

<b>Application Number</b>	<b>22/00334/FUL</b>
<b>Site Address</b>	<b>St Clement's Church Hall, Henwick Road, Worcester, WR2 5NP</b>
<b>Description of Development</b>	Demolition of existing Church Hall and erection of four-storey building to provide 54 bed student accommodation with associated communal amenity space, landscaping, car/cycle parking and refuse storage.
<b>Expiry Date</b>	28 April 2023
<b>Applicant</b>	New Venture Housing Limited
<b>Agent</b>	PlanIT Planning & Development Ltd
<b>Case Officer</b>	Dale Jones
	dale.jones@worcester.gov.uk
<b>Ward Member(s)</b>	St. John Ward
<b>Reason for Referral to Committee</b>	Major application
<b>Key Issues</b>	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.
<b>Web link to application</b>	<a href="https://plan.worcester.gov.uk/Planning/Display/22/00334/FUL">https://plan.worcester.gov.uk/Planning/Display/22/00334/FUL</a>
<b>Recommendation</b>	<p><b>The Corporate Director - Planning and Governance recommends that the Planning Committee grants planning permission subject to:-</b></p> <ul style="list-style-type: none"> <li><b>i) The applicant and all parties with an interest in the land entering into a S106 Agreement in accordance with the Heads of Terms annexed as Appendix 1 to this report, no later than six months from the date of this resolution; and</b></li> <li><b>ii) the recommended conditions set out in section 9 of this report.</b></li> </ul>

## 1. **Background**

- 1.1 The application was registered on 15 June 2022 and was due for a decision on 27 October 2022. An extension of time for the determination of the application has been agreed until 28 April 2023.
- 1.2 The application has been referred to the Planning Committee as it is outside the scope of the adopted Scheme of Delegation.

## 2. **The site and surrounding area**

- 2.1 The application site is located to the south-west of Worcester City Centre set back to the east of Henwick Road (B4206) and accessed via St. Clement's Gardens from the west. St. Clement's Church Hall, constructed circa 1909 (date stone) is situated to the east of the application site. Land to the west and north comprises scrub and grassland. To the north is the Church of St. Clement's and its associated graveyard which adjoins the northern boundary of the site. Land to the west, east and south is in residential land use. A public footpath traverses to the south of the site.
- 2.2 The application site is located near or adjacent to Heritage Assets, which include the Church of St. Clement's, which is located to the north and, to the west, number 30 Henwick Road and St. Clement's House are Grade II Listed. The site falls within the visual and historic setting to these assets



- 2.3 The application site is accessed from Church Walk off St Clement's Walk (to the south and south-east). The site adjoins St Clement's Church, which is to the immediate north, and residential development and is presently occupied by the former St Clement's Parish building (as illustrated in the above site photo image) which are disused and are falling into disrepair. There are several mature trees surrounding the site, but outside of the application red line.
- 2.4 A terrace of Victorian and more modern properties front onto Henwick Road to the west of the site and a linear bank of circa 1980's assisted living residential blocks including Dancox House lie to the east. To the south, Church Walk provides pedestrian and managed vehicular access to the site with some mature trees and further medium rise residential blocks to the south including, Rowlands and Russell House.

2.5 The application site is located within fluvial and tidal Flood Zone 1 (low probability), and within an area defined as being at Very Low risk of flooding from rivers and sea.

### **3. The proposals**

3.1 Planning permission is sought for the proposed demolition of the existing Church Hall building and the subsequent erection of a four-storey building to provide 54 bed student accommodation with associated communal amenity space, landscaping, car/cycle parking and refuse storage. The student accommodation would be owned and managed by the applicants.

3.2 It is proposed to erect a building four storeys in height to accommodate the proposed student accommodation, and the building's roof line has been designed to step down in scale and mass on the east and western gables, to align with the neighbouring context. In this respect, the proposed building would adopt a mix of low profile stepped flat roofs which step in height towards the centre of the site, with a shallow pitched roof to the central form denoting the buildings entrance, and set in the centre of the site, to reduce the composite massing.

3.3 It is proposed that the student accommodation be configured in 'cluster flat' arrangements, each with their own communal kitchen and living spaces. In this respect, the proposed accommodation is designed as 14x separate cluster units with each cluster containing 3, 4 or 5 bedrooms; and a communal kitchen and living space. Each bedroom would include an en-suite bathroom. The applicants have clarified that all of the proposed accommodation will comply with Worcester City's HMO standards.

3.4 Common room amenity space, secure cycle storage and bins would be located at ground floor along with servicing requirements and each floor above will accommodate clusters each containing the student flats. The bin store will be managed by the on-site management. Amenity space will be laid out to the north of the new building and landscape planting provided to the west and east boundaries of the site.

3.5 In terms of the architecture and materials, the building would be constructed in a palette including Worcester red brick, buff brick, render, composite and rain-screed cladding and a standing seam metal roof cladding. The arrangement of the facing materials expresses the buildings horizontality with bands of materials proposed. The window and door fenestration faces north and south.

3.6 With regard to access, pedestrian access to and from the building would be obtained directly from Church Walk. In this respect, Church Walk provides a pedestrian route towards Henwick Road and Tybridge Street. Communal living space and areas for the storage of bicycles and refuse is provided on the ground floor.

3.7 The proposal is 'car-free' and makes no provision for car parking with residents' contracts mandating no car ownership. The applicants have confirmed that the tenancy agreements will include a clause that no resident may keep a vehicle on site, or within 1km of the site. The three 'drop-off bays' would be available for a managed arrival and departure process at the beginning and end of term. In terms of sustainable transport options, cycle parking will be provided at ground floor level and a ratio of one space per resident (54 spaces), with additional visitor space provision of a further 8 spaces on the site.

- 3.8 New native trees, soft landscaping and hedgerow foliage has been proposed around the perimeter of the site, to provide green corridors for and habitats for local wildlife, along with bat boxes to the eastern gables and a series of planted sedum green roofs to provide a rich bio-diverse landscape to complement the proposed building.
- 3.9 The application is supported by a full set of plans, Design and Access Statement and corresponding technical reports.
- 3.10 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 Paragraph 200 of the NPPF states that "Local Authorities are called to look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance" and that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area" (paragraph 130).
- 4.3 This is further reflected in South Worcestershire Development Plan policies SWDP 6 and SWDP 24 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 and policy SWDP 21 which sets generic design principles for development proposals.
- 4.4 Policy SWDP 21 requires that all development will be expected to be of a high design quality and integrate effectively with its surroundings and that development proposals must complement the character of the area. Furthermore, proposals should respond to surrounding buildings and the distinctive features or qualities that contribute to the visual and heritage interest of the townscape, frontages, streets and landscape quality of the local area and states that the scale, height and massing of development must be appropriate to the setting of the site and the surrounding landscape character and townscape, including existing urban grain and density.
- 4.5 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".

4.6 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**

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

SWDP 1 – Overarching Sustainable Development Principles

SWDP 2 – Development Strategy and Settlement Hierarchy

SWDP 4 – Moving around Worcestershire

SWDP 5 – Green Infrastructure

SWDP 6 – Historic Environment

SWDP 7 – Infrastructure

SWDP 13 – Effective Use of Land

SWDP 14 – Market Housing Mix

SWDP 21 – Design

SWDP 22 - Biodiversity and Geodiversity

SWDP 24 - Management of the Historic Environment

SWDP 27 – Renewable and Low Carbon Energy

SWDP 28 – Management of Flood Risk

SWDP 29 – Sustainable Drainage Systems

SWDP 30 – Water Resources, Efficiency and Treatment

SWDP 31- Pollution and Land Instability

SWDP 33 – Waste SWDP 39- Provision for Green Space and Outdoor Community Uses in New Development

### **Supplementary Planning Documents**

4.8 The following Supplementary Planning Documents are relevant to the application proposals:

#### **• Design Quality SPD**

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.

