



Report to: Planning Committee, 18th April 2019

Report of: Deputy Director - Economic Development and Planning

SUBJECT: APPLICATION P18D0473 AND APPLICATION FOR LISTED BUILDING CONSENT L18D0059 – CHANGE OF USE FROM RETAIL (USE CLASS A1) TO CAFE/ RESTAURANT (USE CLASS A3) AT 22 FRIAR STREET

1. Recommendation

1.1 The Deputy Director - Economic Development and Planning recommends that the Planning Committee:

- i. grant planning permission, subject to the conditions set out in section 10 to this report, and;**
- ii. grant listed building consent, subject to the conditions set out in section 11 to this report.**

2. Background

- 2.1 The applications have been referred to the Planning Committee in accordance with the adopted Scheme of Delegation as it is contrary to policy SWDP 10 - Protection and Promotion of Centres and Local Shops.
- 2.2 The application was registered on the 26th October 2018 and was due for a decision on the 21st December 2018. However, the target date for determination has now been extended to 22nd April 2019 to enable the application to be considered by the Planning Committee.

3. The Site and Surrounding Area

- 3.1 The application site comprises 22 Friar Street which is a grade II listed property estimated to have been built in the 1700's. The application site is located within the Historic City Conservation Area and an archaeologically sensitive area. The property is currently vacant and was formerly in commercial retail use at the ground floor with the upper floors being used for storage and the manufacturing of blinds. Access to the upper floors of 22 Friar Street is via an internal staircase.
- 3.2 The premises stand on the west side of Friar Street directly opposite the Greyfriars Almshouses and to the rear is the service area to serve Broad Street, High Street and Cathedral Square.
- 3.3 Friar Street is identified as Secondary Shopping Frontage within the Worcester City Shopping Centre in the South Worcestershire Development Plan 2016 and consists of a range of retail businesses, restaurants, public houses, leisure and tourism

premises, such as the 'Vue' cinema, Greyfriars and the Tudor House museum, together with residential premises at Lasletts Almshouses and the upper floors of some premises along both sides of Friar Street.

4. The Proposal

- 4.1 The proposal is for the change of use of the ground and first floors of the existing Class A1 retail unit to a Class A3 café/restaurant with the remaining upper floors utilised as ancillary storage space. This would require limited internal alterations on the ground floor, including removal of a stud wall on the ground floor to provide a disabled persons/unisex WC, installation of counters, work surfaces and a sink, and free-standing equipment which includes a microwave and dishwasher to enable the café/restaurant to function. The frontage of the building is not proposed to be altered with the exception of lettering on the existing fascia.
- 4.2 The proposed opening hours of the café/restaurant are from 10am to 11pm on a Monday to Thursday, 10am to 1am on Friday and Saturday and 10am to 11pm on Sundays and Bank holidays. However, the applicant has advised that this could be revised to between 23:00 and 00:00.
- 4.3 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

5. Planning Policy

- 5.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan, unless material considerations indicate otherwise.
- 5.2 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "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".
- 5.3 The Development Plan for Worcester now comprises:
- The South Worcestershire Development Plan (SWDP), which was adopted February 2016
 - The Worcestershire Waste Core Strategy, which was adopted in December 2012

South Worcestershire Development Plan (SWDP)

5.4 The following policies of the SWDP are considered to be relevant to the application proposals:-

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|---------|---|
| SWDP 1 | Overarching sustainability principles |
| SWDP 6 | Historic Environment |
| SWDP 9 | Creating and Sustaining Vibrant Centres |
| SWDP 10 | Protection and Promotion of Centres and Local Shops |
| SWDP 21 | Design |
| SWDP 24 | Management of the Historic Environment |

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

5.5 The Waste Local Plan was adopted on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

- WCS1 (Presumption in favour of sustainable development)
- WCS17 (Making provision for waste in new development)

Material Considerations

1. National Planning Policy Framework (NPPF)

5.6 The updated version of the National Planning Policy Framework (NPPF) was published and came into effect on 24th July 2018. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications.

