity on site. The survey revealed no signs of use by badger and in its current state the site does not offer suitable habitat to badgers. It is possible that badgers use the site, given its rural location, and therefore could disturb individuals. In order to avoid disturbance to individuals who may enter the site during nocturnal activity we recommend precautionary methods are used on site. The construction phase of the development will have no impact on bat species but if external lighting on site is planned, a Wildlife Sensitive Lighting Plan should be implemented to reduce the post-development impacts on bat species. We have given specifications for the design of external lighting on site in order to avoid disturbance to bat species and other nocturnal wildlife. The proposed covered holding yard construction will have no impact on breeding birds but the removal of hedgerow on site has reduced the amount of potential nesting sites. Replacement hedgerow planting should take place along the new access track to run parallel with the existing hedgerow and provide a valuable habitat for a variety of wildlife. Two ponds within 500m of the proposed development site provide unsuitable habitat for GCN. The land surrounding the development site is a mixture of improved grassland and arable land which both offer sub-optimal terrestrial habitat for GCN. As a precaution we have included a Reasonable Avoidance Measures Method Statement to remove any residual risk of harm to GCN.

6.4.3 Also accompanying the application is an ammonia assessment and this concludes that the type, source and significance of potential impacts have been identified and detailed modelling undertaken in line with EA, Natural England and Shropshire Guidance. Predicted ground level concentrations of ammonia and nutrient nitrogen are compared with relevant air quality standards and guidelines for the protection of sensitive habitats. Shropshire Council has confirmed that, due to impacts of the scheme being below 1% of the relevant critical levels and loads, there is no requirement to consider applications with the potential to act in-combination with the Trefarclawdd scheme

6.4.4 SC Planning Ecology have responded indicating that detail in support of the application is considered acceptable and this includes reference to ammonia impacts cumulatively with previous developments and in relation to the proposal in relation to the immediate and wider sensitive ecological environment, as set out in the SC Ecology response above, which also acknowledges that the landscaping plans show tree and hedgerow planting as recommended in the Preliminary Ecological Appraisal by Arbor Vitae, dated 21/04/2022, which will serve to both provide ammonia mitigation and opportunities for wildlife such as nesting habitat for birds and foraging/commuting habitat for bats.

The PEA also recommended that any lighting erected on site is sensitive to wildlife. The submitted lighting plans do not show the specification for the proposed lighting and merely show the proposed location of lights on the buildings. A condition is therefore recommended to ensure details of the lighting be submitted for approval, within 2 months of any approval notice being issued if Committee are mindful to support the application. Also recommended are conditions with regards to cow numbers retained on site, maintenance of the slurry lagoon, bird nesting and bat roosting boxes erected on suitable trees around the site, to provide enhancements for biodiversity.

6.4.5 In relation to ecological issues, whilst issues on biodiversity issues as raised by members of the public are acknowledged, the application is considered acceptable and with appropriate conditions attached to any approval notice issued as discussed in the preceding paragraph in accordance with Policies CS5 and CS17 of the Shropshire Core Strategy, Policies MD2, MD7b and MD12 of the SAMDev and the NPPF on this matter.

6.5 **Public highways and transportation**

6.5.1 Policy CS6 of the Core Strategy requires development to be inclusive and accessible. Paragraph 111 in the NPPF indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Paragraph 113 of the NPPF indicates all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport assessment so that the likely impacts of the proposal can be assessed.

6.5.2 The applicants Environmental Statement includes a chapter on transportation and this indicates that there have already been extensive highway improvements on the junction of the access road to the site from the adjacent public highway, (this also included construction of a new farm road to serve the site). The statement indicates that there will be expected traffic movements per year of 6224 and this includes a breakdown of

tractor and trailer movements as well as HGV and car movements. The report concludes that the construction of the new access and substantial highway improvements have resulted in a safe access with improved visibility splays and provide an effective means of access for the development.

- 6.5.3 The Council's Highways Manager has responded to the application raising no objections indicating that the traffic movements generated can be accommodated on the local highway network. The response indicates that in connection with previous applications at this site, and included within the Highways Assessment, a new access has been constructed onto the Trefonen Road to serve the development. In addition improvements were implemented at the Oswestry Road junction. The supporting information sets out the number of and type of traffic movements, generated by the scale of development and also how those movements are split down into weekly and daily movements. As regards the spreading of manure, the applicant has provided a Manure Management Plan which shows where the manure would be spread and provision of a slurry lagoon will allow the slurry to be kept on site and spread as required throughout the year. Worst case scenario that the slurry would be taken to land by tanker but within the immediate vicinity of the site. The response recommends a condition with regards to development on site being carried out in accordance with the approved plans and traffic movements as set out in the highway assessment.
- 6.5.4 The applicants have confirmed that all the vehicle movements relate to the land identified on the plan forming part of Trefaclawdd Farm holding. They have also confirmed that all current movements of slurry on the public highway go to Abertanat Farm. The intention is that with the provision of the slurry lagoon the slurry will be able to be stored until required to be spread on the ground around Trefaclawdd Farm. Guidance issued by the EA and the COGAP and Code for the protection of water advises that a contingency plan should always be in place. The contingency is for movement of the slurry to the AD plant at Abertanat. This is required only as a contingency and is considered reasonable.
- 6.5.5 On balance, whilst concerns raised by members of the public on this matter are acknowledged, with consideration to detail in support of the application it is clear the SC Highways Manager raises no objections on highway and transportation matters. Installation of the proposed slurry lagoon will create storage space on site and thus improve matters in relation to vehicle movements on the surrounding public highways. Disposal of manure by means of spreading on land at Trefarclawdd Farm is considered acceptable whether by the umbilical irrigation method direct from the manure store to the field or by tractor and spreader. It is also considered reasonable to allow for a contingency plan and movement of slurry to the AD plant at Abertanat in accordance with advice as set out in the EA and the COGAP and Code for the protection of water.
- 6.5.6 On highway and transportation matters with appropriate conditions attached to any approval notice issued in relation to carrying out development on site in accordance with the approved plans and traffic movements which includes reference to any necessary slurry movements, the proposal is considered to be in accordance with Policies CS6 of the Shropshire Core Strategy, and MD2 and MD7a of the SAMDev and the NPPF on these matters.

6.6 Drainage

- 6.6.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development. It is noted that the application site is in flood zone 1 in accordance with the EA flood risk data maps.(lowest risk), The application is accompanied by a flood risk assessment and further diagram detail these are noted and have been considered as part of the consideration to this application.
- 6.6.2 The Environmental Statement in support of the application includes a drainage assessment and this indicates that according to GeoSmart's SuDS Infiltration Potential (SD50) map, the Site has a moderate potential for infiltration, primarily due to the permeability of the underlying geology (diamiction). Infiltration to ground is therefore potentially feasible subject to site investigation. A surface watercourse is located 60m south of the site and there are multiple unmapped drainage ditches located nearby to the site. There are no nearby public surface water or combined sewers located nearby the site. The proposed drainage strategy is comprised of SuDS features which includes a pond with reed bed with a minimum holding capacity of 741.35 m³ , to provide a minimum surface water attenuation volume of 756 m³ prior to infiltrating to ground. If infiltration to ground is not feasible and there are nearby drainage ditches then surface water should be discharged at a maximum restricted rate of 22 l/s, to match the 1 in 100 year greenfield run off rate (See Appendix B and table 2 for associated calculations). This would ensure surface water runoff is managed according to national and local policy in all events up to and including the 1% AEP event plus a 40% allowance for climate change, as preferred by DEFRA non-statutory guidance (DEFRA, 2015).
- 6.6.3 Detail in support of the application makes reference to a proposed slurry lagoon, balancing ponds and drainage ponds, these have all been considered in relation to drainage issues as well as associated surface water run-off and foul drainage issues, such as drainage and disposal of slurry through an on-site underground slurry system to the proposed slurry lagoon. Drainage on the farm holding and its interaction with the adjacent public highway and wider environment has been subject to extensive discussions between the Council's drainage team and the applicants over a significant period of time prior to the submission of this application, these discussions lead to some of the drainage works on site being carried out prior to the submission of this application and as such it is acknowledged that some of these works are retrospective, (drainage pond alongside the farm drive).These works to date do appear to have been beneficial in consideration of surface water drainage on the farm and its association to the wider area.
- 6.6.4 The Environment Agency in response to the application has indicated that they do not regulate dairy operations as they would for poultry / pig operations. However, they have made comment that they have rules for farmers and land managers to prevent water pollution. In relation to the control of the impacts to water from manure management and agricultural activities the Environment Agency is responsible for enforcing the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018, which came into force on 2 April 2018. These regulations are implemented under the Farming Rules for Water (Farming rules for water from April 2018 - GOV.UK (www.gov.uk). All farmers and land managers are required to follow a set of rules to

minimise or prevent water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock. The full information can be found at: <https://www.gov.uk/guidance/rules-for-farmers-and-land-managers-to-prevent-water-pollution> It is an offence to break these rules and if they are breached the Environment Agency may take enforcement action in line with their published Enforcement and Sanctions guidance.

- 6.6.5 The SC Drainage Team in response to the application have confirmed that the drainage layout and design is acceptable. Comment is made that the surface water parameters, design and layout are acceptable together with the riparian connection to the Chain Lane watercourse at a discharge rate of 5 l/s. Recent works to the existing drainage systems has established which is acceptable. Drawing number 72967/RJC/107 dated 2022/05/27 shows a drainage system conveying polluted water from the building insides and the external yard areas to the slurry lagoon. Drawing 72967/RJC/001 dated 2022/05/07 confirms the surface water drainage from the building roofs only being conveyed in isolation to the attenuation pond which should ensure protection against pollution to the existing watercourse. Although pollution in the Chain Lane watercourse has recently been reported, the proposals will mitigate against any pollution. Pollution of the watercourse will be monitored by Shropshire Council's highway and Land Drainage teams. The response recommends a condition with regards to foul and surface water drainage to be implemented in accordance with Drawing Numbers . 72967/RJC/001, 106 and 107. It is recommended that this condition is attached to any approval notice, if members are mindful to support the application, in order to ensure adequate and acceptable drainage of the site in relation to the surrounding environment.
- 6.6.6 It is acknowledged that there have been considerable surface water drainage issues connected to Trefarclawdd Farm and the wider environment owing in part to the wider area's natural drainage, and what would appear to be irregularities with regards previous drainage systems. The adjacent public highway has been subject to drainage issues with choked ditches associated with the wider surrounding land. The applicants have over a period of time, been in discussions with Shropshire Council's Drainage Team, with regards to a remedy to the situation and have carried out significant works which do appear to have helped the local drainage situation significantly. The installation of the drainage pond alongside the new farm entrance appears to have assisted the situation. This drainage pond is in operation and thus this element of the application is retrospective. Whilst the drainage improvements are to be welcomed, it is acknowledged that development on site is significant and will generate considerable surface water run-off that requires careful consideration, along with consideration to the foul drainage on site. Detail in support of the application and further clarification in relation to existing drainage systems within the development site and clarification with regards to on site surface water and polluted water drainage is considered acceptable.
- 6.6.7 On balance it is considered that on site drainage details are considered acceptable and consideration has also been given to the surface water drainage of the wider environment to that of the application site. As such the application is considered acceptable and in accordance with Policies CS6 and CS18 of the Shropshire Core Strategy, Policies MD2 and MD7b of the SAMDev and the NPPF on drainage matters,

with a condition attached to any approval notice issued as discussed in paragraph 6.6.5 above.

6.7 Residential and local amenity.

6.7.1 Policy CS6 of the Core Strategy requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity. National planning policy as set out in the NPPF is clear that the focus of planning decisions should be on whether the proposed development is an acceptable use of land rather than the control of processes or emissions where these are subject to separate pollution control regimes (para. 188). The usual legislation in relationship to these matters as applied by the Council's Public Protection is also relevant.

6.7.2 An **odour** Impact Assessment has been submitted as part of this application and this concludes that the site forms part of an existing dairy farm which lies within the administrative area of Shropshire Council. The type, source and significance of potential impacts have been identified and detailed modelling undertaken in line with EA Guidance. Predicted process contributions of odour are compared with relevant guidelines for the protection of human receptors against dis-amenity impacts. The modelling indicates that for both scenarios the existing odour impact from the farm does not exceed 6.0ouE/m³ at any location. For this reason and given the regulatory requirements for the farm (i.e. to maintain adequate lagoon capacity for protection of the soil and water resource) it is considered that the change in odour resulting from the installation of the lagoon is acceptable in planning terms.

6.7.3 The Environmental Statement makes reference in relation to odour that UK guidance identifies a range of odour impact criteria depending primarily on the nature of the odour (i.e. its pleasantness/unpleasantness) and the likelihood of causing unacceptable impacts based on the 98th percentile of predicted hourly average concentrations over a year. It is therefore evident that such criteria apply only to locations where an individual's exposure is likely to occur for prolonged periods of time i.e. residential properties. Where exposure is more transient (i.e. roads, footpaths etc.) the direct application of such criteria should be treated with caution and further consideration should be given to how the duration and frequency of exposure of the individual will influence the acceptability of the predicted impact

6.7.4 A **noise** assessment in support of the application which included a site survey, has been undertaken to review the noise emissions from the existing dairy farm operations and those that will be generated as a result of the proposed slurry lagoon and covered holding yard. Via analysis of the survey data and calculation), the assessment identified that the:

- proposed slurry lagoon operations and livestock within the covered holding yard on their own will result in a BS4142 low noise impact
- aggregate of the existing farm operations and the proposed slurry lagoon/covered holding yard will result in a marginal noise impact during the day at one nearby dwelling ; at other dwellings the impact will be low.

The identified marginal noise impact is as a result of the noise emissions generated by the existing daily food preparation. Taking into account that this noise source only

occurs once a day for a relatively short period of time and does not result in high absolute noise levels, this marginal noise impact is likely to be considered acceptable. If, however a reduction in noise emissions is deemed to be required, up to 10dB shielding attenuation can be achieved by the provision of a noise barrier (good quality close-boarded timber fence, earth bund or hay bale stacks) that blocks the line of sight between the feed preparation area and the relevant dwelling. A potential option would be to relocate the food preparation to the north of the existing stored hay bales. Due to the very low Rating Levels and typical background noise levels during the early morning milking (which fall's within the 'night' period) the absolute aggregate noise emission levels (existing + proposed schemes) have been assessed to review acceptability; this is in accordance with guidance given in BS4142. During the night the aggregate ambient noise ingress via an open window have been established to be below the existing underlying noise environment and >10dB below BS8233's noise ingress limits for bedrooms (note the limits are applicable to road traffic and continuous operating plant). The individual maximum noise events generated will result in noise ingress levels via an open window below LA_{max,F} 45dB. In accordance with ProPG (2017) this indicates a negligible noise impact with regard to sleep disturbance.

It is therefore concluded that during the night the absolute noise levels will result in a low noise impact. Precautionary retrospective mitigation measures, which are not expected to be required, to reduce slurry bowser noise emissions and site management with regard to noise have been discussed. On the basis that with the contribution of the proposed slurry lagoon and covered holding yard the aggregate dairy farm noise emissions will not result in an adverse noise impact at the nearest dwellings, and that there are mitigation measures to reduce existing noise emissions so that a low noise impact is achieved if required, we conclude that on noise grounds the proposed scheme is acceptable.

- 6.7.5 Also submitted in support of the application is a **manure management plan** and this makes reference to a map of the farm using a colour coding system to identify areas where manure must not be spread (eg within 10m of watercourses); where spreading is possible but with some restrictions; and areas where spreading can be carried out throughout the year. This plan has been carried out within nationally recognised certified standards.
- 6.7.6 A **lighting scheme**, (artificial external lighting), also accompanies the application and this indicates that the nature of the development means that some light sources will be required to allow safe and effective activities within the site to take place. The assessment has identified that the site is located within a relatively dark, rural context with limited existing sources of light. However, the site is located in an intensively farmed area with field operations and other activities taking place during hours of darkness and use intense lighting for visibility (rather than security purposes). Lighting of the site would only be required during working hours in winter months. Appropriate cowls/shielding of lights would be instigated, the light spread would be minimised through use of directional lighting and hours of lighting would be kept to a minimum to reduce disturbance. There will be no round the clock external lighting of the site and no use of high intensity security lighting. The report indicates that all external lighting will be downward facing and protected with a cowl to reduce light spill to outside the unit. During hours of darkness the building will be illuminated internally to 0.4 lux. The

building is clad with high density metal profile sheeting and therefore no light will escape to outside. Regular tests will be conducted to check the effectiveness of the light proofing. It is anticipated that the potential impact associated with this aspect of the proposed change of use will be minimal as there will not be round the clock security lighting and the area of lighting is directed away from the main residential areas, this will respect the rural context of the site. Added to this the lighting will be directed downwards to reduce light escaping from the site plus each light will be protected with a cowl to avoid the lights lighting any areas outside of the site. The lighting has been sited and angled to provide the minimum illumination required by the applicant so as not to adversely affect road users, neighbours, the natural environment or wildlife

- 6.7.7 SC Environmental Protection (Regulatory Services), have responded to the application raising no objections. In further detail their response indicates:

Noise. Based on the assumptions made within the revised noise report noise from the proposal is not likely to have a detrimental impact on the amenity of nearby residential properties. The revised noise report indicates that the process of filling bowzers with slurry will only happen in the day time and a frequency of no more than 1 bowser filling in any 1 hour period. If this process happened more frequently it has potential to impact on the amenity of surrounding properties. The following condition is recommended to be attached to any approval notice issued:

- Bowzers shall only be filled with slurry between 0700 – 1900 hours and at a rate of no more than 1 bowser filled per hour.

Odour report. Although the odour assessment does indicate that the level of odour has increased the levels of odour is predicted to be below the threshold that is considered to be significant. This assessment was based on 500 jersey cows, if the maximum capacity of the farm is greater than this a further assessment would be required.

- 6.7.8 Detail submitted in support of the application in relation to external lighting is considered acceptable and it is recommended that a condition is attached to any approval notice if the Council are mindful to approve the application, to ensure external lighting is in accordance with the detail as submitted on this matter.
- 6.7.9 The applicants have also submitted a manure management plan which includes reference to a farm map plan of where manure generated on site will be spread. Confirmation has also been received that all the manure will be spread on land, the applicants own and control, and that manure spreading will be in accordance with the Environment Agency's recognised standards which set the limits for spreading . Reference has also been made that the EA have visited the farm on a number of occasions following unsubstantiated complaints and are happy with how the farm is being managed in relation to manure spreading. The provision of the slurry lagoon with storage for winter will improve matters at the farm. The slurry store will have facilities for a minimum of four months storage, so there would be no movements in Nov, Dec, Jan and Feb weather depending in early November and late February. The movements will then be grouped depending on the requirements of the crops and the land. All the

grassland will be spread on in March ready for silage and then again in June following harvest and again in August following harvest. This would be a tractor and spreader for a three / four day period each time. The maize ground will be spread on before ploughing in May and again after harvest in late September / early October again this would be with three / four day period of spreading.

- 6.7.10 The details as indicated above are considered acceptable. It is noted that the Environment Agency in response to the application have referred to Manure storage and use which is controlled by the Silage, Slurry and Agricultural Fuel Oil (SSAFO) Regulations, as detailed below.
Storage of silage, slurry or agricultural fuel, including slurry lagoons: Silage and Slurry storage for agricultural purposes is subject to The Water Resources (SSAFO) as amended. Every farmer has to comply with the SSAFO regulations if they build a new store or substantially alter one built before 1 September 1991.
These regulations aim to prevent water pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing these substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water and have a 20-year life expectancy. Guidance is available at: https://www.gov.uk/guidance/storing_silage-slurry-and-agricultural-fuel-oil
DEFRA Code of Good Agricultural Practice (CoGAP) is also guidance that farmers have to comply with. The odour report submitted in support of the application also covers manure and resulting odour and this confirms that the modelling carried out indicates that the existing average odour impact from the farm does not exceed 6.0ouE/m³ (or indeed 3.0ouE/m³) at any location
- 6.7.11 On residential amenity issues the application is considered acceptable with conditions attached to any approval notice issued in relation to issues as discussed above. With this in mind the application considered to be in accordance with Policy CS6 of the Shropshire Core Strategy, Policies MD2 and MD7b of the SAMDev and the NPPF in relation to amenity issues.
- 6.8 **Other matters.**
- 6.8.1 **Enforcement and unauthorised development.** Whilst it is acknowledged by Officers parts of the development subject to this application does not have planning permission and that previous planning permissions on site have not been carried out in accordance with approved plans, and thus the current application is in part 'retrospective', it has to be acknowledged that planning enforcement procedures in order to address unauthorised development encourage 'retrospective applications, where these are considered appropriate. Whilst it is unfortunate that the applicants have chose to have disregard to following correct planning procedures, nevertheless the applicants eventually concluded to submit the current application under consideration to which Officers welcome in accordance with recognised planning enforcement procedures in such instances.
- 6.8.2 **Development on site represents piecemeal development.** It is acknowledged that the applicants chose to submit individual applications for development on site which have culminated in representing development in relation to a more modern intensive

dairy facility on site than the previous more traditional dairy farming enterprise. However the current application is in relation to a dairy complex as a whole and thus the current application is considering the whole of the new farm development as part of one planning application.

- 6.8.3 **Concerns about future development on site.** Whilst it is acknowledged some members of the public are concerned about future development on site, (given the applicants recent planning history), there is no planning legislation that prevents future planning applications and each one would be treated on its planning merits in relation to relevant local and national planning policies at the time of submission and determination of any subsequent application.
- 6.8.4 **Human Rights.** Human rights are the basic rights and freedoms that belong to every person. It is not considered that the basic human rights of any individual have been infringed or compromised as a result of this application.
- 6.8.5 **Farm Management Plan.** Concerns have been raised with regards to no farm management plan being submitted as part of the application. It is clear that the application under consideration is for more intensive development at an existing dairy farm where dairy farming has been carried out for many years. Officers are satisfied that information in support of the application is adequate on which basis to assess the application under planning consideration.
- 6.8.6 **Advertising of the development.** The application has been advertised in accordance with relevant planning procedures. This includes reference to applications accompanied by an Environmental Statement. The application was available for public inspection on the Council's application website, was advertised by a site notice placed on the entrance to the site and in the local press. Further still in relation to further substantial information the application was re-advertised via a site notice placed on the entrance to the site and in the local press, as well as being available for inspection on the Council's application website.
- 6.8.7 **Impact on local businesses.** Impacts on local businesses have been considered in the assessment of this application. It is considered that the proposal is acceptable in relation to local businesses and residents alike.
- 6.8.8 **Economic Benefits.** Concerns have been raised that the development will have a detrimental impact on this. The NPPF in relation to 'Achieving sustainable development' indicates that the purpose of the planning system is to contribute to the achievement of sustainable development and that it has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways and these are an economic objective, a social objective and an environmental objective. They are criteria that need to take local circumstances into consideration in order to reflect the character, needs and opportunities of each area and that there is a presumption in favour of sustainable development. This aspect is referred to in Section 6.1 of this report and consideration has been given to the economic benefits to the business concerned as well as impacts on the wider area outside of the business concerned.

