



Application Number	21/00470/FUL
Site Address	42 Foregate Street, Worcester, WR1 1EE
Description of Development	Mixed-use refurbishment retaining Commercial use (Class E) with 13 studios
Expiry Date	28 October 2021
Applicant	Foregate Regeneration Ltd
Agent	Mr Nick Carroll
Case Officer	Tom Gabriel
	thomas.gabriel@worcester.gov.uk
Ward Member(s)	Cathedral Ward
Reason for Referral to Committee	Major application
Key Issues	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/21/00470/FUL

Recommendation	<p>That the Planning Committee grants delegated authority to the Corporate Director - Planning and Governance to grant planning permission, subject to the recommended conditions set out in section 9 of this report, upon the expiry of the statutory consultation period further subject to:-</p> <ul style="list-style-type: none"> i) there being no new issues or objections raised; and ii) the applicant and all persons having an interest in the land entering into an agreement under S106 of the Town and Country Planning Act 1990 to the satisfaction of the Corporate Director - Planning and Governance in accordance with the agreed heads of terms; and; iii) the grant of a satisfactory listed building consent.
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1. Background

- 1.1 The application was registered on 17 May 2021 and was due for a decision on 12 July 2021.
- 1.2 The application has been referred to the Planning Committee in accordance with the adopted Scheme of Delegation.

2. The site and surrounding area

- 2.1 The site is located within the Development Boundary for Worcester.



EXISTING BLOCK PLAN
Scale 1:200

The application site

- 2.2 The application site is in Cathedral ward, and is located on, and to the rear of, the A449, the principle entry to the City Centre from the north. The site comprises vacant offices. There are a variety of uses within the surrounding area including commercial, restaurant, retail and residential uses, plus several public houses. The wider area is generally characterised by similar commercial, retail and residential uses. There are many listed buildings in the immediate vicinity, including Nos.46-33 Foregate Street (except Nos.44 & 36). In contrast, Farrier Street does not have any listed buildings.
- 2.3 The application site is listed grade II and situated within the Foregate Street and The Tything Conservation Area. It was built as a house in the mid-18th c and has had later additions and alterations. Listed on 22 May 1954, it forms a good group with the Shire Hall, Statue of Queen Victoria, City Museum and Library and Nos.15, 19, 22, 23, 24, 28, Nos.33-46 (consecutive) and No.40, Foregate Street.
- 2.4 The building is four storey with a rendered and white painted frontage at ground and first levels. The building has a small canopy above the front door with a pillar either side of the door. The front elevation of the building at ground floor level is dominated by a large window, though the fenestration to the upper floors are aligned sash windows with Georgian glazing bars. The building forms a visual focal point of this part of the street scene by virtue of its height standing proud of the neighbouring buildings and its rendered frontage. To the rear of the building, the site is largely laid to hardstanding and used for parking.

3. The proposals

- 3.1 It is proposed to undertake a mixed- use refurbishment of the building, retaining the Commercial use (Class E) at ground floor level with 13 studio flats on the upper floors.
- 3.2 The converted building would retain a commercial unit on the Foregate Street frontage of 45.53 m², while the 13 residential units would range between 17.95m² and 31.54m². The differing sizes would be dictated by the original floor layout of the building.
- 3.3 At the rear of the building, there would be a shared amenity space, a refuse storage area and a row of 13 cycle parking spaces (which would be shared with the properties in the building fronting Foregate Street), together with seven car parking spaces.
- 3.4 The application is accompanied by a full set of plans together with the following supporting documents:
- Heritage Statement (Revised)
 - Design & Access Statement
 - Planning Statement
- 3.5 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.

4. Planning Policy

- 4.1 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.

4.2 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted February 2016, and;
- The Worcestershire Waste Core Strategy, which was adopted on December 2012.

South Worcestershire Development Plan

4.3 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 1 – Overarching Sustainability Principles
SWDP 2 – Development Strategy and Settlement Hierarchy
SWDP 4 – Moving Around South Worcestershire
SWDP 6 – Historic Environment
SWDP 13 – Effective Use of Land
SWDP 15 – Meeting Affordable Housing Needs
SWDP 21 – Design
SWDP 24 – Management of the Historic Environment
SWDP 27 – Renewable and Low Carbon Energy
SWDP 29 – Sustainable Drainage Systems

Material Considerations

1. National Planning Policy Framework

- 4.4 The latest version of the National Planning Policy Framework (NPPF) was published and came into effect in July 2021. 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.
- 4.5 The NPPF outlines a series of considerations against which delivering sustainable development should be assessed. Paragraph 38 of the NPPF states local planning authorities should 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.
- 4.6 The Government believes that sustainable development can play three critical roles in England: an economic role, contributing to a strong, responsive, competitive economy; a social role, supporting vibrant and healthy communities; and an environmental role, protecting and enhancing our natural, built and historic environment.