#### **• Developer Contributions SPD**

The Developer Contributions SPD - was adopted by the South Worcestershire Councils on the 20th 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.

## • **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 standalone renewable and low carbon energy schemes (with the exception of wind turbines).

### **Other material considerations include:**

#### **National Planning Policy framework (2021)**

- 4.9 The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 4.10 Paragraph 10 of the NPPF states that so sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.
- 4.11 Paragraph 11 defines the presumption in favour of sustainable development as approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 4.12 Paragraph 12 also advises, amongst other things that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The NPPF also states that a Local Planning Authority may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

#### **National Planning Practice Guidance (NPPG) and National Design Guide**

- 4.13 The Government also publish National Planning Practice Guidance (NPPG) to compliment the NPPF that has been revised and updated in the meantime and comprises, amongst other matters, Air quality, Design, Housing and economic land availability assessment, Noise, Travel plans, Transport assessments and statements in decision-taking, Flood risk and coastal change, Use of planning conditions, Flexible options for planning permissions, and Planning obligations. Similarly in October 2019 the Government has published the National Design Guide.

## **5 Planning History**

5.1 There is no relevant planning history directly relating to the application site. The pre-application history is noted below.

### **5.2 Pre-application Engagement**

**21/00162/PA** – Pre-application advice provided by WCC in connection with the proposed development of the site comprising the erection of a building for use as 76 student bedroom apartments with ancillary and communal living space and associated landscaping"

#### Summary of Advice issued:

- The principle of development on the site is accepted. Generally, it is in a sustainable position and within the development boundary.
- Concerns regarding the scale of the proposal, but in terms of the quantum of rooms proposed and the impact this will have, but also the design and the amount of space within the constrained site and the impact it would have on the surrounding residents of the site.

5.3 The current scheme has been revised post pre-application, with the principal amendments set out below within this committee report.

### **5.4 Public Consultation by Applicant**

5.5 The applicants have stated that they undertook their own public consultation exercise in relation to the proposals, noting that letters to Ward Councillors and local residents with a link to a website containing details of the draft proposals. A total of 330 letters were issued to addresses within proximity to the Site. Residents were invited to comment on the proposals via an electronic feedback form.

5.6 The applicants have advised that a total of 176 people visited the consultation website and 21 people made comment by competing the 'Have your Say' link. A further three people made comments by telephone.

5.7 The applicants advised that the principal concerns related to the following:

- The intended use of the building and whether it will have a negative impact on elderly residents who live close to the site.
- Concern about potential disruption through students parking on local roads and impact on the highways network.
- Noise and disturbance to local residents.

## **6 Consultations**

6.1 Formal consultation, including 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 and amended proposals and are summarised as follows:

**Neighbours and other third-party comments:** Objections and comments in support have been received on grounds relating to the following matters:

### 34 representations in objection (and three petitions received)

- Questionable demand for student accommodation
- The town centre is a more suitable and sustainable location
- Harmful impact on residential amenity, including by way of increased noise, disturbance and anti-social behaviours
- Harmful impact on neighbouring amenity by way of loss of privacy and increased overlooking
- Harmful impact in terms of loss of views and outlook, including on the mental health of neighbours
- Principle of the loss of the historic building on the site.
- The car-free development will not be practical or enforceable and will lead to a harmful increase in parking on site and in the area.
- Impact on traffic, in particular at drop off time
- The lack of parking in this proposal should be seen in conjunction with concurrent planning applications awaiting decision, namely 22/00430/FUL on the ex-St.John's CO-OP site, a new residential complex of 64 apartments for the elderly, which is also proposing a low ratio of car parking facilities. Also, currently a 163-bed student accommodation is under construction at the ex-WMCA which will also exert pressure on local parking and facilities
- Lack of car parking provision and impact of parking on the nearby streets.
- Inappropriate, scale, height and design of building
- Overdevelopment of the site
- Harmful impact of any construction period (if permitted)
- Loss of daylight and views to and from neighbouring apartments
- Overshadowing of the neighbouring sites
- Impact on the church facilities and car parking area
- Environmental disturbances, also including littering.
- Preference for other uses and inappropriate sitting next to sheltered accommodation where the elderly live
- The nearby Aldi superstore was refused planning permission for extended delivery hours due to the potential impact on local residential amenity
- Harmful impact on wildlife, planting and biodiversity
- Cycling may cause road/pedestrian safety issues as the site is on a hill where speeds of cyclists can cause concerns in relation to safety.
- The loss of the church hall would remove an important community asset
- Construction times and deliveries should be carefully controlled by conditions

### A total of two representations have been received in support of the application

- The development should be approved, as it will bring more people into St. John's which will help the local economy with a lot of our independent shops around the main roads of St. John's.
- With extra students coming into the city, it will boost the money spent in our businesses.
- The Area (St. John's) is becoming very run-down with empty shops and no desire for any new businesses to open up around this area.
- With a development of this size, it might entice new businesses to open which again adds to the local economy. The area of development proposed is run down and could have a new lease of life as a result of the proposed development.
- If the University can bring in new young, and qualified people surely that is good news?



- The University of Worcester brings in hundreds of thousands of pounds a year into the community. St Johns for years have been experiencing a migration of its young population to larger cities
- 6.2 The following **statutory and non-statutory responses** have been received:
  - 6.3 **Highway Authority:** No objections subject to conditions and s106 contributions (response received 17 January 2023).
  - 6.4 **Worcester City Council Archaeological Officer:** No objections subject to planning condition, comprising one for archaeological work and the other for re-burial should any remains be found.
  - 6.5 **Worcester City Council Conservation Officer:** No objections. It is considered that this proposal will lead to less than substantial harm to the significance of adjacent heritage assets and will have the public benefits of securing a viable use for the application site.
  - 6.6 **Worcester City Council Landscape and Biodiversity Adviser:** Concerns that proposed building is too big in plan for the site, practically covering the whole area with little room for either planted setting or biodiversity enhancement, as well as no amenity space. No objections regarding ecology subject to mitigation and conditions.
  - 6.7 **Worcester City Council Tree Officer:** No objection, subject to conditions
  - 6.8 **Worcestershire Regulatory Services (air quality):** No objections, noting that WRS have reviewed the planning application for potential air quality issues of which none have been identified.
  - 6.9 **Worcestershire Regulatory Services (contaminated land):** No objections subject to conditions.
  - 6.10 **Conservation Advisory Panel:** No comments received.
  - 6.11 **Lead Local Flood Authority:** No objections.
  - 6.12 **West Mercia Constabulary:** No objection in principle. Should the development gain approval I request that the following conditions be placed up on the development. All residential doors should be dual certified for both security and fire, the doors should meet security standard PAS24:2016 or equivalent and have the appropriate fire rating.
  - 6.13 **South Worcestershire Land Drainage Partnership-** No objection in principle. Consultation with the Lead Local Flood Authority required. The Applicant should follow a sustainable approach to surface water management (SuDS) and the recommended drainage hierarchy.
  - 6.14 **Worcester City Council Tree Officer:** No objection, subject to conditions
  - 6.15 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.

6.16 In assessing the proposal due regard has been given to local resident's 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. Planning Assessment**

### **The Principle of Development**

7.1 The application site is located close to the city centre and the proposal seeks consent for student accommodation. The site is sustainably located close to public transport and a wide range of services and facilities and is located in close proximity to the University campuses. The application site is considered to be a logical location for student accommodation ensuring variety and increasing vibrancy of this part of the city centre whilst being compatible with the adjacent land uses.