5.7 All the policies in the NPPF constitute Government's view of what sustainable development in England means in practice: an economic role, contributing to a strong, responsive, competitive economy; a social role, supporting vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment with accessible local services that reflect the community's needs; and an environmental role, protecting and enhancing our natural, built and historic environment. Economic, social and environmental improvement should be sought jointly and simultaneously.

5.8 Paragraph 38 of the NPPF encourages Local Planning Authorities to approach decision taking in a positive way and to foster the delivery of sustainable development. Local Planning Authorities are advised to approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

- 5.9 Paragraphs 85 to 90 of the NPPF relate to the vitality of town centres. Paragraphs 189, 190 and 192 to 196 of the NPPF seek to protect and enhance designated and non-designated heritage assets and guide against development that would cause substantial harm to the significance of any heritage asset. Great weight must be given to the conservation of designated heritage assets and in accordance with s66 of the Planning Listed Building and Conservation Areas Act 1990, special regard is to be had to the desirability of preserving listed buildings or their settings.

2. National Planning Practice Guidance (NPPG)

- 5.10 On 6th March 2014 the Government also published National Planning Practice Guidance (NPPG) that has been revised and updated in the meantime and comprises, amongst other matters: Air Quality; Conserving and Enhancing the Historic Environment; Design; Determining a Planning Application; Health and Wellbeing; Noise, and; Use of Planning Conditions.

3. Supplementary Planning Documents

- 5.11 The following Supplementary Planning Documents are relevant to the application proposals:-
- Design Quality SPD
 - Planning for Health in South Worcestershire SPD
- 5.12 The Planning for Health SPD primarily focuses on the principal links between planning and health. It provides guidance and interpretation of the SWDP from a public health perspective. The SPD addresses the following nine health and wellbeing principles:
- Sustainable development
 - Urban form - design and the public realm
 - Housing and employment
 - Age-friendly environments for the elderly and those living with dementia
 - Community facilities
 - Green infrastructure and play spaces/recreation
 - Air quality, noise, light and water management
 - Active travel
 - Encouraging healthier food choices

The Design Quality SPD was adopted on 5th March 2018 and replaces the previous Supplementary Planning Guidance Note 3: Design (SPG3).

Both documents encourage high standards of design for development proposals in accordance with the aims and interests that the NPPF seeks to protect and promote in this regard. The Design Quality SPD is consistent with the planning policies in the SWDP.

4. Case Law

- 5.13 Consideration of Development Plan policies is not a legalistic forensic exercise. Often policies will pull in different directions.

Decision makers need to consider whether the proposal broadly accords with those policies as confirmed in the case of *R. on the application of Laura Cummins and London Borough of Camden, SSETR and Barrett Homes Limited [2001]* in which Ouseley J. cited *R. v Rochdale MBC ex parte Milne [2000]*. As Sullivan J. said in the *Milne* case 48. *"It is not at all unusual for development plan policies to pull in different directions. A proposed development may be in accord with development plan policies which, for example, encourage development for employment purposes, and yet be contrary to policies which seek to protect open countryside. In such cases there may be no clear cut answer to the question: "is this proposal in accordance with the plan?" The local authority has to make a judgement bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach."*

- 5.14 Citing *City of Edinburgh Council v. Secretary of State for Scotland [1997]* Sullivan J. went on to say that *"I regard it as untenable to say that if there is a breach of any one policy in a development plan, a proposed development cannot be said to be "in accordance with the plan". Given the numerous conflicting interests that development plans seek to reconcile: the needs for more housing, more employment, more leisure and recreational facilities, for improved transport facilities, the protection of listed buildings and attractive landscapes et cetera, it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the development plan. Numerous applications would have to be referred to the Secretary of State as departures from the development plan because one or a few minor policies were infringed, even though the proposal was in accordance with the overall thrust of development plan policies. For the purposes of section 54A it is enough that the proposal accords with the development plan when considered as a whole. It does not have to accord with each and every policy therein."*