2. National Planning Practice Guidance

- 4.7 On 6 March 2014 the Government also published National Planning Practice Guidance (NPPG) that has been updated in the meantime and comprises, amongst other matters sections about: Design, Determining a Planning Application, Health and Wellbeing, Noise, and Use of Planning Conditions.

3. Supplementary Planning Documents

4.8 The following Supplementary Planning Documents (SPD) are relevant to the application proposals: -

- South Worcestershire Design SPD

The South Worcestershire Design SPD was adopted on 5 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.

- Planning for Health in South Worcestershire SPD

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 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

- Developer Contributions SPD

The Developer Contributions SPD – was adopted by the South Worcestershire Councils on the 20 October 2016. The Developer Contributions SPD sets out the South Worcestershire Councils' approach to seeking developer contributions via the SWDP for infrastructure or environmental improvements required as a result of development. The SPD provides guidance about when planning obligations will be expected, the scale of developer contributions, and how developer contributions will be used.

- Affordable Housing SPD

Adopted Affordable Housing SPD - The Affordable Housing Supplementary Planning Document covers the administrative areas of Worcester City Council, Malvern Hills District Council and Wychavon District Council and was adopted by The South Worcestershire Councils on the 20 October 2016. The SPD explains the details of the South Worcestershire Development Plan (SWDP) policies that relate to the provision of affordable housing. It is a guide intended to help developers, landowners, and applicants applying for planning permission, registered providers and others who are seeking to provide or benefit from affordable housing.

- Renewable and Low Carbon Energy SPD

The SPD relates to policy SWDP 27 of the South Worcestershire Development Plan, which seeks to promote a percentage of energy requirements on qualifying development sites to be provided from renewable energy and/or low carbon sources. The policy also requires large scale development to examine the potential for decentralised energy and heating networks, and also sets out the policy approach for

stand-alone renewable and low carbon energy schemes (with the exception of wind turbines).

4. Worcestershire's Local Transport Plan (LTP4) 2018 – 2030

4.9 LTP4 set out issues and priorities for investment in transport infrastructure, technology and services, focussed on supporting travel by all modes. In accordance with national and local objectives, a series of local transport-specific objectives are identified in the LTP4:

- To support Worcestershire's economic competitiveness and growth through delivering a safe, reliable and efficient transport network.
- To limit the impacts of transport in Worcestershire on the local environment, by supporting enhancements to the natural environment and biodiversity, investing in transport infrastructure to reduce flood risk and other environmental damage, and reducing transport-related emissions of nitrogen dioxide, particulate matter, greenhouse gases and noise pollution. This will support delivery of the desired outcomes of tackling climate change and reducing the impacts of transport on public health.
- To contribute towards better safety, security, health and longer life expectancy in Worcestershire, by reducing the risk of death, injury or illness arising from transport and promoting healthy modes of travel.
- To optimise equality of opportunity for all of Worcestershire's citizens with the desired outcome of creating a fairer society.
- To enhance the quality of life for Worcestershire's residents by promoting a healthy, natural environment, for people, wildlife and habitats, conserving our historic built environment and preserving our heritage assets.

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

4.10 The Waste Local Plan was adopted by Worcestershire County Council 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)

WCS3 (Re-use and recycle)

WCS17 (Making provision for waste in new development)

5. Worcestershire County Council Streetscape Design Guide (2018)

4.11 The 'Streetscape Design Guide' (SDG) was produced to aid architects, engineers, planners, developers, designers and other professionals in preparing transport infrastructure related to new developments. It is to be considered in conjunction with Manual for Streets 1 and 2, as well as the Design Manual for Roads and Bridges.

4.12 Chapter 4 relates to 'Planning for Parking' and seeks to provide an approach as to how car parking in Worcestershire should be provided to support development in a manner which embraces the NPPF.

4.13 Car and cycle parking standards are provided within the SDG which replace those contained in WCC's Interim Car Parking Standards (2016). With regard to car parking standards for residential development, the SDG states as follows:

There is no direct relationship between car parking provision and choice of transport mode, so a minimum provision for residential need should be made to ensure suitable in curtilage storage.