7.2 Furthermore, the occupancy of this building by 54 students would result in less demand for this accommodation to be provided in House in Multiple Occupation (HMO) accommodation, thereby potentially reducing the number of family dwelling houses that might be converted to form new HMOs. From the perspective of safeguarding family dwelling houses this is welcomed by Officers. From the perspective of providing student accommodation in the most sustainable location on land, which is currently dis-used/vacant, the proposal is supported. Officers note that some neighbouring residents have commented that there is no demand for this type and amount of student accommodation. Whilst Officers note these comments, there is no sound reason to assume that there is no demand for the proposed level of student accommodation. On balance therefore the principle of the use of this sustainable site to provide purpose-built student accommodation is supported.

7.3 Additionally, it is noted that 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. In the opinion of Officers, the net increase in students will contribute to a greater to the local economy and vitality and viability of local services and facilities throughout the term times, and as such, this also weighs in favour of granting planning permission.

### **Loss of the former church hall**

7.4 SWDP 37 (B) is relevant where it states:

Any proposal that would result in the loss of a site or building currently or last used as a community facility will only be permitted if the following criteria are met:

- i. An alternative community facility which meets local needs to at least the same extent is, or will be, provided in an equally or more accessible location; or
- ii. It has been demonstrated that there is an excess of similar provision in the appropriate catchment area for that particular facility and the site or building is not needed for any other community facility; or

iii. In the case of commercial community facilities, it has been demonstrated that it would not be economically or operationally viable to retain the facility for community use; or

iv. In the case of non-commercial community facilities, the use is no longer operationally viable; or

v. The community facility could not be provided or operated by either the current occupier or by an alternative occupier (e.g., by a local community body, public-private partnership, etc.) and it has been marketed in accordance with Annex F (Marketing Requirements).

vi. Applicants are required to scope existing facilities in the area and consider whether it would be more appropriate to combine or rationalise existing facilities in the first instance.

vii. Applicants proposing to re-develop or convert a community facility should consult the appropriate community prior to the submission of a planning application.

7.5 In the first instance it is important to note that the submitted proposal in this case involves the loss of a building last in commercial use as a church hall community facility. However, where demonstrating compliance with the provisions of Policy SWDP 37, it should be noted that the building has been vacant for several years. Additionally, the applicants have also since confirmed that the site was marketed from May 2015 to the date when the site was purchased in February 2019. The applicants have confirmed that the site was marketed at a low guide price of £95,000 and have provided details from the selling agent dated 11<sup>th</sup> August 2022 which confirms that the only registered enquiries over the 2 years and 9 months marketing period were from residential care home operators and residential developers. It is noted that there were no enquiries from organisations or community groups to use the building for community purposes. In light of these factors, considering the long period of vacancy and unsuccessful marketing exercise, officers consider that the loss of the existing facility can be justified.

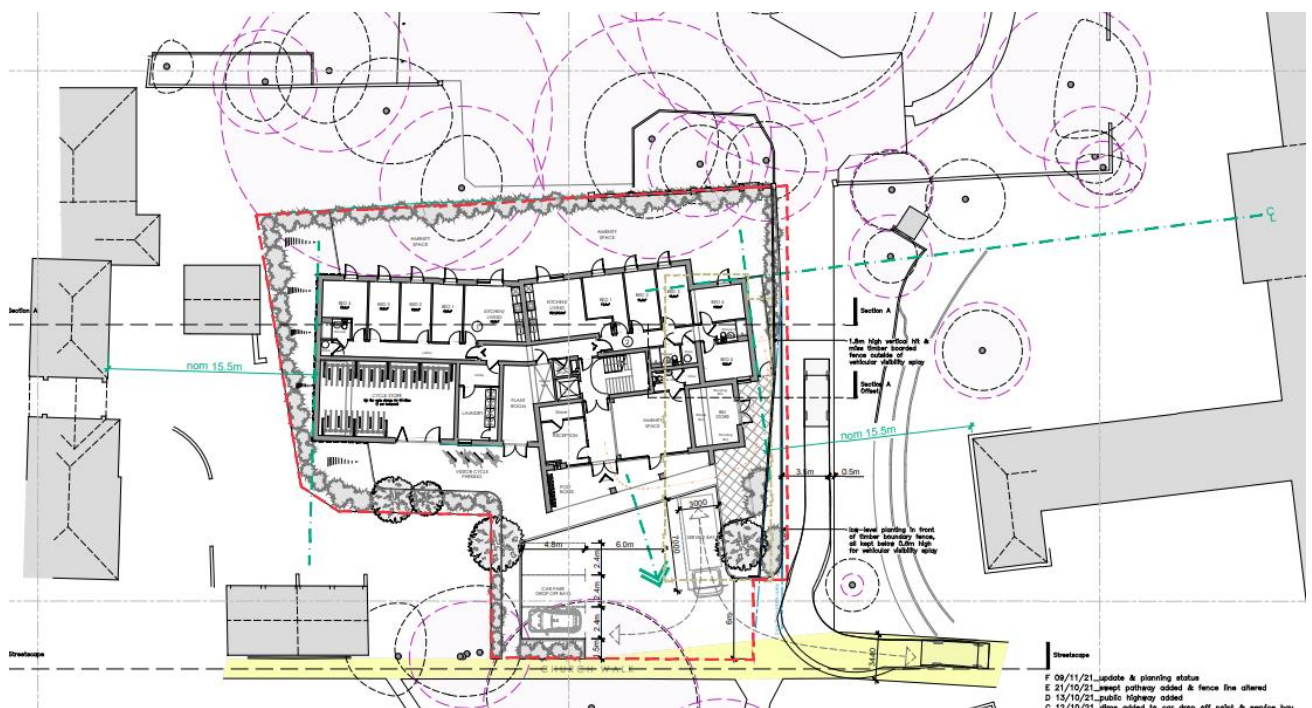
7.6 The re-use of this site is therefore supported in policy terms and removes from the site a forlorn appearance which detracts from the image of the locality. Furthermore, by way of a material planning consideration, it is also considered that the loss of this building is more than offset by the additional 54 students using the city centre amenities, shops and services, thereby contributing to the local economy.

### **Impact on neighbouring amenity and amenity for future occupiers**

7.7 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. The introduction of the proposed development could give rise to potential noise and disturbance for the occupiers of the surrounding properties as a result of demolition works, the movement of construction and related traffic, construction works, and from the operation of the site on completion from activities on site and movements to and from the site.

7.8 A number of letters of representation have been received in relation to this proposal from neighbouring residents expressing concerns regarding overlooking and loss of outlook and light to nearby residential properties. The neighbouring properties include the terraced properties to the West which front Henwick Road, which back into and overlook the application site. These neighbouring properties are elevated above the application site owing to the sharp land topography which rises east to west in this location. However, there are residential blocks, including supported/sheltered housing to the south and east of the application site, which includes Russell House and Dancox House.

7.9 The new building's east and western gables have been stepped back from the neighbouring buildings by in excess of 15m (at the closest points), with the plan form breaking down the volume of the main block at the gables, with windows and balconies omitted from the gables to prevent overlooking.



7.10 Officers consider that the separation gaps between the proposed block and adjacent residential buildings is such that the proposal will not result in opportunities for actual or perceived overlooking. In terms of the community amenity areas, this space as proposed is not private amenity space and therefore there would be no loss of amenity. Inevitably the outlook from habitable room windows to the properties to the south will be different from that at present facing on to a vacant plot and disused church hall building. However, the separation between the proposed building and neighbouring sites, when considered in the context of the height of existing structures behind the site, on the raised topography are such that the proposal would not give rise to loss of light or outlook. The recessed building footprint and surrounding separation distances are considered to be appropriate to safeguard against any loss of outlook or increased sense of enclosure.