6. Planning History

6.1 The planning history of the site comprises the following applications:

- L14D0070 - Minor external and internal alterations - Approved 11th February 2015
- L94L0078 - Demolition of rear outbuildings, reinstatement of first floor window in rear elevation and formation of a new access to the service yard. - Approved 15th February 1995
- L94L0012 - Installation of new shopfront, reinstatement of blocked-up first and second floor windows and repairs to existing upper floor windows in front elevation - Approved 20th April 1994
- P94L0054 - Installation of new shopfront, reinstatement of blocked-up first and second floor windows and repairs to existing upper floor windows in front elevation - Approved 20th April 1994

7. Consultations

7.1 Formal consultation has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees have been received in relation to the proposals:-

Worcester City Council - Planning Policy: No objection.

Worcester City Council Planning and Conservation Officer: No objection.

Worcester City Council - Cleaner and Greener: No objection.

Worcester City Council Archaeological Officer: No objection, subject to a photographic survey condition.

Worcester City Council Economic Development and Regeneration: No objection

Highway Authority: "As discussed, further to the additional information submitted by the applicant, the access and delivery arrangements are acceptable and it is noted that there is informal parking for 1 vehicle to the rear. Moreover, the site is in a highly sustainable city centre location adjacent to amenities, public transport link and public car parking. However further details of the cycle parking for 5 cycles are required to ensure that it meets with policy. Accordingly, please see the recommended condition below:

'The Development hereby approved shall not be brought into use until sheltered, secure and accessible cycle parking to comply with the Council's adopted Streetscape Design Guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

REASON: To comply with the Council's parking standards.'

Conservation Advisory Panel: No objection.

West Mercia Constabulary Design Out Crime Officer: No objection.

Neighbours and other third party comments: An objection to the original and amended proposals has been received from the resident of 4 Lasletts Almshouses, Union Street:

'As resident of the 1st floor of an opposite block, I very strongly object to the suggested opening hours for the cafe.

The noise generated by Heroes bar continues long past their official closing time, and this cafe will only add to that. 11 O'clock is quite late enough for a sandwich bar, unless there is an ulterior motive.'

- 7.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.
- 7.3 In assessing the proposal due regard has been given to local residents comments as material planning considerations. Nevertheless, I am also mindful that decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

8. Comments of Deputy Director - Economic Development and Planning

8.1 Following a comprehensive site visit in and around the application site, I consider that the main issues raised by the application relate to:-

- The Principle of Development;
- Impact on heritage assets; and
- Impact on neighbouring residents' amenities.

These matters will now be considered in turn.

The Principle of Development

8.2 Friar Street is identified on the Policies Map of the adopted South Worcestershire Development Plan 2016 as Secondary Shopping Frontage within the defined Worcester City Shopping Centre wherein policies SWDP 9 and SWDP 10 apply.

8.3 Policy SWDP 9 sets out the Council's policy in relation to Creating and Sustaining Vibrant Centres. Section D of the policy relates to the evening and night time economy, and in particular, deals with issues of disturbance (sub-section ii) and the balance of uses (sub-section iii):

"D. Development proposals linked to the evening and night time economy will be supported provided they:

- i. Do not result in a clustering of dead frontages during the daytime;
- ii. Do not on their own, or cumulatively, result in an unacceptable impact on neighbouring uses by reason of disturbance, traffic or safety;
- iii. Do not on their own, or cumulatively, result in an inappropriate balance of uses."

8.4 Taking each of these criteria in turn, I would comment as follows:

- i. The premises are adjacent to retail premises at 18 and 24 Friar Street that have daytime opening hours. The proposed opening hours of the café/restaurant would be:

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|--------------------------|-------------|
| Monday – Thursday | 1000 – 2300 |
| Friday and Saturday | 1000 – 0100 |
| Sunday and Bank holidays | 1000 – 2300 |

As such, the premises would be open during the daytime for the majority of the week and would not create a cluster of dead frontage during these hours.