The following are the minimum requirements: -

1 Bedroom Unit	1 Space, 1 cycle space
2 – 3 Bedroom Units	2 Spaces, 2 cycle spaces
4 – 5 Bedroom Units	3 Spaces, 2 cycle spaces

These are the minimum requirements. They apply to both Affordable/Social Housing and Market Housing. The requirements apply to flats/apartments and houses. Cycle parking must be sheltered, secure and easily accessible

6. The New Homes Bonus (Residential Schemes only)

- 4.14 The 'New Homes Bonus' is a Government scheme which is aimed at encouraging local planning authorities to grant planning permissions for the building of new homes in return for additional revenue. The Government provides additional funding for new houses by matching funding the additional council tax raised for new homes with an additional amount for affordable homes for six years. Having regard to Section 70 (2) of the Town and Country Planning Act 1990, the New Homes Bonus is statutory and a local finance consideration in the determination of planning applications. As such, it is a material planning consideration.

7. Relevant Legislation

- 4.15 The following legislation is also relevant and has been taken into account when considering this application: -

Town and Country Planning Act 1990 (as amended)

Planning Act 2008

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Planning and Compulsory Purchase Act 2004

The Town and Country Planning (Development Management Procedure) (England) Order 2015

Localism Act 2011 - Section 143 (amending S70 of the Town and Country Planning Act 1990) regarding local finance considerations.

Growth and Infrastructure Act 2013

Human Rights Act 1998

Accessibility and Equalities Act 2010

Section 17 of the Crime and Disorder Act 1998

Natural Environment and Rural Communities (NERC) Act 2006

Wildlife and Countryside Act 1981 (as amended)

Conservation of Habitats and Species Regulations 2010

The EU Habitats Directive

Flood and Water Management Act 2010

Water Frameworks Regulations 2011

Air Quality (England) 2000 Regulations

5. Planning History

- 5.1 There is an extensive planning history to the site though none of it is considered directly relevant to the current application. The building has been in office use since at least 1964, first by an estate agent and more recently by a firm of solicitors. An application for Listed Building Consent under 21/00471/LB is on the same agenda.

Public Consultation by Applicant

- 5.2 None

6. **Consultations**

6.1 Formal consultation, including the display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original proposals and are summarised below. The scheme has been amended to address the concerns which relate to the proposed new building at the rear which has now been removed from the scheme. Amended plans have been received and consultees have been re consulted. Any responses received will be reported by way of either a late paper or verbal update to committee.

Neighbours and other third-party comments: One objection has been received from residents of the following property that is summarised as follows:

- the height of the new build development at the rear of the site, blocking sunlight to the rear garden of 40-41 Foregate Street; and
- the opportunity should be taken in the development to re- model the rainwater discharge that runs through the roof of 41 and caused flooding.

Worcester City Council Archaeological Officer: The proposal is in the medieval Foregate Street suburb and in an area where Roman remains can be expected. The site backs on to Farrier Street where previous archaeological evaluation and excavation has produced evidence of extensive Roman industry. Mitigation works to the adjacent site at 41 Foregate Street also revealed 17th-century activity. Recommends a programme of archaeological evaluation and mitigation by condition on this scheme should planning permission be granted.

Worcester City Council Landscape and Biodiversity Adviser: No objections. As a precautionary approach, an ecologist should inspect the interior of the building for evidence of bats. Only if solid evidence is found should a further survey be necessary.

Worcestershire County Council (Highway Authority): The application has been reviewed by the Highway Authority and revised details have been submitted by the applicant, to include a Sustainability Report. Accordingly, the residential use comprising 13 studio flats in the existing building fronting Foregate Street and 7 x 1no. bedroom units in a new build to the rear, is accepted as 'parking free' in accordance with the criteria in the Streetscape Design Guide.

The location of the site is highly sustainable for residential use, with easy access to city centre services and facilities plus public transport links, not least Foregate Street Station, and public car parking. There are restricted parking bays and single yellow line restrictions on Farrier Street to the rear of the site which will serve to limit any displacement parking. In addition, cycle parking will be provided in line with County standards and a Welcome Pack to promote sustainable forms of access to future occupiers will be expected, with a draft to be approved prior to occupation.

A modest amount of commercial (Class E) use will be retained on the ground floor of the existing building and 2 parking spaces are provided within the site to serve the commercial use in line with standards. Adequate parking and turning is shown on plan with setback gates and the vehicular dropped kerb crossing on Farrier Street is as existing. Furthermore, the applicant has confirmed that the parking area associated with the previous commercial offices on the site has not been in use since the site became vacant and therefore there is no parking to be displaced as a result of the proposed development.