7.11 In relation to **noise and disturbance**, the applicants have prepared and submitted a Student Management Plan (received 7 December 2022), which sets out a range of reactive and proactive measures to manage the property and environment during term time.

- 7.12 The submitted Student Management plan notes that the tenants of the proposed development will sign assured shorthold tenancy agreements (hereafter referred to as 'ASTs') giving the exclusive occupation of their apartment for that particular academic year. The ASTs will impose several important restrictions to manage student behaviours during the period of their tenancies, which will include (but are not limited to) the following:
- Students should not cause a noise which can be heard outside of the apartment between 11pm and 7am.
  - To be considerate to surrounding local residents at all times within and outside of the building.
  - Not keep controlled drugs on the premises except with a legitimate prescription from a Medical Doctor.
  - Not bring combustible materials or pressurized containers on site.
  - Do not threaten or harass any persons within the building.
  - No unaccompanied guests.
  - Attendance of safety briefings at the beginning of the ASTs.
  - No smoke strictly enforced on the premises
  - To ensure that any rubbish is disposed of correctly in the designated refuse bins provided on site.
- 7.13 There are also passive design measures integrated to manage behaviours, such as the building entrance and foyer which have been designed to facilitate an open and welcoming environment for residents and visitors, with CCTV used as a safeguarding tool and preventative crime measure. Furthermore, access would be obtained via the use of a key system.
- 7.14 There would also be arrangements in place to manage the moving in and out process at the start and finish of each academic year, to prevent highways safety and convenience issues from occurring and managing them effectively, with additional restrictions on motor vehicle access and reactive enforcement measures. In addition, there would be a point of contact such as the property manager to handle, record and manage any complaints from residents both within the building and those residents neighbouring the site. This would enable an effective review process to ensure that processes and procedures can be improved if required.
- 7.15 In conclusion, it is considered that measures outlined in the submitted Student Management Plan, are robust and enforceable to ensure that the amenities of the prospective residents and those neighbouring the site are adequately safeguarded in terms of control of noise and disturbance. Moreover, it is considered that there would be reactive controls in place to manage any incidents of noise and disturbance and develop new methods to effectively manage the student environment to ensure that neighbouring amenity is not adversely affected by the proposals.

## **Standard of living environment for future occupants**

- 7.16 Officers suggest that the units would have reasonable amenity in terms of privacy and outlook. Whilst limited external amenity space is proposed to the north of the proposed building, together with an additional element of internal space has also been set aside for informal amenity space where students can meet inside the building at ground level, adjacent to the main reception area, nevertheless this is an edge of City Centre location and is approximately a 4-minute walk (0.2 mile) to Cripplegate Park or approximately a 12-minute walk (0.6 mile) to Chapter Meadows Nature Reserve.
- 7.17 The site proposal will allow use for those with challenged mobility. In this respect, it has been clarified that each bedroom will include an en-suite bathroom, and some will be adapted for students with disabilities, with rooms being compliant with part M4(3) of the Building Regulations. All of the proposed accommodation will comply with Worcester City's HMO standards. The detailed proposals for accessible rooms can be safeguarded through condition.
- 7.18 The proposed building Gross Internal Area (G.I.A) would amount to 1,538sqm and would be comprised of student cluster apartments, providing a total of 54 bed spaces, (which is a substantial reduction from 76 originally proposed at pre-application stage). In terms of the internal layout, the floors plan above ground floor level are arranged around a central stair and lift core.
- 7.19 The building has been designed as a single-stair core building in accordance with Approved Document Part B. In response to the pre-application feedback, the living areas have been relocated to the centre of the site and projecting balconies removed. At ground floor level, further student accommodation is proposed, together with the "front-of-house" amenity space, reception area, laundry, and plant areas, with the secure and covered cycle parking provision and bin storage also facilitated for ease of access at ground level.

## **Design and visual impact**

- 7.20 The National Planning Policy Framework 2021 confirms that the Government attaches great importance to the design of the built environment, and notes that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 7.21 Paragraph 126 of the NPPF 2021 highlights that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 7.22 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially, where it fails to reflect local design policies and government guidance on design taking into account any local design guidance and supplementary planning documents such as design guides and codes. Weight should be given to development which reflects local design policies and guidance and supplementary planning documents such as design guides and codes; and/or outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.

- 7.23 Policy SWDP 21 – ‘Design’ is relevant and requires all new development to be of a high-quality design which integrates effectively with its surroundings, in terms of form and function, whilst also reinforcing local distinctiveness.
- 7.24 In terms of the existing context, the application site is occupied, in part, by the former St. Clement’s Church Hall, erected in around 1909 and comprising a single storey building, constructed in red brick with stone detailing and grey slate roof covering. The building has been identified as a non-designated heritage asset. The remaining land to the west is open scrubland and both it and the church hall are currently unused and in a poor visual condition.
- 7.25 Contextually, the design of the building has been revised since pre-application stage. In this respect, the original designs were for a four-storey building comprising 76 apartments. A number of post-pre-application advice amendments were made to the design, including the removal of projecting balconies (due to overlooking concerns), reduced scale and massing, re-siting of the building and reduced scale and design amendments on the upper floors.
- 7.26 In terms of the current scheme, the building will effectively be designed to include two interconnecting forms. The new building’s east and western gables have been stepped back from the neighbouring buildings by in excess of 15m, and the proposed building has been set back from the northern boundary to respect the tree protection zones. The upper floors include setbacks in plan and section, to reduce the building’s scale and massing, with the tallest elements focused to the centre of the plan.
- 7.27 With regard to materials and architecture, the proposed building has been designed with a masonry brickwork base providing a plinth to the building, with the linear block running in an east-west orientation, which would be faced to the upper floors with rendering and the top floor set back with a rainscreen horizontal cladding to express the horizontality of the building.
- 7.28 The north-south orientated wing of the proposed building is proposed to be faced with standing metal seam roof and cladding, offering a visual contrast, whilst also helping to soften up the visual mass, whilst expressing the buildings’ gable ends, which are further articulated by inset timber composite cladding to the reveals of the inset balcony spaces (the proposed front elevation is illustrated below). The design is considered to respect the setting of the adjacent heritage assets, respond to the materiality of the local area and offer visual interest to this site.



- 7.29 Soft landscaping surrounds the site, with planted hedgerows and native trees providing a green corridor across the site for wildlife. Access to the amenity areas would be provided via a footpath around the building to the eastern boundary, with a communal forecourt providing further amenity to the south of the site.
- 7.30 In terms of sustainable design and ecology, a photovoltaic array of panels will be provided on the roof of the building which will be a source of on-site renewable energy generation and green roofs are proposed, along with facade mounted bat boxes on the eastern gable. An Energy and Sustainability Statement (by Vitec Limited dated March 2022) was submitted with the planning application. The report demonstrates that the building's energy needs would be met from renewable sources and would exceed the Council's SWDP 27 policy target of 10%. Compliance with the policy is also illustrated within Appendix 1 of the submitted Planning Statement, which accompanied the planning application. A planning condition has also been added to require full calculations based on an assessment of regulated, and non-regulated energy usage.
- 7.31 With regard to security, the building has been designed to ensure that students live in a safe and secure environment. Entry into the building will be controlled by keypad coded/fob doors at the main entrance door and also into the lift area leading to all floors.

### **Impact on neighbouring amenity**

- 7.32 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.

