

DELEGATED DECISION REPORT

APPLICATION NUMBER

161545

16-18 High Town, & 12 East Street, Hereford, Herefordshire, HR1 2AA

CASE OFFICER: Mr Edward Thomas

DATE OF SITE VISIT: Various

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The site comprises the fire damaged 16-18 High Town and the detached building 12 East Street and the rear service yard, which extends up to East Street itself.

In October 2010 16-18 High Town, both Grade II listed buildings, were severely damaged by fire, which also affected the adjoining Phones4U building, which was subsequently restored comparatively quickly under separate applications.

The subject buildings were subject to a separate proposal for reinstatement/redevelopment under reference 111795 & 111797. These applications were approved and the permission implemented. Thereafter work was mothballed and it became apparent that the owners had gone bankrupt and their holdings were recovered and placed with Receivers. The site has been hoarded on High Town, with structural scaffolding being in place.

Discussions involving the architects, Receivers and expert heritage advice from the Council's officer and Heritage England have led to the submission of these applications, which seek to:-

- 1) Increase the number of residential units in order to assist with viability;
- 2) Safeguard the historical interest of the High Town façade (Alban House) insofar as is possible *without* having to retain it in situ – retention in situ having been a requirement of the original scheme;
- 3) Increase the attractiveness of the retail space at ground floor by reducing the scale.

Given that each building is Grade II listed and very prominent within High Town and the Conservation Area, the process has, from the outset, involved all statutory agencies. The sensitivity is heightened by the interaction with the Grade II* listed Booth Hall to the rear and the Grade I listed Old House in High Town itself. This engagement has led to a position whereby the approach to conservation of the existing, surviving fabric has been revisited in order to increase the likelihood of a redevelopment proposal being delivered.

In essence the work will involve the restoration of the retail units at ground floor throughout, with the opportunity now afforded to revisit the remainder of the site. In this regard it is now intended to limit retail floor space to the historic footprint of the respective ground floors, with

one and two-bedroom apartments over. This is in contrast to the original permission 111795, which sought to reintroduce active retail floor space to the first floor of the River Island building with retail storage at first-floor in the Card Factory building.

Accordingly the High Town element now comprises:-

Ground Floor: 2 retail units, with pedestrian access and lift/stair tower

First Floor: four residential apartments (3 x 1-bed, 1 x 4-bed), with landing and store

Second Floor: five residential apartments (5 x 1-bed)

Third Floor: three residential apartments (1 x 1-bed and 2 x 2-bed)

Unit 1 is No.12 East Street, which was also refurbished under the 2011 proposals.

These changes are not manifest from the High Town perspective, where the façade will remain as per the earlier proposal. It is the reduction in retail floor space arising from the demolition of the existing extension to the River Island unit and containment within the ground floor that enable the introduction of more residential floor space.

East Street

The other and more obvious changes arise at the rear of the site on East Street. With the reduction in retail floor space it is no longer necessary to retain the existing service yard gap in the otherwise continuous built frontage on East St. This enables the construction of a separate block of residential accommodation filling the frontage between the existing retail unit and The Grade II* listed Booth Hall public house. Here, the proposal retains a wagon way through to a courtyard space, which will permit smaller service vehicles to access from East Street. The building is 4-storey and comprises 7 one-bed units (2 per floor with the exception of the ground floor where floor space is limited due to the wagon way). A stairs and lift-tower is to the rear of this building.

The combined number of apartments is 20.

The application is accompanied by a wide range of structural information, including survey drawings and structural feasibility study.

The submitted DAS outlines the extent of the fire damage, which was severe. Early clearance and stabilization work was undertaken in the immediate aftermath, evidence of which is covered by photographs.

16/17 High Town (Card Factory): This building adjoins the Booth Hall passage to the east and the fire damaged property at no.17 St Peter Street (Phones 4U). The existing frontage has been demolished and upper floors removed. The C19 rear abuts a medieval truss, which appears to be a remnant of a previous range relating to the Booth Hall.

Access to the flats is via the rear, where a new lift and stair tower is proposed.

The scheme also includes No.12 East Street. This is a modest brick building to the rear of the River Island building. It is proposed to convert this to additional storage.