The Highway Authority has undertaken a robust assessment of the application and in line with County policy, there are no justifiable grounds upon which an objection could be maintained.

Worcestershire Regulatory Services (Nuisance & Air Quality): WRS advise that all new residential dwellings be constructed to achieve internal and external noise levels as per BS8233:2014. Consequently, WRS advise the applicant to carry out a Noise Impact Assessment to determine if suitable internal and external noise levels can be achieved. Any noise assessment should consider the typical and worst-case noise impacts from road, rail and ground floor commercial activity. Should potential adverse impacts be identified, a scheme of noise insulation measures should be submitted for review and approval. Please note WRS will not support a windows-closed ventilation strategy unless suitable mechanical ventilation is proposed which delivers internal noise levels as per BS8233:2014.

WRS have reviewed the planning application for potential air quality issues of which none have been identified, therefore WRS have no adverse comments to make with regards to air quality.

Chief Fire Officer (Hereford & Worcestershire Fire & Rescue Service): Access to within 45m of all parts of the residential flats is required and a dry rising main should be provided if not available.

South Worcestershire Land Drainage Partnership: The applicant has stated the main sewer as the proposed means of disposal for surface water. There is no public surface water sewer shown on the Severn Trent Water Limited Sewer Map in the vicinity, only combined sewers in the highway. The Applicant should follow a sustainable approach to surface water management (SuDS) and the recommended drainage hierarchy: source control-watercourse-sewer, to control any additional surface water that may be generated by an increase in roof and paved areas, so that the proposed total rate and volume of run-off from the site is restricted to present run-off rates. Refer to the former EA Surface Water Management Advice Note for Worcestershire and the latest EA advice on climate change allowances, (+40% added to peak rainfall intensities). STWL should be formally consulted for any proposal to discharge additional surface water to a public sewer, even by an existing lateral or drain, on planning.apwest@severntrent.co.uk There appears to be no net increase in roof and paved area compared to the present site use. There should be no increase in surface water run-off generated by roof and the paved areas and the proposed development is, therefore, considered to be 'drainage neutral'. I have no objections to these proposals in principle, nor any recommendation for a surface water drainage condition to be applied, but the Applicant should also refer to the advisory note below. Advisory Note: For the use or reuse of sewer connections, either direct or indirect, to the public sewerage system the Applicant will be required to make a formal application to STWL under Section 106 of the Water Industry Act 1991.

West Mercia Constabulary Crime Risk Manager: In principle I have no objections to this proposal however there is inadequate detail of security, as such I am unable to complete a comprehensive assessment of this proposal. Therefore, additional security detail is required for this application. 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. The Secured by Design Homes Guide 2019 details the Police's preferred specification. I would encourage the applicant to apply for this award. Residents of Houses of Multiple Occupation (HMO) do have the right to feel safe and secure in their accommodation, badly designed HMOs are prone to increased levels of crime and disorder.

Secured By Design Homes Guide 2019: 27.1 details access control and additional security requirements for buildings containing multiple dwellings or bedrooms. 27:10 - 27:23 provides further details of the recommended physical security requirements for communal entrance door sets with an electronic visitor door entry system for five dwellings or more but less than ten and small developments (up to 25 flats, apartments, bedsits or bedrooms). Lighting and secure communal door and gate access is important, cycle thefts do remain high in Worcester, therefore additional security should be considered.

Conservation Advisory Panel: It was agreed that the proposal would be a harmful infilling of one of the few remaining open 'back land' sites in Farrier Street. It would obscure the view of the main listed building and this would cause considerable harm to the character of the Conservation Area i.e. loss of back land space and blocking views of the listed buildings. This is noted in the Conservation Area Appraisal, which, as published evidence, is a material consideration. The Panel noted that there are other tall structures in the area but considered that this places even more importance on the need to keep these few remaining back land areas open and undeveloped. The Panel object in principle due to the harmful effect on the character of the Conservation Area.

Historic England: Whilst we defer to the local authority's Conservation Officer to consider the finer details of the proposed alterations to the listed building, we do have concerns regarding the design of the proposed new building at the rear.

An important contributor to the significance of the Conservation Area is in its form of development, clearly marking its medieval burgage plots, with principal buildings along Foregate Street and smaller ancillary structures to the rear. Despite some later development, this important hierarchy can still be observed along Farrier Street and much of the wider Conservation Area.