- 6.8.9 **Standard of the Environmental Statement in support of the application.** Officers consider that the Environmental Statement in support of the application is acceptable in relation to assessing the application under consideration. It has been assembled by professional persons considered to have adequate professional expertise and this includes areas with specific qualified expertise, on matters such as odour, noise, drainage, ecological, ammonia, traffic movements and landscape and visual impacts.
- 6.8.10 **Insufficient public consultation.** Concerns have been raised on this matter by members of the public. The NPPF encourages applicants to engage with the local community, however a local planning authority cannot require that a developer engages prior to the submission of a formal planning application. The Council offers a pre-application advice service. The applicants have engaged with the Council's Enforcement Team as a consequence of planning enforcement notices being served on them in relation to development on site. It is understood that the applicants agent attended a Local Parish Council meeting in consideration of development on site.
- 6.8.11 **Intensive nature of development on site.** Concerns have been raised with regards intensification of development on site. Officers appreciate that the development on site is more intensive than previous farming practices carried out on the farm holding concerned. However both are in relation to dairy farming, all be it a significant increase in overall cow numbers. Environmental Impact Assessment does not specifically recognise dairy farming as intensive farming like it does in relation to poultry and pigs and as such the development on site is not considered schedule one development. However development on the agricultural holding concerned is clearly more intensive in nature and as such is considered by Officers to represent schedule two development of Environmental Impact Assessment Regulations and the area of new floorspace being in excess of 500 square metres. The application has been assessed on this basis. A copy of a Council's screening opinion in relation to development on site is attached as appendix two to this report. Whilst this screening opinion is not specifically to development on site as submitted, it established that lesser development on site required an Environmental Statement in support of any formal planning application. These views have not changed as a consequence of the submitted application, which in any case is accompanied by an Environmental Statement.

7.0 CONCLUSION

- 7.1 The NPPF states that planning decisions should apply a presumption in favour of sustainable development, and that there are three overarching objectives to achieving this: an economic objective; a social objective; and an environmental objective. It states that planning decisions should help create the conditions in which businesses can invest, expand and adapt; and that significant weight should be placed on the need to support economic growth and productivity (para. 81). Furthermore, that planning decisions should recognise and address the specific locational requirements of different sectors (para. 83). In addition it states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural businesses (para. 84).
- 7.2 The proposal is for further intensification of an existing dairy farm, where cow numbers

will increase from approx 150 to 500 milking cows. Previous cows retained on the holding were Fresian/Holstein, the application under consideration is in relation to Jersey cows, these are much smaller cows than the previous breed retained on site. If members are in agreement with the recommendation it is recommended that a condition is attached to any approval notice issued that no more than 525 milking cows are retained on site. (Adult cattle to allow for a bull). This will help enable control of waste generated on site and ammonia release, along with noise issues and issues raised by the Council's Environmental Protection Team. (525 cows to allow for replacements, injured or sick cows and the farm bull). The application is EIA development and as such is accompanied by an assessment to identify the potential impacts of the development on the environment and this on balance is considered acceptable.

- 7.3 It is acknowledged that the development is significant in scale and does have a limited impact on the local landscape, however it is considered that the proposed development with consideration to the surrounding landscape character and topography and field layout with further landscape mitigation can be successfully integrated into the surrounding landscape. Consideration has also been given to impacts on the historic landscape which includes the setting of designated and non- designated heritage assets. Therefore, on balance with consideration to the location, size and scale and cumulative impacts, it is considered that there will not be an adverse impact with further landscape mitigation. Also with consideration to overall economic benefits and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of the development, on balance acceptable in principle
- 7.4 It is noted none of the statutory consultees and Council consultees raise any significant objections to this application.
- 7.5 Public highway access and transportation issues have also been carefully considered and with consideration to the response received from the SC Highways Manager, on highway and transportation matters it is considered that development as proposed is acceptable and as such the comments as made by the Highways Manager in this instance are considered acceptable.
- 7.6 It is noted neither Natural England or the Environment Agency object to the application. SC Ecology on submission of further information in relation to ammonia emissions raise no objections subject to suitably worded conditions being attached to any approval notice issued. Likewise drainage issues are also considered to be adequately addressed, with the attachment of a condition to ensure drainage is as per approved plans.
- 7.7 Whilst it is acknowledged this application and development on site has been controversial, comments as made in the letters of objections received (and in support), have been taken into consideration in relation to the recommendation in relation to this application. Comments made by the Local Parish Council have been noted. Issues in relation to residential amenity are considered acceptable and as discussed in this report.

As such the proposed development overall and on balance is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the SAMDev, the National Planning Policy Framework and other relevant planning guidance and legislation which includes Environmental Impact Assessment Regulations 2017, the emerging local plan, (limited weight), and the provisions of the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The recommendation is therefore one of delegated approval to the Assistant Director, subject to the conditions as outlined in appendix one attached to this report, and any modifications to these conditions as considered necessary by the Assistant Director

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:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

National Planning Policy Framework

SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

OS/78/8248/FUL Agricultural Building GRANT 15th February 1978

18/00485/FUL Erection of an agricultural building GRANT 23rd May 2018
 18/02895/FUL Erection of an agricultural building GRANT 23rd October 2018
 18/05455/FUL Erection of a livestock building and all associated works GRANT 25th April 2019
 19/03831/FUL Construction of a new access and all associated works GRANT 24th March 2020
 20/00841/FUL Erection of a covered holding yard and all associated works REFUSE 9th June 2020
 20/01355/DIS Discharge of condition 3 (construction method statement) for the construction of a new access and all associated works relating to 19/03831/FUL DISAPP 22nd May 2020
 20/01363/FUL Erection of single storey side extensions and front porch following demolition of existing single storey side extension and front porch, new render finish to replace existing render currently only on the front (south west) and side (north west) elevations and associated works GRANT 16th June 2020
 20/03748/FUL Erection of a covered holding yard and all associated works NPW 8th October 2020
 20/03794/DIS Discharge of Condition 3 (Details of External Materials) relating to Planning Permission 20/01363/FUL DISAPP 9th November 2020
 20/04866/FUL Erection of a covered holding yard and all associated works WDN 8th September 2021
 21/00962/VAR Application Reference Number: 18/02895/FUL Date of Decision: 23/10/2018

Condition Number(s): 2

Conditions(s) Removal:

Revised Elevation plan RJC-MZ272-03
 Revised Elevation plan RJC-MZ272-15 WDN 5th July 2021
 21/00963/VAR Application Reference Number: 18/05455/FUL Date of Decision: 25/04/2019

Condition Number(s): 2

Conditions(s) Removal:

Revised Elevation plan RJC-MZ272-03 A
 Revised Elevation plan RJC-MZ272-12 WDN 5th July 2021
 22/00169/SCR Screening request for a covered holding yard and slurry lagoon EIA 11th February 2022
 22/01014/FUL Application under Section 73A of the Town & Country Planning Act for the retrospective formation of two balancing ponds with all associated works WDN 20th May 2022
 22/01965/FUL Erection of a covered holding yard and construction slurry lagoon with all associated works NPW 22nd July 2022
 22/02199/AMP Change made to the elevations of the agricultural building (permission ref 18/02895/FUL) REC
 22/02200/AMP Change to the elevation plan (permission ref 18/05455/FUL) REC
 22/02329/SCR Notification of Enforcement Notice relating to Enforcement case 20/07173/ENF. EIA 17th May 2022

22/02356/VAR Application Reference Number: 18/02895/FUL
23/10/2018

Date of Decision:

Condition Number(s): Condition 2

Conditions(s) Removal:

Variation of elevation plan

The development shall be carried out strictly in accordance with the approved plans and drawings - Location plan (RJC-MZ272-01 dated 20/06/2018), Block plan (RJC-MZ272-02 dated 20/06/2018) and Elevation plan (GEC-01) NPW 17th June 2022

22/02358/VAR Variation of Condition no.2 (approved plans) pursuant of 18/05455/FUL to allow for amendment to approved elevations NPW 17th June 2022

22/02774/EIA Construction of a new intensive dairy complex, (to include means of access off the adjacent public highway, and wider area surface water drainage and landscaping) (part retrospective) PDE

Appeal

22/03030/ENF Appeal against: Without planning permission:

Operation development on the Land consisting:

- i. Importation of materials and engineering works creating an increase of approx. 4m to ground levels to the north of the milking parlour and 2 livestock buildings which have consent under applications 18/00485/FUL, 18/02895/FUL and 18/05455/FUL and as marked in the approximate area shaded green on the attached plan
- ii. Installation of hardstanding to the side and rear of the milking parlour and two livestock buildings under construction which have consent under applications 18/00485/FUL, 18/02895/FUL and 18/05455/FUL
- iii. Engineering works to dig out and works to install an underground slurry system in connection with the milking parlour and two livestock buildings
- iv. Erection of two livestock buildings not in accordance with approved plans under planning approvals 18/02895/FUL and 18/05455/FUL and as marked in the approximate area shaded orange on the attached plan.
- v. Installation of hardstanding's, walls and gates to form a holding area to the north of the milking parlour and as marked in the approximate area shaded purple on the attached plan.
- vi. Installation of silos attached to the eastern elevation of the milking parlour
- vii. Engineering works to create two balancing ponds on land south of the milking parlour and as marked in the approximate area shaded blue on the attached plan.

INPROG

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RDH2U3TD0HG00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Joyce Barrow

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

3. No more than 525 adult cattle (over 3 weeks of age), and only of the Jersey breed shall be kept on site at any one time.

Reason: In consideration of amenity issues and to prevent adverse impact on designated sites and ancient woodland from ammonia emissions, consistent with MD12 and the NPPF.

4. The lagoon cover as shown on drawing number 72967/RJC/104 'Slurry Lagoon Section' shall be maintained for the lifetime of the development in accordance with manufacturer's instructions and replaced as and when necessary.

Reason: To protect designated ecological sites in accordance with the NPPF, MD12 and CS17.

5. Prior to first use of the development the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 3 external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 3 artificial bird nests suitable for common woodland birds such as tit, robin and wren.

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

Reason: To provide alternative/additional nesting provision to enhance biodiversity in accordance with the NPPF, MD12 and CS17.

6. Within 1 calendar month of the date of this planning approval details with regards to external lighting on the site, a lighting plan shall be submitted to and approved in writing by the

Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK and shall include technical specifications of the lighting hardware as well as projected lux levels through a light contour plan. The development shall be carried out strictly in accordance with the approved details and installed within 2 months of the date of this decision notice.

Reason: To minimise disturbance to wildlife and in with consideration to surrounding amenity and light pollution.

7. Bowsers shall only be filled with slurry between 0700 - 1900 hours and at a rate of no more than 1 bower filled per hour.

Reason: In consideration of surrounding amenity.

8. The development hereby permitted shall be implemented in accordance with the approved plans and description of the development and traffic movements as set out in the Highways Assessment.

Reason: To properly manage the traffic movements to and from the site on the local highway network.

9. Slurry as a result of the development will be used on land forming part of the existing Trefarclawdd Farm in accordance with detail submitted in support of the application on land as outlined in the farm manure management plan submitted in support of the application. In the event of the requirement for a contingency operation, slurry will only be removed off site in sealed trailers to the AD plant at Abertanat Farm as set out in detail submitted in support of the application.

Reason: In the interest of the amenity of the surrounding area.

10. Landscaping of the site will be in accordance with the approved landscaping plans. Tree and hedgerow planting will be carried out in the first planting season following the issuing of this approval notice. A timetable in relation to these works will be submitted to the Local Planning Authority in relation to agreement of the completion of the plantings. Any plantings that fail within the first five years following planting will be replaced with varieties of similar size and species.

Reason: In order to ensure adequate landscaping to mitigate the development into the surrounding landscape.

11. Prior to the development hereby permitted being first brought into use the foul and surface water drainage shall be implemented in accordance with Drawing Nos. 72967/RJC/001,106 and 107.

Reason: To ensure the satisfactory controlled discharge rate of surface water and pollution protection to the existing watercourse.

APPENDIX 2

Llanforda Estate
c/o Rosina Bloor
Roger Parry and Partners
The Estates Office
20 Salop Road
Oswestry
Shropshire
SY11 2NU
Email: rosina@rogerparry.net

Date: 11th February 2022

Our Ref: 22/00169/SCR

Your Ref: Screening Report

Dear M/s Bloor

TOWN AND COUNTRY PLANNING ACT 1990 (Environmental Impact Assessment Regulations) 2017.

PLANNING REFERENCE: 22/00169/SCR

PROPOSAL: Screening request for a covered holding yard and slurry lagoon

LOCATION: Trefarclawdd Farm, Tref-ar-clawdd, Oswestry, Shropshire, SY10 9DE.

Applicant:
Llanforda Estate

Agent: M/s Rosina Bloor, Roger Parry and Partners LLP, The Estates Office, 20 Salop Road Oswestry, SY11 2NU.

EIA Assessment Officer:
Mr P. Mullineux, Principal Planner, Shropshire Council

Decision:
An Environmental Impact Assessment is required.

Background

The Local Planning Authority has received a request for a Screening Opinion in accordance with criteria of the Town and County Planning (Environmental Impact Assessment),

Regulations 2017 in relation to a proposal in accordance with detail submitted by the applicants as part of a Screening Report in support of a proposal for further development in relation to a new dairy complex that has planning permission for two agricultural buildings for the housing of dairy cows along with a milking parlour. The screening request is in relation to further development on site for a covered holding yard and installation of a slurry lagoon.

These structures will be used in conjunction with an expanded dairy enterprise at Llanforda Estate on land at Trefarclawdd Farm to which it is intended to run a herd of 500 milking dairy cows being located on the farm. (The traditional farmstead alongside the site used to be in use in connection to the milking of 150 cows, (not currently in use)).

The site has an extensive planning history in relation to the proposal and consists of the following:

22/00169/SCR - Screening request for a covered holding yard and slurry lagoon. (The subject of this screening opinion request).

20/04866/FUL - Erection of a covered holding yard and all associated works.. Area 875 square metres. Screening Opinion in accordance with EIA Regulations required.

21/00963/VAR to vary cond.no.2 on 18/05455/FUL and 21/00962/VAR to vary cond.no.2 on 18/02895/FUL in order to construct underground slurry stores. (Please note the approvals on site as referred to above in accordance with detail submitted in support of the respectful applications was for a total of 150 cows on sawdust beds

The planning history in connection to the site subject to the screening opinion is as follows:

18/00485/FUL Erection of an agricultural building - Approved 23rd May 2018 – site area 1.20 hectares – Floor area 875 square metres. Detail from the applicants' agent in relation to this application confirmed that it was in relation to 200 head of cattle to include 150 milking cows. The building will be used for livestock storage and will house a new dairy parlour for the unit. (This is presently under construction on site).

18/02895/FUL Erection of an agricultural building – Approved 23rd October 2018 – site area 0.10 hectares. Floor area 2,000 square metres. Detail in support of this application indicated that the building would not result in an increase of cow numbers on the farm. Trefarclawdd is 94 hectares and keeps a herd of 200 cattle to include 150 milking cows.

18/05455/FUL Erection of a livestock building and all associated works – Approved 25th April 2019 – Site area 0.20 hectares. Floor area 1500 square metres. Detail in support of this application indicated that the building would not result in an increase of cow numbers on the farm. Trefarclawdd is 94 hectares and keeps a herd of 200 cattle to include 150 milking cows.

20/00841/FUL Erection of a covered holding yard and all associated works – Site area 875 square metres. Floor area 437.5 square metres. – Withdrawn

Detail in support of the screening request indicates that the proposal is a development that will provide a modern covered holding yard for the dairy cows waiting to go into the parlour and a

slurry lagoon at Trefarclawdd Farm. The slurry lagoon will measure 60m x 25m. The covered holding yard will have mass concrete walls to 6ft with Yorkshire boarding to the eaves. The building materials will be box profile sheet cladding in colour slate blue and concrete panels to the walls and box profile sheet cladding in the colour steel blue to the roof, this will be in keeping with the colour of the existing farm buildings.

The floor area of the holding yard will be 875 square metres to be used for holding the dairy cows before they enter the milking parlour. Dairy cows held within this building will be kept here for a minimal amount of time, therefore minimal solid and slurry manure will be produced. This manure will be applied directly to the land at Trefarclawdd Farm from the building maximising the nutrients within the manure and value to the farm land at Trefarclawdd. The holding yard will hold 500 jersey dairy cows twice a day before they enter the milking parlour.:

The Council considers that this proposal needs to be assessed cumulatively with development as approved on site. This Screening request is clearly in consideration of 500 cows to be retained on site, the planning history in relation to recent development that forms part of the site refers to a lesser number of cows to be retained on site.

The proposals do not fall within the criteria of Schedule 1 development of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).

The proposals it is considered do fall within the criteria of Schedule 2:1(c) - Agriculture and aquaculture – Intensive livestock installations and area of floor space exceeding 500 square metres. The proposal also considered to fall within the criteria of Schedule 2 13(b) – changes and extensions. Therefore, the development as proposed needs to be screened in accordance with EIA Regulations procedure.

The Council, in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) must screen the proposals in order to establish if an Environmental Statement is required in support of the applications. The Council's screening Opinion is based on the relevant EIA Regulations and information submitted in support of the screening request. This Screening Opinion is based on the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 which came into force on 16th May 2017.

Relevant planning history of the site.

The proposed 'holding yard and slurry lagoon are proposed to be constructed in connection to the two agricultural buildings approved by the Local Planning Authority as per the following:

18/00485/FUL Erection of an agricultural building - Approved 23rd May 2018 – site area 1.20 hectares – Floor area 875 square metres. Detail from the applicants' agent in relation to this application confirmed that this was in relation to 200 head of cattle to include 150 milking cows. The building to be used for livestock storage and will house a new dairy parlour for the unit. (This building at the date of this screening opinion is significantly advanced in its construction.

18/02895/FUL Erection of an agricultural building – Approved 23rd October 2018 – site area 0.10 hectares. Floor area 2,000 square metres. Detail in support of this application indicated that the building would not result in an increase of cow numbers on the farm. Trefarclawdd is

94 hectares and keeps a herd of 200 cattle to include 150 milking cows. (Currently under construction).

18/05455/FUL Erection of a livestock building and all associated works – Approved 25th April 2019 – Site area 0.20 hectares. Floor area 1500 square metres. Detail in support of this application indicated that the building would not result in an increase of cow numbers on the farm. Trefarclawdd is 94 hectares and keeps a herd of 200 cattle to include 150 milking cows. (Constructed).

19/03831/FUL Construction of a new access and all associated works – Approved 24th March 2020 (This roadway has been constructed, however not in accordance with detail in support of the application which indicates in the Design and Access Statement that 'the road itself will be low lying, at a lower level than the existing agricultural land and will be finished with agricultural stone finish, and will be unfenced and will have no adverse visual impact'. Roadway 250 metres in length.

Also on site are two recently constructed surface water drainage attenuation ponds which do not have planning permission.

1. **Justification:**

Schedule 1:

Not applicable as the proposed development does not fall within any of the categories listed in this Schedule.

Schedule 2:

Agriculture and aquaculture 1(c) Intensive livestock installations = applicable threshold - the area of new floor space exceeds 500 square metres.

Changes and extensions 13(b) – the development as changed or extended may have significant adverse effects on the environment.

The development falls into the above-mentioned categories owing to the proposed building to house the cows along with the proposed slurry lagoons and their supporting infrastructure exceeding 500 square metres as well as significant changes in relation to intensity on site with regards to cow numbers.

2. **Sensitive Area Test:**

The site itself is not within an environmentally sensitive area, as defined in Part 1, Section 2 (1) of the Regulations.

3. **Threshold and Criteria Test:**

Schedule 2, column 2 - 1(c), the floorspace area exceeds 500 square metres.

The National Planning Practice Guidance (2014) states that only a very small proportion of Schedule 2 development will require an assessment. While it is not possible to formulate

criteria or thresholds which will provide a universal test of whether or not an assessment is required, it is possible to offer a broad indication of the type or scale of development which is likely to require an assessment. It is also possible to provide an indication of the sort of development for which an assessment is unlikely to be necessary. To aid local planning authorities to determine whether a project is likely to have significant environmental effects, a table setting out the indicative thresholds and criteria has been produced. The table also gives an indication of the types of impact that are most likely to be significant for particular types of development.

However, it should not be presumed that developments above the indicative thresholds should always be subject to assessment, or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits.

SCHEDULE 3 Selection criteria for screening Schedule 2 development:

Characteristics of development

1. The characteristics of development must be considered with particular regard, to—
 - (a) the size and design of the whole development;
 - (b) cumulation with other existing development and/or approved development;
 - (c) the use of natural resources; in particular land, soil, water and biodiversity
 - (d) the production of waste;
 - (e) pollution and nuisances;
 - (f) the risk of accidents, and or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge
 - (g) the risks to human health (for example, due to water contamination or air pollution).

Analysis:

The site subject to the screening request forms part of an existing farming enterprise used in connection to dairy farming and in accordance with information submitted in support of the application the proposed unit will house 500 milking cows. (Formally on the farm complex the site forms part of - approx..150 cows were retained and milked).

With consideration to the scale and size of the proposed development as approved and subsequent proposed development and cumulative impacts in relation to surrounding buildings, (wider site currently under construction adjacent to a traditional farmstead), forming part of existing development on site the proposal is considered acceptable in principle subject to careful consideration to the handling of waste and environmental impacts such as in relation to biodiversity, drainage and potential pollution incidents.

There are no known historic listed buildings within close proximity to the site.

The NPPG reminds us that size does not necessarily tip the balance in favour of the need for an EIA. Other factors also have to be considered and weighed in the balance.

There appears to be no other similar developments to that proposed in the immediate local area that will cause concern. Cumulative impacts in relation to other businesses (including

agricultural enterprises) in the surrounding area are considered acceptable, however any Environmental Statement needs to cover this matter. There are cumulative impacts on site as a result of the proposals and further intensification of development on site, these matters must be addressed via the Environmental Statement.

A potential impact is increased vehicle movements as a result of the development on the surrounding public highways. This matter can be assessed as part of a transportation and highways assessment forming part of the Environmental Statement.