The application is accompanied by a Design and Access Statement which incorporates a Heritage Impact Assessment and Supplementary Report on the Alban House façade. The appendices are:-

- i) An Architectural and Archaeological Analysis of the Floor Structures, etc prepared by Richard Morriss dated November 2011
- ii) Structural Feasibility Study prepared by Mann Williams dated October 2015 Rev B
- iii) Archaeological Evaluation prepared by Headland Archaeology dated May 2016
- iv) Preliminary Heritage Assessment – Buildings at High Town – prepared by Headland Archaeology (attached for information only in reference to Appendix iii above)
- v) Preliminary Ecological Appraisal prepared by Worcestershire Wildlife Consultancy dated 14 April 2016

In summary, the document describes the application as proposing:-

- 16-17 High Town would be reconstructed broadly in line with the original proposals to consist of ground floor retail space with a shop front facing High Town and residential accommodation above. Access to the residential accommodation would be gained from the rear courtyard off East Street.
- 18 High Town would be completely reconstructed with ground floor retail space and three floors of residential accommodation above, access from the rear courtyard via East Street.
- The first, second and third floor residential accommodation above 16-18 High Town would be linked via a common area, access stairs and lift to all levels.
- The service areas to the shops would be reduced with access from the shop fronts off High Town (as is the case with most of the smaller retail units in High Town).
- The façade to 18 High Town would be reconstructed to match the former stucco façade as it originally existed reusing elements retained from the dismantled structure.
- 16-18 High Town, Hereford
- The rear courtyard areas would be opened up to provide improved amenity and parking in conjunction with the residential units and rear service access to the retail units.
- The small brick constructed outbuilding at the rear of the Ann Summers shop would be reconstructed and converted to a separate cottage in its own private courtyard garden to the south.
- To complete the scheme it is proposed to reinstate the East Street frontage and construct a new infill building that provides further residential accommodation over four floors. This frontage will allow pedestrian access to the courtyard together with vehicle access and access to each floor of the infill block via a common stairs and lift.

- The scale and proportion of the new infill frontage to East Street aligns with the existing buildings and maintains the pattern of building along East Street elevated in a simple but contemporary style.
- The façades to High Town would be reconstructed to respect the historic setting and the rhythm of the street scene with a strong references to the former 18th and 19th Century facades.

Planning Policies

Herefordshire Local Plan – Core Strategy (2011-2031)

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
HD1	-	Hereford
HD2	-	Hereford City Centre
H1	-	Affordable housing – thresholds and targets
H3	-	Ensuring an appropriate range and mix of housing
MT1	-	Traffic management, highway safety and promoting active travel
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

National Planning Policy Framework

Chapter 11: Paragraphs 131 and 132 outline the issues that the decision-maker must have regard to, including when harm to significance of designated heritage assets is considered substantial or demolition is proposed. Paragraphs 133-134 deal with the approach to defining harm to significance in respect of designated heritage assets. Paragraphs 137 and 138 deal with Conservation Areas and are thus relevant to this case. Paragraph 138 recognises that not all elements of a Conservation Area will necessarily contribute to its significance. Furthermore, loss of a building (or other element) which makes a positive contribution to the significance of a Conservation Area should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

Planning History

- 131880/F – Change of use of 18 High Town (Alban House) to A2 financial services: Approved 23rd August 2013

- 120102/AM – Raising of roof and parapet at rear of shop unit 2: Approved
- 111795 & 111797 – Alterations and extensions to form 2 no. retail units and apartments with change of use of 12 East Street to form ancillary storage to shop unit at 18 High Town: Approved subject to conditions

Consultation Summary

Statutory consultations

English Heritage: No objection

Thank you for your letter of 23 May 2016 notifying us of the applications for listed building consent and planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

Historic England supports these proposals in principle, and has - as you know - been closely involved in discussions with yourselves for some time. The effective loss of the fabric of a historic building is bound to be a last resort, but we are content that a good case for this approach has been made, taking into account the wellbeing of the historic city centre as a whole, and the conditions that we advise you below to impose.

Conditions should be imposed requiring your Council's prior approval of the detailed archival recording of the buildings, and of the salvage and destination of components.