- ii. The Crime Risk Manager has raised no objection to the proposal.

8.5 With regard to criterion iii. of policy SWDP 9 the application has also been assessed in relation to Policy SWDP 10. Section E of the policy set out limitations on Class A2, A3, A4, A5, D1, D2 uses with secondary shopping frontages:

"Within the Secondary Shopping Frontages, as shown on the Policies Map, change of use from retail (use class A1) to non-retail uses in classes A2, A3, A4, A5, D1, D2 will be permitted provided:

- i. The proposed use will not result in a continuous frontage of two or more non-A1 retail units (units are defined as a shop front width of about 6 metres; larger units will be assessed in terms of unit length).
- ii. A minimum of 50% of units in each defined Secondary Shopping Frontage are retained in A1 retail use;
- iii. The proposed use will not result in the proportion of units in the street (or part of the street defined as a secondary shopping frontage) in A3, A4 and A5 use exceeding 30%.
- iv. A shop window will be retained at all times.
- iv. The proposal would not preclude the full use of the premises, avoiding vacant floors over ground floor uses and providing a separate entrance for office, leisure or residential use of upper floors, where they are within the reasonable control of the applicant.
- v. Ground floor residential uses do not form part of the proposal."

8.6 The last retail survey of Friar Street in July 2018 indicates that there are:

- 21 retail units on the west side of Friar Street forming a single shopping frontage.
- The adjacent units to 22 are 24 (Blow Your Top) and 18 (Mark A Linley) which are both A1 uses.
- 6 units are currently in food and drink uses, which is 28.6% of the total number of units. This would increase to 33% if 22 Friar Street changed to a Class A3 use.
- 1 Unit is in Class D1 use (Tudor House Museum)
- 14 units are currently in A1 use (13 if 22 Friar Street went to Class A3 use) so 62% would then be in A1 use.

8.7 As such, the proposal would result in more than 30% of the retail units on the west side of Friar Street being in Class A3, A4 and A5 food and drink uses, contrary to adopted local plan policy SWDP 10..

8.8 Section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990, requires the application to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

8.9 In this regard, I note that no objection to the proposal is raised by the Council's Planning Policy Team that has commented as follows:

"In July 2018 the Government published a revised National Planning Policy Framework. The revised Framework does not include any reference to primary and secondary retail frontages and only refers to primary shopping area and town centre boundaries. Local Plan policies that are not up to date with the Framework are unlikely to be considered relevant by planning inspectors should a refusal of planning permission be appealed.

In addition to the recently published revised National Planning Policy Framework I am aware that the Government is consulting on a further change to General Permitted Development Order to allow change of use from A1 to A3 without the need for a full planning application. It is possible this permitted development right will not apply to listed buildings but even if it is not any refusal of an application only required because a building is listed would need to be based on protecting the character or setting of the listed building and not on the principle of a change of use.

In my view there is a clear direction of travel for national planning policy which is that an increased range of changes of use should be permitted development and not require a full planning application. In this particular case as well as the more general planning context the planning harm caused by the loss of 22 Friar Street from an A1 use can only be at most a very marginal and immeasurable impact on the vitality of the City Centre. I therefore conclude that no planning harm would be caused by approving this application and there could be no planning policy objection that would be upheld should a refusal of permission be appealed."