Issues in relation to natural resources it is considered require further consideration such as potential impacts as a result of ammonia and odour as a direct consequence of the development, impacts on surrounding ecology and biodiversity. Disposal of waste generated on site including the transportation and handling of slurry as a result of development on site including where it will be spread and at what rate and time of year. Drainage as a result of development on site including waste and surface water run off also require careful and further consideration, best considered by means of an Environmental Statement. (As part of the Environmental Statement a flood risk assessment will be required. (Surface and foul water drainage must be via a sustainable drainage scheme). Potential environmental pollution incidents also need consideration.

Although it is considered adequate legislation exists in relation to potential risk of accidents, this aspect also requires special consideration via an Environmental Statement.

The **Council's Public Protection** advises any Environmental Statement gives particular attention to the following:

Noise

An appropriate noise assessment should be carried out by a suitably qualified person. The assessment should include:

- Assessment of noise from any plant and equipment on site including ventilation fans, pumps for pumping slurry (both fixed plant and vehicle mounted equipment), refrigeration plant etc.
- a BS4142 assessment of the current and predicted noise levels from the site in relation to the background noise.
- The assessment should be relevant to the proposed hours of operation i.e if it is planned to operate certain plant/activities in the night time hours then the background noise levels at this time should be considered.
- If plant are likely to operate simultaneously then they must be assessed accordingly,
- Noise impact of vehicle movements to and from the site should also be considered, particularly during night time hours.
- The cumulative impact of noise associated with the expanding businesses should also be considered as part of the assessment. If noise levels are predicted to have a significant adverse effect then a mitigation scheme should be submitted detailing what mitigation is going to be provided and the noise levels that are predicted to be achieved.

Odour

An appropriate odour assessment should be carried out by a suitably qualified person. The

assessment should consider the moving of manure to a third party for spreading and include a manure management plan.

Location of development

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—
- (a) the existing and approved land use;
 - (b) the relative abundance, availability quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground.
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths,
 - (ii) coastal zones and marine environment,
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) European sites and other areas classified or protected under national legislation.
 - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure.
 - (vii) densely populated areas;
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

Analysis

The site lies in open countryside and forms part of an existing farming business. The site forming a typical agricultural environment. The site does not form part of any designated landscape. The site farmstead does include non-designated heritage assets, and these can be accessed via a heritage impact assessment in support of the Environmental Statement. The surrounding land is subject to agricultural production. The site is not considered to be located in a sensitive area as defined in the EIA Regulations and this includes reference to the ecological environment as much of the approved development on site has been assessed in relation to the respectful applications and ecology is not generally considered retrospectively and impacts on the environment from previously approved applications. However further intensification on site it is considered does have the potential to impact on the wider environment and it is considered this aspect is best considered as part of an Environmental Statement.

The previous applications, which have been approved, may have warranted modelling/consideration of pollutants, however it is considered the current proposals will significantly increase the herd numbers. Information in support of the previous approved agricultural buildings on site indicated they were in relation to a total on site of 150 milking cows to be housed on sawdust beds. Information in support of the latest proposals indicate 500 cows to be retained in the approved buildings along with construction of a slurry lagoon. This is considered a significant agricultural change to the development as approved on site. Whilst it is accepted that the covering yard is going onto existing hardstanding, therefore an ecological assessment in relation to this specifically is not required to support this proposal, there are the wider environmental and cumulative impacts to consider and in particular in relation to ammonia and potential impacts on the surrounding environment.

SCAIL Modelling

This proposal has the potential to impact upon designated sites within the wider environment via production of aerial emissions of ammonia and deposition of acid and nitrogen. Potential impacts upon any European and nationally designated sites within 10km and locally designated sites within 2km need to be assessed.

The Simple Calculations of Atmospheric Impact Limits methodology (at www.scail.ceh.ac.uk/) can be used to model the potential impacts of the proposed development on designated sites.

Whilst it is not considered clear what potential impacts on the above will be, with consideration to the existing operations at the farming enterprise concerned and scale of the increase in cow numbers, it is considered that the above can be assessed as part of an Ecological appraisal as part of any Environmental Statement for the development as proposed.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

The Local Planning Authority will have regard to any representations made by Natural England when making a planning decision. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site.

An assessment of ammonia emissions upon designated nature conservation sites should accompany any subsequent application, and due to the closeness of Wales, the modelling and reporting should follow current published standards and emission factors from Natural Resources Wales. Use of BAT (Best Available Technology) should be used to reduce ammonia emissions and the Manure Management Plan should take account of application to land. It should be noted that the submitted Screening Report does not include information on the need for the slurry lagoon, which must be included in the ES. Slurry lagoons release ammonia emissions and it too must be included in the ammonia modelling.

It must be noted that Section 66 of the Planning (Listed Buildings and Conservation Area) Act requires local authorities to have special regard to the desirability of preserving listed building or their settings or any features of special architectural or historic interest which it possesses. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 places a duty on Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. It has been established that the development as proposed will not have any significant impact on the historic environment, consideration is required to the surrounding historic environment and designated and non-designated heritage assets. as part of any Environmental Statement for the development as proposed.

There are numbers of mature trees around the site as well as intervening hedges and trees that provide screening. The site is capable and considered to be in need of supporting additional planting to further soften the impact of the development in future. It is considered that this matter also needs to be assessed as part of an Environmental Statement in consideration of further intensification on site and cumulative impacts in the form of a landscape and visual

impact assessment as part of an Environmental Statement.

The surrounding land to the site appears to be in the control of the applicants and whilst it is considered surface and foul water disposal can potentially be an issue of concern, it is considered that surface and foul water can be disposed of via a sustainable means of drainage. Detail on this it is considered is best considered as part of an Environmental Statement. There are of course cumulative impacts to also consider on this aspect in relation to other associated buildings and development adjacent to the site. Detail on this matter can be considered as part of a drainage strategy in support of the Environmental Statement.

Whilst it is acknowledged that within the surrounding area there are scattered farmsteads and dwellings, the site is not located within close proximity to a densely populated area and there are no known localised environmental quality failures. Consultation can take place with the Council's Regulatory Services as part of the statutory process in relation to the formal application. However, owing to the significant agricultural changes now proposed on site, consideration to residential amenity issues need to be considered as part of an Environmental Statement. (Residential amenity, and odour, disposal of waste generated on site including manure disposal and its management, drainage and transportation and impacts on surrounding public highways).

Characteristics of the potential impact

3. The likely significant effects of the development on the environment must be considered in relation to criteria set out under paragraphs 1 and 2 above, with regard to the impact of the development on the factors specified in regulation 4(2), taking into account-
- (a) the magnitude and special extent of the impact (for example geographical area and size of the population likely to be affected);
 - (b) the nature of the impact;
 - (c) the transboundary nature of the impact;
 - (d) the intensity and complexity of the impact;
 - (e) the probability of the impact,.
 - (f) the expected onset, duration, frequency and reversibility of the impact,
 - (g) the cumulation of the impact with the impact of other existing and/or approved development.
 - (h) the possibility of effectively reducing the impact.

Analysis

The proposal would result in development that will involve a use considered compatible with the existing on-site farming enterprise. Adequate justification for the proposed further intensification of development on site will be required with consideration to cumulative impacts and landscape and visual impacts. The size of affected population is considered to be relatively low given the predominantly rural nature of the area and the geographical area of impact will be limited. Any issues of concern in relationship to impact it is considered will need to be considered via any necessary mitigation. The impacts in relation to the proposal are specific and potentially could be complex and of high magnitude. It is acknowledged that impacts identified could occur and that the proposal is for a permanent use and form of development, but nevertheless it is the view of the Council that these impacts need to be considered as part of an Environmental Statement all be it impacts with adequate consideration and management

can be properly and adequately mitigated.

Conclusions

The area of the development will exceed the indicative criteria set out in the EIA Regulations Schedule 2 – 1(C) and 13(b) for determining significance. With reference to the guidance set out in the NPPG and noting the considerations set out above in this assessment, it is concluded that an EIA is required, withstanding the importance of giving thorough consideration to landscape, visual and historic character, surface and foul water drainage, odour and noise impacts, potential highway impacts and any potential ecological impacts arising from the proposals.

Any alterations will need to be assessed by the Local Planning Authority to consider whether this screening opinion remains valid for the amended development. In accordance with Part 2 of the EIA Regulation 2017 5(6) any person has the right to seek a screening opinion from the Secretary of State should they disagree with this the Council's screening opinion.

Yours sincerely,

Philip Mullineux

Philip Mullineux

Principal Planning Officer

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Northern Team

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Committee and date
 Northern Planning Committee
 8th November 2022

Development Management Report

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

Summary of Application

Application Number: 22/02517/FUL	Parish:	Bayston Hill
Proposal: Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space		
Site Address: Site Of Oakland County Primary School Glebe Road Bayston Hill Shrewsbury Shropshire		
Applicant: Cornovii Developments Ltd		
Case Officer: John Shaw	email	: john.shaw@shropshire.gov.uk

Grid Ref: 348214 - 308629



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Recommendation:- Delegated approval subject to the signing of a S106 between the developer and Shropshire Council to secure public open space, affordable housing and a payment to local pitch improvement and the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Assistant Director.

REPORT

1.0 THE PROPOSAL

1.1 This application is seeking planning permission for the demolition of an existing school building and the erection of 23 residential dwellings along with formation of a vehicular access from Glebe Road as well as footpaths/cycleways and public open space. The housing mix would be as follows:

- 2 single bedroom bungalows
- 7 semi-detached two-bedroom dwellings including 2 two-bedroom bungalows
- 12 semi-detached three-bedroom dwellings
- 2 four-bedroom dwellings with one being detached

1.2 Two larger areas of Public Open Space would be created with one at the centre of the development and the other to the northern side of the access road; two smaller areas are stated to be additional open space creating a total of 2197sqm.

1.3 A previous application was submitted in May 2019 (19/01873/OUT) which sought Hybrid (full and outline) planning permission for residential development of up to 47 dwellings (outline) and the erection of community building which would have had a multi-functional use including a library to replace the existing Bayston Hill library. This application incorporated the school site subject of the current application together with the southern and western portions of the Glebe field. The application was assessed simultaneously with 3 other smaller proposals that consisted of the replacement of the existing library with 3 homes; the erection of a vicarage, and the redevelopment of an existing community hall on Lythwood Road to provide a new scout hut which would have been lost if the Glebe field site had been developed. All four proposals were heard together at planning committee which resolved to grant permission in August 2019. Application 19/01873/OUT was subject to a S106, however, this legal agreement was not signed and the application was withdrawn earlier this year.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is approximately 1.2 hectares and comprises the former Oakland County Primary School building and associated playing fields accessed from Glebe Road; the school closed approximately 10 years ago. The site is adjacent to Christ Church and York House, a small residential care home, to the west while to the south is the Glebe field an open field typically used by local residents for recreational purposes though owned by the Diocese of Lichfield and therefore not designated as formal public open space.

2.2 To the rear of the school building, which is now in a poor state of repair, is the former playing field which is now overgrown. The site has a total of 35 trees including 5 covered by Tree Preservation Orders. The site boundaries comprises of brick wall, fencing including 2m high heras fencing and overgrown shrubs/hedging and trees

2.3 The site is located within the development boundary of Bayston Hill, a large village located within relative proximity to the County town of Shrewsbury to the north. A footpath currently runs along the southern boundary of the site linking Glebe Road to Lyth Hill Road to the east via the Glebefield.

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 (full details of the responses can be viewed online using the application reference)**

4.1 **- Consultee Comments**

4.1.1 Bayston Hill Parish Council: Neutral

Bayston Hill Parish Council continue to be disappointed that the Community Hub from the original site plans (that included an adjoining plot) are not now included in this smaller development.

Many years of consultation and work towards having this facility have been swept away.

Despite this disappointment, we are pleased to see movement on this long derelict school. To this end we wish to log the following as a representation from BHPC.

Request a condition that:

The Tree Protective Fencing should be installed before any construction work takes place. This includes demolition, site clearance and drainage work.

Where the paving around the roads and houses does encroach slightly into the RPAs of the trees, a 3D cellular confinement and load spreading system, such as "Cellweb", should be used to minimise the impact on these trees.

All retained trees will require protection during the construction work to make sure that they are not damaged. Can TP orders be made on the retained trees to avoid future applications to remove them.

Facilitate the movement of hedgehogs between the gardens of the properties by the inclusion of a gravel board with a hedgehog hole facilitated.

A developer enquiry must be submitted to Severn Trent to ensure there is capacity within the sewers to take the flows from the development before any work on the development site is undertaken.

At least four of the trees on this site have high bat roost potential, these are target noted on the phase 1 diagram in Appendix 1 of the Ecological Report - 4635887. If the development proposals affect these trees, at least three bat emergence surveys will be required.

Could a condition be considered for all properties within the development to be provided

with Electric Vehicle charging points or at least to have a facility provided that an EV charging point can be connected to.

Green space maintenance - we would expect Shropshire Council to upkeep the green space or agree at least a 20-year arrangement with BHPC.

Are the green spaces usable? It is not clear on the plans that the spaces are accessible for use.

Observation:

1. It is noted that the drainage system should be regularly maintained and that there is a detailed schedule of what this requires, can we have confirmation that the Local Authority are prepared to take on this responsibility.

2. In the Drainage Strategy Report - 4635880 the proposed site description is shown as the area for the previous application 19/01873/OUT which was withdrawn, is this correct or should the report be resubmitted?

3. In the same report it mentions that "To ensure that sewer flooding and overland flow does not pose an undue risk to the proposed development, finished floor levels will be set above external ground levels. The general topography in the area slopes to the northeast. Any overland flow would therefore be expected to follow this trend, flowing away from the development." What mitigation is being considered for existing properties that border this development to ensure that they are not adversely harmed by any surface water run off?

4. Sustainability Checklist

- Water conservation - given the drive towards carbon neutral why would the developer not be asked to select Best 80 l/h/d

- Energy Efficiency Generation - as above why not Best

- Energy Demand and Energy Efficiency Statement - using orientation and solar gain to minimise energy demand - this has not been responded to with either a Yes or No

- Energy Demand and Energy Efficiency Statement - No detail for a yes or justification for a No has been provided.

- Electricity Statement - No Justification has been provided for a No response.

- Heat Statement - No Justification has been provided for a No response

- Waste management and Resource Efficiency - Material Resource efficiency section has not been completed, no indication of which requirement has been met'.

Planning Officer comment: Matters relating to trees, ecology, open space, drainage, and sustainability are discussed in the main body of the report below.

4.1.2 West Mercia Constabulary: No objection; informative recommended

4.1.3 SC Conservation: No comment to make

4.1.4 SC Affordable Housing: No Objection

The application site is situated in an area where the prevailing target rate for affordable housing is 15%, therefore for a development comprising 23 dwellings, there would be a requirement for 3.45 affordable dwellings for the development to be planning policy compliant. The planning statement submitted with the application notes the provision of 4 affordable dwellings, which is an over provision. An overprovision of affordable housing is welcomed given the high demand for such housing in Bayston Hill. The affordable provision is noted as being two x 1 bed bungalows and two x bed houses. The proposed

affordable dwellings all exceed Nationally Described Space Standards which whilst not currently a policy requirement are standards that are strongly encouraged.

Paragraph 64 of the National Planning Policy Framework notes that to "support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". Vacant Building Credit (VBC) has been applied for and supported in this instance. As a result of VBC the affordable housing contribution has been recalculated to reflect the removal of existing buildings (VBC) resulting in a revised contribution of 1.8 (one affordable dwelling and a financial contribution for the remaining fraction). Clarity is sought regarding the designated affordable dwelling/s.

4.1.5 SC Trees: No Objection subject to conditions

3rd Response 20/10/22:

'The loss of trees is never desirable but can sometimes be necessary to allow for the provision of a quality site layout. Planning policy allow for losses of such trees where it can be demonstrated that there is a need and the planning gains of the development outweigh the impact of the losses and that the losses are properly compensated for. In this case I would recommend that a high-quality landscaping scheme is prepared that provides for new tree planting. This should consider site and wider canopy cover levels, layout of structural landscape, and take account of factors such as the potential impact of ash dieback on the existing tree stock. The scheme should seek to introduce age and species diversity to the site and wider area.

The proposal must be supported by an assessment of the arboricultural impact and show justification and demonstrate the value of the compensatory planting, along with a planning justification. If it can be shown that the tree loss will not have a substantial impact on wider amenity and can be reasonably compensated for, no objections would be raised to the proposal by the tree team'.

2nd Response 07/09/22:

'Amendments to site layout required to prevent the loss of important trees and additional information on proposed 'no dig' systems'

'In conclusion, the loss of the 3 trees identified for removal would not significantly impact public amenity, however, the potential to lose 3 additional trees would have a much more significant impact. It is therefore recommended that the site layout be revised to ensure that the retained trees can be accommodated into the site layout and will not exert a negative influence over the proposed dwellings and their private amenity spaces. In addition, full details of the 'no dig' systems proposed for use where footpaths and drives encroach into RPAs must be provided and their suitability for use in these situations verified'.

1st response 06/07/22:

'The arboricultural impact assessment provide on the file states that it is superseded but no other assessment is provided. Can it be clarified if another assessment is pending submission?'

4.1.6 SUDS: No Objection subject to a pre-commencement condition which requires a scheme of surface and foul water drainage to be submitted to the LPA.

4.1.7 Regulatory Services: No Objection subject to condition relating to condition that requires the developer to report to the LPA if any contamination is found not previously identified.

- 4.1.8 SC Ecology: No Objection subject to conditions;
'I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.'

The Preliminary Ecological Appraisal carried out by Dr Stefan Bodnar (July 2021) identified four trees with high potential for roosting bats. All trees are to be retained as part of the development and therefore no further survey work is required. Should the trees need to be removed then further activity surveys for bats will need to be conducted. No other protected or notable species was recorded or priority habitat. Suitable habitats for small mammals and invertebrates were recorded on site. Mitigation measures have been recommended to negate any negative impact'

- 4.1.9 SC Highways: No Objection subject to conditions

- 4.1.10 Sport England: Objection

2nd response 02/09/22:

'We accept that there is not an expectation to provide a replacement pitch, rather to use the sum being requested to fund pitch improvement works to build capacity locally. We have suggested that this sum could be spent at Lythwood or at an alternative site as may be agreed, in line with local priorities. In the absence of a costed scheme of works at a particular site, it is not possible to comment further, however we would stand by this sum as being reasonable to mitigate the loss of a 7v7 pitch. That said, Sport England would be open to discussion regarding an alternative sum to establish if agreement could be reached to withdraw our objection.'

The applicant's case is summarised that there is not a need for the contribution, on the basis that the PPOSS does not point to the need to replace the pitch elsewhere. However, they miss the point that the contribution being requested would be invested in improving pitch quality of existing pitches in line with the recommendations of the PPOSS which is needed. We maintain the view that the contribution being sought meets the relevant tests. If the substantive point between us is therefore the scale of the contribution, there may be scope to agree a compromise figure, however, in order to remove our objection a substantial sum will need to be agreed.'

'The applicant contends the site does not constitute playing field. We disagree, in our view it is disused playing field.'

The applicant contends that the contribution being sought does not meet the relevant NPPF tests, we disagree for the reasons explained. Notwithstanding that we stand by the sum requested as being fair and reasonable in scale and kind in this case, there may be scope to negotiate an alternative sum with the Council, in discussion with Sport England?'

1st response 24/06/22:

*Sport England **objects** to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF. Our objection could be removed if a section 106 contribution of £75k were to be agreed to secure investment in playing field provision locally, as mitigation for the loss.*

- 4.1.11 SC Leisure: Financial contribution should be provided.

'The applicant summarises some of the findings of the PPOSS in respect of football provision. They conclude that the PPOSS does not recommend provision of additional 5v5 or 7v7 pitches within the Central area, instead referring to opportunities to unlock

existing pitches for additional use to accommodate future demand. I agree that the PPOSS recommends improving pitch quality and securing community access to school's pitches as a means of addressing identified shortfalls of capacity. However, it is important to note that the PPOSS does recommend that sites are protected from loss. So, whilst I agree that there is not a need to provide a replacement area of playing field to provide a replacement mini pitch in this case, we do consider there is a need to secure a suitable s106 agreement sum to be invested locally to address the identified issues regarding capacity through pitch quality improvements.

In my view the site constitutes disused playing field. As far as I'm aware, there has been no other lawful use that has taken place that has constituted a material change of use of the land. Notwithstanding the overgrown condition of the site, I do not consider that the permitted use as a playing field has changed.

As pointed out in the PPOSS there isn't the need to provide new facilities, but a contribution should be forthcoming coming to support pitch quality improvements in the local area. I would support Sport England's view that a financial contribution of £75k is provided to mitigate for the loss of the playing field. This is in line with Sport England's cost guidance'.

4.1.12 SC Learning & Skills: No Objection

'The development would only create 2 secondary pupils for which there is a need but this can be covered from existing applications and CIL funding'

4.2 - **Public Comments**

One letters of representation was received and which raised an objection to the development for the following reasons:

- 1) The absence of a new community hub as part of the proposed development which is contrary to
 - The Landowners Development Brief dated June 2017
 - The Draft Shropshire Local Plan (2016-2038) which states that "A community hub will be provided' as part of the development of the site.
 - Shrewsbury and Surrounding Area Place Plan published 2019/20 states that a "One Stop Shop' plan for the library and Parish Office to be accommodated by a new Community Hub building on the site of the Oakland Primary School'
 - Previous permissions 19/01873/OUT and 19/01859/OUT. The retention of the existing library would furthermore mean that the 3 dwellings approved under 19/01859/OUT can no longer be brought forward
- 2) Uncertainty on whether CIL monies from the proposed development will be specifically allocated to improving the existing Bayston Hill Library.