Conditions should also be imposed requiring your Council's prior approval of all architectural details, materials and finishes.

Further demolition should not take place until the contract for construction has been let.

Recommendation

We urge you to address the above issues, and recommend that this application be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice. It is not necessary for us to be consulted again. If you feel you need further advice, please let us know why.

Please re-consult us if there are material changes to the proposals beyond those necessary to address the issues we have raised. We will then consider whether such changes might lead us to object. If they do, and if your authority is minded to grant consent, you should notify the Secretary of State of this application in accordance with the above Direction.

Welsh Water: No objection

Internal Council Advice

Senior Building Conservation Officer: The application site is within the Central Conservation Area of Hereford and spans between the historic central market square of High

Town and East Street to the south. 16-18 High Town consists of 2no. grade II listed buildings, 16-17 High Town and Alban House (18 High Town).

Negotiations have been ongoing concerning the future of the site since the buildings were damaged by fire in 2010. A Planning Permission and Listed Building Consent were given in 2011 but though the protection works relating to the surviving historic fabric were undertaken, the redevelopment stalled.

The changing ownership situation and condition of the remaining historic fabric are clearly set out in the application documents and have been the subject of much pre-application discussion between the applicants' agents, the LPA and Historic England. The submitted scheme is as discussed.

The main change to the scheme is that certain elements of the historic fabric would be recorded before being dismantled prior to the complete demolition of the above ground buildings on the site. It has been agreed via discussion and site visits that the condition of the fabric has deteriorated beyond economic repair, especially when balanced against the economies and practicalities of construction on the site. Demolition is always a last resort in these situations but elements of the façade will be reused in their original locations in the replica façade, the timber ground floor ceiling grid will be reinstated in its original location in the new building and the other timber elements will be recorded and an appropriate home found, preferably on site.

The redevelopment scheme has been considered in detail and the High Town frontage will appear essentially very similar to its pre-fire look, except with a roof containing living accommodation. The use of the upper floors of the buildings for residential accommodation should bring the frontage alive for more of the day, adding to the vibrancy of the city, not just at ground level with the retail offer.

The other major change from the previous scheme and from the pre-fire site is the new building proposed for East Street. This building would close the gap between the grade II* Booth Hall and 7 East Street. Historically there has generally been a building in this location, sometimes with an archway access to the yard to the north. The current proposal would therefore be reinstating a historic streetscape which is considered to be beneficial to the conservation area.

The elevations and materials proposed have been discussed in general and more detailed terms and are considered to be broadly acceptable, subject to the submission and agreement of samples and details and finishes.

Archival recording of the remaining historic fabric will be required and agreement as to what and how this is to be achieved must be agreed. In addition the location and method of preservation of fabric not destined for retention within the new building must be agreed prior to its removal from the existing building.

Highways Manager: No objection. The highways manager met the architects on site prior to submission and discussed the detailed design of the East Street frontage so as to ensure visibility on egress from the courtyard and continuity of the footway. Given the sustainable

location and local residents' parking schemes a reduced level of parking provision is considered justifiable in the context.

Archaeology: As previously discussed:

- The location of the proposed development is one of exceptional sensitivity. Within the designated Hereford Area of Archaeological Importance or 'AAI', and straddling the former Saxon defences of Hereford, it has very high potential for the presence of buried archaeological remains of significance and interest.
- However, a rigorous assessment and evaluation process has in my view indicated both that this particular proposal is probably the best (as regards archaeological impact) of all the proposals put forward here to date, and that it would indeed be appropriate to allow this proposal to proceed, subject to proper mitigation.
- Given the location, this mitigation would need to be high level and undertaken to a high standard. In essence it would comprise a combination of skilful foundation design (to minimise as far as possible the ground impact) and archaeological excavation, to make a detailed long term record of any archaeological deposits and features still to be affected.
- Therefore, in accordance with Para 141 of the NPPF and Policy LD4(4) of the Core Strategy, **I have no objections**, subject to the attachment to permission of appropriate conditions relating to foundation design and to archaeological recording.
- I would advise **standard archaeological conditions E04 and E01**.
- Also, the **standard informative** relating to the AAI should be included with any permission

POS: Qualified comment

Core Strategy Policies OS1: Requirement for open space, sport and recreation facilities and OS2: Meeting open space and recreation needs. In accordance with Core Strategy OS1 and OS2, open space provision will be sought from all new residential development and considered on a site by site basis. Where on-site provision is not appropriate as in this instance given the size and location of the proposed development, off-site contributions may be sought on an equally beneficial basis for the local community and based on robust evidence: in this instance the Playing Pitch Assessment and Outdoor Sports Investment Plan 2016.