- 8.10 Irrespective of the Government's intentions regarding introducing a series and ongoing additional permitted development rights, the fact remains that 22 Friar Street is a listed buildings and therefore does not fall to be considered under Schedule 2, Part 3, Class C GPDO. Instead, the application must be considered against the provisions of the Development Plan and any relevant material considerations, as confirmed above.
- 8.11 In this regard, it is noted that the updated version of the National Planning Policy Framework that came into effect on 24th July 2018 has dropped the previous requirement to define primary and secondary retail frontages, which is perhaps a recognition that the main footfall drivers are often dispersed in a town centre and are not necessarily now only Class A1 retail. For this reason, policy SWDP 10 may not be entirely consistent with the NPPF in this respect.
- 8.12 In considering the appropriateness of the proposed change of use in policy terms I have also had regard for the aims and objectives of the National Planning Policy Framework, within which paragraph 80 states that: *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'* This is also reflected in Chapter 7 of the Framework (Ensuring the vitality of town centres) which states, amongst other matters, at paragraph 85 that: *'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.'* In this regard, policies should, amongst other matters:
- define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
 - retain and enhance existing markets and, where appropriate, re-introduce or create new ones.
- 8.13 In my opinion, there is a clear focus in the National Planning Policy Framework 2018 on supporting business growth and encouraging enterprise and is recognised as a key area contributing to economic development. As such, whilst my reasoning may differ from the opinion expressed by Planning Policy colleagues, nevertheless it leads me to the same conclusion that the proposal would not generate significant harm to the viability of the town centre due to the limited size of the premises, its location in relation to the centre and the scale and nature of the operations.
- 8.14 In my opinion, the premises stand in a sustainable location within the predominantly commercial area of Friar Street which has a distinct historic character led quality.

I am of the opinion that the proposals would enable the premises to continue to be in active occupation to the benefit of the character and appearance of the conservation area. Whilst other uses would have similar benefits, nevertheless there is no objection in principle to the proposed use, which I consider would also compliment and add variety and interest to the range of commercial uses available within this secondary retail frontage.

Impact on heritage assets

- 8.15 The premises are Grade II listed and are located within the Historic City Conservation Area within an archaeologically sensitive area and is also within an area of very rich heritage. As such, the proposals should be considered against Policies SWDP 6 and SWDP 24 which are consistent with Chapter 16 of the NPPF in that they seek to protect and enhance designated and non-designated heritage assets and guide against development that would cause substantial harm to the significance of any heritage asset. In accordance with the NPPF at Para 193, great weight must be given to the conservation of designated heritage assets and in accordance with s66 of the Planning Listed Building and Conservation Areas Act 1990, special regard is to be had to the desirability of preserving listed buildings or their settings.
- 8.16 There is a substantial amount of planning case law regarding how a decision maker must address the issue of harm to heritage assets, such as listed buildings. Essentially, this makes it is clear that the decision maker is required to give considerable importance and weight to the desirability of avoiding harm to the heritage asset. There is accordingly a strong presumption, imposed by the Planning Listed Buildings and Conservation Areas Act 1990, against harmful development. This is the case whether the harm is 'substantial' or is 'less than substantial'.
- 8.17 There is no specific test in the NPPF of what differentiates substantial harm from other harm for the purposes of national policy. Whilst the judgments are not prescriptive as to where the threshold between 'substantial' and 'less than substantial' lies, nevertheless case law has been established that for harm to be substantial, the impact on significance is required to be serious such that very much, if not all, of the significance of the asset is eroded, for example by complete demolition.
- 8.18 Advice has also been sought by the Local Planning Authority to assist in the assessment of the significance of the heritage asset, as advised by Practice Guidance, through consultation with the Council's Archaeology and Planning and Conservation Officers and the Conservation Advisory Panel.
- 8.19 The works proposed to facilitate the conversion of the premises are relatively minor and include the removal of a stud wall on the ground floor to provide a disabled persons/unisex WC, and installation of counters, work surfaces and a sink. Otherwise, the only other works stated are minor repairs and decoration. The only equipment proposed is a microwave and dishwasher. No other external plant or equipment, including air conditioning or extraction equipment is proposed. Any such proposals would require consent in their own right and do not form part of these proposals. Externally, it would include new signage on the existing shop front.
- 8.20 No objections have been raised to this aspect of the proposals. In my opinion, the proposed works are minimal and largely reversible. This is reflected in the comments of the Planning and Conservation Officer who has advised:

"Outside of any other considerations, the application site is a listed but much altered building, to which the current proposals do not pose any greater harm. Also, buildings of all ages remain in a better condition if they are occupied and used appropriately, and, from the information provided with this application, the proposed use, which would be an adjunct to an existing one nearby, would be appropriate in heritage terms."