5.0 **THE MAIN ISSUES**

- #### 5.1
- Principle of Development
 - Character and Appearance
 - Neighbouring Amenity
 - Trees, Landscaping and Public Open Space
 - Highways and Access
 - Ecology
 - Drainage
 - Other Matters
 - S106

6.0 OFFICER APPRAISAL

Principle of Development

- 6.1 Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages. Policy CS4 also allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen; these hubs and clusters were designated as part of the adoption of the Council's Site Allocations and Management of Development (SAMDev) plan.
- 6.2 Policy CS6 of the Core Strategy seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.
- 6.3 The provision of housing within the urban area of Bayston Hill accords with the adopted SAMDev Plan Policy S16.2(ii), with Core Strategy Policy CS4 and MD1 of the SAMDev identifying Bayston Hill as a Community Hub. S16.2(ii) states that Bayston Hill a housing guideline of around 50-60 dwellings for the period 2006-2026, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. The latest housing supply figures for the hub states that there were 64 housing completions up to 2020/21 with an additional 8 sites benefiting from approval by 31st March 2021.
- 6.4 The proposed redevelopment of the site for 23 dwellings together with the current level of housing delivered in Bayston Hill, would result in the housing guideline figure for Bayston Hill being exceeded. SAMDev Policy MD3 states that the housing guideline is significant policy consideration, and where development would result in this figure being exceeded, decision must have regard to the following:
- The increase in number of dwellings relative to the guideline; and
 - The likelihood of delivery of the outstanding permissions; and
 - The benefits arising from the development; and
 - The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
 - The presumption in favour of sustainable development.
- 6.5 With respect to the above, the proposed development would result in the redevelopment of what partially comprises a brownfield site. Core Strategy policy CS10 prioritises the re-use and development of brownfield sites on suitable sites in sustainable locations, such as Bayston Hill for housing development. Similarly, Section 11 of the NPPF places great importance on planning policies and decisions giving substantial weight to the value of using suitable brownfield land within settlements for homes. Paragraph 38 of the NPPF also states that decision-makers at every level should seek to approve applications for sustainable development where possible, and it is considered that the proposed development would constitute a sustainable and effective re-use of an existing brownfield site within a settlement boundary where the principle of additional residential development is acceptable.
- 6.6 Bayston Hill has been indicated as comprising a highly sustainable settlement in the current local plan which includes a range of local services and facilities with good public transport links connecting the village to Shrewsbury and Church Stretton. Bus stops are

either side of the development site within a 1–3 minute walk. Bayston Hill Library is approximately 2 minutes from the site while a local delicatessen and public houses are all within a short walking distance. The Glebefield would be directly adjacent to the south and easily accessible. The site is also located within relative proximity to Meole Brace Retail Park, with a sizeable range of shops (Sainsbury's, Marks and Spencer, Next, TK Maxx, Sports Direct, Home Bargains etc.) that also serves a large catchment area.

- 6.7 It is therefore considered that the proposals would constitute a highly sustainable form of development, which the NPPF and local planning policy applies significant weight to with respect to planning decisions.
- 6.8 Such development would also allow for a significant proportion of affordable housing within the site, which SAMDev Policy 16.2(ii) states the Parish Council have identified as a high priority within the village. MD3 following on from the NPPF, emphasises that a suitable mix of housing must be provided which meets the needs of different groups in the community and this in turn builds on Core Strategy Policy CS11. CS11 supports development which help to balance the size, type and tenure of the local housing stock and sets targets for affordable housing provision. The application site is situated in an area where the prevailing target rate for affordable housing is 15%, therefore for a development comprising 23 dwellings, there would be a requirement for 3.45 affordable dwellings for the development to be planning policy compliant. However, paragraph 64 of the National Planning Policy Framework notes that to "*support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount*". Vacant Building Credit (VBC) has been applied for and supported in this instance. As a result of VBC, the affordable housing contribution has been recalculated to reflect the removal of existing buildings (VBC) resulting in a revised contribution of 1.8 (one affordable dwelling and a financial contribution for the remaining fraction). The proposal surpasses this requirement with a provision of 2 affordable bungalow dwellings built on site to be secured by a S106 agreement. In addition, there would be a further 2 affordable two bed homes on plots 4 and 9 that would be funded by Homes England. The additional 2 homes would push the overall provision further above the policy compliant figure of 1.8 and therefore complies with the Homes England approach of additionality. The total number of affordable homes on the site would therefore be 4, some 122% above the 1.8 policy compliant figure.
- 6.9 The provision of affordable housing within the locality is considered to weigh heavily in favour of the scheme with respect to constituting a benefit arising from the development in accordance with SAMDev Policy MD3.
- 6.10 The proposal would have a mix of 2x single bedroom bungalows, 2x two-bedroom bungalows, 5x semi-detached two-bedroom dwellings, 12x semi-detached three-bedroom dwellings and 2x four-bedroom dwellings. Such a housing mix as proposed would be considered acceptable, comprising a good range of house types with an emphasis placed on smaller and medium sized dwellings where there is a high demand in the local area and across the county. A total of 4 bungalows is welcomed; this type of dwelling is acknowledged in the council's Housing Market Assessment as likely to increase in demand with the scale of Shropshire's ageing population and with the focus on profitability and higher density housing, construction of new-build bungalows are less frequent.
- 6.11 It was accepted by the LPA following planning committee as part of 19/01873/OUT that this site and Glebefield to the south could deliver 47 homes which would have been a

greater overprovision of homes in Bayston Hill than the 23 now proposed. It is acknowledged that part of the justification of that development was the provision of a new community hub on site, however it should be reiterated that the application site subject of this report does not include the Glebefield which is not a public playing field and could still be developed to incorporate a community hub. The provision of a community hub at the wider site is stated as part of policy S16.2(i) as allocated site BAY050 in the draft Local Plan and it is not considered that the current proposal would prevent the aims of that policy from being implemented. In determining this application, it should be noted that limited weight is to be given to the draft Local Plan which is at examination stage as there are outstanding objections to draft policy S16.2 received during the Regulation 19: Pre-submission Consultation. Nonetheless, it is not considered that the proposed residential development for 23 dwellings would not conflict with the draft Local Plan.

- 6.12 The wider redevelopment of the site would include the creation of a defined area of public open space for local residents that makes efficient use of the playing fields associated with the former primary school that are not currently accessible to the public. This further weighs in favour of the proposed development by way of comprising a public benefit to local residents.
- 6.13 To summarise, it is considered that the limited harm attributed to exceeding the guideline figure for dwellings within Bayston Hill would be outweighed by the redevelopment of the brownfield site for residential purposes. The development would be a sustainable form of development which in economic terms would bring benefits during the construction and in social terms would bolster the local housing stock, generate an overprovision of much needed affordable housing for the village and create public open space for local residents on a site that is not currently accessible. The environmental strand of sustainable development will be considered in the remainder of the report via a review of the siting, scale, design and landscape impacts and matters relating to impacts on residential amenity, highway safety, local ecology, and local flood risk.

Layout, scale, design and landscaping of development

- 6.14 Core Strategy policy CS6 seeks to ensure that development respects and enhances local distinctiveness and amongst other factors, is appropriate in scale, density, pattern and design, taking into account local context and character and those features which contribute to local character. This policy also seeks to maintain and improve the health and wellbeing of communities including safeguarding residential and local amenity.
- 6.15 Policy MD2 'Sustainable Design' of the SAMDev additionally seeks to achieve local aspirations for design where possible. Policy CS17 recognises Shropshire's environmental assets, and that new development should contribute towards local distinctiveness including landscape and biodiversity. Both policies require high-quality landscaping to form an important part of development schemes with the new planting of trees, woodland and hedges required to be incorporated to reinforce existing landscape features.
- 6.16 Policy MD12 'The Natural Environment' also discourages proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on the environment including upon visual amenity and landscape character and local distinctiveness unless:
- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
 - b) the social or economic benefits of the proposal outweigh the harm to the asset.

- 6.17 Section 12 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.18 The proposed development would have a strong building line that would avoid a disjointed visual appearance. The layout and design make strong use of retained trees and new tree planting throughout the development both to front gardens, and throughout the public open spaces. The proposed elevations deliver a degree of variety and visual interest. The dwellings would appear balanced including the arrangement of their fenestration and would be well-proportioned within their respective plots. The use of gables, porches, bay windows and varying roof lines would break up the bulk of the development. Subject to conditions including the submission of material details prior to works above damp-proof course level, the dwellings would be of an acceptable design in accordance with relevant policies referenced above.
- 6.19 Most of the parking would be to the side of the homes and where this has not been achieved then soft landscaping would be used to soften the risk of frontages being dominated by parked cars. Furthermore, lawned front gardens would be arranged to be set between those plots where parking to the front would feature ensuring that there would be no continuous bank of parked cars within the streetscene; a number of properties would have car ports which would provide further screening of vehicles. Open frontages would be a chief characteristic of the streetscene; hard boundary treatments would be limited to the side and rear of dwellings. Where proposed fencing would have a degree of visibility within the streetscene, for example to the side of plot 10, here the fence would be set back from the highway with hedging and tree planting set ahead to provide screening. To retain the overall open character, permitted development rights would be removed relating to the formation of hardstanding and the erection of fences, wall and other enclosures.
- 6.20 No objection has been raised on arboricultural grounds. The proposal would require the removal of a total of 5 trees, with one being category B, 3 category C and 1 category U. One of the category C trees is a TPO protected tree (T28); this tree has been downgraded due to the existence of a structural defect compromising the life expectancy of the tree and the council's Tree Officer agrees that it is not a high value tree. Though the loss of the category B tree (T27) and T28 is regrettable, the removal of these two trees would significantly improve residential amenity for plots 13 – 15 which would be much better lit and would meet the minimum standards set out in BRE 209 Site Planning for Sunlight and Daylight. It is considered that the retention of these two trees would result in an unacceptable living environment for future occupiers of plots 13-15 that would not comply with CS6. An alternative approach of removing the dwellings worst affected by the shading would result in a reduction in the number of affordable homes at the site including high demand bungalows.
- 6.21 In reviewing alternatives, the planning officer agrees with the Tree Officer that a robust pre-commencement condition which allows for the removal of T27 and T28 but brings forward a high-quality, compensatory landscaping scheme would be the optimal approach. The trees at centre of the site where one of the two public open spaces would be situated, primarily consist of Ash trees which are susceptible to Ash dieback; the loss of these trees over the lifetime of the development would cause visual harm. Therefore, a landscaping scheme which considers site and wider canopy cover levels, layout of structural landscape, and seek to introduce age and species diversity to the site and

wider area would on balance represent a long-term gain in arboricultural and visual amenity terms notwithstanding the loss of T27 and T28.

- 6.22 The general density proposed of 19 dph is consistent with modern residential development within the locality. It is also noted that different house types have been evenly spread throughout the site and that affordable housing would be effectively integrated within the development. The development would have no undue wider landscape impact due to the modest heights of the dwellings and the site's strong boundary edges. The retention of most of these features combined with a condition to secure soft landscaping would mean the new homes would not appear prominent within the wider landscape.

Residential Amenity

- 6.23 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development '*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*'. Policy MD3 states that new development should be a good neighbour that does not unacceptably impact on existing residential amenity.
- 6.24 The bulk of the properties would be sited to the southern side of the access road and would back onto Glebefield and onto the grounds of Christ Church and therefore enjoy significant separation distance from the nearest neighbouring dwellings.
- 6.25 To the opposite side of the access road, the side of Plot 11 would be 18.7m from no.64 Lyth Hill to the north-east, however the windows at 1st floor to the side elevation of this plot 11 would only serve bathrooms and would be conditioned to be obscured glazed. All other properties to the north-east and east of the site that would back onto existing properties would benefit from sufficient separation distances of approximately 28.95 to 33.39sqm which would ensure no undue overlooking, overbearing or overshadowing impacts.
- 6.26 Within the site itself, there would be sufficient separation distance between the new dwellings to prevent undue harm to the amenity of future occupiers. The dwellings would all meet national space standards, have acceptable rear garden areas suitable for their respective plot and dwellings sizes and have easy access to the public open spaces area referenced above. As noted above, the proposed removal of trees T27 and T28 would ensure the rear of plots 13-15 and their gardens would receive acceptable levels of sunlight throughout the year.

Public Open Space

- 6.27 MD2 requires 30sqm of open space per person based on a standard of one person per bedroom. The proposed development would have a total of 60 bedrooms and this would necessitate a total open space requirement of 1800sqm.
- 6.28 The proposed public open space, which would meet the required scale for the size of the development in accordance with MD2, would be consist of two large useable spaces at the heart of the development which would be accessible and benefit from overlooking from habitable rooms of nearby dwellings. The site would also be accessible for existing residents in the area both via the proposed Glebe Road access and via the existing footpath to the east which passes between nos. 70 and 72 Lyth Hill Road and would connect the site to Lyth Hill Road. The open space would be managed in perpetuity

accordance with the provisions of a S106 agreement.

Highways and Access

- 6.29 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.
- 6.30 No objections have been raised from the Highways Authority with respect to the proposed access onto Glebe Road. The additional traffic generation onto Glebe Road and local highway network would not be considered to have a severe impact on its continued safe operation. Within the site, there would be acceptable levels of turning and parking areas. The development would be in acceptable in highways terms subject to the following conditions to secure:
- the implementation of the proposed visibility splays before occupation,
 - the implementation of the parking and turning areas as shown on submitted plans,
 - the submission of full construction details and
 - the submission a Construction Traffic Management Plan prior to commencement of work.

Ecology

- 6.31 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environmental and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.32 A Preliminary Ecological Appraisal carried out by Dr Stefan Bodnar (July 2021) identified four trees with high potential for roosting bats. It has now been confirmed that 3 of these trees will be retained while T28 would be removed. To ensure the bat roosts are not harmed by the removal of this tree, an endoscopic survey has been commissioned by the developer. If no evidence of bats using this tree is found, then the removal of the tree could be suitably conditioned, and the LPA would recommend that any trees are soft felled over winter to negate any potential negative impact to roosting bats. If evidence is found of roosting bats then further activity surveys during the bat surveying season would have to be carried out to determine if a licence is required from Natural England prior to determination.
- 6.33 No other protected or notable species was recorded or priority habitat. Suitable habitats for small mammals and invertebrates were recorded on site and suitable mitigation measures have been recommended to negate any negative impact. The contents of the Preliminary Ecological Appraisal have been confirmed by the Council's Ecologist, with several conditions recommended. Ultimately, subject to no bats being found as part of the endoscopic survey, the proposal would not result in harm or loss of habitat to any protected species and with adequate landscaping and mitigation measures to be

secured by conditions, the proposal would deliver biodiversity net gains in accordance with the NPPF and CS17.

Drainage

- 6.34 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.35 Surface water attenuation will be provided on site in the form of Sustainable Drainage Systems (SuDS). Flows above the existing discharge rates will be attenuated on site for all return periods up to the 1 in 100 year plus climate change event. The feasibility and suitability of each SuDS solution will need to be fully appraised at the detailed design stage of the development and this can be controlled by condition. The foul drainage strategy for the new development will be in the form of a gravity system with an off-site connection into the existing Severn Trent network and connecting into the foul sewer that is to be diverted on the site. The proposal has been assessed by the Council's Drainage Engineer who has not raised any objection and deems that a workable drainage strategy has been identified and therefore additional details can be secured by a pre-commencement condition. In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and Policy CS18 of the Core Strategy.
- 6.36

Other Matters

- 6.37 Sport England have commented on the proposed development and state that, based on their assessment, a previously used youth football/sports pitch was present within the site of the former Oaklands County Primary School, and this would subsequently be lost with no replacement facilities to be provided as part of the scheme. In the absence of replacement facilities, and as the Council's latest Playing Pitch and Outdoor Sports Assessment & Strategy (PPOSS) recommends that sites are protected from loss and aims to improve pitch quality and secure community access to schools pitches as a means of addressing identified shortfalls of capacity, both Sport England and the council's Leisure Officer agree there is a need to secure a suitable s106 agreement sum to be invested locally to address the identified issues regarding capacity through pitch quality improvements. The figure both parties have requested is £75,000 though they have indicated they would be willing to agree to a lower amount. The developer has during the application accepted the need to make a financial contribution though would wish to pay a figure lower than £75,000. As part of negotiating the S106 agreement, further discussions will be undertaken to arrive a final figure. Subject to this agreement, the money that would be paid by the developer to the local pitch improvement would be considered a further social benefit which would weigh in favour of the proposal.
- 6.38 The developer has written a supplementary report in support of the Sustainability Checklist that was initially submitted as part of the application. To comply with policy CS6, the Sustainability Checklist requires development to at least meet the minimum standards. It is considered that this development meets this requirement and is therefore compliant with CS6 regarding the need to ensure that sustainable design and construction principles are incorporated within new development, and that resource and energy efficiency and renewable energy generation are adequately addressed and improved where possible. The development furthermore surpasses minimum standards in certain areas, with a proposed sanitaryware specification of less than 105 Litres/per person/per proposed which is an improvement over the Building Regulations requirement of 110 Litres/per person/per day whilst the scheme proposes to adopt 1.7

kWp of solar photovoltaics to each plot. The proposed fabric specifications of the dwelling closely mimics the forthcoming Future Homes Standard (FHS) and that is demonstrated in the reduction in CO2 emissions. The supplementary report confirms that the homes are expected to achieve between a 45% and 50% reduction in CO2 emissions measured against the governments Standard Assessment Procedure (SAP) 2009. Finally, each property would have an electric vehicle charging point.

Section 106

6.39 Prior to the granting of any permission and following on from the above, a S106 legal agreement would be signed between the developer and Shropshire Council to secure public open space, affordable housing and a payment to facilitate improvement for a local sport pitch.

7.0 CONCLUSION

7.1 The proposed development would be considered acceptable in principle and would constitute a sustainable form of development and enable the reuse of a brownfield site. The development would bolster the local housing stock, generate an overprovision of much needed affordable housing for the village and create accessible public open space for residents. The layout is well-designed with open frontages and parking that would be well integrated and not predominant while the design of the dwellings provides visual interest. Most existing trees would be retained and submitted landscaping plans indicate significant additional planting throughout, however such landscaping would be conditioned to ensure a high-quality scheme is secured and retained.

7.2 The development would be acceptable in terms of impacts on residential amenity, highway safety, drainage, and sustainability; open space provision would be policy compliant. Subject to no bats being found as part of the endscoping survey, the proposal would not result in harm or loss of habitat to any protected species and with adequate landscaping and mitigation measures to be secured by conditions, the proposal would deliver biodiversity net gains in accordance with the NPPF and CS17.

7.3 The application is therefore recommended for delegated approval subject to the signing of a S106 between the developer and Shropshire Council to secure public open space, affordable housing and a payment to local pitch improvement and the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Assistant Director.

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:

RELEVANT PLANNING HISTORY:

PREAPP/10/00160 Temporary staff car park for the provision of 4/5 spaces. PREUDV 2nd February 2010

PREAPP/10/00593 Extension to School REC

19/01873/OUT Hybrid (full and outline) application for residential development (outline) and the erection of community building with car parking (full) WDN 15th February 2022

20/02300/TPO To carry out a Light crown lift to 1no London Plane (T1) works required to ensure height clearance for pedestrians and

to crown reduce and cut back boughs overhanging adjacent property 66a Lyth Hill Road, Bayston Hill and to balance tree canopy 1no Sycamore (T4) protected by Shropshire Council (Land at former Oak Meadow Primary School, Glebe Road, Bayston Hill) TPO 2013 GRANT 31st July 2020

PREAPP/21/00536 Demolition of existing buildings and erection of 23 residential dwellings, formation of vehicular access from Glebe Road, footpaths/cycleways and public open space PREAMD 17th November 2021

22/02517/FUL Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space PDE

SC/CC2006/0025 Erection of 2.3, 2.4 and 3 metre high dark green steel mesh security fencing PERMIT 13th November 2006

SC/CC2003/0019 Construction of a single-storey front extension to provide a reception office, entrance lobby and access ramp. PERMIT 12th June 2003

SC/CC2003/0010 Erection of 2.4 metre high dark green steel palisade security fence PERMIT 29th April 2003

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RCJP68TD07U00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member Cllr Ted Clarke Cllr Tony Parsons Cllr Rosemary Dartnall
Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

3. Notwithstanding the details shown on the approved drawings, a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces (all facing materials for the buildings also including roofs and window and doors) including a sample panel showing the mortar mix to be used for the external walls, have been submitted to and approved in writing by the Local Planning Authority prior to development above damp proof course level. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area

4. No dwellings shall be occupied before all fencing has been erected in accordance with the approved plan 21016/4F. Fences shall thereafter be retained in accordance with the approved details at all times.

Reason: To ensure a visually satisfactory form of development and to protect the amenities of occupiers of neighbouring properties

5. Notwithstanding the submitted landscaping plan ADL364 REV B and Planting Schedule received by the LPA on 27/09/22, no works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a tree and hedge planting scheme, prepared in accordance with of 'BS 8545: 2014 Trees: from nursery to independence in the landscape -

Recommendations', has been submitted and approved in writing by the Local Planning Authority. The tree and hedge planting scheme must make provision to sustainably plant landscape trees that will compensate for the loss of trees arising from the development permitted and must include details about:

Policy and Strategy - setting out planting objectives and desired outcomes for the scheme
Site Evaluation and Constraints Assessment

Any retained planting

Species Selection - taking into account the above

Nursery Production and Procurement - type of planting stock to be used given the objectives and site constraints

Handling and Storage

Planting - including site preparation

Post Planting Management and maintenance

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrated the development into the local environment.

6. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan and Arboricultural Method Statement have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (Or any order revoking and reenacting that order with or without modification) the 1st floor windows to be formed in the side elevation (north east elevation) of plot 11, shall only be glazed or re-glazed with obscure glass and any opening part of any window shall be at least 1.7 m above the floor of any room in which the window is installed, unless otherwise agreed in writing by the local planning authority. No new window openings to the first floor of this elevation shall be created.

Reason: In the interests of the amenities of occupiers of adjacent properties.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken (except as authorised by this permission or allowed by any condition attached thereto) without express planning permission first being obtained from the Local Planning Authority:-

- the formation of hard surfaces within the curtilage of any dwellinghouses hereby permitted
- the erection of fences, gates or walls or other means of enclosure

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and appearance of the existing building and the visual amenities of the area

9. In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other off-site receptors.

10. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding amphibians, bats, birds, badgers, and invertebrates as provided in Sections 4.3 and 4.4 of the Preliminary Ecological Appraisal (Dr Stefan Bodnar, July 2021).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

11. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

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

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

12. Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- A minimum of 12 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 12 artificial nests of either integrated brick design or external box design, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development.

- A minimum of 4 insect houses per the specifications of Appendix 6 of the Preliminary Ecological Appraisal (Dr Stefan Bodnar, July 2021).

- A minimum of 1 artificial Hedgehog box is to be provided, suitable for breeding and/or hibernating hedgehogs (Schwegler Hedgehog Dome, Hogitat Hedgehog Home).

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

Reason: To ensure the provision of roosting opportunities for bats and nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

13. One electric vehicle recharging point per dwelling as shown on approved plan 21016/4F shall be provided prior to occupation and shall not be removed or altered in any way and shall be kept available for such use by residents at all times.

Reason: To improve air quality and to help mitigate the impacts of climate change by ensuring a greater level of sustainability for the development.

14. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

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

15. Before the development is brought into use, visibility splays of a depth of 2.4 metres and a length of 43 metres from the centre point of the junction of the access road with the public highway, as shown on 'General Arrangement and Visibility Splays, Drawing No. VN22S201-D100', shall be provided and thereafter be kept clear of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

16. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been properly laid out, hard surfaced and drained. These spaces shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

17. Notwithstanding any of the submitted details, the development shall not take place until full construction detail of any new roads, footways, retaining features, accesses, street lighting, transition features, full block paved surfacing of shared space areas together with details of disposal of surface water to a suitable outfall have been submitted to, and approved in writing by the Local Planning Authority. The submitted details shall also include the colour, form and texture of all hard ground-surfacing materials. The agreed details shall be fully implemented before the use hereby approved is commenced or the buildings occupied.