*see Planning Obligation Manager's comments for why such contributions are not being sought.

Ecologist: Qualified comment

Thank you for forwarding a copy of the Worcestershire Wildlife Consultancy Bat Activity Survey report (June 2016) for the property at High Town, Herefordshire.

I note from dusk emergence survey completed on 13th June 2016 that a low level of bat activity (1-2 common pipistrelle bats) was recorded within cellar area of the affected building. In addition droppings of common pipistrelle and brown long-eared bats were noted by the cellar hatch door on the subsequent survey visit on 22nd June 2016. It is implied from the survey that the common pipistrelle may have emerged from one of the crevices noted in the cellar walls.

As a result of the survey findings it is speculated within Section 4.1 of the Worcestershire Wildlife Consultancy Bat Activity Survey report (June 2016), *"that the cellar could be used as an occasional non-maternity summer roost by a very small number of common pipistrelle bats."* No specific mention is given to the likely origin of the brown long-eared bat droppings in the cellar. It is my view that it is likely that this bat species has used the cellar as an occasional feeding/resting perch.

It is suggested in the report that works to the upper floors of the existing fire damaged building could result in the obstruction or destruction of the speculated bat access points to the cellar roosting sites. The report recommends that a third activity survey is undertaken prior to any works *"to confirm whether bats are roosting there [the cellar] and to inform a working methods statement for the cellar and ground floor."*

The Worcestershire Wildlife Consultancy Bat Activity Survey report (June 2016) concludes in Section 4.1,

"As a general rule, no work should commence on the cellar/ground floor until a methods statement is prepared and/or a licence granted by Natural England (dependant on results of a third survey). In addition, it should be noted that none of the features used by bats for entering/existing the cellar should be modified or obstructed in any way. Therefore in reality works on the rest of the building that would obstruct/destroy access to the cellar, i.e. affect the ground floor, cannot occur until such a licence has been used."

I accept the principles of this statement and fully acknowledge that the building works may necessitate the benefit of a Bat Low Impact Licence (BLIC) from Natural England. However, it may be possible prior to this to outline the probable mitigation measures that could be employed to retain or replace the access to the likely roosting opportunities within the cellar, or make alternative roosting provisions for common pipistrelle and/or brown long-eared bats within the fabric of the restored building. I would urge that the architect and the ecological consultants have further discussions on the ability to retain and/or replace the likely roosting opportunities within the proposed development, which could give rise to further information submitted to the LPA.

Finally I welcome the suggested enhancement measures, in Section 4.1 of the survey report, to provide additional bat roosting opportunities associated with the building. It is my opinion that such enhancements could be secured in combination with a building design that also fully illustrates suggested mitigation to safeguard the existing likely bat roost/s. Furthermore the provision of an appropriate external lighting plan, which avoids any conflict with the bat

mitigation and enhancement measures could be secured by virtue of a relevant planning condition.

Schools Capital and Investment: Sought a modest contribution (£5,746) towards educational infrastructure.

Housing Development Officer: Sought an off-site contribution towards affordable housing on the basis the scheme is for more than 15 units.

Planning Obligations Manager: Concludes no S106 contributions may justifiably be sought.

The application proposes alterations and extensions to form 2 ground floor retail units with 12 residential units above. Erection of 7 residential apartments facing East Street and the refurbishment of a redundant building into new single dwelling at East Street. In accordance with Core Strategy Policy H1- Affordable Housing, ID1- Infrastructure Requirements and the Planning Obligations Supplementary Planning Document as the proposal is for 20 units it would normally require 35% affordable housing and the payment of developer contributions towards education, transport and waste.