8.21 I agree with this assessment and in summarising the likely effects of the proposal on heritage assets and having full regard to the policies in the development plan and national guidance it is assessed that the proposed development would not impact to any significant extent upon the historic fabric of the application site. Nevertheless, the balancing exercise in paragraph 196 of the NPPF is required to be undertaken between the "less than substantial harm" to the designated heritage asset on the one hand, and the public benefits of the proposal on the other. In this regard, I consider that the proposals would have less than substantial harm in respect of the impact on the fabric, character, appearance and setting of the host listed building. Although there will undoubtedly be a discernible impact in terms of the proposed land use, nevertheless I do not consider that this, in itself, would equate to an unacceptable degree of harm in heritage terms. In my opinion, this limited harm is outweighed by the public benefits of the proposal arising from the conversion of a vacant Grade II listed building for full and beneficial use in a considered, measured and acceptable manner that would ensure its continued occupation, maintenance and repair and in doing so would represent responsible stewardship of a designated heritage asset.

8.22 In terms of the effect on below ground deposits, the development would have minimal impact on buried archaeological remains.

The Archaeological Officer has been consulted and has raised no objection, subject to recommended photographic survey condition.

8.23 Taking into account the importance and weight to be given to the statutory duty under s.66(1) and s.72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in the overall balance of considerations, I am of the opinion that the impact on the designated heritage assets would be insufficient for the application to be refused.

Impact on neighbouring residents' amenities

8.24 The site is opposite Laslett Almhouses which include a number of residential properties and in accordance with the expectations of policy SWDP 21, it is necessary to ensure that the scheme would not result in harm to the amenities enjoyed by neighbouring residents.

8.25 The hours of operation are proposed to be until 11pm Sunday to Thursday and until 1am on a Friday and Saturday. Concerns have been expressed that the proposed use and specifically the opening hours could generate a harmful impact. Whilst I am mindful that there is a degree of noise and activity to be expected whilst living in the city centre there needs to be a careful consideration that it is not in excess.

- 8.26 My concerns largely relate to the cumulative impact of a number of late night activities within Friar Street and New Street which, together with this proposal, may create an overly intrusive night time economy especially as directly opposite these almshouses whose residents include elderly and vulnerable persons.
- 8.27 This aspect of the proposals has been assessed in consultation with the Crime Risk Manager who is satisfied that the proposal is acceptable and does not have any concerns regarding the opening hours in this location.
- 8.28 However, given the concerns regarding neighbouring amenity I consider it is reasonable to restrict the opening hours to 11pm (2300 hours) to ensure neighbouring amenity is not significantly affected. This has the benefit of allowing the impacts of the proposal to be assessed in full, should the applicant seek to extend the opening hours further, if approved, once operational.
- 8.29 Whilst I do not consider that it would be reasonable or appropriate to apply conditions that would duplicate conditions more appropriately imposed through the pollution control or licencing regime, nevertheless I consider it would be appropriate to impose a condition for a business management plan to include details of the management of the following:-
- resolution of complaints from neighbouring residents and businesses;
 - control of noise levels;
 - control of anti-social behaviour;
 - litter;
 - service deliveries;
 - access by other vehicles to the rear of the premises;
 - management of waste, including disposal and collection arrangements;
 - noise from waste disposal and recycling;
 - smoking facilities;
 - cctv, and;
 - mechanism for review of the management plan.
- 8.30 Subject to the recommended conditions governing opening hours and compliance with a business management plan I consider that the amenity impacts of the development would be adequately mitigated, particularly noting the associated controls that exist under separate environmental health and licensing regimes.