Reason: To ensure the development is completed to the required standards for future adoption and to ensure a satisfactory form of development in the interest of the visual amenity of the area.

18. Works shall not take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for:

Parking of vehicles of site personnel, operatives and visitors

Loading and unloading of plant and materials

Storage of plant and materials used in constructing the development

Each of the facilities shall be maintained throughout the course of construction free from any impediment to its designated use.

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

19. Prior to occupation of the 23rd dwelling, the pedestrian/cycle link to the existing footpath that would connect the development to Lyth Hill Road shall be implemented and retained thereafter. This pedestrian/cycle link shall be kept free of obstruction at all times.

Reason: To ensure residents of the development have easy access to the existing footpath in the interests of sustainable development.

20. Notwithstanding the approved elevational plans, details of the locations of any external utility meter boxes to be installed shall be submitted and approved in writing by the Local Planning Authority before their installation on any of the dwellings hereby approved.

Reason: To prevent visual clutter, in the interests of the appearance of the development and the surrounding area.

21. No construction works shall take place before 7am on weekdays and 8am on Saturdays nor after 7pm on weekdays and 6pm on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

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

Informatives

1. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

2. Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

3. The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at www.securedbydesign.com

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

The developer should aim to achieve the Police Crime Prevention initiative award of Secured By Design. Secured By Design is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The opportunity for burglary offences to occur can be reduced by up to 87% if Secured By Design is achieved. There is a clear opportunity within this development to achieve the Secured by Design award. By doing so it can also address the requirements of the new Approved Document Q.

Approved Document Q applies to all new dwellings, including those resulting from a change in use of an existing building, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies to builds within Conservation Areas. Approved

Document Q creates security requirements in relation to doors at the entrance to a building, including garage doors where there is a connecting inner door leading directly into the dwelling. Also included are ground floor, basement and other easily accessible windows; and any easily accessible roof-lights. The requirement is that the product must be shown to have been manufactured to a design that has been tested to an acceptable security standard.

In recent times there has been a tendency to install thumb turn locks on front doors. This type of locking device should only be considered when the lock cannot be easily seen from the outside, any glazed panels are fitted with laminate glass to standard PAS24:2016 / STS 201 and a deflector is fitted to the inside of any letter box opening. Thumb turn locks should never be considered for rear doors if they are half glazed and the internal thumb turn can be easily seen from the outside. This will increase the potential for burglary and other offences to occur.

The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at www.securedbydesign.com.

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

4. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, pedestrian crossings, and all trafficked areas of highway (i.e., footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or

- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

Extraordinary maintenance

The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).

Landscaping

Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure (>3 m), appropriate root protection systems will need to be submitted and approved prior to construction. In order to mitigate against any future root damage to roads, footways and the utility services beneath. Also, any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements, in perpetuity. In order to maintain any required visibility splays and to keep leaf litter clear of footways and drains, etc., in the interests of highway safety.

5. 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. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.

6. Bats and trees informative

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition).

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Nesting birds informative

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and demolition work in buildings (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

If during construction birds gain access to any of the building and begin nesting, work must cease until the young birds have fledged.

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Committee and date
 North Planning Committee
 8th November 2022

Development Management Report

Responsible Officer: Tracy Darke
 Email: tracy.darke@shropshire.gov.uk Tel: (01743) 254915 Fax: (01743) 252619

Summary of Application

Application Number: 22/03790/ADV	Parish:	Market Drayton Town
Proposal: Erect and display three sponsorship signs placed on the A53/Shrewsbury Road roundabout		
Site Address: Roundabout Junction A53/Shrewsbury, Market Drayton, Shropshire		
Applicant: CP Media on behalf of Shropshire Council		
Case Officer: Richard Denison	Email: planning.northern@shropshire.gov.uk	

Grid Ref: 365024 - 333373



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

REPORT

1.0 THE PROPOSAL

1.1 This is an advertisement application for the erection of three identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.55 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

2.0 SITE LOCATION/DESCRIPTION

2.1 The existing large roundabout is located at the start of the Market Drayton bypass to the west of the town. The roundabout is heavily landscaped with a mixture of overgrown shrubs and trees with a brick edge surround. Illuminated black and white chevron signs and street lighting surround the roundabout. The roundabout is the main approach into Market Drayton from the west and is situated adjacent to the Muller factory to the south and McDonalds fast food outlet to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shropshire Council, Highways** - Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. It is recommended that the applicant contacts Shropshire Council's Streetworks team to ensure that the necessary permission to work on the highway is sought. It is also recommended that the following condition is placed upon any permission granted

Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.

Reason: In the interest of highway safety and visual amenity.

4.1.2 **Morton Say Parish Council** - No formal comments have been received.

4.1.3 **Market Drayton Town Council** wish to support this planning application provided it does not interfere with the highway.

4.2 **Public Comments**

4.2.1 No public representations have been received.

5.0 **THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity

6.0 **OFFICER APPRAISAL**

6.1 **Background & Policy**

6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.

6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.1.3 This application has not been subject to any formal pre-application enquiry.

6.2 **Impact on Public Safety**

6.2.1 The existing roundabout falls within Adderley Parish Council, although no formal comments have been received. Comments have been received from Market Drayton Town Council who supports the proposed application subject that it does not interfere with the highway.

6.2.2 The proposed signs will be set back from the edge of the roundabout and clear views will be available as traffic enters onto the roundabout. The signs will be simple and only include the name of the company advertising so that drivers can quickly recognise the company sign and are not distracted by lots of text/images. The Council Highways Manager is satisfied that the proposed signs will not be a

significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users.

6.3 Impact on Visual Amenity

6.3.1 The proposed signs are located on a roundabout which is adjacent to a built-up environment and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.55 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

7.0 CONCLUSION

7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

7.2 In arriving at this decision, the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework.

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 - written representations, a hearing or inquiry.
- The decision is 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 a) promptly and b) in any event not later than 6 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 give 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 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application, the Local Planning Authority gave consideration to the following policies:

National Planning Policy Framework (July 2021):

Shropshire Council Core Strategy (February 2011):

CS6 : Sustainable Design and Development Principles

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

10.2 Relevant Planning History

There is no relevant planning history.

11.0 ADDITIONAL INFORMATION

List of Background Papers - 22/03790/ADV

Cabinet Member (Portfolio Holder) - Cllr Richard Marshall

Local Member - Cllr Paul Wynn

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicleReason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. 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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be approved in writing by the Local Planning Authority and the sponsorship signs installed in accordance with the agreement. Prior to the installation of the sponsorship signs any existing signs on the roundabout shall be permanently removed.
Reason: In the interest of highway safety and visual amenity.

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Committee and date
 North Planning Committee
 8th November 2022

Development Management Report

Responsible Officer: Tracy Darke

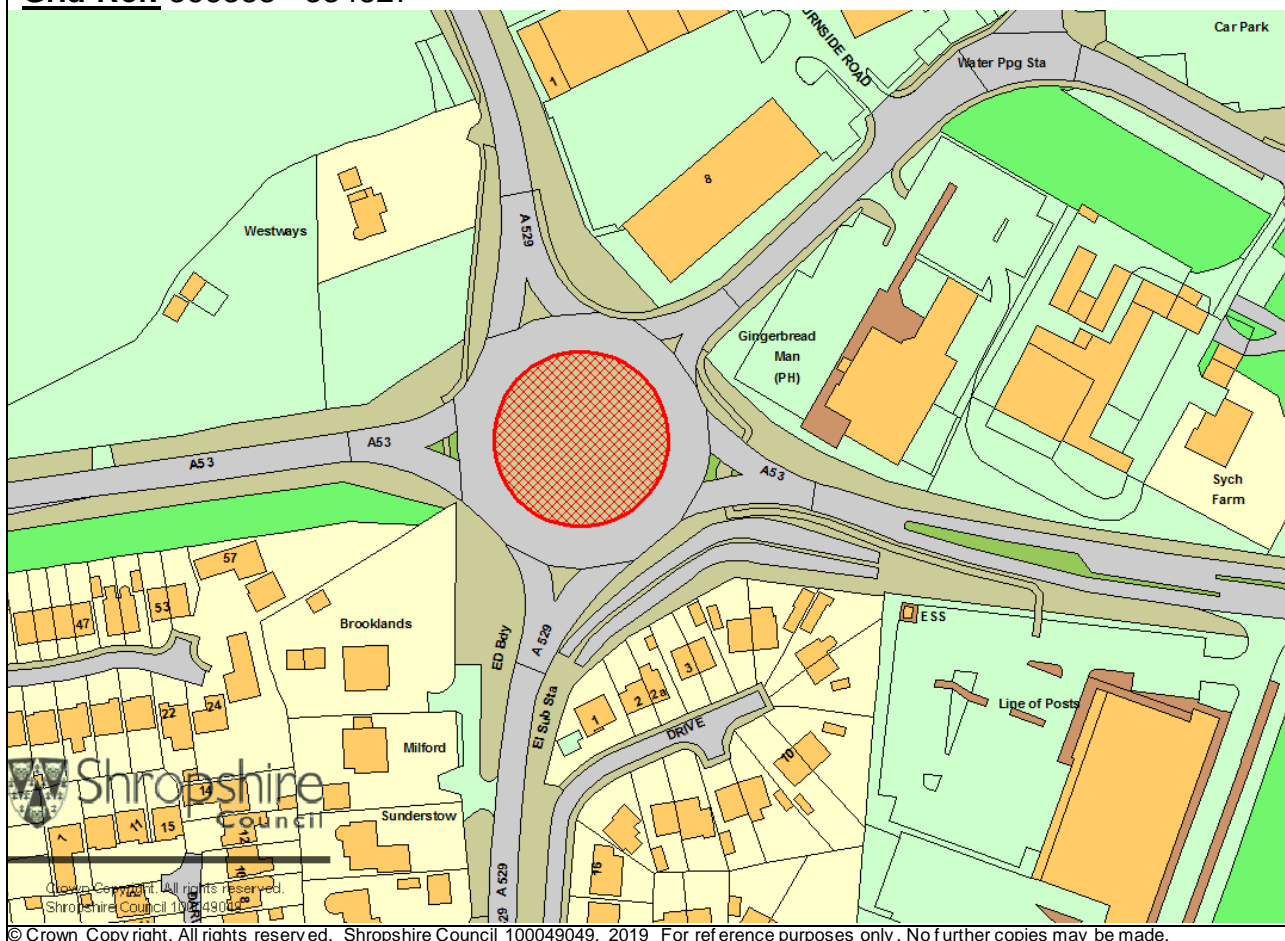
Email: tracy.darke@shropshire.gov.uk

Tel: (01743) 254915 Fax: (01743) 252619

Summary of Application

Application Number: 22/03791/ADV	Parish:	Adderley
Proposal: Erect and display five sponsorship signs on the A53/A529 Adderley Road roundabout		
Site Address: Roundabout Junction A53/A529 Adderley Road, Market Drayton, Shropshire		
Applicant: CP Media on behalf of Shropshire Council		
Case Officer: Richard Denison	Email: planning.northern@shropshire.gov.uk	

Grid Ref: 366383 - 334827



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

REPORT

1.0 THE PROPOSAL

1.1 This is an advertisement application for the erection of five identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.55 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period. Any existing signs will be removed.

2.0 SITE LOCATION/DESCRIPTION

2.1 The existing large roundabout is located on the A53 bypass to the north of Market Drayton with the approach road from Adderley. The roundabout is grassed with a two small rises in the middle with 10 trees, together with black and white chevron signs and blue directional highway signs. There are four existing Shropshire Council sponsorship advertisement signs on the roundabout which were installed without advertisement consent. The roundabout is on one of the main approaches into Market Drayton and adjacent to a business park, livestock market and the Gingerbread public house.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shropshire Council, Highways** - Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. It is recommended that the applicant contacts Shropshire Councils Streetworks team to ensure that the necessary permission to work on the highway is sought. It is also recommended that the following condition is placed upon any permission granted

Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.

Reason: In the interest of highway safety and visual amenity.

4.1.2 **Adderley Parish Council** would like to object to this planning application as it has concerns regarding drivers being distracted as they travel around this roundabout.

4.1.3 **Market Drayton Town Council** wish to support this planning application provided it does not interfere with the highway.

4.2 **Public Comments**

4.2.1 No public representations have been received.

5.0 **THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity
- Other Matters

6.0 **OFFICER APPRAISAL**

6.1 **Background & Policy**

6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.

6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.1.3 This application has not been subject to any formal pre-application enquiry.

6.2 **Impact on Public Safety**

6.2.1 The existing roundabout is split between Adderley Parish Council the northern half and Market Drayton Town Council the southern half. Market Drayton Town Council supports the proposed application subject that it does not interfere with the highway, whilst Adderley Parish Council object as it has concerns regarding drivers being distracted as they travel around this roundabout.

6.2.2 The proposed signs will be set back from the edge of the roundabout and clear views will be available as traffic enters onto the roundabout. The signs will be simple and only include the name of the company advertising so that drivers can quickly recognise the company sign and are not distracted by lots of text/images. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users. Existing sponsorship signs have been installed on this roundabout for more than 10 years and officers have not received any complaints regarding highway safety concerns.

6.3 Impact on Visual Amenity

6.3.1 The proposed signs are located on a roundabout which is adjacent to a built-up environment and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.55 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

6.4 Other Matters

6.4.1 Officers are aware that this roundabout and the surrounding grass verges have several existing unauthorised temporary style signs and banners. The Council Business Development Manager is aware of these signs and is liaising with Highways to have these removed.

7.0 CONCLUSION

7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

7.2 In arriving at this decision, the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework.

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 - written representations, a hearing or inquiry.

- The decision is 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 a) promptly and b) in any event not later than 6 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 give 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 1970.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application, the Local Planning Authority gave consideration to the following policies:

National Planning Policy Framework (July 2021):

Shropshire Council Core Strategy (February 2011):

CS6 : Sustainable Design and Development Principles

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

10.2 Relevant Planning History

There is no relevant planning history.

11.0 ADDITIONAL INFORMATION

List of Background Papers - 22/03791/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr David Minnery and Cllr Ian Nellins

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
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Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to—
- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. 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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be approved in writing by the Local Planning Authority and the sponsorship signs installed in accordance with the agreement. Prior to the installation of the sponsorship signs any existing signs on the roundabout shall be permanently removed.

Reason: In the interest of highway safety and visual amenity.

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SCHEDULE OF APPEALS AS AT COMMITTEE 8th November 2022

Appeals Lodged

LPA reference	20/01156/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Dulson Ltd
Proposal	Erection of 26 No. 2 bed and 11 No. 1 bed retirement apartments with guest and manager accommodation, communal facilities, formation of parking areas, new access and landscaping scheme, following of demolition of existing buildings facing New Street and outbuildings within the site
Location	17 New Street Wem
Date of appeal	18.07.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01491/PMBPA
Appeal against	Prior approval of PD
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs N D Bratton
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to form one residential unit
Location	Storage Building NE Of Hatton Barns High Hatton Shrewsbury
Date of appeal	15.07.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01784/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr and Mrs N Williams
Proposal	Formation of first floor accommodation above existing garage to include raising the roof height and insertion of rooflights. Erection of ground floor link extension
Location	Damson Cottage Withington Shrewsbury
Date of appeal	30.07.2022
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02531/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Lane
Proposal	Erection of garage and store
Location	Ashleigh Horton Wem
Date of appeal	02.09.2022
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	21/04897/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs R and E Hamlett
Proposal	Proposed change of use of land to allow siting of 2no. holiday cabins (Shepherds Huts) - Resubmission
Location	Land East Of Mill Lane Brownhill Ruyton Xi Towns
Date of appeal	10.05.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	08.08.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/02260/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Kelvin Williams
Proposal	Erection of first floor extension over porch to front
Location	63 Henley Drive Oswestry Shropshire
Date of appeal	05.09.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	12.10.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	19/05356/DSA106
Appeal against	Refused to Discharge Planning Obligation
Committee or Del. Decision	delegated
Appellant	Ms R Lane
Proposal	Discharge of Section 106 Agreement pursuant to 14/02465/FUL
Location	The Bradleys Prescott Road Prescott
Date of appeal	21.02.2022
Appeal method	Written Representations
Date site visit	26.09.2022
Date of appeal decision	17.10.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/01706/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr G Corfield
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of boundary wall with metal fencing and sliding gates to the front of the property (amended description)
Location	245 Wenlock Road Shrewsbury
Date of appeal	24.06.2022
Appeal method	Householder
Date site visit	17.08.2022
Date of appeal decision	06.10.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/00783/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr David Maddison
Proposal	Erection of a detached double garage
Location	13 Fawcett Grove Shrewsbury
Date of appeal	22.06.2022
Appeal method	Householder
Date site visit	27.09.2022
Date of appeal decision	14.10.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	21/01650/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Malcolm Ellis
Proposal	Erection of one replacement dwelling including first floor balcony, detached double garage, and re-positioning of vehicular access, following demolition of existing buildings; change of use of land to domestic garden land (resubmission)
Location	Rose Cottage Winnington Green Middletown Welshpool Shropshire
Date of appeal	09.05.2022
Appeal method	Written Representations
Date site visit	06.09.2022
Date of appeal decision	04.10.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/00825/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Griffiths
Proposal	Outline application (all matters reserved) for the erection of one dwelling
Location	North Of Ashford Prescott Road Prescott Baschurch
Date of appeal	12.05.2022
Appeal method	Written Representations
Date site visit	06.09.2022
Date of appeal decision	19.10.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/02595/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr James Corbett
Proposal	Erection of farm managers dwelling with farm office, detached garage and installation of package treatment plant (re-submission)
Location	Keppel Gate Farm Grug Hill Elbridge Ruyton-XI-Towns
Date of appeal	28.02.2022
Appeal method	Hearing
Date site visit	15.09.2022
Date of appeal decision	20.10.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/01705/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr G Corfield
Proposal	Application under 73A of the Town and Country Planning Act 1990 for a balcony with a balustrade, on the roof of the dining room
Location	245 Wenlock Road Shrewsbury
Date of appeal	17.06.2022
Appeal method	Householder
Date site visit	17.08.2022
Date of appeal decision	21.10.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/03516/CPE
Appeal against	Refusal to Grant Certificate of Lawful Use or Development
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs C Roberts
Proposal	Application for a Lawful Development Certificate for existing use to show commencement of works for the erection of a dwelling
Location	Proposed Residential Development Adj The Old School Wattlesborough Halfway House Shropshire
Date of appeal	25.04.2022
Appeal method	Written Representations
Date site visit	27.09.2022
Date of appeal decision	25.10.2022
Costs awarded	
Appeal decision	DISMISSED

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Appeal Decision

Site visit made on 12 July 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Appeal Ref: APP/L3245/W/22/3293162

Land East of Mill Lane, Ruyton XI Towns, Shrewsbury, SY4 1LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Robert & Emily Hamlett against the decision of Shropshire Council.
 - The application Ref 21/04897/FUL, dated 12 October 2021, was refused by notice dated 29 November 2021.
 - The development proposed is change of use of land to allow siting of 2 no. holiday cabins (Shepherds Huts)
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to allow siting of 2no. holiday cabins (Shepherds Huts) at Land East of Mill Lane, Shrewsbury SY4 1LS, in accordance with the terms of the application, Ref 21/04897/FUL, dated 12 October 2021, subject to the attached schedule of conditions.

Main Issue

2. The main issue is whether the site is a suitable location for the proposed development, having particular regard to:
 - i) the effect of the proposal on the character and appearance of the area, and
 - ii) access to local facilities.

Reasons

Character and appearance

3. The principle of new tourist accommodation in the countryside is accepted in policies CS5 and CS16 of the Shropshire Core Strategy 2011, and Policy MD11 of the Site Allocations and Management of Development Plan 2015 (SAMDev). This policy support is subject to a number of criteria, which include the need for developments to be sensitive to Shropshire's intrinsic natural and built environment, and to compliment the character and qualities of the site's immediate surroundings.
4. The appeal site forms part of a field used for grazing livestock, in an area of countryside between the small settlements of Ruyton XI Towns and Baschurch. The landscape in this location is gently undulating, characterised by small to medium sized fields, bounded by hedgerows, and interspersed with blocks of woodland and individual trees.

5. The appeal site is currently a field, and its location close to the River Perry is rural and peaceful in character. However, the site is only a short distance from residential development at Marches Meadow, and the nearby farm buildings and wastewater facility means that it is not a remote or particularly isolated location.
6. The proposed use of the site for holiday accommodation would result in a change in the character of the site, which is currently free from hardstanding or other built development. However, policies in the development plan provide for tourist accommodation in rural areas, which implies that some degree of visual impact is accepted.
7. From Mill Lane, the site is well screened by trees and hedgerows, and views of the development from the road would be largely restricted to the field gate which provides access to the site. The site would be visible from the footpath which runs along the other side of the river, from Platt Bridge to the footbridge on Mill Road, but views would be from a reasonable distance away. The area on either side of the river is fairly open, but the proposed shepherd's huts would be located alongside the edge of the field, which is demarcated by a hedgerow and mature trees. As a result, when viewed from the footpath, the development would be seen against the backdrop of existing trees and vegetation, so would not appear to be in an open or isolated position. Views of the development would be partly screened by existing trees, with additional screening provided by the proposed tree planting.
8. The two shepherd's huts would be modest in scale and the wheeled structures would have the appearance of mobile features, rather than permanent buildings. The Council has not raised any objection to the design of the huts, and I agree that their timber clad appearance would be acceptable in this location. The proposed use of grasscrete would limit the visual impact of the access road and areas of hardstanding, and would enable the site to retain a more natural appearance.
9. There is no requirement within relevant development plan policies that holiday accommodation should be located close to existing farm or other buildings. Policy CS16 encourages the re-use of existing buildings where possible, but there is no suggestion that any other buildings on the wider farm holding are available for the proposed use. The appellants have explained that siting holiday accommodation close to the existing agricultural buildings would cause a conflict with the farm operations.
10. Policy CS16 requires that rural tourism developments do not harm Shropshire's tranquil nature. The proposed use would inevitably involve a degree of activity, including vehicle movements along Mill Lane. However, the proposed huts would be of small scale, each only large enough for 2 people. The modest scale of the development would mean that the levels of activity associated with it would be low, and this would limit any impact on the peaceful character of the area. Furthermore, the appellant has indicated that the proposed use would only be seasonal, with the site reverting to use for grazing at other times.
11. Taking account of the above considerations, the effect on the character and appearance of the area would be acceptable.

Access to local facilities

12. Core Strategy Policy CS16 supports high quality visitor accommodation in accessible locations served by a range of services and facilities. In rural areas, developments should be close to, or within settlements.