However, as stated in the Design and Access Statement the building consists of two buildings formerly known as the Card Factory (No 16 – 17) and River Island (Alban House – no 18). It is understood that the original retail space within both shop units was contained at ground floor. The upper floors of both the shop units consisted of storage space. The buildings were substantially damaged by fire on 21 October 2010. Much of the historic fabric of the buildings was damaged and destroyed.

In order to calculate whether affordable housing or contributions are actually required I have taken into account the fact that there were existing retail units at ground floor level and substantial floorspace above and have not therefore included it within the calculations.

This is also in accordance with the Planning Obligations Supplementary Document as the residential units above the retail units would be exempt from contributions in line with the Council's aim of encouraging the residential use of upper floors in central areas (albeit this will be new build, the Council acknowledge the use of the site prior to the fire). The retail units would also fall below the threshold for contributions.

This results in the contributions being calculated on the basis of 7 residential apartments facing East Street and the refurbishment of a redundant building into a new single dwelling at East Street.

In November 2014 the Government issued a Written Ministerial Statement with regards to the threshold by which affordable housing and developer contributions could be sought. Amendments were made to the Planning Practice Guidance in early 2015 to reflect this. West Berkshire District Council and Reading Borough challenged this policy change in the High Court and Mr Justice Holgate found in their favour. The written ministerial and Planning Practice Guidance were therefore quashed. The Government chose to appeal this decision in the Court of Appeal.

On Wednesday 11th May 2016 the Court of Appeal allowed the Government's appeal on all four grounds against Mr Justice Holgate's judgment in *West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government* [2015] EWHC 2222 (Admin).

The Court of Appeal has held that the Government made a lawful decision when they made amendments to the national planning policy on minimum thresholds for affordable housing, developer contributions and the vacant building credit.

The Planning Practice Guidance was amended on 19 May 2016 to reflect the Court of Appeal decision;

<http://planningguidance.communities.gov.uk/revisions/23b/031/>

Affordable housing and tariff style section 106 contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm.

Policy H1 states that 'All new open market housing proposals on sites of more than 10 dwellings which have a maximum combined gross floor space of more than 1000sqm will be expected to contribute towards meeting affordable housing needs'.

This policy takes a more relaxed approach than the government policy i.e. it does not apply the floorspace restriction for schemes under 10 houses, and takes precedence over the national policy. If the development plan policy took a more stringent approach then national policy would take precedence in that instance.

In essence, the Core Strategy policy and national policy are seeking to achieve the same objective, it is just that the Core Strategy policy goes a stage further in order to assist with housing delivery on small sites. Therefore, affordable housing and developer contributions are not required.

A Viability Assessment (8 June 2016) was prepared by Arkwright Owens Chartered Surveyors and submitted with the planning application. The assessment made some assumptions with regards to the provision of affordable housing and developer contributions and concluded that this is a marginal site and the success of the development will be that there are no onerous payments. There were no identified costings within the assessment.

A second Viability Assessment (13 July 2016) has been submitted by Arkwright Owens. It has been calculated on the basis of the 7 new build flats facing East Street and the cottage. The retail units and 1 bed flats above have been excluded from the assessment as these were existing buildings prior to the fire on the site. The assessment is based on a residual value and demonstrates that the resultant residual value is £10,131.00 without any affordable housing or section 106 contributions. Therefore, even if affordable housing and contributions were a policy requirement the scheme would be unviable.

The full figures are not included in the consultation response as they are deemed to be commercially sensitive.

Environmental Health Manager: Qualified comment

Further to our initial comments on this application made in June, I am advised that there is an existing planning permission for residential flats to the front of this proposal facing High Town Hereford.

Officers from our reactive pollution team have visited the vicinity at the weekend night time and advise that people, traffic and entertainment noise derives from a variety of sources including the site of Booth Hall, other licensed premises and East Street itself (people and traffic). Officers found a busy night time environment in this part of the city.

Bearing in mind the orientation of the proposed flats to the rear of the proposal, we therefore recommend a condition that the applicant specifies a scheme of noise attenuating measures to be approved by the local authority in writing. These to include: details of the structural party wall separation between the site and Booth Hall, glazing details for all windows (fixed and openable) and acoustic trickle vents in appropriate locations to assist with background ventilation when windows are closed to both the front and rear windows of the rear flats. We would encourage the developer to propose and implement similar mitigation measures to the other proposed flats to the front above the main building.