### Daylight and overshadowing

- 7.33 In general, for assessing the sunlight and daylight impact of new development on existing buildings, Building Research Establishment (BRE) criteria is adopted. In accordance with both local and national policies, consideration should be given to the context of the site, the more efficient and effective use of valuable urban land and



the degree of material impact on neighbours.

- 7.34 The starting point must be an assessment against the BRE guidelines and from there a real understanding of impacts can be understood. Once the transgressions against the BRE guidelines are highlighted, consideration of other matters can take place.
- 7.35 The 'Effective Use of Land' section in the Government's Planning Practice Guidance (PPG), confirms that consideration is to be given as to whether a proposed development would have an unreasonable impact on the daylight and sunlight levels enjoyed by neighbouring occupiers, setting out that all development should maintain acceptable living standards, although what will be appropriate will depend to some extent on the context. The Guidance cites city centre locations where tall modern buildings predominate as an area where lower daylight levels at some windows may be appropriate if new development is to be in keeping with the general form of its surroundings.
- 7.36 Whilst BRE guidelines are intended for use in adjoining dwellings, paragraph 2.2.2 (of the BRE guidelines) confirms that they may also be applied to existing non-domestic buildings where occupants have a reasonable expectation of daylight.
- 7.37 The BRE Guidelines (2022) stipulate that... "the diffuse daylighting of the existing building may be adversely affected if either:
- the VSC [Vertical Sky Component] measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value.
  - the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value. (No Sky Line / Daylight Distribution)."
- 7.38 The applicants have undertaken and provided BRE analysis of the proposal in relation to its impacts upon neighbouring amenity. Properties assessed included those to the west along Henwick Road and the residential blocks to the south and west which include Russell House and Dancox House. In total, 9 properties, 118 windows and 74 rooms have been the subject of the BRE analysis. The results for the neighbouring properties confirm that all the relevant windows and rooms pass the BRE diffuse daylight and direct sunlight tests. The proposed development also satisfies the BRE overshadowing to gardens and open spaces requirements.
- 7.39 The quality of the proposed accommodation was also considered as part of the BRE analysis. The results confirm that satisfactory levels of Daylight Distribution (DD) will remain, and all rooms would meet the guidelines with results in excess of the 0.8 Reduction Factor in every instance.
- 7.40 As such, it is concluded that the levels of Daylight & Sunlight to the neighbouring properties would not be detrimentally impacted as a result of the proposed development. The proposed development can be said to be respectful of the Daylight & Sunlight received by the neighbouring properties. Accordingly, the proposed development would adhere with the provisions of policy SWDP 21: Design and Paragraph 130 of the NPPF.

#### Overlooking and privacy

- 7.41 With the exception of a small amount hallway/corridor windows at third floor level, the flank elevations of the proposed building have been designed with the amenities of neighbouring sites to the east and west in mind.

The limited number of openings (which can be secured as obscured glazed by condition), would ensure that the resultant development would not result in any overlooking or loss of privacy to Henwick Road to the west and Dancox House to the east. In terms of the north, despite the articulation of windows within the northern façade and the presence of amenity spaces at ground level, there would be no overlooking concerns given the topography of the land and the fact that the northern façade would face the grounds of St Clement's Church, as opposed to a sensitive neighbouring land use.

- 7.42 The southern (front) building façade of the proposed building would face Russell House to the south of the site and would contain habitable room openings on the upper floors. However, the southern building façade would be recessed within the plot as to maintain a 24.0m (minimum) separation distance to the northern building façade of Russell House, thereby maintaining an adequate gap to ensure that there would not be any harmful loss of privacy for the neighbouring residents.

### **Historic Environment**

- 7.43 Policy SWDP 6: Historic Environment states (inter alia) that:

A. Development proposals should conserve and enhance heritage assets, including assets of potential archaeological interest, subject to the provisions of SWDP 24. Their contribution to the character of the landscape or townscape should be protected in order to sustain the historic quality, sense of place, environmental quality and economic vibrancy of south Worcestershire.

B. Development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting.

- 7.44 Policy SWDP 24: Management of the Historic Environment is also relevant and states that:

A. Development proposals affecting heritage assets will be considered in accordance with the Framework, relevant legislation and published national and local guidance.

B. Proposals likely to affect the significance of a heritage asset, including the contribution made by its setting, should be accompanied by a description of its significance in sufficient detail to allow the potential impacts to be adequately assessed. Where there is potential for heritage assets with archaeological interest to be affected, this description should be informed by available evidence, desk-based assessment and, where appropriate, field evaluation to establish the significance of known or potential heritage assets.

C. The sympathetic and creative reuse and adaptation of historic buildings will be encouraged. Such proposals, and other proposals for enabling development that provide a sustainable future for heritage assets identified as at risk, will be considered in accordance with SWDP 24 A.

D. Where a material change to a heritage asset has been agreed, recording and interpretation should be undertaken to document and understand the asset's archaeological, architectural, artistic or historic significance. The scope of the recording should be proportionate to the asset's significance and the impact of the development on the asset. The information and understanding gained should be made publicly available, as a minimum through the relevant Historic Environment Record and where appropriate at the asset itself through on-site interpretation.

- 7.45 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("PLBCAA") provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.46 Section 72(1) of the PLBCAA provides that in the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of (amongst others) the planning Acts, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The South Lakeland District Council V Secretary of State for the Environment case and the Barnwell Manor case (East Northamptonshire DC v SSCLG) establish that "preserving" in both s.66 and s.72 means "doing no harm".
- 7.47 It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the Local Planning Authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
- 7.48 Paragraphs 199-208 set out the framework for decision making in applications relating to heritage assets and this assessment takes account of the relevant considerations in these paragraphs. At the local level, policies SWDP6 and SWDP 24 of the South Worcestershire Development Plan are relevant to the proposals.
- 7.49 In considering the application of the legislative and policy requirements, the first step is for the decision-maker to consider each of the designated heritage assets which would be affected by the proposed development in turn and assess whether the proposed development would result in any harm to the heritage asset. This has been undertaken by the Council's Design and Conservation Officer, who has identified that less than substantial harm would be caused by the proposal, due to the loss of the undesignated church hall and upon the adjacent listed buildings including at Henwick Street to the west and upon the setting of St Clement's Church.
- 7.50 Where more than one heritage asset would be harmed by the proposed development, (for example the impact upon a listed building and the character and appearance of a Conservation Area) the decision-maker also needs to ensure that when the balancing exercise is undertaken, the 'cumulative effect' of those harms to individual assets is properly considered. Considerable importance and weight must be attached to each of the harms identified and to their cumulative effect.
- 7.51 The Heritage Assessment submitted with the application identifies built heritage assets falling within a 100m study area from the Site centre. This identifies 4 listed buildings recorded on the National Heritage List for England. The **identified assets** for consideration include:

The Church of St. Clement including Gates and Railings to the West (Grade II listed)

St. Clement's War Memorial (Grade II listed)

30 Henwick Road (Grade II listed)

St. Clement's House (comprising Nos. 28 and 28A Henwick Road) (Grade II listed)

## St Clement's Church Hall – Non-designated Heritage Asset

- 7.52 The applicants note (inter alia) that the Heritage Assessment concludes that the development would impact to a degree upon the setting to these designated assets through the reduction in openness as a result of the building and the impacts upon secondary views available from Church Walk. The applicants have noted that these identified impacts upon the heritage values of the assets will however be maintained, and potential harmful impacts can be mitigated through design, materials, and landscape treatments.
- 7.53 More generally, the topography of the land which falls to the east, is such that the loss of the sense of openness would be partly mitigated and that views towards the listed buildings, inclusive of Nos. 28, 28A and 30 Henwick Road and St Clement's Church to the north are likely to be retained in a reduced capacity. It is considered that subject to design and material detailing, which are explored elsewhere and are considered to be acceptable by officers, will provide an opportunity to secure enhancement to the current appearance of the site. Furthermore, the identified harms both individually and cumulatively to the Heritage Assets will be outweighed through the provision of the public benefits, which include the delivery of student housing accommodation. In summary, the proposal has been considered against the relevant legislation, including the Planning (Listed Buildings and Conservation Areas) Act 1990 and NPPF 2021. It is considered that the benefits of the proposal would outweigh the identified less than substantial harm as identified by the councils conservation officer.
- 7.54 Turning to the Church Hall building (non-designated), the Councils Conservation Officer has raised no objections in principle to the proposed demolition, noting (inter alia) that whilst the existing building is a good example of its kind and form. It has been out of use for a long time. Then, by repute, it was said originally to have been built as a drill hall, but this has not been substantiated. However, Officers consider that it has some merit and should be recorded to an appropriate archaeological standard.