The design, scale and massing of the proposed building does not follow this significant characteristic, however. Instead, the proposal results in an overbearing building of excessive height, scale and massing, and whose design offers no reference to its host listed building, the Conservation Area, numerous other listing buildings, nor to local character or distinctiveness.

It does not therefore meet the requirement of the NPPF for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance.

If the local authority accepts the principle of development at the rear of this plot, any addition should preserve or enhance the distinctive qualities of this area.

The scheme requires a greatly reduced, and fundamentally different approach to its design, better reflecting those characteristics of rear ancillary buildings in the conservation area.

Recommendation: - Historic England has concerns regarding the applications on heritage grounds. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Material changes were made to the design of the new block to the rear and Historic England were reconsulted upon these: Thank you for your letter of 3 September 2021 regarding further information on the above applications for listed building consent and planning permission.

On the basis of this information, we do not wish to offer any further comments than those already expressed in our letter of 11 June 2021. We suggest that you seek the views of your specialist conservation adviser

- 6.2 Members have been given the opportunity to read all representations that have been received in full. The representations that have been made following the consultation on the amended plans will be reported verbally at the committee meeting.
- 6.3 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.

7. Comments of the Corporate Director - Planning and Governance

7.1 Policy SWDP1 of the South Worcestershire Development Plan sets out overarching sustainable development principles and these are consistent with the Framework. The various impacts of the development have to be assessed and the benefit and adverse impacts considered, to establish whether what is proposed is sustainable development. Taking the above matters into account I consider the main issues raised by the proposal relate to the principle of development and whether the development would be sustainable, having regard to the 3 dimensions of sustainability set out in the Framework: economic, social and environmental, in particular with regard to:

- 7.2
1. The economic role:
 - creation of new housing
 - construction jobs
 - New Homes Bonus
 2. The social role:
 - affordable housing;
 - housing mix
 3. The environmental role:
 - design and appearance;
 - impact on heritage assets;
 - neighbouring residential amenities;
 - drainage and flooding;
 - biodiversity and protected species;
 - access, car parking and highway safety;
 - energy conservation;
 - archaeology;
 - fire access
 - waste and recycling;
 - crime risk.

These issues will now each be considered in turn.

The Principle of Development

7.3 The application site is located in a sustainable location within the town centre of Worcester where local and national policy encourages the use or re- use of vacant or under- utilised urban sites, in order to secure the optimum viable use of a site.

The retention of commercial uses at ground floor level in commercial frontages with residential use above is a common use of vacant buildings, making effective and efficient use of urban land.

- 7.4 Accordingly, there is no objection to the principle of the proposed development on the site. Furthermore, it is Officer opinion that there would be benefits in bringing this listed building into full and beneficial use and in this respect the proposal is welcomed too.
- 7.5 Notwithstanding the above, it is appreciated that where new development is introduced, it is important to evaluate whether the proposals would represent a sustainable form of development.

Sustainable Development

1. The economic role

- 7.6 In the short term the proposal would see the creation of construction jobs for the construction period of the project and some on-going opportunities for the provision of goods and services. The longer-term benefits would be that it would help support local services and would potentially increase the level of disposable income in the area. Upon completion, the development would also attract a New Homes Bonus payment and Council Tax receipts. In my opinion, this weighs in favour of granting planning permission.

2. The social role

- 7.7 The key aim is to bring back into use this listed building located in the City Centre which has been vacant since 2019. This would:
- Provide much needed houses in the city centre;
 - Contribute to regeneration of the city centre;
 - Bring an economical and viable use to a listed building and prevent it from decay; and,
 - Contribute towards sustainable development.

As a consequence, it has important social roles which weigh in favour of granting planning permission.

Affordable housing

- 7.8 Policy SWDP 15 requires the provision of affordable housing on residential development schemes of 10 dwellings or more. Paragraph 63 of the Framework sets out 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.'

- 7.9 Further guidance on the 'Vacant Building Credit' is provided in Planning Practice Guidance (Paragraph: 021 Reference ID: 23b-021-20160519) which explains that *'where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings... The existing floorspace of a vacant building should be credited against the floorspace of the new development'*.

- 7.10 For a brownfield site of 13 units in Worcester City, 30% of the dwellings should be affordable. In this case, this means that 3.9 of the units proposed through this scheme should be provided as affordable homes. However, in line with government policy in paragraph 64 of the NPPF, the Affordable Housing SPD makes provisions for Vacant Building Credit (VBC), meaning that the site qualifies for Vacant Building Credit given that it is vacant. The amount of affordable housing required is calculated below.