Representations

Town Council: No objection – item discussed at meeting of 15th June 2016

SPAB: No response

Ancient Monuments Society: No response

Hereford Civic Society: Support

This is a masterly proposal for this important site and the new build on to East Street enhances the rear of the site. As this is city centre living there is a case for having no parking provision. Practically there is a case for parking for unloading and providing services to the shops, flats and refurbished cottage. Whilst not wishing to delay progress on this site there could be a case for restricting overnight parking to encourage the exclusion of cars - after all there is only a quarter of a parking place for each flat.

HCS wishes to record its support for this project combining the best of contemporary work whilst retaining the facade details on to High Town.

Council for British Archaeology: Qualified comment. Scheme must be considered to represent demolition for which exceptional justification is required. If loss is deemed necessary then adequate recording must be undertaken. Full comments are available on the website.

Local Member: The Local Member was emailed and 'phoned on 24th May 2016. Cllr Tawn expressed support for the principle of development at this location, mindful of the long-term effect of the derelict site on the character and appearance of the Conservation Area.

Mrs Vidal-Hall licensee of The Booth Hall emailed to express concerns at the prospect for noise related complaints arising as a result of the late night live music license that The Booth enjoys on weekend nights. These comments were considered by the Environmental Health Team as recorded above and have resulted in the recommendation of a condition requiring the submission of a noise attenuation scheme that will detail construction methods aimed at reducing the potential for noise ingress.

Constraints:

Central Conservation Area – LD1, NPPF 137/8

*Listed buildings: 18 High Town (St Albans House): Grade II listed
16/17 High Town: Grade II listed
19 High Town: Grade II listed
The Old House: Grade I

Booth Hall to east/south-east: Grade II*
On East Street – Former Conservative Club: Grade II*

*This list is not exhaustive. There are many other designated and non-designated heritage assets within the wider setting of the application site. The heritage assets identified above are, in my view, the heritage assets of most relevance to this scheme.

Appraisal:

The principle of redevelopment is unquestionable. The fire damaged site has left a large break in the otherwise continuous historic High Town frontage, directly opposite the Grade I listed Old House at the transition between High Town and St. Peter's Street. The condition of the site is, in my view, a significant detractor from the character and appearance of the Conservation Area. Whilst steps have been taken to arrest the decline, the site and the Conservation Area in general would obviously benefit from an appropriate form of redevelopment.

As set out above, the scheme has evolved to take into account the respective views of the Council's HBO and Heritage England; both of whom have been closely involved with discussions, including on-site meetings with the architects and planning officer. It has been concluded that the site is not attractive to developers on the basis of the extant planning permission and discussions have been focussed on addressing this with the overall ambition of achieving a redevelopment in as timely a fashion as possible, whilst having special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses; as per the legislation at s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The site is sustainably located within the heart of the County's main service centre. CS SS1 sets out the presumption in favour of sustainable development and SS2 sets out the approach to housing delivery, with Hereford the main focus for housing growth, accommodating a minimum of 6,500 houses over the plan period.

SS3 sets out measures to ensure the supply of housing and SS4 deals with movement and transportation. SS6 is the strategic policy dealing with heritage matters, requiring that development proposals should be shaped through an integrated approach to planning the following environmental components from the outset, and based upon sufficient information to determine the effect upon each where they are relevant; which in the case of this site are townscape and local distinctiveness and historic environment and heritage assets; especially Scheduled Monuments and Listed Buildings.

The Strategic policies are given meaning through the detailed policies in the place shaping and general policies sections. Of specific relevance to this scheme is LD4 – Historic environment and heritage assets. This requires the protection, conservation and where possible enhancement of heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible.

LD4 (4) requires the recording and advancements in the understanding of any heritage assets to be lost (wholly or in part) and to make this evidence or archive generated publicly accessible.

The uses proposed are entirely consistent with the city centre location, being retail and residential use of the upper floors. The contribution that the scheme would make to the supply of housing in the context of historic under-supply is also a significant material consideration telling in favour of the scheme.