### Archaeology

- 7.55 The 'historic environment' encompasses all those material remains that our ancestors have created in the landscapes of town and countryside. It includes all below and above-ground evidence including buildings of historic and architectural interest. The proposed development area (PDA) is adjacent to a 19th C graveyard (WCM98617) and the Grade II listed St Clement church which was constructed in 1822 (WCM98578). It is believed that land retaining a Palaeolithic potential survives within the site at lower levels (WSM56937 & WSM56950).
- 7.56 The Councils archaeological advisor has advised that the proposed development may affect heritage assets of known archaeological significance being (WCM98617, WCM98578, WSM56950 and WSM56937).
- 7.57 The Councils archaeological advisor has also advised that following review, a trench evaluation at the site failed to identify any intact burials but some disarticulated human remains were found. Although boundaries of 19th C graveyards are often well recorded it has been found that remains have on occasion been buried outside the official burial ground as close to the consecrated land as possible. As such, given the scale of the development, and the possible archaeological potential, the likely impact on the historic environment caused by this development may be offset by the implementation of a conditional programme of archaeological works.

### Heritage Conclusion

- 7.58 In summary, the Councils Conservation Officer has advised (inter alia) that as revised, this proposal will still lead to "less than substantial harm" to the significance of the heritage asset (listed buildings) and will have a neutral impact to slightly positive impact upon the conservation area. In line with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special regard has been given to the desirability of preserving the listed building, its setting and any of its features of special architectural or historic interest. In line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 7.59 The public benefits are highlighted in full within the planning balance section of the report below. Whilst the harms identified below are illustrative of the wider acceptability of the application, in heritage terms the public benefits of the provision of accommodation to meet the needs of an ageing population, the economic benefits and sustainability credentials of the scheme outweigh the harms identified to the adjoining listed buildings and those adjacent in terms of the impact on their setting.

### **Access and Highway Safety**

- 7.60 SWDP Policy 1: Overarching Sustainable Development Principles states (inter alia):
- A. When considering development proposals, the Local Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work jointly and proactively with applicants to find solutions that mean proposals can be approved wherever possible and to secure development that improves economic, social and environmental conditions in south Worcestershire.
- 7.61 SWDP policy 4: Moving Around South Worcestershire (Part A) is also relevant and states:
- Proposals must demonstrate that: the layout of development will minimise demand for travel, they offer genuinely sustainable travel choices, they address road safety, and they are consistent with the delivery of the Worcestershire Transport Plan objectives.
- 7.62 New development should have regard to the design criteria and principles set out in Manual for Streets, Worcestershire County Council's Local Transport Plan, and Worcestershire County Council's Highways Design Guide.' SWDP 21 ix. stipulates that traffic from the proposed development should have safe access and there should be capacity in the road network to accommodate the generated traffic.
- 7.63 Paragraph 111 of the NPPF states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".
- 7.64 St Clement's Church Hall is located approximately 900m to the west of Worcester City Centre and Worcester Foregate Street train station. The existing site comprises a Church Hall with a parking area having capacity to accommodate eight cars. The area of the site to the west of the Hall and north of the parking area is undeveloped soft landscape.

The Applicant has identified that all roads in the vicinity of the site have footways on both sides and benefit from a comprehensive system of street lighting. Likewise, all roads are subject to a 30mph speed limit. The Highway Authority noted in their consultation response that double yellow parking restrictions are provided on sections of St Clement's Gardens due to a pre-existing problem with on-street parking. Likewise, the B4026 Henwick Road is also subject to double yellow parking restrictions in proximity to the site. These restrictions already in place help safeguard against unlawful vehicular parking.

- 7.65 The existing site comprises a church hall with hard paved parking area and soft landscaping to the west of the building. The parking area can accommodate eight cars. In the past the parking area was fenced on all sides with a gated access but the fencing on the southern side was removed more than 13 years ago. Church Walk runs on an east/west alignment to the south of the site joining Henwick Road with St Clement's Gardens. To the west of the site, Church Walk is a 1.6m wide footpath to Henwick Road, whereas to the east of the site Church Walk is a 3.4m - 3.6m wide access which provides a continuation of the pedestrian route through to St Clement's Gardens and provides pedestrian and vehicle access to the Church Hall. The full length of Church Walk is publicly maintained highway.

#### Sustainable transport options

- 7.66 The nearest bus stops to the application site are located on Henwick Road to the north of St Clement's Church. These are approximately 150m (2 minutes' walk) from the site. These are flag stops with timetable information but no bus shelters. 3.5.2 Additional bus stops are located on the A44 (St Johns) approximately 250m (3 minutes' walk) from the site. These stops have bus shelters, seating, lighting and timetables; they also have raised kerbs for level access to low-floor buses.
- 7.67 It is considered that contextually, the site is sustainably located with access to public car parks and public transport. The submitted proposal does not provide any car parking for future occupants. A 'zero parking' development is considered to be acceptable in this location and would also ensure that the proposal does not further contribute to the city-wide AQMA through additional vehicle emissions. The site is sustainably located close to shops, services, employment, the university, and public transport and this should minimise dependency on the private motor vehicle. The Highway Authority has also accepted that the principle of the use of Church Walk for vehicular access to the wider Church site has been established through previous planning consents.
- 7.68 In order to influence alternative modes of travel to the private car, the Applicant intends to provide a 'three-part Transport Implementation Strategy' (TIS)' which would comprise:
1. Residential Travel Information Pack;
  2. Delivery and Servicing Plan; and
  3. Term Start Agreements.
- 7.69 The Packs would contain public transport timetables and maps, information relating to nearby walking and cycling infrastructure, details of the University of Worcester Travel Plan, details of local cycle groups, cycle hire information, details of car sharing and CarBUDI travel system, notice/ message board and supermarket home delivery details.

In terms of the Delivery and Servicing Plan (DSP), the Applicant again proposes that the final plan would be agreed in partnership with WCC prior to occupation. The Highway Authority has supported this approach, which can be conditioned.

- 7.70 The Applicant also proposes that future residents will receive information before moving into the accommodation through advanced communication including detailed moving in information, accessibility information, check in and key collection and an inventory. Residents would be made aware that three drop-off bays are provided for the start and end of term which would be accessible based on allocated, pre-arranged drop off times. A Car and Parking Management Strategy will be conditioned to ensure that all these matters are suitably controlled and enforceable.

#### Access

- 7.71 In terms of access, The Applicant proposes to retain the existing pedestrian and vehicle access to the development. The Highway Authority has reviewed the Applicant's Proposed Site Plan (1001/205 Rev F) which shows this access has a width of 3.4m. The Church car park located to the north of the proposed site is served via a 3.5m wide access immediately to the east of the Church Hall. The Applicant has noted that vehicles leaving the Church parking area along this track have limited visibility. The Applicant, therefore, intends to set the student accommodation back to provide a 2m x 25m visibility splay (as shown on the Swept Path Analysis Visibility Splay (ref: SK104)). It should be noted that the Highway Authority have accepted this in their consultation response of January 2023, and notes that a Road Safety Audit (RSA) will be undertaken as part of the S278 process.