13. The nearest settlement to the appeal site is Ruyton XI Towns, which is identified as a community hub in the development plan. It has a basic range of facilities, including a pub and café. Whilst the appeal site is not within the village, at around 0.35km from the development boundary, it is close to the settlement.
14. The appeal site is a short walk to Ruyton IX Towns along Mill Lane and the B4397. The main road has a pavement, but Mill Lane is a narrow route with no footway. However, as it serves few properties, it is very lightly trafficked, and the proposed development would not alter this to any notable extent. Any conflict between road users would be infrequent, and although the road is narrow, this serves to keep traffic speeds low. The Highways Officer has raised no objection to the scheme on safety grounds, but has noted that the creation of a passing place along Mill Lane would be of assistance. The appellant has submitted details showing how such a passing place could be provided within land in their ownership. I agree that this would help ensure that the site could be accessed safely, and would be a benefit for other users of the road, including pedestrians and cyclists.
15. Mill Lane is not lit, and the alternative footpath route along the river may be muddy. Whilst this may discourage use by some, holiday makers attracted to a rural area such as this may well be equipped for walking, and be prepared to do so, including in the dark.
16. Overall, I am satisfied that users of the proposed holiday accommodation could access local facilities in Ruyton XI Towns safely, without the need to drive.
17. Facilities in Ruyton XI Towns are basic, but additional services, including a convenience store, farm shop and takeaways are available nearby at Baschurch, which is slightly larger but a little further away. The most direct route to Baschurch is along the B4397. This is not a particularly attractive proposition for pedestrians, as the road is reasonably busy with only a very narrow footpath, and no pavement at all over Platt Bridge. Holiday makers may well choose not to walk or cycle that way. However, some degree of car usage is likely with any tourist accommodation, and there is an alternative, albeit less direct, footpath route to Baschurch.
18. In terms of other activities, the appeal site has good access to the local footpath network, and there are opportunities to explore the local countryside without the need to drive. Circular walks to nearby attractions including The Cliffe and Nesscliffe Woods are available from the site. The appellant has also indicated that holiday makers would be able to make use of fishing rights on the River Perry, providing an activity which could take place without the need to travel off site.
19. Overall, I conclude that the site is a suitable location for the proposed development. The effect of the proposal on character and appearance of the area would be acceptable, and there are a range of local facilities which could be accessed by walking, cycling or driving a short distance.
20. The proposal is therefore consistent with Policy CS5, which provides for sustainable rural tourism uses in the countryside. The proposal would be appropriate in scale taking account of local context and character, so it would comply with Policies CS6 and CS17, and SAMDev Policies MD2 and MD11. The site is close to Ruyton-XI-Towns and there are a range of services and facilities nearby, so the requirements of Policy CS16 would also be met.

Other Matters

21. Concerns have been raised about flooding and drainage of the site, and its proximity to a sewage outlet. The location of the site in relation to the sewage works has been taken into account by the appellants in their site selection process, and the Council has raised no objections on environmental protection grounds. The appellant has stated that the field is well drained, and the site is outside of an identified flood zone. No objection has been raised by the Council's drainage consultants.
22. Questions have been raised as to the provision of services to the site, but given the fairly close proximity to nearby built development, this is unlikely to be unsurmountable.
23. Concerns have been raised about the potential for further development in the future, but any such proposals would need to be assessed in terms of their own impact, in accordance with relevant policies.

Conditions

24. The Council has suggested a number of conditions which I have considered in light of relevant advice in the Planning Practice Guidance.
25. In addition to the standard implementation and plans conditions, I have imposed a condition restricting the use to holiday accommodation. This is needed to ensure that the proposed huts are not used as a permanent residence, which would be unacceptable in this location. In order to monitor the proposed use, a condition requiring a register to be maintained detailing all occupiers is also necessary.
26. The appellant has indicated that the proposed accommodation would be used seasonally, between the months of April – October. Given that the accessibility of the site involves the use of local footpaths and unlit lanes which will be darker and potentially less usable during the winter months, a condition restricting use of the huts to these times is reasonable.
27. I have imposed a condition requiring a passing place to be constructed along Mill Lane prior to occupation of the units, to provide a satisfactory and safe access for all road users.
28. The Council has suggested conditions requiring details of external lighting and bat and bird boxes. However, this information has already been provided in the submitted landscaping proposal (Peter Richards, October 2021), which sets out details of tree and shrub planting and maintenance, hard landscaping, external lighting and ecological enhancement measures. No further details are necessary, but I have imposed a condition requiring the implementation of these measures, which are necessary to safeguard biodiversity and ensure that the scheme has a satisfactory appearance.

Conclusion

For the reasons set out above, the appeal is allowed.

R. Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing No. A1.1 – location plan, site plan, floor plans and elevations
 - Landscaping proposal, Peter Richards & Co, October 2021
 - Ecological Appraisal, Greenscape Environmental, 4 November 2021
 - Details of Tuff Tank submitted with application
- 3) The holiday accommodation hereby approved shall only be occupied in strict accordance with the following requirements:
 - i. the shepherd's huts shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main place of residence;
 - ii. A register of occupancy of the shepherd's huts, to include the names and addresses of all occupiers and their arrival and departure dates, shall be kept by the site manager and shall be made available at all reasonable times for inspection by officers of the local planning authority; and
 - iii. occupation of the shepherd's huts shall only take place between the months of April – October (inclusive).
- 4) The holiday accommodation hereby permitted shall not be occupied until a passing place has been constructed on Mill Lane, in accordance with details previously agreed in writing with the local planning authority.
- 5) Prior to the occupation of the approved holiday accommodation, soft and hard landscaping and ecological enhancement works shall be carried out in accordance with the details set out in the Landscape Proposals (Peter Richards & Co, October 2021), and so retained thereafter.

Maintenance shall be carried out in accordance with the approved tree maintenance schedule (Table 2).

Any external lighting shall be installed in accordance with the details contained in the approved Landscape Proposals, and thereafter retained and operated for the lifetime of the development.

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Appeal Decision

Site visit made on 27 September 2022

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/L3245/D/22/3304339

63 Henley Drive, Oswestry, Shropshire SY11 2RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kelvin Williams against the decision of Shropshire Council.
 - The application Ref 22/02260/FUL, dated 11 May 2022, was refused by notice dated 5 July 2022.
 - The development proposed is "Proposed two storey extension over porch to gain additional space in bedroom. Rear kitchen extension."
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over porch to gain additional space in bedroom at 63 Henley Drive, Oswestry, Shropshire, SY11 2RF in accordance with the terms of the application, Ref 22/02260/FUL, dated 11 May 2022, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan dated 11th May 2022, and Existing and Proposed Elevations, Existing and Proposed Floor Plans and Block Plan dated May 2022, insofar as they relate to the proposed first floor extension over porch.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The description of development used in the heading above is taken from the planning application form. However, for clarity, I have made a number of slight alterations to it. Firstly, I have replaced "read extension" with "rear extension" as, having regard to the submitted plans, the original wording was clearly incorrect. Secondly, I have omitted the phrase "(PD)" as this is not a description of development.
3. In allowing the appeal, I have altered the description of development further to omit the phrase "proposed" as this is unnecessary and also to replace "two storey" for "first floor" as this more accurately describes the proposal. I have also removed reference to the rear extension. This is because, notwithstanding

that it is shown on the submitted plans, it is clear from the evidence that in making its decision, the Council only considered the front extension as both parties consider that planning permission is not required for the rear extension. I have determined the appeal accordingly.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the appeal property and surrounding area.

Reasons

5. The development would extend a modern, detached two-storey dwelling located within a residential estate comprising modern dwellings of varying designs and appearance. The appeal property has a single storey projecting front porch and two storey front gable roof design, with other nearby dwellings also displaying large gable features to the front.
6. Though the front extension would be visually prominent being sited to the front of the appeal property, it would be set down from the main ridge and would only cover part of the front elevation reducing the impact of the additional massing. This would ensure that it would be subservient in scale relative to the appeal property. Moreover, the roof pitch, the external materials and the fenestration used would complement the appeal property. These factors together with the mixed character and appearance of the immediate surroundings means that the development would not be harmful to the character and appearance of the appeal property or the surrounding area.
7. I therefore conclude that the development accords with Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 and Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011. These policies, amongst other things, seek to protect and enhance character through high quality design.

Conditions

8. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed a condition requiring that the development be constructed from materials matching the appeal property to ensure that the appearance of the development is acceptable.

Conclusion

9. For the reasons given above, having regard to the development plan as a whole, the provisions of the National Planning Policy Framework, I conclude that the appeal should be allowed.

S Crossen

INSPECTOR



Appeal Decision

Site visit made on 26 September 2022

by **M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: **APP/L3245/3294982**

The Bradleys, Prescott Road, Baschurch, Shrewsbury SY4 2DR

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Rebecca Lane against the decision of Shropshire Council.
 - The development to which the planning obligation relates is for the conversion of a redundant workshop to a dwelling under application reference number 14/02465/FUL.
 - The planning obligation, dated 7 October 2014, was made between Shropshire Council and Rebecca Lane.
 - The application reference 19/05356/DSA106, dated 6 December 2019, was refused by notice dated 31 August 2021.
 - The application sought to have the planning obligation discharged.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The main parties to the appeal acknowledge that the development approved under application 14/02465/FUL has begun and is substantially complete. The planning obligation in dispute was refused for discharge by the Council under the terms of Section 106A of the Town and Country Planning Act 1990 (the Act). The obligation is in excess of 5 years old, as the relevant period, and no modifications are proposed. Taking into account the content of section's 106A and 106B of the Act and the specific points contended, I shall only deal with whether the obligation continues to serve a useful purpose in my reasoning.

Main Issue

3. The main issue is whether the planning obligation continues to serve a useful purpose.

Reasons

4. The Second Schedule of the completed obligation states that the owner shall within 2 years of the commencement of a material operation of the development in accordance with section 56(4) of the Act or within 90 days of completion, whichever is sooner, pay to the Council the sum of £10,800. The sum specified is to be used for the delivery of additional affordable and/or supported housing along with a £540 component for monitoring purposes.
5. In terms of the adopted local policy which is most relevant, Shropshire Core Strategy 2011 (CS) Policy CS11 requires appropriate contributions towards the provision of local affordable housing. It sets a local threshold of one dwelling,

meaning that all new open market development is required to contribute toward affordable housing either on-site or via a commuted sum for off-site provision.

6. In that context, the appellant refers me to her personal circumstances as well as national policy and other changes since the obligation was procured. Having regard to all of those elements, I have much sympathy for the appellant's health issues she has encountered, detailed as part of her overall case. The wider technical arguments made relate to the policy thresholds for requesting affordable housing contributions. To that end, I accept there have been implications arising from Written Ministerial Statement's in 2014 and 2015, as well as associated rulings.
7. I also acknowledge that current Planning Practice Guidance indicates that in designated rural areas local planning authorities may choose to set their own lower threshold in plans and seek affordable housing contributions above nationally advised thresholds. Baschurch being within a designated rural area.
8. However, chiefly the appellant does not dispute the ongoing need for local affordable housing provision. Such provision was the original basis for the legal agreement being required. Whether or not there remains an existing unmet affordable housing delivery need is crucial to the main issue of the appeal.
9. The Council refers me to their waiting list for affordable housing featuring some 6483 households with 36 of those specifically within Baschurch. They note that an increase of 230 households was recorded in the summer 2021 as the most up to date information evidenced. Thus, based on that information it is clear a pressing local affordable or supported housing need currently persists.
10. The terms of the completed obligation the appellant entered into are binding. They support the unaltered development plan policy aim of alleviating unmet local housing needs. Moreover, it remains reasonable for a monitoring fee component to be included. There is no evidence to suggest that housing need aims would be served as equally well if the terms entered into were discharged.
11. Furthermore, I am also cognisant that it would subsequently fall to the Council to determine if they want to enforce the terms of the obligation, or not, or to renegotiate terms should the appeal fail. Those subsequent aspects are not matters before me in gauging whether or not the purpose of the obligation in dispute remains useful.
12. Accordingly, I conclude that the planning obligation still has a useful purpose. It should not be discharged and continue to have effect as it would be contrary to policies CS9 and CS11 of the CS which both require development which provides additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure, as well as the Council's Type and Affordability of Housing Supplementary Planning Document 2012 which seeks to meet the housing needs and aspirations of all sections of the community.

Conclusion

13. For the reasons given above the appeal does not succeed.

M Shrigley

INSPECTOR

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Appeal Decision

Site visit made on 17 August 2022

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2022.

Appeal Ref: APP/L3245/D/22/3301849

245 Wenlock Road, Shrewsbury, Shropshire SY2 6SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Corfield against the decision of Shropshire Council.
 - The application Ref: 22/01706/FUL, dated 30 March 2022, was refused by notice dated 9 June 2022.
 - The development proposed is retrospective application for the retention of boundary wall with timber inserts and sliding gates to the front of the property.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of boundary wall with metal fencing and sliding gates to the front of the property at 245 Wenlock Road, Shrewsbury, Shropshire SY2 6SA, in accordance with the terms of the application ref: 22/01706/FUL, dated 30 March 2022 and subject to the conditions in the schedule at the end of this document.

Preliminary Matters

2. The development had been carried out prior to the application to the Council. I have determined this appeal on the basis of the Council's amended description of development as "erection of boundary wall with metal fencing and sliding gates to the front of the property" as it is more precise.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the streetscene and surrounding area, and
 - the effect on pedestrian safety.

Reasons

Character and appearance

4. No.245 Wenlock Road is a detached house situated next to two neighbouring detached houses and an open area of land which is under development as the Shrewsbury Business Park. The frontages to development in the immediate area vary. No.241 Wenlock Road has an open frontage and No.243 is mainly open with a section of front boundary hedge. Prior to the development being carried out the appeal dwelling had two separate access points to Wenlock

Road, separated by a central section of hedge and a low vertical timber fence. No.245 has been re-styled and has a marked difference in its character and appearance when compared with the two neighbouring dwellings.

5. The walls, sliding gates, metal inserts and associated lighting which have been erected at No.245 contrast with other front residential boundaries because of the contemporary design, styling, colour and use of materials. However, the new frontage does complement the modern character and appearance of the re-styled house at the appeal site. It is also seen in the context of the adjacent modern commercial development that exists to the south and which will be added to as other units are constructed and further changing the appearance of the Wenlock Road frontage.
6. The appellant has offered to paint the colour of the walls and pillars, suggesting a Dove grey colour to match that used in the dwelling. It is also suggested that the lighting could be restricted or excluded. The appellant has not indicated that the lighting forms a function other than being decorative and I see no reason why it could not be removed. Both these measures would reduce the visual impact of the development and may be subject to appropriate conditions.
7. In view of the setting of the site, the modern restyled design of the house and its situation as the last dwelling at this side of Wenlock Road near to the development site, I consider that, subject to conditions, the development would cause no significant harm to the character and appearance of the street scene and surrounding area. It would therefore fail to conflict with Shropshire Core Strategy policy CS6 which indicates that all development should be in scale taking into account the local context and character. It would fail to conflict with Shropshire Council Site Allocations and Management of Development (SAMDev) Plan policy MD2 which, amongst other things, requires development to respond appropriately to the form and layout of existing development including scale. It would also not conflict with the objective of achieving well designed places in the National Planning Policy Framework.

Effect on pedestrian safety

8. The appeal site is just within the 30-mph restricted zone. The Highway Authority has stated concerns with the lack of intervisibility with pedestrians when vehicles are leaving the site and with the principle of electric gates across the access/egress point, potentially resulting in vehicles waiting on the highway whilst they are being opened and closed. It seems to me that the previous situation including hedging would also have had restricted intervisibility for pedestrians and it is possible that the opening and closing of the electric gates would still provide some warning for footway users that a vehicle was about to leave or enter.
9. I note that a previous permission ref: SA/84/1116 related to the formation of a second point of access to the property and approved gates "so arranged that they cannot open over the highway". The provision of gates would have similarly required vehicles on some occasions to wait on the highway or be parked whilst they were opened to allow access. The appellant has advised that the Council does not dispute that a 1 m high front wall and gates could be provided for the property under permitted development rights. I see little

difference between the effect on the free flow of traffic from the use of electric gates as proposed, or hinged gates as previously granted permission.

10. I consider that the development would cause no significant increased harm to pedestrian safety. The development would therefore comply with Policy CS6 of the Local Development Framework Core Strategy which, amongst other things, seeks to ensure that development is safe and accessible. It would also comply with policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan in terms of sustainability. The development would also not conflict with paragraph 111 of the National Planning Policy Framework, which indicates that development should only be prevented or refused if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Conditions

11. I have included a condition to confirm the approved plans. Conditions requiring the removal of external lighting for the development and to paint the stonework, including the walls and pillars, are imposed in order to ensure that the visual impact of the development is acceptable in the street scene.

Conclusion

12. I have taken all other matters raised into account. For the reasons given above, I conclude that the appeal should be allowed subject to conditions.

Martin H Seddon

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2019-M1(00)(0001) proposed site plan and 2019-M1(00)(0002) existing and proposed elevations.
- 2) Within 3 months of the date of this permission all lighting associated with the development hereby permitted shall be removed and no lighting shall be installed thereafter.
- 3) Within 3 months of the date of this permission the stonework of the development hereby permitted shall be painted in colour BS381C 694, Dove Grey and thereafter retained in that colour.

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Appeal Decision

Site visit made on 27 September 2022

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Appeal Ref: APP/L3245/D/22/3301620

13 Fawcett Grove, Weir Hill, Shrewsbury, SY2 5WG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Maddison against the decision of Shropshire Council.
 - The application Ref 22/00783/FUL, dated 10 March 2022, was refused by notice dated 19 May 2022.
 - The development proposed is described as the 'erection of a double garage'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a double garage at 13 Fawcett Grove, Weir Hill, Shrewsbury, SY2 5WG in accordance with the terms of the application, Ref 22/00783/FUL, dated 10 March 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Elevations, Floor Plan And Block Plan - 373 02, Roof Layout And Profile A06736jh -01 And Location And Block Plan - 373 02.
 - 3) The external materials to be used in the development hereby permitted shall match in colour, form and texture those of the existing building.

Preliminary matter

2. Both the Council and the appellant have brought to my attention a subsequent planning decision for a similar scheme, albeit with the addition of a new north facing window to the ground floor study of the host dwelling¹. However, that is not what is proposed in this case and as such, I cannot afford it any weight in the determination of this appeal.

Main Issues

3. The main issues in the appeal are:
 - the effect of the proposed double garage on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the future occupiers of No 13 Fawcett Grove, with particular regard to light.

¹ 22/02916/FUL – Determined 9 September 2022

Reasons

4. The appeal site is located within a modern planned residential area, that is currently in the process of construction. The appeal proposal relates to the erection of a double garage, sited at the front of the property. Constructed from brick and tile to match the host dwelling it would measure approximately 6.8m wide x 6.6m deep x 4.9m high. At the time of my site visit the host dwelling had not yet been completed. In the vicinity of the appeal site is a balancing pool to the east, to the north are two detached double garages of broadly similar size and appearance to the appeal proposal.

Character and appearance

5. I have carefully considered the Council's representations which argue that the siting of the proposed double garage would be detrimental to the character and appearance of the area. I accept that there would be some limited impact in terms of openness overall. However, given the modest residential scale of the proposal this would not be significant nor would the proposal appear out of character in this site specific context given that there are two similar detached garages in the immediate area.
6. With regard to the Council's concerns as to the loss of the intended open space, the proposal would be sited wholly within the residential curtilage of the host property. This means that there would be no material reduction in the open space or landscaping associated with the balancing pool. Moreover, although abutting the public footpath, based on my observations the proposal would not detrimentally impact on how the balancing pool and wider estate landscaping are experienced to users of the footpath/area.
7. Consequently, the proposal would not result in material harm to the character and appearance of the area. Therefore, it follows that the proposal would not conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (CS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev). These seek amongst other things to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character.

Living conditions

8. The Council have argued that the proposal would result in the loss of natural skylight to the living room of the dwelling. However, based on the appellant's evidence and my on-site observations the gable wall of the proposed garage would be located approximately 1.6m away from the small study in the host dwelling rather than the living room. Notwithstanding this, I consider that the study should be considered as a habitable room albeit one that is unlikely to be as intensively used as the main living room or other rooms in the house. Consequently, whilst the proposed garage would be likely to limit daylight into the east facing study, the effect of this should be considered in the context of the overall accommodation that the dwelling provides (large living room, quiet/therapy room, substantial dining kitchen room and 5 bedrooms). As such, there is significant residential flexibility and choice within the house without overall reliance on the study.
9. Therefore, in this specific circumstance the proposal and its impact on daylight in relation to the study would not materially harm living conditions for future

occupiers of the dwelling as a whole. Consequently, it follows that the proposal would not conflict with Policy CS6 of the of the CS and Policy MD2 of the SAMDev in so far as they relate to living conditions.

Conditions

10. The conditions suggested by the Council have been considered in light of the advice contained within the national Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard implementation condition, it is necessary for certainty, to define the plans with which the scheme should accord. To ensure the satisfactory appearance of the scheme it is necessary for the materials used in its construction to match those of the host dwelling.

Conclusion

11. For the above reasons and having regard to all other matters I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

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Appeal Decision

Site visit made on 6 September 2022

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 October 2022

Appeal Ref: APP/L3245/W/22/3298488

Rose Cottage, Winnington Green, Middletown, WELSHPOOL, SY21 8DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Malcolm Ellis against the decision of Shropshire Council.
 - The application Ref 21/01650/FUL, dated 30 March 2021, was refused by notice dated 24 January 2022.
 - The development proposed is for the erection of a detached dwelling and garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted further evidence regarding the presence of bats at the appeal site. As a result, the Council have withdrawn their third reason for refusal, and I have not considered it further.
3. They have also submitted drawings demonstrating potential extensions that could be carried out under the permitted development rights afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015. I find that this scheme would be somewhat similar to the proposal before me, in that it would provide a larger dwelling. Although I have not been provided with any substantive evidence to demonstrate that the permitted development rights apply to the host dwelling, it is clear that the Council considers at least some rights would apply. Consequently, I find that there is more than a theoretical possibility for permitted development rights to be carried out and as such a fallback position exists.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the original building, surrounding area and the setting of the Grade II listed building, the Green Farmhouse; and,
 - Whether it would suitably respond to the challenge of climate change

Reasons

Character and Appearance

5. The appeal site is located within a rural area surrounded by fields and a small number of nearby buildings, these include two other dwellings along the lane

and a nearby farm. The farm contains the Green Farmhouse, a Grade II listed building. Beyond these building, development is very limited and sporadic. The nearby buildings are relatively simple in appearance and, with the exception of the bungalow, appear to all be of some age and directly related to the current or historic farming associated with the area. The Green Farmhouse itself dates from the 15th or 16th century and displays examples of subsequent additions and alterations. Its significance stems from its siting within a still clearly rural area as well as its construction and detailing.