Calculated required affordable housing before application of Vacant Building Credit = 30% of 13 units = 3.9 units

Calculation of Vacant Building Credit

Gross Floor Space of the building = 482.8 m²

Minus Floor Area where Vacant building credit applicable = 482.8 m²

Equals Net floor area = 0 m²

Percentage of Gross floor area where affordable housing required – 0%

The percentage of gross floor area **multiplied** by the affordable housing liability - 0%

No affordable units are therefore required.

Housing Mix

- 7.11 The NPPF states that the planning system needs to perform a number of roles, including a social role in supporting strong, vibrant and healthy communities, by providing a supply of housing required to meet the needs of present and future generations. This is reflected in policy SWDP 2.
- 7.12 Part A of Policy SWDP 14 states all new residential developments of five or more units, having regard to location, site size and scheme viability, should contain a mix of types and sizes of market housing. The mix will be informed by the latest Strategic Housing Market Assessment and/or other local data, for example, Neighbourhood Plans, Parish Surveys, Parish Plans and developers' assessments. However, the development would provide only 1 bedroom bedsits/studios.
- 7.13 Given the location of the application site and the flatted nature of the development site it is Officer opinion that the proposed development is acceptable in this location. Furthermore, it is considered that the layout of the host building for the 13 bedsits/studios is such that it lends itself to the conversion in the manner proposed. On balance, the proposal is considered to be appropriate to the site location in terms of housing mix. The Council is able to demonstrate a five year housing land supply figure and accordingly, whilst there is no maximum ceiling to significantly boosting housing supply, the NPPF and tilted balance is not engaged.

3. The environmental role

Impact on heritage assets

- 7.14 The application site is a listed building within the Historic City Conservation Area and is within an Archaeologically Sensitive Area. There are a number of listed buildings in the vicinity of the site. The impact of the proposed development is considered in the accompanying listed building application report.

However, with regard to Conservation Area considerations, the proposal should be considered against Policies SWDP 6 and SWDP 24 of the Local Plan which 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. Policy SWDP 6 states that "Development proposals should conserve and enhance heritage assets, including assets of potential archaeological interest" and "Development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting".

- 7.15 This is consistent with 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 great weight must be given to the conservation of designated heritage assets and in accordance with s72 of the Planning (Listed Building and Conservation Areas Act) 1990, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. 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'. 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.
- 7.16 The original appearance of the building has not changed significantly while the proposed development would remove the non- original stud wall partitions in the building at first floor level and above, thereby returning these floors of the building to their original form and layout (and in doing so, would have a beneficial impact upon the historic character and nature of the listed building). Given that the original appearance of the building at these levels has not changed significantly, and no changes to it are proposed as part of this application, this part of the development would preserve the character and appearance of the Foregate Street and The Tything Conservation Area. The development also proposes repair works to the windows where necessary: done sympathetically, they would also preserve the character and appearance of the Conservation Area. **Impact on neighbouring residents' amenities**
- 7.17 The site lies adjacent to residential properties located at first floor level and above in the neighbouring and nearby properties along Foregate Street. Policy SWDP 21 requires that new development does not have a significant adverse effect on neighbouring amenity. This is consistent with paragraph 130 of the NPPF that requires planning policies and decisions, amongst other matters, to ensure a high standard of amenity for existing and future users of land and buildings.
- 7.18 Whilst the proposed conversion would represent a significant intensification in the use of the site (considering that it has been vacant for two years), and would represent an intensification over the former purely office use of the site, I do not consider it to be such that it would result in harm to the occupants of surrounding properties through overlooking, loss of light or noise disturbance. No extensions or new openings are proposed and modern insulation is such that the noise disturbance between buildings (and between the individual units in the building) would not be an issue.

7.19 However, the introduction of the proposed development could give rise to potential noise and disturbance for the occupiers of the surrounding properties during the construction phase as a result of the movement of construction and related traffic and conversion works. Such disturbance during construction is to be expected though and is not normally a material planning consideration as it would not be permanent. Nevertheless, it is possible to reduce the degree of such intrusion and harm to amenity by requiring a construction environment management plan (CEMP). In setting these controls the impact on the amenity of the neighbours would be reduced to a minimum during the construction period and can reasonably be secured by way of an appropriately worded planning condition in the event of the proposed development being found acceptable. Whilst the temporary adverse impact on local residents during the construction phase is recognised, it is considered that these can be suitably mitigated.