#### Trip Generation

- 7.72 With regard to trip generation, on the basis of the daily and peak hour vehicle trips forecast to be generated by the development, it should be noted that the Local Highway Authority is satisfied that the development proposals are unlikely to result in a severe capacity impact on the surrounding local highway network. WCC Highways accepts that no further junction impact and capacity assessments are required.

#### Vehicular parking

- 7.73 In terms of comings and goings, particularly drop-offs/pick-ups at the start and end of terms, it is noted that a number of public respondents had raised concerns as part of the council's public consultation exercise. The Applicant has since provided an outline car management strategy and enforcement strategy for ensuring the development remains 'car free'. The Local Highways Authority have raised no objections to the findings, conclusions or recommendations and have noted that a more detailed strategy should be secured by an appropriate planning condition prior to occupation, to ensure the proposed accesses operate safely and as intended.

#### Infrastructure

- 7.74 The impact of the proposed development upon local infrastructure has been reviewed by Officers and the Local Highways Authority. The following Heads of Terms have been agreed, all relating to Highways Contributions following discussions between the Council, the Local Highways Authority and the Applicants:, who have advised that they will seek the following contributions:

- **£65,000** financial contribution towards the provision of a Zebra crossing

(suitable for pedestrians and cyclists) and bust stop cage marking on Henwick Road. (Trigger: first occupation)

- **£7,500** financial contribution towards signage on Church Walk, which will indicate a 'shared space' facility (trigger: first occupation).
- **£15,000 financial contribution** towards the provision of footway widening along Grosvenor Walk (45m x 4m). (trigger: first occupation)

7.75 Officers note that this approach is supported by the Highway Authority, subject to conditions. The above obligations are considered to adhere with the CIL requirements and have been agreed by the applicants (along with the pre-commencement planning conditions) at application stage. In summary, it is therefore considered that the proposed contribution would meet the tests of CIL Regulations and the NPPF in being directly related to the development, reasonable in scale and kind, and necessary to make the development acceptable in planning terms.

7.76 The Manual for Streets (MfS) states that 'walkable neighbourhoods' have a range of facilities within 800m. Guidance on the preferred maximum walking distances to amenities is given in the Chartered Institution of Highways and Transportation's (CIHT) Providing for Journeys on Foot (2000). This guidance prescribes that a walking distance of 400m is acceptable for trips to bus stops and local shops, with 800m being the preferred maximum. Government Guidance states that the bicycle is the ideal mode of transport for journeys under 8km. Cycling "has clear potential to substitute for short car trips, particularly those under 5km, and to form part of a longer journey by public transport". The NPPF states that development should include the opportunity to promote public transport. In this case, a total of 54 safe and secure cycle spaces would be facilitated to meet the needs of the proposed development (comprised of cycle space per room). The Local Highways Authority have raised no objections to the proposals regarding quantum or quality of the cycle parking provision. This can also be secured through planning condition.

#### Construction Environment Management Plan

7.77 The Highway Authority is content that the provision of a Construction Environmental Management Plan would be secured by planning condition as part of any successful planning consent.

#### Health Impact Assessment

7.78 The Highway Authority note that a Health Impact Assessment (HIA) would be conditioned as part of the granting of planning permission. A HIA is "A combination of procedures or methods by which a policy, program or project may be judged as to the effects it may have on the health of a population". As such, the purpose of this HIA is to predict the health implications for the local population (for both new and existing residents), arising from the proposed development.

#### Highway's conclusion

7.79 Significant evidence has been produced to support the scheme's acceptability in terms of highway impacts. The proposals would be in accordance with Policy SWDP 4 of the Development Plan taking account of the site's context, and it is considered that there would be no material or sustainable reason for refusal in relation to highways movements and the submitted evidence is considered robust.



The LHA have fully accepted this position and that access arrangements are appropriate and will not result in conflict or harm to highway safety, in accordance with the provisions of Paragraph 111 of the NPPF.

## **Ecology and Trees**

- 7.80 The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 7.81 Under the Regulations, competent authorities i.e., any Minister, Government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 7.82 The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- 1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - 2) That there is no satisfactory alternative.
  - 3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 7.83 Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others):
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and
  - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.84 Paragraph 180 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 7.85 Paragraph 185 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 7.86 An ecological and tree survey has been completed and submitted with the application. All existing trees are on adjacent land and the survey confirms that the majority of the trees are Category C, which means they are of low arboricultural value. There are two better quality trees (Category B) adjacent to the application site's northern and southern boundaries. These have been catalogued as tree T2 (An Acer) and T11 (also an Acer). The applicants have clarified that none of these trees will be impacted by the proposed development because the new building will be constructed beyond their Root Protection Zones (RPAs).
- 7.87 The Councils Landscape Officer has reviewed the application and has noted (*inter alia*) that the ecology (Preliminary Survey) confirms the building as an active bat roost, and all the aspects of section 6 (except 6.1) in the report should be carried out, i.e., especially two further surveys as required, and a bat licence must also be obtained before any interventions to the building. The Landscape Officer also noted that this information should be available as a material consideration. Details of all the bird and bat boxes as recommended must be submitted to form part of the application to show this part of mitigation is possible. The Officer acknowledges that it was regrettable that much of the vegetation on site was removed before the ecology survey took place as this may have had further value and did restrict the robustness of approach to the site in this respect. However, a fully specified planting scheme must also be submitted to include the min 2.0-metre-wide native species of trees and shrubs planted strip to the boundaries. Officers consider that this (planting scheme) can be secured by way of a planning condition.
- 7.88 In addition, regarding compliance with Paragraph 174, the applicants have clarified that measures will be included such as a corridor of densely planted native shrubs and trees at least 2m wide should be planted around the Site boundary to allow mammals such as hedgehog and badger to move through the Site and to provide nesting opportunities for birds. The planting should include berry and fruit bearing species to provide new foraging opportunities for wildlife. In addition, bird boxes should be incorporated into the new buildings, which can be secured through use of planning condition, ensuring that measurable gains are providing as a result of the development.

### **Flooding and Drainage**

- 7.89 Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding, and coastal change. Paragraph 167 of which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.
- 7.90 The application site is located within fluvial and tidal Flood Zone 1 (low probability), and within an area defined as being at Very Low risk of flooding from Rivers and Sea. The site has a low risk of surface water flooding and a negligible risk of groundwater flooding.

- 7.91 A revised Sustainable Drainage Assessment from Geosmart (ref 754130.01, dated 19 Jan 2023) was submitted by the applicants to address the earlier (initial) comments of the LLFA). The LLFA have advised (inter alia) that the revised SuDS assessment now details that the proposal is to limit the discharge from the site to 1l/s up to the 1 in 100 year + 40% climate change allowance event. The assessment now also includes a drawing that shows the various elements of the proposed scheme (permeable paving, attenuation storage, flow control and 1 l/s outfall to sewer).
- 7.92 Furthermore, the SuDS assessment advised that a pre-development enquiry has been sent to Severn Trent to confirm the capacity of the sewer network to accept runoff from the development. The LLFA have clarified that they do not believe that the outstanding response would be a reason to request further deferral of this application, and that there would be no reason to withhold approval of this application on surface water management grounds, providing that a planning condition be attached to any planning consent to secure a scheme for a surface water drainage strategy for the proposed development, to be submitted to and approved in writing by the Local Planning Authority. Subject to this condition, the LLFA raises no objections, and Officers consider that the application can be supported in terms of flood risk and drainage terms.