9. Conclusion

- 9.1 Whilst I note the neighbouring residents' concerns regarding the impact of the development, nevertheless for the reasons set out above I consider that the site has the capacity to accommodate the proposal in an acceptable manner. This would result in a café/restaurant within the city centre occupied in a manner which would be sympathetic to the heritage asset and its setting. The limited alterations internally are considered to be appropriate to the constraints of the site and it would sit satisfactorily within the local context.
- 9.2 On balance, it is the Officer's opinion that the proposals constitute acceptable sustainable development in accordance with the relevant policies of the Development Plan and would broadly accord with the Framework when read as a whole. Consequently, it is recommended that planning permission and listed building consent is granted.

10. Recommended Conditions – Planning Permission

10.1 In the event that members resolve to grant planning permission the following conditions are recommended:

1. The development must be begun not later than the expiration of three years from the date of this permission.

For the following reason:-

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in accordance with the approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission.

For the following reason:

For the avoidance of doubt and to ensure compliance with the approved plans and details to ensure a to satisfactory standard of design and appearance for the development, the character and appearance of the site and surrounding area and the amenities of neighbouring residents in accordance with policies SWDP 6, SWDP 21 and SWDP 24 of the South Worcestershire Development Plan and the aims and interests that the National Planning Policy Framework seeks to protect and promote.

3. Before the use of the premises hereby approved is commenced a business management plan shall be submitted in writing and agreed by the local planning authority. This will include details of the management of the following:-

- resolution of complaints from neighbouring residents and businesses;
- control of noise levels;
- control of anti-social behaviour;
- litter;
- service deliveries;
- access by other vehicles to the rear of the premises;
- management of waste, including disposal and collection arrangements;
- noise from waste disposal and recycling;
- smoking facilities;
- cctv,and;
- mechanism for review of the management plan.

For the following reason:-

To safeguard the amenities of neighbouring residents in accordance with policy SWDP 21 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

4. The use of the premises hereby permitted shall not be open to customers outside the hours of 1000 to 2200 on all days, including Sundays and Bank holidays.

For the following reason:-

To safeguard the amenities of neighbouring residents in accordance with policy SWDP 21 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

For the following reason:-

To safeguard the amenities of neighbouring residents in accordance with policy SWDP 21 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

5. No development shall take place until a comprehensive photographic survey of the premises has been submitted to and approved in writing by the local planning authority.

For the following reason:-

To allow the historical and archaeological interest of the site to be recorded in accordance with policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

6. The premises shall not be brought into use until details of the facilities for the storage and disposal of refuse have been submitted to and approved in writing by the local planning authority and installed in accordance with the approved details. Thereafter the approved facilities shall be retained in accordance with the approved details.

For the following reason:-

To ensure the satisfactory provision of this necessary commercial facility in accordance with policy SWDP 21 and the aims and interests that the National Planning Policy Framework seeks to protect and promote in this regard.

7. The Development hereby approved shall not be brought into use until sheltered, secure and accessible cycle parking to comply with the Council's adopted Streetscape Design Guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

For the following reason:-

To comply with the Council's parking standards

11. Recommended Conditions – Listed Building Consent

- 11.1 In the event that members resolve to grant listed building consent the following conditions are recommended:

1. The works must be begun not later than the expiration of three years from the date of this permission.

For the following reason:-

Required to be imposed pursuant to Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The works hereby approved shall be carried out and completed in accordance with the approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission.

For the following reason:

For the avoidance of doubt and to ensure compliance with the approved plans and details to ensure a to satisfactory standard of design and appearance for the works, in accordance with policies SWDP 6, and SWDP 24 of the South Worcestershire Development Plan and the aims and interests that the National Planning Policy Framework seeks to protect and promote.

No works shall take place until a comprehensive photographic survey of the premises has been submitted to and approved in writing by the local planning authority.

For the following reason:-

To allow the historical and archaeological interest of the site to be recorded in accordance with policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

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| Ward: | Cathedral |
| Contact Officer: | Sally Watts –Tel: 01905 722172, |
| Email: | sally.watts@worcester.gov.uk |
| Background Papers: | None |