Residential amenity for future occupiers

7.20 The application site is in a vibrant part of the city which plays a key role in its night time economy. There are a number of properties and uses along Foregate Street and Farrier Street which, through their late opening hours, would have a potential impact upon the future residential occupiers of both the frontage building. However, with modern means of noise insulation and ventilation, there need not be a harmful impact upon the amenities of the future occupiers of the site, in this regard. Notwithstanding this, such measures may have an adverse impact upon the historic character and fabric of the listed building. In the absence of the details of the proposed measures, it has not been able to assess this impact. However, given that the interior of the listed building has been significantly affected through the previous works to it, it is considered likely that new or additional insulation measures may be installed without harm to the fabric of the listed building. Notwithstanding this, it is recommended that a noise assessment is carried out and details of any mitigation measures are implemented. Conditions are recommended.

7.21 The proposed units would be of a limited size. However, in this particular instance, it is considered appropriate to allow the conversion of this listed building to enable it to be brought back into use. On balance, it is considered to be acceptable in terms of quality of accommodation provided. Despite the openings of the top floor units being small, it is considered that all of the units would receive sufficient daylight and sunlight.

7.22 The comings and goings and activity of the occupiers of the units would not cause harm to the amenities of the occupiers of the other units in the development. Such activity is a standard consequence of flatted developments and against the background noise of a town centre location, this would not be harmful to amenity.

Drainage and flooding

7.23 The application site is located within Flood Zone 1 and is therefore not at undue risk of flooding. Residential development in such a location is considered acceptable in accordance with local and national policy. The site may be provided with suitable drainage in accordance with the adopted drainage hierarchy to ensure that water does not drain from the site into the adjoining highway.

7.24 The comments of the occupier of the neighbouring property concerning the development representing an opportunity to re-model the rainwater discharge that runs through the roof of 41 and causes flooding is noted. However, this is not directly related to the proposed development so cannot be considered as part of the application.

Biodiversity and protected species

- 7.25 Protected species are a material consideration in the determination of planning applications. Considering the age of the building, the Council's ecologist considers that an inspection of the interior of the building for evidence of bats should be undertaken prior to the commencement of development. In the event that solid evidence of them is found, a further survey should be undertaken. This may be conditioned.

Access, car parking and highway safety

- 7.26 The comments of the County Highways Authority concerning the amended plans will be reported verbally at the committee meeting. It is noted that no objections were raised to the originally proposed development from a highway safety point of view however.

Energy conservation

- 7.27 The proposed converted building would be converted/ constructed to meet Part L of the Building Regulations (energy conservation) and so would be energy efficient.

Archaeology

- 7.28 The County Archaeologist's comment concerning the potential presence of Roman archaeological remains under the site are noted. It is accordingly considered appropriate that, in the event of permission for the development being granted, a condition regarding archaeological evaluation and mitigation be imposed upon the permission.

Fire access

- 7.29 Access by fire fighting personal to within 45m of all parts of the residential flats is required in accordance with the fire regulations. Should this not be achievable, a dry rising main should be provided. This would be covered by the Building Regulations.

Waste and recycling

- 7.30 The submitted plans indicate a bin storage area sited to the rear of the building. It is not evident that this would provide sufficient waste and recycling storage capacity for 13 residential units though it is noted that refuse collection may be undertaken by a private company and that the capacity of the refuse receptacles may therefore not have to comply with the Council's standards.

Crime risk

- 7.31 The comments of the Crime Risk Manager are noted. Additional security measures may be achieved by condition in the event that the development is found acceptable.

Planning obligations

- 7.32 Planning obligations mitigate the impact of development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2012 and as policy tests in the National Planning Policy Framework.
- 7.33 The contributions being sought relate to open space and affordable housing, as follows:

Open Space Contribution for 13 market units

7.34 The Developers Contribution SPD states that 'one and two bedroom dwellings have lower average occupancy rates therefore the developer contributions are reduced by 25% for 2 bed dwellings and by 50% for one bed dwellings.' As such, the level of open space contributions sought is as follows:

13 x 1-bed = £1,298.70 (50% discount applied) x 13 = £16,883.10
Total = £16,883 (this presumes all provision being made off site and all open space typologies in the SPD being applied).

7.35 A commuted sum for future maintenance is also required. With the 1 bed discount applied this would generate a sum of £ 15,934.53

7.36 The total amount of contributions with a commuted sum for open space would therefore be £32,817.63.

7.37 Draft Heads of Terms for the Section 106 Agreement accompanying this application are attached as **Appendix 1**.

8. Conclusion and planning balance

8.1 The proposed development would bring the listed building at 42 Foregate Street into use, it having been vacant for two years. This would be in accordance with the relevant local and national planning policies and would provide a number of residential units in this sustainable city centre location without harm to neighbour amenity or highway safety. As such, I am of the opinion that the proposals constitute an acceptable and sustainable form of development when assessed against the policy framework both nationally and locally. The site has the capacity to accommodate the development in an acceptable manner. As such, it is recommended that planning permission is granted.