6. The appeal site itself contains a detached two-storey dwelling of some age, built in a mixture of red brick and stone. It has a more modern side extension and detached garage. I understand that the host dwelling has been vacant for some time, and I noted that it is somewhat tired inside.
7. The host dwelling, by way of its age, small scale and simple appearance, contributes towards the legibility of the largely intact historic, rural landscape within which it sits. However, I do not find that the building is of such an age or of such significant architectural interest that its loss would unacceptably harm the legibility or the overall character and appearance of the rural setting. This is especially so given the extent to which the legibility of this area and its historic form has been retained in general.
8. I also find that the appeal site does not so closely relate to the listed building that the loss of the host building would affect its setting. In particular, the two buildings are not readily legible in views together, and they are set some distance apart. Therefore, and given the lack of harm identified above, I find that the loss of the dwelling would have a neutral effect on the setting of the listed building.
9. However, the proposed replacement dwelling would be significantly taller than the host building, exceeding the height of the current chimney, and would have a greater footprint. Moreover, by way of the double-fronted design, large porch supported by columns and string course, its design is more formal than the simple cottage building which it replaces. Consequently, the proposed dwelling would present a somewhat grand building incongruous within the simple and rural character of the surrounding dwellings and buildings. Although the appellant proposes the use of local materials, they would not be sufficient in themselves to mitigate the identified harm.
10. Whilst I note a larger dwelling at the end of the lane, from my observations on site, this appears to have a significantly less formal appearance than the proposed dwelling and as such is not an incongruous feature. Moreover, although I am conscious of the examples of increased footprints raised by the appellant, I have not been provided with sufficient details to ascertain their respective contexts or the appearance of the proposals. These examples have not therefore been determinative.
11. Given its prominent position, which would allow views from the nearby public right of way and more distant ones, the proposed dwelling would be an intrusive and harmful feature within the otherwise rural landscape. Nevertheless, again given the relationship between the appeal site and listed building, I find that it would have a neutral impact on Green Farmhouse.
12. The above mentioned fallback extensions would increase the size of the dwelling, but this would primarily be achieved through single-storey

extensions. These would therefore be less prominent or intrusive in views. Similarly, the indicative two-story rear extension would retain the existing height of the dwelling and would largely be viewed against the envelope of the existing building, limiting its appearance in views. Moreover, the suggested extensions would collectively result in a less formal appearance than the appeal proposal and would therefore overall present a more appropriate appearance for the area.

13. In light of the above, the proposal would, by way of providing a significantly larger replacement dwelling which is not sympathetic to the rural character of its setting, be harmful to the character and appearance of the surrounding area. It would therefore conflict with Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy (the ACS) and Policy MD7a of the Shropshire Council Sites Allocations and Management of Development Plan. These policies, collectively and amongst other matters, seek to limit the scale of replacement dwellings and ensure that they are of a high quality design that protects and conserves the built and historic environment with particular regard to scale and design. The proposal would also conflict with Point 2.23 of the Type and Affordability of Housing Supplementary Planning Document which similarly seeks replacement dwellings to respect the local character of an area and be sympathetic to the size, mass, character and appearance of the original building. It would also conflict with design aims of the National Planning Policy Framework (the Framework), including under Paragraphs 130 and 192 which seek to protect local character and the historic environment.

Climate Change

14. It is clear from the evidence before me that the host dwelling has not been built to the standards that would be expected, or indeed required, of a modern dwelling. In particular, I note it does not have a damp proof course, wall cavities or insulation. Consequently, the dwelling has poor energy efficiency and remedying this would take significant works.
15. The demolition and replacement of the existing dwelling would result in the release of the associated captured carbon. However, it has not been demonstrated that this would be a significant amount. Therefore, subject to the provision of a suitable level of insulation, I find it likely that the proposed dwelling would recoup this loss over its lifetime as a result of the improved energy efficiency in comparison to the host building.
16. I note the appellant's intention to include an electric vehicle charging point as part of the proposal. Although I am mindful that such a point would not necessarily rely on the appeal proposal, it would nevertheless likely encourage the use of an electric vehicle, to the benefit of reduced emissions related to the site.
17. Therefore, as a result of improved construction of the dwelling and the charging point provision, the proposed replacement dwelling would, suitably respond to the challenge of climate change. The proposal would therefore comply with ACS Policy CS6 which requires developments to, amongst other matters, mitigate and adapt to climate change with particular regard to resource and energy efficiency.

Conclusion

18. The Government's objective is to significantly boost the supply of housing and although the proposal would provide one new dwelling, it would replace an existing dwelling. Nevertheless, the proposal would lead to a small and time-limited economic benefit during the construction phase and as noted above. As the proposal is a replacement dwelling and given the small scale of the development, these matters would at most attract modest weight.
19. Although the proposal may not result in harm to the environment with regards to climate change, this lack of harm is not a benefit in itself and as such I afford it neutral weight.
20. Conversely, the proposal would result in harm to the character and appearance of the surrounding area in conflict with the development plan taken as a whole. This attracts moderate weight and outweighs the benefits associated with the proposed development.
21. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR



Appeal Decision

Site visit made on 6 September 2022

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/L3245/W/22/3298795

Ashford, Prescott Road, Prescott, Shropshire, Baschurch SY4 2DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Griffiths against the decision of Shropshire Council.
 - The application Ref 22/00825/OUT, dated 18 February 2022, was refused by notice dated 5 May 2022.
 - The development proposed is outline planning for one dwelling with all matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal before me has been made in outline with all matters, namely access, appearance, landscaping, layout, and scale, reserved for a subsequent application. I understand from the appellant's case that the submitted drawings are for illustrative purposes only, and I have considered them as such. However, the appellant has stated that the proposed new dwelling would provide two-bedrooms and so I have considered the proposal on this ground.
3. Although the above matters are reserved for later consideration, I must nevertheless consider whether an acceptable development could be devised based on the evidence before me.

Main Issues

4. Therefore, given the above, the main issues in this case are the effect of the proposal on (i) the living conditions of future occupiers, (ii) highway safety; and (iii) the character and appearance of the surrounding area.

Reasons

5. The appeal site is located at the junction between Shrewsbury Road and Milford Road with access provided from Shrewsbury Road. The site contains a detached bungalow with areas of garden to the sides and rear as well as a smaller area of garden and a parking area to the front. The proposal includes the subdivision of the site and the erection of a new dwelling between the host dwelling and the neighbouring property Millway.

Living Conditions

6. As outlined above, the proposal includes the erection of a two-bedroom dwelling on the appeal site. Such a dwelling would be suitable for occupation by a family with a child and as such their daily typical needs are likely to include outside space for sitting out, relaxing, socialising and playing.
7. Although the appellant's indicative plans show that either an L-shaped or square dwelling could be accommodated within the appeal site, the area left at the rear of the site for private amenity space is very limited. It is therefore unlikely that it would be possible for the space to suitably accommodate outside play for future occupiers. As the dwelling would need to follow the building line and provide a suitable area for the parking and turning of vehicles, I find that it would not be possible to move the dwelling forward or make use of the frontage for amenity space. I therefore consider that there would be no potential for a suitable amenity space to be provided.
8. Although this issue covers matters that are reserved, I am not convinced from the evidence before me that sufficient room for private amenity space can be provided on site to meet the daily needs of future occupiers. I therefore have no certainty that this matter can be addressed or that the proposal would provide a suitable level of living conditions for future occupiers. The proposal therefore conflicts with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (the ACS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) which, amongst other matters, require that developments protect well-being and provide a suitable area of outside space. The proposal would also conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) which requires that developments promote health and well-being and provide a high standard of amenity for future users.

Highway Safety

9. As noted above, the proposed dwelling is likely to be occupied by a family. I note the Highway Authority's comments that two parking spaces would be needed, and I find that this would be appropriate for a small family home which would have the potential to be occupied by at least two adults that drive. Limited details of the existing bungalow have been provided; however, it appears that it is also of a size suitable for occupation as a family home. Consequently, I find that at least two parking spaces would also be needed for the existing dwelling.
10. My observations on site provide only a snapshot of time but, at the time of my visit, this road was busy with vehicular traffic. It is clear that Shrewsbury Road is the main route through the settlement and so I find it likely that higher levels of traffic are typical of the road. I therefore find that vehicles reversing out on to the road would increase the chance of conflict with other road users and pedestrians to the detriment of highway safety.
11. The indicative plans show that the existing and proposed dwellings could each be provided with one parking space and space for turning a vehicle. Each dwelling therefore has the potential to safely accommodate one vehicle capable of entering and egressing the site in a forward gear. However, given the restricted nature of the site, there is insufficient evidence to demonstrate

parking spaces with suitable turning areas can be provided for two vehicles at both dwellings.

12. Consequently, by way of a lack of evidence I cannot determine a suitable level of safe parking could be provided on site for future occupiers. The proposal would therefore result in an unacceptable risk to highway safety in conflict with CS Policy CS6 which seeks for developments to be safe and accessible. The proposal would also conflict with Framework Chapter 9 which requires developments to not detrimentally affect highway safety.

Character and Appearance

13. Shrewsbury Road is primarily characterised by its residential nature. The dwellings and pattern of development along the road are largely varied with a number of different architectural styles present and with no regularity or uniformity on plot sizes. The one exception to this is the relatively deep set back of the dwellings along Shrewsbury Road which forms a noticeable building line.
14. The proposed new dwelling, by way of being a bungalow, would reflect the character of the dwellings immediately surrounding the appeal site. Moreover, it is clear it would be possible to retain gaps either side of the new dwelling therefore protecting the sense of spaciousness between the host dwelling and Millway. Subject to the proposed dwelling following the existing building line along Shrewsbury Road, the proposal would not necessarily harm the character and appearance of the surrounding area.
15. The existing garage and summerhouse within the appeal site are relatively simple features and fairly typical of residential plots. Given their appearance and relationship to the character and appearance of the wider area, their removal would not enhance the street scene.
16. Notwithstanding the harm raised above with regards to living conditions and highway safety, it is clear that there is the prospect of a dwelling on site which would not harm the character and appearance of the surrounding area. As such, the proposal would comply with CS Policy CS6 and SAMDev Policy MD2 which require, amongst other matters, that developments are of a high-quality design that respond positively to local design aspirations and respect the local distinctive character. The proposal would also comply with Paragraph 130 of the Framework which seeks for development to be visually attractive and sympathetic to the local character.

Other Matters

17. The appellant has directed my attention to a number of examples of permissions for outline or reserved matters applications¹. However, I have been provided with very limited information for each case and so I cannot be certain of their context. Nevertheless, from the information before me I find that none are particularly similar with regards to the development, their location, or the character of their sites. As such, and mindful that all proposals must be considered on their own merit, these examples have not been determinative in my considerations.

¹ 16/01016/REM, 17/01870/OUT and APP/L3245/W/17/3186632, 17/02954/REM, 1901045/OUT

18. The appellant has suggested that the proposed dwelling would be more affordable in an area where house prices are particularly high. However, and mindful of its smaller scale, I have not been provided with any substantive evidence to demonstrate that the dwelling would be affordable.

Planning balance

19. The Government's objective is to significantly boost the supply of housing and the proposal would provide one new, dwelling potentially suitable for older or disabled occupants. It would also lead to a small and time limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal these matters would at most attract modest weight.

20. Whilst the proposal may not result in any harm to character and appearance, this lack of harm is not a benefit in itself. I therefore attach this neutral weight in my consideration.

21. Conversely, the proposal would not provide a suitable level of living conditions and would result in harm to the highway safety around the site, in conflict with the development plan taken as a whole. This attracts significant weight and outweighs the benefits associated with the proposed development.

Conclusion

22. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR



Appeal Decision

Hearing held on 15 September 2022

Site visit made on 15 September 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/L3245/W/22/3293953

Keppel Gate Farm, Grug Hill, Elbridge, Ruyton-XI-Towns SY4 1JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Corbett against the decision of Shropshire Council.
 - The application Ref 21/02595/FUL, dated 20 May 2021, was refused by notice dated 24 September 2021.
 - The development proposed is erection of a farm managers dwelling with farm office, detached garage and installation of package treatment plant.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a farm managers dwelling with farm office, detached garage and installation of package treatment plant at Keppel Gate Farm, Grug Hill, Elbridge, Ruyton-XI-Towns, SY4 1JL in accordance with the terms of the application 21/02595/FUL dated 20 May 2021, subject to the conditions on the attached schedule.

Preliminary Matters

2. The Statement of Common Grounds (SOCG) confirms that the description of the development is as described on the appellant's appeal form. I have used this description in the heading above and determined the appeal accordingly.
3. The Council is seeking a section 106 agreement to secure a contribution towards affordable housing if at some future date the proposed dwelling is no longer required for farming purposes. At the Hearing the appellant raised concerns about the need for an agreement. I have therefore addressed the need for a section 106 agreement as a main issue.

Main Issues

4. The main issues are:
 - whether there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside.
 - If there is, whether a section 106 agreement would be needed to secure an affordable housing contribution in the event that the dwelling is no longer occupied in connection with agriculture.

Reasons

Site and development

5. The holding at Keppel Gate Farm comprises 71 Ha (175 acres) of owned farmland and 18.2 Ha (45 acres) of rented land together with approximately 1870 square metres of farm buildings.
6. The farm is accessed via a track which rises steeply from Grug Hill, a rural road in an area of sparsely developed open countryside. The proposed dwelling would be situated on a paddock adjacent to the range of farm buildings associated with the Keppel Gate Farm holding.
7. The owned land associated with Keppel Gate Farm was formerly part of Shelvock Hall Farm holding and owned by the appellant's parents. The farmland was transferred to the appellant and Mr D Corbett, the appellant's father, in 2019.
8. Shelvock Hall is located approximately 600 metres to the north-east of Keppel Gate Farm buildings. Shelvock Hall includes a farmhouse and a range of outbuildings some of which are grade II and grade II* listed structures. At the Hearing the appellant confirmed that following the transfer of the land to the Keppel Gate Farm holding, approximately 12 to 16ha (30 to 40 acres) of land remains associated with Shelvock Hall and this land is currently rented out for grazing cattle.
9. Planning permission was granted in 2013 for a leisure development at Shelvock Hall including holiday accommodation and function venue. This development has commenced and remains extant, although the approved scheme has not yet been fully implemented. Shelvock Hall farmhouse is occupied by the appellant's parents. The SOCG sets out that Mr and Mrs Corbet senior are retired.
10. The first agricultural building on Keppel Gate Farm was erected in 2017, when the land was still part of Shelvock Hall Farm holding. Subsequently planning and prior approval permissions have been granted for additional livestock and storage buildings. The evidence is that all the approved farm buildings have been constructed, are part of Keppel Gate Farm holding and the buildings are in the sole ownership of the appellant.
11. In 2017 planning permission was refused for the erection of an agricultural workers dwelling associated with the Shelvock Hall farm holding. A further application for an agricultural workers dwelling was refused in 2021 after the formation of Keppel Gate Farm holding. Although worded differently, in both cases the Council concluded that the existing farmhouse at Shelvock Hall was able to meet the essential needs of the farm holding.

Planning policy

12. Policy CS5 of the Shropshire Local Development Framework: adopted Core Strategy March 2011 (CS) sets out that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside. Among other things the policy permits dwellings to house agriculture, forestry, or other essential countryside workers. Applicants will be required to demonstrate the need and benefit of the development.

13. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan adopted December 2015 (SAMDev) strictly controls new market housing outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters, unless it is suitably designed and located and meets an evidenced local housing need, including dwellings to house essential rural workers, if there are no other existing suitable and available affordable dwelling which could meet the need and relevant financial and functional tests are met.
14. Paragraph 80 of the National Planning Policy Framework (the Framework) states planning decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
15. At the Hearing the parties agreed that the site would be isolated in the terms set out in paragraph 80. Having regard to the proximity of the appeal site to the nearest settlement and its lack of grouping with other dwellings I agree that the site is isolated in the context of paragraph 80 of the Framework.
16. Whilst the CS and SAMDev policies set out a number of additional criteria beyond that required by the Framework, I am satisfied that these criteria form an appropriate basis for establishing whether or not there is an essential need for a rural worker to live permanently on the site. These policies are therefore consistent with the aims of the Framework.
17. The Type and Affordability of Housing Supplementary Planning Document (SPD) September 2012 is intended to provide interpretation of the CS objective of providing for a mix of housing to meet the needs and aspirations of all sections of the community.

Essential need

Functional

18. The requirement for on-site accommodation at Keppel Gate Farm relates to the livestock enterprise. At the Hearing the appellant clarified that calves are brought on to the holding at 2 weeks old, at 14 weeks the calves are weaned off milk and can be put out to grass. The cattle are kept inside during the winter and are sold at about 20 months. The farm secures all its animals from one source to reduce the risk of disease and has approximately 250 contract cattle on the holding through the year.
19. Sheep are brought on to the holding for 7 months, lambed on site and returned with lambs at foot. There are about 350 head of sheep on the holding per year. There are also approximately 35 pedigree sheep retained on the farm and poults and eggs are produced on site. At my site visit I noted that the farm buildings were in full use for feed storage, keeping livestock and storing of farm machinery.
20. The appellant contends that a presence is required on the farm to quickly identify any signs of illness or distress in the livestock. There is also a need to remain on hand for the general feeding and checking of the stock. This can include bottle feeding young animals, quarantining animals, and dealing with stock that requires ongoing care. With regard to the lambs there is a need to be available to assist with delivery and monitor breeding activity. The appellant considers that the lack of a presence on the site 24-hours a day prevents the

- detection of welfare issues at an early stage. Reference is made to high losses of livestock during 2021 when a virus in the cattle was not detected early enough.
21. The appellant uses CCTV but cannot get to the farm quickly enough from where he currently lives 15 miles from the appeal site to deal with any emergencies. In his oral evidence Mr Corbett also set out that the benefits of living on the site include an understanding of the changing local environment and the ability to proactively respond to the farm conditions, providing better welfare for the animals.
 22. The main workers on the Keppel Gate Farm are Miss Tipping the appellant's partner who is identified as working full time on the holding with the necessary expertise in livestock, and the appellant who dedicates 75% of his time to Keppel Gate Farm holding whilst undertaking other contracting work for 25 % of his time. The remaining work is covered by casual workers. The typical daily routine for livestock¹ indicates an extended working day and the need for night-time monitoring.
 23. At the Hearing the Council expressed the view that as the calves are brought on to the farm at 2 weeks rather than being born on the holding, the calves will be in a routine. Feeding would be in a regular pattern and if adequate ventilation and dry bedding is provided the feeding regime could be carried out during the normal farming day. Therefore, there would be no functional need to be available 24/7 for the welfare of the calves. In relation to the lambs the Council considers that any concerns with their welfare can be dealt with during normal hours, few sheep are likely to require help with lambing and temporary accommodation could be provided on these limited occasions.
 24. However, the Council's Animal Welfare Officer expressed the view that some calves need more regular feeding or medical care. It would be neglectful for the farmer not to be on site to deal with livestock that needs care. This is consistent with the appellant's view that young calves and lambs have a heightened need for care and supervision. It is also consistent with the Reading Statement² which the Council commissioned to review the details of the original proposal for a farm dwelling at the appeal site. This highlights the responsibility of farmers towards livestock under the Animal Welfare Act 2006.
 25. There does seem to be some discrepancies in the description of the farm operation in the evidence. From Mr Corbett's description at the Hearing, it appears that calves are not born on the holding as suggested in the appellant's supporting statements but brought on to site at 2 weeks old. Notwithstanding this, I am persuaded by the evidence that Mr Corbett is raising calves on the holding, lambing sheep, and raising lambs. Further, the SOCG accepts that there is a functional need to have 2.9 people on the farm living there.
 26. I acknowledge that as an isolated site, on site security could be a challenge despite the use of CCTV. The Council's officer report acknowledges that the siting of the dwelling would provide surveillance of the farm access thereby improving security. I accept that natural surveillance provided by an on-site farm worker is the most effective security and this is a matter to which I give

¹ Appendix 3 of the Farm Business Appraisal report May 2021

² Annex 2 of the Council's statement Reading Agricultural Consultants 13 September 2017

some weight, although security does not of itself demonstrate a functional need for a dwelling.

27. The appellant keeps horses which require medication outside normal working hours. However, there is little before me to indicate that the horses are part of the farming business and the need to provide care for the horses does not contribute to the functional needs of the holding.
28. Even so, it appears to me that for the livestock business to function adequately there is a clear need for someone to be on hand to provide 24-hours a day care for the livestock on the Keppel Gate Farm holding.

Financial

29. In terms of financial viability, the infrastructure evident on the holding, including the farm buildings, demonstrates that there has been significant investment into Mr Corbett's business since 2017, and this includes the cattle rearing component in the form of the sheds being suitable for livestock.
30. I recognise that the Council has some concerns about the details in the accounts. I also note the appeal decision³ where it was concluded that it is necessary to consider whether the special circumstances which justify the dwelling are likely to be sustained in the long term. Nevertheless, the accounts show that over a sustained period the appellant's business has been profitable. Further, the Reading report acknowledged that in 2017 the livestock enterprise was run by the appellant and that the business was profitable, sustainable, and likely to remain so in the future.
31. I acknowledge that since the Reading statement was produced, there has been changes to the way the business is structured. Even so, it appears to me to be perfectly legitimate for a business to plan for changing circumstances, in this case the retirement of the appellant's parents and the implementation of the diversification scheme at Shelvock Hall. The later accounts show that the establishment of Keppel Gate Farm has not affected the profitability of the appellant's business.
32. Overall, I find the financial information and opinions provided on the appellant's behalf to be credible and to give the necessary degree of assurance that the enterprise will remain viable for the foreseeable future. It also clarifies that the proposed dwelling could be funded through the business.

Other available accommodation

33. Policy MD7a of the SAMDev states that dwellings to house essential rural workers will be permitted if there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural business. The SPD clarifies that permission will not normally be granted if other suitable buildings or dwellings on the site have been sold off in the last three years.
34. The appellant and Ms Tipping currently live with the appellant's parents-in-law approximately 15 miles away from the farm holding. The Council considers that the travel to work time of 45 minutes set out in the appellant's submissions is

³ Appendix 5 of the Council's statement of case

excessive and estimates the journey time as around 28 minutes. In either case, neither party suggests that the current living arrangements would provide for the essential needs of a farm worker at Keppel Gate Farm.