On the basis that the end uses (retail and residential) are acceptable the key issues in the determination are:

- 1) The impact of the development upon the character and appearance of the Conservation Area and adjoining listed buildings (the “Heritage Impacts”);
- 2) The design and layout of the residential units and external space.

The first main issue - Heritage Impacts

Case law has established that the influence of the Planning (Listed Buildings & Conservation Areas) Act 1990 is of direct relevance to the proper application of NPPF and CS heritage policies. In respect of listed buildings, Section 66 (1) states:-

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In respect of Conservation Areas, Section 72 states:-

In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Taking the statutory presumption as set out at S66(1) into account, it is clear that the preservation of listed buildings, their settings or any features of special architectural or historic interest which it possesses is of considerable weight and importance when assessing development proposals. Similar can be said of S72.

In this instance, the significance of the subject buildings has been reduced as a consequence of the fire damage. The impact of the site in its current condition is a major detractor from the character and appearance of the Conservation Area. The ability of a development proposal such as this to remedy the situation in terms of the Conservation Area and the setting of adjoining listed buildings is also a significant material consideration telling in favour of the scheme. As such, although the comments of the CBA are noted – and in particular their assessment that the scheme must represent demolition and harm of loss should require, in NPPF terms, clear and convincing justification – the baseline in terms of significance is substantially reduced.

The approach advocated is to salvage and re-use historic fabric where possible. This is in contrast to the original retention in situ. In my view, the current proposal represents a pragmatic approach, reflective of the position agreed by all principal parties i.e. that the situation cannot be allowed to continue indefinitely. Key to the delivery of a viable scheme is the approach to conservation in this context, which has moved away from preservation in situ, to careful removal, storage and re-use, where possible. This has conservation dis-benefits in terms of integrity, but this principle can be set aside when one considers it has been a major barrier to redevelopment historically. Thus, the careful removal of the Alban House (No.18) façade and re-use in the reconstruction of a facsimile of what existed originally is a sensible compromise position; a position accepted by Heritage England.

Such an approach has support in national and local heritage policy. As above, NPPF 132 advises that the significance of a heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Any harm or loss should require clear and convincing justification and substantial harm to or loss of a grade II listed building should be exceptional.

In this case it is the fire that has caused harm to significance. Architectural features of historic interest have been lost. In my mind, it is clear that these circumstances amount to exceptional circumstances set out in 132.

Paragraph 133 establishes the tests where substantial harm to or total loss of significance of a designated heritage asset arises. Here it is clarified that LPA's should refuse consent (as per footnote 9), "unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that or loss", or all of 4 bullet points specified are met.

As above, it is my view that the harm to significance has been caused already and that the harm caused by the site in its current condition extends to the impacts on the Conservation Area. The *additional* harm or loss necessary to facilitate development here is limited given the extent of loss caused by the fire. In my opinion, and this is supported by the HBO, the harm caused to the significance of the heritage assets in their current condition is less than

substantial and thus NPPF 134 is applicable; in which case the correct test is whether the public benefits of the proposal outweigh the harm caused to significance.

It is my view that the public benefits of the proposal are clear and obvious.

1. The scheme will enhance the character and appearance of the Conservation Area
2. The scheme will enhance the setting of the numerous adjacent heritage assets
3. The scheme will have attendant benefits in terms of addressing a detractor that *may* be resulting in loss of visitors/footfall in the local area
4. The scheme will result in the beneficial re-use of the buildings in a manner appropriate to the local context
5. The scheme will enhance the street-scene on East Street by repairing the existing 'gap' in the built frontage
6. Conservation interest will be maintained by the careful salvage and re-use of historic fabric forming the mainstay of the surviving principal façade to Alban House

In the planning balance I am convinced that the public benefits outweigh the harm caused to the significance of the heritage assets; which because of their existing condition, is less than substantial.

Design and layout

The application site has two street frontages; that onto High Town and at the rear on East Street. The external appearance of the High Town frontage is not changed, but seeks to retain the approach negotiated under the former approval; which is extant.