9. Recommended Conditions

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

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

Reason: To conform with the requirements of 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 following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission

Heritage Statement
Design and Access Statement
Planning Statement
2024 - P - 02 – Existing Layout
2024 - P - 03F – Proposed Layout (floor plans)
2024 - P - 04C – Proposed Elevations
2024 - P - 05B – Location & block plans

Reason: To ensure compliance with the approved scheme.

3. Before the first use/occupation of the development hereby permitted a scheme of noise attenuation shall be submitted to and approved in writing by the local planning authority. The scheme shall include noise mitigation measures as appropriate to minimise the level of noise experienced by the residents of the development from Foregate Street and from the commercial and the other residential units in the property. The scheme shall be implemented before the first use of the development and shall be retained thereafter.

Reason:- To ensure the proposal preserves residential amenity and to prevent unacceptable noise pollution to the detriment of human health contrary to policy SWDP31 of the South Worcestershire Development Plan.

4. Prior to the first occupation of any dwelling hereby approved, the cycle parking as shown on approved plan 2024 - P - 03F shall be provided on site and they shall thereafter be retained for the parking of cycles only.

Reason: To comply with the Council's cycle parking standards and in the interests of encouraging sustainable transport.

5. The materials to be used in the construction of the external surfaces of the development hereby permitted, including any replacement windows, shall match in type, colour, texture, size, coursing, jointing and pointing of those used in the existing building.

Reason: To protect, conserve and enhance the significance of heritage assets and to ensure that the new materials are in keeping with the surroundings and/or represent quality design in accordance with policies SWDP 6, SWDP21 and SWDP24 of the South Worcestershire Development Plan.

6. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved and be retained in that form thereafter.

Reason: To satisfactorily protect the character and appearance of the area and the residential amenities of nearby occupiers, in accordance with Policy SDWP21 of the South Worcestershire Development Plan 2016 and the National Planning Policy Framework 2021.

7. Prior to the commencement of development, details of the provisions for the storage of refuse and recycling for both the commercial and the residential elements of the scheme shall be submitted to and approved in writing by the Local Planning Authority. Such provisions shall be made/constructed prior to the first occupation of the development and shall thereafter be made permanently available for the occupants of the development.

Reason: In the interests of the provision of sufficient refuse capacity for the site and residential amenity, in accordance with Policy SWDP21 of the South Worcestershire Development Plan 2016 and the National Planning Policy Framework 2021.

8. (A) No development shall take place until a programme of archaeological work (building recording), has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance; and:
 - 1) The programme and methodology of site investigation and recording.

- 2) The programme for post investigation assessment.
- 3) Provision to be made for analysis of the site investigation and recording.
- 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- 5) Provision to be made for archive deposition of the analysis and records of the site investigation.
- 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

(B) The development shall not be occupied until the building recording and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with the requirements of paragraphs 194 and 205 of the National Planning Policy Framework 2012 (as amended) and SWDP 6 & 24 of the South Worcestershire Development Plan 2016.

9. No development shall take place until a comprehensive photographic survey has been submitted to and approved in writing by the Local Planning Authority.

Reason: To allow the historical and archaeological interest of the building to be recorded in accordance with policies SWDP6 and SWDP24 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

10. The development hereby approved shall not be occupied until the applicant has submitted in writing and had approval in writing from the Local Planning Authority a residential welcome pack promoting sustainable forms of access to the development.

Reason: To reduce vehicle movements and promote sustainable access.

11. No development shall take place until a qualified ecologist has undertaken an inspection of the interior of the building including the roof voids, looking for evidence of bats. In the event that such evidence is found, a further presence/ absence survey shall be undertaken and the results submitted to the Local Planning Authority.

Reason: To ensure the development contributes to the conservation and enhancement of biodiversity within the site in accordance with policy SWDP22 of the South Worcestershire Development Plan.

INFORMATIVES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. For the use or reuse of sewer connections, either direct or indirect, to the public sewerage system the Applicant will be required to make a formal application to STWL under Section 106 of the Water Industry Act 1991. The Applicant may obtain copies of current guidance notes and application form from either the STWL website (www.stwater.co.uk) or by contacting the STWL Development Services Team (Tel: 0800 707 6600).