35. The appeal proposal would provide a new dwelling from which to manage the Keppel Gate Farm business. Because of the association between Keppel Gate Farm and Shelvock Hall the Council sets out in its reason for refusal that 'the existing Shelvock Hall farmhouse is able to meet the essential needs of the Keppel Gate Farm'. Further, the Council's statement of case draws attention to the potential for outbuildings at Shelvock Hall, or other available accommodation closer to Keppel Gate Farm than the appellant's current living arrangements, to meet the appellant's accommodation needs.
36. Shelvock Hall is set back from the Grug Hill road frontage by about 200 metres. Keppel Gate Farm is set back and elevated above Grug Hill on the opposite side of the road. The distance between the entrances to the two sites along Grug Hill is about 160 metres. Given the distance between the two sites, the location of the farm buildings, the topography of the land and the intervening trees and hedged boundaries, a dwelling at Shelvock Hall would not provide accommodation close enough to the farm buildings to oversee the livestock at Keppel Gate Farm. In this respect, I note that it is agreed as part of the SOCG that Shelvock Hall is not within sight or sound of the livestock buildings.
37. I acknowledge the evidence that there remains a family connection between Shelvock Hall and Keppel Gate Farm. I also accept that it is marginally more than three years since Keppel Gate Farm was established. Nevertheless, neither Shelvock Hall farmhouse nor the outbuildings associated with it, would be suitably located to provide for the essential needs of the Keppel Gate Farm holding.
38. For similar reasons, dwellings that may be available within adjacent settlements would not be close enough to be suitable accommodation.
39. The Council does not object to the proposal in terms of the size, scale and design of the dwelling or its impact on the character and appearance of the surrounding countryside. Following my site visit I see no reason to disagree.
40. Overall, for the reasons I have set out, I conclude that there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside. The proposal complies with Policies CS5, CS6, CS11 of the CS and Policy MD7a of the SAMDev Plan. It would also comply with the requirements of the SPD.

Section 106 agreement

41. Section 11 of the Council Statement of Case indicates that it is a requirement of adopted policy that the appellant enter into a section 106 agreement to ensure that the future occupation of the dwelling is restricted to the agricultural business and that should the dwelling no longer be required for such a purpose a financial contribution to affordable housing should be made.
42. The appellant confirms a willingness to enter into a legal agreement with regard to the occupation of the dwelling in connection with agriculture. Even so, I see no reason why the occupation of the proposed dwelling cannot be limited to a person solely or mainly employed in agriculture by means of the condition agreed as part of the SOCG. The use of a condition in preference to a

section 106 agreement is consistent with the Planning Practice Guidance (PPG)⁴.

43. The Council has confirmed that in terms of Policy MD7a the proposal would be a primary dwelling. The policy states that such dwellings will be the subject of occupancy conditions. The policy also states that if subsequently the dwelling is no longer required as an essential rural worker's dwelling a financial contribution to the provision of affordable housing will be required.
44. The Council's SPD states that occupational dwellings are treated as part of the pool of affordable housing to meet local needs and the starting position is that new occupational dwellings will also be secured from the start by a section 106 agreement for affordable housing.
45. However, I must consider whether in accordance with the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations and the Framework the proposal for a section 106 obligation is necessary to make the development acceptable in planning terms.
46. As highlighted in Policy MD7a should the proposed dwelling at some subsequent date be no longer required in connection with agriculture a planning application would be required to vary or remove the occupancy condition. In such circumstances, in accordance with Policy MD7a, an appropriate contribution towards affordable housing would be sought. Therefore, in this case, based on the evidence before me, it is not necessary for the appellant to enter into an agreement to secure a contribution towards affordable housing at this stage.
47. Therefore, I conclude that a section 106 agreement would not be needed to secure an affordable housing contribution in the event that the dwelling is no longer occupied in connection with agriculture. The development, in the absence of an agreement, would not conflict with Policies CS5 or CS11 of the CS or Policy MD7a of the SAMDev. Nor would it conflict with the objectives of the SPD.

Other Matters

48. Due to the siting of the Keppel Gate Farm buildings, there would be no intervisibility between Shelvock Hall and the proposed dwelling. In respect of the statutory test set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have had special regard to the desirability of preserving or enhancing the setting of the designated heritage assets at Shelvock Hall, and I am content that the proposal would preserve those interests.

Conditions

49. Conditions were proposed and agreed between the parties in the SOCG, including pre-commencement conditions. These were discussed at the Hearing. Having had regard to the discussions and the requirements of the Framework and the PPG, I have imposed those conditions I consider meet the six tests, subject to amendments to ensure precision and brevity without changing their overall intent.

⁴ Paragraph: 011 Reference ID: 21a-011-20140306

50. I have imposed the standard time limit condition, and in the interests of certainty, I have also imposed a condition concerning the approved plans. Details of the materials of the development are needed to ensure that the development has a satisfactory appearance. A condition requiring surface and foul water drainage details, is necessary in the interests of the environment.
51. An occupancy condition is necessary to make the construction of a dwelling in the countryside acceptable. Conditions removing permitted development rights and ensuring the garage is not used for living accommodation are necessary to ensure that the development remains commensurate in size with policy requirements related to rural workers dwellings and affordable housing need within Shropshire Council area.

Conclusion

52. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed subject to conditions.

Diane Cragg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the following approved plans: Location Plan Drawing No 433-143p dated May 2021; Site Plan Drawing No 433-143p dated May 2021; New House and Garage Plans Drawing No 433-143p dated May 2021.
3. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.
4. No above-ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
5. The dwelling hereby permitted shall only be occupied by a person solely or mainly employed, or last employed in the locality in agriculture as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry, a dependent of such a person residing with him or her, or a widow or widower of such a person.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted under Classes A, AA, B, C, or E of Part 1 Schedule 2 of the order shall be erected, constructed, or carried out.

7. The detached garage hereby permitted shall not be used for living accommodation and shall only be used for purposes ancillary to the use of the residential dwelling hereby approved.

Appearances:

Appellant:

Frances Kirkham	Heal Planning
Kirstie Edwards	Heal Planning
James Corbett	Appellant
Robin Hooper	Heal Planning

Council:

Mark Perry	Shropshire Council
Philip Mullineux	Shropshire Council
Jenn Lister	Shropshire Council

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Appeal Decision

Site visit made on 17 August 2022

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022.

Appeal Ref: APP/L3245/D/22/3301364

245 Wenlock Road, Shrewsbury, Shropshire SY2 6SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Corfield against the decision of Shropshire Council.
 - The application Ref: 22/01705/FUL, dated 30 March 2022, was refused by notice dated 8 June 2022.
 - The development proposed is retention of a balcony with a balustrade, on the roof of the dining room as authorised under planning reference 20/02207/FUL for the erection of part single and two storey extensions including Juliet balconies to the rear elevation and remodelling of dwelling (amended description).
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development had been carried out prior to the application to the Council.

Main Issue

3. The main issue in this appeal is the effect of the development on the living conditions of neighbours in respect of residential amenity and privacy.
4. No.245 Wenlock Road is a detached house situated between two neighbouring detached houses and an open area of land which is under development. It has been extensively remodelled under permission ref: 20/02207/FUL. The balcony and glass balustrade which has been created, and which occupies an area of flat roof, was not part of that planning permission. The balcony is located at the south-eastern corner of the building at first floor level next to the rear garden. The approved plans indicate that the rear window serving bedroom No.1 would have a Juliet balcony. However, a glazed door has been installed which allows access from bedroom No.1 to the balcony.
5. From the balcony there are clear angled views of the first floor rear windows of houses along Kingston Drive and over their rear gardens, which are separated by timber boundary fences. It is also possible to see the end of the rear garden of No.243 Wenlock Road.
6. A Juliet balcony serving bedroom No.1 would have allowed a degree of overlooking of the gardens of adjacent properties, as is the case with the approved Juliet balcony granted permission and installed to serve bedroom No.4. However, the glass balustrade which fronts the balcony can allow a

greater field of view of neighbouring gardens than the approved Juliet balcony for the window serving bedroom no.1. That is because people using the balcony could stand and lean over the balustrade. Moreover, the balcony will allow people to sit and use the space for long periods of time, whereas use of a Juliet balcony would be likely to be used much less and for shorter periods of time. There would also be more potential for noise and disturbance from people using the balcony to have an adverse effect on the amenity of neighbours because any users would be in the open air at first floor level.

7. The appellant has referred to potential screening of the balcony to restrict overlooking of other properties, such as slatted fencing, or obscure glazing for the balustrade, but considers that the balcony does not result in such detrimental harm to warrant such measures. However, screening would not prevent the potential for noise and disturbance when the balcony was in use. I accept that other windows in the property, including the window with a Juliet balcony at bedroom No.4, allow overlooking of neighbouring gardens and facing windows in houses. Despite this, the use of the balcony, although at the south-eastern end of the house would increase the potential for overlooking and add to the overall loss of privacy for neighbours. The angle of view towards the rear of the houses on Kingston Drive is also slightly less acute from the balcony than from the other first floor rear windows of the appeal dwelling.
8. I find that the development has a detrimental effect on the living conditions of neighbours in respect of increased loss of privacy. It therefore conflicts with policy CS6 of the Shropshire Local Development Framework Core Strategy which seeks, amongst other things, to ensure that development safeguards residential and local amenity. It also fails to meet the objective of the National Planning Policy Framework to create places with a high standard of amenity for existing and future users.

Conclusion

9. I have taken all other matters raised into account. For the reasons given above, I conclude that the appeal should be dismissed.

Martin H Seddon

INSPECTOR



Appeal Decision

Site visit made on 27 September 2022

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/L3245/X/22/3297545

Land adjacent to The Old School, Cardeston, Wattlesborough, Shrewsbury SY5 9EA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr & Mrs C Roberts against the decision of Shropshire Council.
 - The application ref 21/03516/CPE, dated 15 July 2021, was refused by notice dated 4 November 2021.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is commencement of works for the erection of a dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form does not detail the building works which the appellants would like a lawful development certificate for, but instead refers to an attached statement. The grounds for the application refer to a use, operation or activity in breach of a condition or limitation, reference number 14/03486/OUT, condition 3. However, condition 3 states that 'The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved'. The Council dealt with the application on the basis that it was 'commencement of works for the erection of a dwelling'. Having reviewed the evidence submitted, it is clear that the appellant is seeking to ascertain whether works for the erection of a dwelling have been lawfully begun. I have therefore used the Council's description in the banner heading above and considered the appeal on this basis.

Main Issue

3. The main issue is whether the Council's refusal to grant a LDC was well founded.

Reasons

4. An application under S191(1)(a) of the Act seeks to establish whether any existing use of buildings or other land was lawful at the time of the application. S191(2)(a) and (b) sets out that uses and operations are lawful at any time if:
 - i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because

- the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
5. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the development is lawful. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
 6. Outline planning permission was granted on 15 May 2015 for the erection of a dwelling with all matters reserved, reference 14/03486/OUT. The Council granted reserved matters approval on 18 November 2016, reference 16/01009/REM. Condition 3 attached to 14/03486/OUT states 'The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved. It is necessary, therefore, for the appellant to show, that the development lawfully commenced on or before 18 November 2018.
 7. The Council's Decision notice states the reason it considers the development is not lawful 'Condition 4 of 16/01009/REM would be classed as a condition precedent and goes to the heart of the permission. It is noted that the date by which works shall have commenced has lapsed and therefore the permission has expired.'

Whether development was begun

8. Section 56(2) of the Act states development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. It is necessary for the works carried out to be comprised in the planning permission and be more than *de minimis*. The appellant states that the work commenced when the following material operations took place prior to the 18 November 2018:
 1. Placing a caravan on site for health and safety measures so workers can have breaks under cover and shelter from severe elements of the weather.
 2. Scraping and levelling the site and carting material away followed by hardcore surfacing over the whole site.
 3. Providing water supply and stop tap to the site and caravan.
 4. Bringing foul drain onto the site toilet connection.
 5. Building brick electric canopy fixing supply and meter.
 6. Demolition of existing building (school bike shed) located on position of new dwelling which was taken down the day of purchase.
9. Section 56(4) of the Act defines 'material operation' as (a) any work of construction in the course of the erection of a building; (aa) any work of demolition of a building; (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building; (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b); d) any

- operation in the course of laying out or constructing a road or part of a road;
(e) any change in the use of any land which constitutes material development.
10. The siting of a caravan is generally held to constitute a use of the land and not operational development. Although it was not possible from my visit to ascertain how the caravan has been used since its placement within the site, the placing of a caravan for health and safety reasons does not fall within the definition of a material operation set out under section 56(4) and so is not a material operation for the purposes of section 56 of the Act.
 11. The appellant states that the site has been scraped and levelled, with material taken away and hardcore placed over the whole site and has provided a photograph dated 14 July 2018 which shows a digger within the site and exposed soil. I saw that hardcore has been placed near the entrance to the site. However, much of the area which has been laid with hardcore is shown as being laid with grass in the approved plans. It is therefore unlikely that the works were done for the purpose of carrying out the planning permission.
 12. I saw that a water supply and pipe is linked to the caravan. Although a water supply would be required for the proposed dwelling, the supply is connected via an overground pipe to the caravan. I saw that a foul drain has also been laid within the site. However, while its location is broadly in line with the foul drainage details shown on drawing WB-DL-600 Rev A, it is connected to the caravan. It has therefore not been shown that the works were done for the purpose of carrying out the planning permission. Furthermore, the appellant has not detailed when the water supply or foul drain were laid.
 13. The appellant has provided a photograph, dated 24 October 2018, of a brick canopy. I saw a brick electric canopy has been constructed which houses an electrical supply to the caravan. Although an electricity supply would be required for the dwelling, the approved plans do not show that a canopy would be provided. Such features are usually located on the dwellings, with free standing canopies, in my experience are more generally associated with caravans. It has therefore not been demonstrated that the works were carried out in accordance with the planning permission.
 14. The appellant states that the bike shed was 'demolished in July 2018 with a digger'. While a photograph showing the bike shed was included in the Design and Access Statement at the Outline planning application stage, the demolition of the building was not in the description of development. Due to its position in the site, I accept that the demolition of the building may have been necessary to facilitate the construction of the dwelling. However, no substantive details of the building, or its demolition have been provided. It has therefore not been demonstrated that the works to remove the building constituted a material operation for the purposes of section 56 of the Act.
 15. The appellant states that the majority of the above was carried out in July / November 2018 and suggests this is documented with correspondence between Mr and Mrs Roberts and Cathryn Robinson, Planning Officer at the time. However, the correspondence the appellant has provided is an email dated 6 December 2018 from the Council querying whether or not any works had commenced on site.
 16. The Council advise that a Building Control Initial Notice application was submitted on 1 September 2017 but that Approved Inspectors stated on 30

November 2020 that work has not commenced and three years have passed since we [sic] issued our Initial Notice. However, it is not a requirement of section 56 that a material operation must benefit from building control approval. Building control and planning permission are two separate processes.

17. Nevertheless, there is ambiguity as to when some of the above works were carried out and whether the works were carried out in accordance with the planning permission, or in association with the siting of the caravan.

Condition precedent

18. It was established in *F G Whitley & Sons v SSW & Clwyd CC* [1992] JPL 856 that if development was in contravention of a 'condition precedent', it cannot properly be described as commencing in accordance with the planning permission, the 'Whitley principle'.

Outline planning permission: Condition 4

19. Planning Permission 14/03486/OUT, Condition 4 states that '*No development shall take place until a scheme for the provision of surface water and foul drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details and completed before the development is occupied.*'
20. The condition is clearly worded so as to prevent development from occurring until a scheme of foul drainage and surface water has been submitted to, and approved by the Local Planning Authority. This clearly prohibits the commencement of development until the requirement has been met. The reason given for the condition is to ensure that the proposed drainage systems for the site are fully compliant with regulations and are of robust design.'
21. Given the site's rural location, there is no certainty that it would be possible to connect to the mains drainage system. The use of a building for residential purposes would generate foul discharge which has the potential to cause pollution if not adequately controlled. The additional built development is also likely to increase surface water run-off and therefore has the potential to increase risk of flooding.
22. It is therefore essential that the means of dealing with foul and surface water drainage are resolved before works can progress. Consequently, the commencement of development is conditional upon the submission of a scheme of foul drainage and surface water drainage. Such matters therefore, in my view, go to the heart of the permission.
23. Where planning permission has been granted at the outline stage, there is no scope to reconsider matters which were dealt with (or should have been dealt with) at the outline stage. The Planning Practice Guidance (PPG) advises the only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters. Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted.

Reserved matters: Conditions 3, 4 and 5

24. There were three conditions attached to 16/01009 which are asserted by the Council to be pre-commencement conditions, conditions 3, 4 and 5.

25. Condition 3 of 16/01009/REM states *'No development shall take place until full details of splayed access drive way, in accordance with TD41/95 incorporating a dropped kerb crossing, as indicated on Drawing No.78-16-05 Rev.F, has been submitted to and approved in writing by the LPA, having consulted with Highways England. The access shall be installed in accordance with the approved details prior to the commencement of use of the development hereby permitted.'*
26. Condition 4 of 16/01009/REM states *'No development shall take place until full drainage details, as indicated on Drawing No. 78-16-05 Rev.F, showing how surface water run-off will be prevented from discharging from the development onto the A458. These details shall be submitted to and approved in writing by the LPA, having consulted with Highways England...'*
27. Conditions 3 and 4 of 16/01009/REM were specifically recommended by Highways England in order to ensure the safety of users on the A458 and enable it to continue to be an effective part of the Strategic Road Network in accordance with DfT Circular 02/2013: The Strategic Road Network and The Delivery of Sustainable Development. Highways England also pointed out that the works would require a Section 278 Agreement to be entered into and all costs relating thereto to be borne by the Applicant.
28. Condition 5 of 16/01009/REM states *'Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted to the Local Planning Authority for prior [sic] to the commencement of development. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. The submission shall includes [sic] details of how surface water shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. The level of water table should be determined if the use of infiltration techniques are being proposed.'*
29. Section 278 of the Highways Act 1980 allows developers to enter into a legal agreement to make permanent alterations or improvements to a public highway, as part of a planning approval. Such agreements ensure that works to implement an access are carried out to the appropriate standards. However, they differ from planning decisions, which are only concerned with the form of an access, not the methods that will be used in its construction.
30. Condition 3 relates to the access and so it was reasonable for the Council to impose the condition on the reserved matters application. Given the need to ensure safe access onto the A458 can be achieved, it is essential that such matters are agreed before the works can progress. Consequently, the commencement of development is conditional upon the submission of details of splayed access driveway and dropped kerb crossing. Such matters, therefore, in my view, go to the heart of the permission.
31. Conditions 4 and 5 of 16/01009/REM, seek to control of surface water and, in my view, duplicate condition 4 of 14/03486/OUT. Since conditions 4 and 5 of 16/01009/REM are not necessary, it follows they do not go to the heart of the planning permission. Nevertheless condition 4 of 14/03486/OUT requires the submission of a scheme for the provision of surface water and foul drainage and so such matters would still need to have been addressed prior to the commencement of development.

32. Application 17/05208/DIS was submitted in order to discharge conditions 3, 4 and 5 of 16/01009/REM, however, the application was not proceeded with and the conditions have not been formally discharged.

Exceptions to Whitley

33. *Whitley* established the principle that development begun in contravention of a condition is development without planning permission, and it established an exception: if the condition requires that something is approved before a given date, and the developer applies for that approval before that date, and the approval is subsequently given so that no enforcement action could be taken, work that is carried out before the deadline and in accordance with the ultimately approved scheme can amount to a lawful start to development.
34. In October 2017, as part of the approval of conditions application, drainage details were submitted, Dwg No. WB-DL-600Rev A, together with Drawing No 211-17-35 C. Drawing No WB-DL-600 Rev A, 'Drainage Layout' dated October 2017 (Appendix 7 of the Appellant's SoC) provides details of surface water and foul water and shows an ACO Channel at the proposed access. Drawing Number 211-17-35 Revision C, 'Access apron construction', dated September 2017 (Appendix 8 of the Appellant's SoC) provides details of kerbing and the ACO Drain. Drainage calculations were also submitted (Appendix 9 of the appellant's SoC).
35. On 11 April 2018, a planning officer wrote to the appellant advising that consultees have made comment on the drainage based conditions, and are generally satisfied with the details. The officer raised issue with Condition 3 regarding the access arrangements and pointed out that the information submitted does not sufficiently provide the full details of a splayed access driveway, in accordance with TD41/95 incorporating a dropped kerb crossing required by Condition 3.
36. While an officer of the Council advised in an email dated 11 April 2018 that 'our consultees have made comment on the drainage based conditions, and are generally satisfied with the details', the condition was not discharged. Significantly, Highways England advised in a letter dated 13 December 2018, that *'the proposed ACO channel...situated across the top of the vehicular access apron as detailed on the Drainage Layout Plan, drawing no. WB/DL-600 Rev A, is not located to the rear of the Highway boundary resulting in surface water runoff from part of the development site discharging onto the A458 Trunk Road, which is not acceptable...'*.
37. The appellant suggests the issue with the ACO drain had been rectified in 2017 by obtaining land registry and topographical plans. The appellant has drawn my attention to correspondence with an employee of Kier who were acting as consultants for Highways England, dated 5 December 2017, who advised that information provided (a land registry plan and overlay) is helpful in defining the boundary. However, this email pre-dates Highways England's advice given on 13 December 2018 and so it seems unlikely that the information provided had been deemed sufficient at that time.
38. Furthermore, a '3rd Party Scheme Detailed Design Review' document, dated 18 July 2018, states 'Relocate private catch drain along the highway boundary to ensure all private surface water run off does not fall into the Highway Drainage System'. A further copy of the 3rd Party Scheme Detailed Design Review, which

appears to have been sent on 7 June 2019 and includes 'Designer Response 1 and Review Comment 2'. With respect to drawing number WB-DL-600 Rev A, dated October 2017, drawing revision 211-17-24a & 35b (211-17-35B, typo assumed) it is stated that Channel relocated to highway boundary due to updated outfall invert level. I note that the revision is identified as '20-06-18 Revisions/amendments following comments from Kier'.

39. However, it is not clear from the evidence provided whether this document was submitted to the Council on or before 18 November 2018 or whether it has since been modified. Consequently, I am not persuaded that an exception to Whitley applies in this case.
40. I note the appellant's concerns regarding the length of time the Council has taken to deal with application 17/05208/DIS. However, it would have been open to the appellant to submit an appeal against the Council's failure to issue a decision. While an officer of the Council may have suggested the appellant submit the application for an LDC, the Council cannot be bound by such a suggestion.
41. In my view, the appellant's evidence is not sufficiently precise and unambiguous and has therefore not demonstrated, on the balance of probabilities, that works that have been carried out constitute the commencement of development or that the development lawfully commenced on or before 18 November 2018.

Conclusion

42. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of commencement of works for the erection of a dwelling was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

M Savage

INSPECTOR

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