However, elsewhere in the scheme there are clear and obvious distinctions between the original approval and the current scheme. Whereas the original approval sought and obtained planning permission for the replacement of the existing single-storey addition at the rear of River Island with a two-storey extension, no such extension is now required. In fact the existing is removed and the retail floor space limited to the historic footplate. Accordingly what will become the courtyard i.e. the area between the respective High Town and East Street frontages, is kept free for car and cycle parking, bin storage and a ramped pedestrian access and steps down to the main entrance.

The other main distinction, as referenced above, is the introduction of significant built form on the East Street frontage. The design approach has been informed through pre-application discussion with officers.

Overall I consider the design approach to be acceptable in the context and well-capable of enhancing the appearance of the Conservation Area. Support for the reinstatement of the East Street frontage is found in the comments of all heritage bodies, including HE, the HCS and CBA.

Other Matters

Viability

The Planning Obligations Manager has considered the scheme in light of CS Policy ID1 and has drawn the conclusion that the scheme does not trigger a requirement for the provision of

Affordable Housing or S106 contributions. However, if it were considered that contributions could be sought, the evidence indicates that this would render the scheme unviable in any event. I am satisfied, nonetheless, that the Planning Obligation Manager's conclusions are justified.

Ecology

CS Policy LD2 deals with biodiversity. Given the sites condition and relative proximity to the River Wye the LPA requested that appropriate surveys be undertaken to discern the presence, or otherwise, of protected species. This has been done and the Council's ecologist recognises the findings and that although an additional survey is required, has no objection to this being surveyed; it being likely that the findings so far will require a low-intervention license from Natural England.

I am satisfied that with appropriate mitigation there is no breach of LD2 and by extension national and international legislation.

Neighbour impacts

CS Policy SD1 and NPPF Core Planning Principles require good standards of amenity. I am satisfied that within the scheme levels of residential amenity will be satisfactory; particularly given the town centre context. A number of the apartments have external seating areas and there are bin and cycle storage facilities.

The main issue is noise emanating from The Booth Hall PH, which has undergone resurgence recently as a live music venue. The Booth Hall is, in effect, the party wall with the site's eastern boundary. Noise is a genuine concern and the EHO has visited the site when the venue has been in operation. The town centre location and fact that the site already benefits from planning permission has been taken into account. For the High Town apartments good separation is achieved by the location of the stair well and storage cupboards. The East Street apartments will require extra attention in terms of noise attenuation and a condition will be imposed requiring the agreement of a noise attenuation scheme. On this basis I am content the issue is not insurmountable and should not result in the application being refused.

Conclusion

The scheme represents a faithful reinstatement of the frontage to No.18 and an unfussy reinstatement of a classically proportioned façade to Nos.16/17. The consequent re-use of the buildings for retail at ground floor with residential units above is entirely acceptable within this city centre context.

The application is recommended for approval subject to the following conditions. A two year implementation period is considered reasonable.

RECOMMENDATION: **PERMIT** ☒ **REFUSE** ☐

CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:

(please note any variations to standard conditions)

- 1) C01 – **2 years**
 - 2) C06 – 6697-1-1 (location and block plan); 6697-1-2 (Proposed ground floor plan); 6697-1-3 (Proposed first floor plan); 6697-1-4 (Proposed second floor plan); 6697-1-5 (Proposed third floor plan) 6697-1-6 (Proposed elevations) 6697-1-7 (Proposed elevations – East Street); 6697-1-8 (Proposed sectional elevations); 6697-1-9 (Proposed basement floor plan); 6697-1-10 (Proposed roof plan); 6697-1-12 (Proposed sectional elevations G, H & I);
 - 3) C13
 - 4) C47
 - 5) C50
 - 6) C41
 - 7) CAC (East Street)
 - 8) CAD
 - 9) CAE
 - 10) CAL
 - 11) CAP
 - 12) CB2
 - 13) CBK
 - 14) CBJ
 - 15) No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network
- Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
- 16) C31
 - 17) C32
 - 18) CD1 *The Worcestershire Wildlife Consultancy Bat Activity Survey report (June 2016)
 - 19) CE6 (water efficiency)

Informatives

1. Statement of Positive and Proactive Working No.1
2. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.
3. If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.
4. I05
5. I08
6. I45
7. I48
8. I51
9. I31

10.142

Signed:

Dated: 25.7.16

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

X

REFUSE

Signed:

Dated: 25/7/16