### **Air Quality and Environment**

- 7.93 On the matter of Air Quality, as noted above, Worcester Regulatory Services 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.

### **Energy conservation and mitigation to Climate Change**

- 7.94 Policy SWDP 27 of the Development Plan states that developments should incorporate the generation of energy from renewable or low carbon sources equivalent to at least 10% of predicted energy requirements, unless it has been demonstrated that this would make the development unviable.
- 7.95 An Energy and Sustainability Statement (Vitec Limited dated March 2022) was submitted with the planning application. The report demonstrates that carbon emission and energy consumption will exceed Building Reg standards and that building's energy needs would (if permitted) be secured from renewable sources which therefore would meet and possibly exceed the Council's SWDP27 policy target of 10%. Policy compliance with regards to policy SWDP 27 is also considered within Appendix 1 of the supporting Planning Statement. Overall, it is considered that the proposals are acceptable and in accordance with Policy SWDP 27 of the Development Plan and the aims and objectives of the NPPF. A planning condition has also been added to ensure that full calculations based on an assessment of regulated and non-regulated energy use shall be submitted to and approved by the Council (separate from any calculations that may be required for Building Regulations approval), to ensure that the proposed development meets the requirements of Policy SWDP 27 and associated guidance in the Renewable and Low Carbon Supplementary Planning Document and the aims and objectives of the National Planning Policy Framework to mitigate the impact of climate change.

## Planning obligations

- 7.96 It is recognised that new development can create the need for new or improved infrastructure and community facilities. 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.
- 7.97 In accordance with Community Infrastructure Levy Regulations 2012, the applicants are willing to enter into a legally binding agreement to deliver contributions to provide improvements to the infrastructure that the development will impact upon.
- 7.98 With regard to the Community Infrastructure Levy (CIL), the Examination of the Draft Charging Schedule took place on 29 November 2016, with a Report received from the Planning Inspectorate (PINS) on 27 January 2017. The Report concluded that, subject to modifications, the CIL Charging Schedules for Malvern Hills, Worcester City and Wychavon provide an appropriate basis for the collection of the levy in Council's area. In this case, as the development is for student accommodation a CIL rate of £100 p/sq.m is required, which is subject to indexation. The total amount payable is likely to be **£189,540.21**, however this will be subject to confirmation at the time when payment is required.
- 7.99 Draft Heads of Terms for a s106 Agreement have been agreed with the applicants. The financial obligations are set out above.
- 7.100 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 in the Community Infrastructure Levy Regulations 2012 and the NPPF.
- 7.101 Obligations should only be sought where they are necessary to make the development acceptable in planning terms. The draft Heads of Terms are set out at **Appendix 1**. These set out **highways**-related requirements for

### *Highways infrastructure*

**£120,000** contribution towards the provision of a Zebra crossing (suitable for pedestrians and cyclists) on Henwick Road.

**£25,000** contribution towards the provision of a pedestrian refuge required on Bromwich Parade to provide access to Slingpool Walk.

**£25,000** contribution towards the provision of footway widening along Grosvenor Walk.

### *NHS Acute Trust*

- 7.102 Worcestershire Acute Hospitals NHS Trust (hereafter referred to as the 'Trust') wrote to Worcester City Council on 15 December 2022, formally requesting that the above planning application is subject to developer contributions towards acute healthcare service provision.

- 7.103 In short, the Trust have noted (inter alia) that Worcestershire's population will increase as this development is occupied, adding demand into overstretched hospital services, and that existing service infrastructure for emergency and planned health care is unable to meet the additional demand generated by the proposed development. The new population associated with the proposed development (individually and cumulatively) will impact significantly on the capacity of service delivery and performance of the Trust until the annual contract refresh includes the activity volumes associated with the population increase. Therefore, the development and its associated demand for acute and planned health care will have an adverse effect on the Trust's ability to provide "on time" care without delay.
- 7.104 The Trust asserts that this development will have a detrimental impact on the Trust's ability to continue to deliver services within required quality standards and timeframes without appropriate financial contributions.
- 7.105 The request for financial contributions (sought by the Trust) towards acute health services (not physical infrastructure) in respect of planning application: 22/00334/FUL has been considered and noted as something capable of being a relevant material consideration. However, the Local Planning Authority does not agree to secure the contribution given that the Council is not persuaded that the Trust's request fully meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010.
- 7.106 With regard to a notable legal decision, it should be noted that in the case of '*R (University Hospitals of Leicester NHS Trust) v Harborough District Council* [2023] EWHC 263', (hereafter referred to as the 'Leicester decision') the Leicestershire NHS Trust challenged the grant of planning permission for 2,750 homes on the basis that a contribution had not been secured to address the impact on its services arising from new residents.
- 7.107 In that case, the Trust, advised that it is required to treat all presenting patients. However, it is paid for its services by the Integrated Care Board (previously Clinical Commissioning Group) based on the previous year's activities. It explained to the Council that none of the additional expenditure spent outside the current year's funding is ever recovered in the following year's funding. This leads to a harmful impact on the provision of commissioned services, through increased waiting times and other declines in standards of service. This is also the stance stated in the current application.
- 7.108 It should be noted that the District Council in that case refused the Trust's request because: (a) the Trust could switch from a block contract arrangement to a "Payment by Results" ("PbR") contract or (b) population growth could be taken into account in the annual negotiations with the CCGs for a fresh block contract for the next financial year. It is noted that at the Hearing, the Council (in that case) maintained that the Trust could correct any deficit in the annual negotiations. In terms of the legal decision, Holgate J found the "short answer" to the claim was that the Trust had failed to demonstrate that population growth would not be taken into account in the annual negotiations with the CCGs. Furthermore, the Judge made some observations (inter alia) about the principle of a contribution to an NHS Trust from a new housing development:
- There is no general principle that commercial developments are required to bear their own costs.

- The funding of treatment in NHS hospitals may be distinguished from other state-funded services at a national level
- If there is a systemic problem in the way in which national health resources are distributed to local providers, that may raise the question of whether it is appropriate to require individual development sites across the country to make s.106 contributions to address that problem.

In summary of the 'Leicester decision', the Judge found that those issues merited "further consideration as a matter of policy outside the courts and even outside the planning appeal system".

- 7.109 It is considered that the findings from the Leicester case are directly relevant to the current application under consideration. In this respect, the Leicester decision provides a "direction of travel;" as to the application for such contributions and offers clarification as to the application of the funding formula at the local level. In this case, the Trust have noted (inter alia) that The Trust's income does not take into consideration the local housing need, housing projections or existing planning permissions. Its income is always based on the previous year's activity as explained above. Officers contend that a local funding gap would only arise if funding for the relevant NHS trust did not adequately reflect a projected increase in population and/or the national funding system did not adequately provide for a timely redistribution of resources. As such, it falls outside of the scope of the CIL regulations as noted elsewhere below.
- 7.110 It is an established element of the national planning system that developers have a part to play in the delivery of public service infrastructure and facilities. In accordance with national planning policy, need is generally assessed through the plan making process and its delivery and the need for financial contributions towards it, is invariably the subject of local plan policy, whether in general or on a site-specific basis.
- 7.111 In the main, contributions both nationally and locally have typically been in the form of land or the physical fabric of the infrastructure or service, rather than revenue costs associated with the delivery of the service. The latter with respect to public services has traditionally been regarded as matters to be funded through a central government funding formula, but this is not to say that it cannot be lawful to secure such funding.
- 7.112 For the purpose of clarity, Officers consider that the Trusts request for a financial contribution is not CIL Regulation compliant, and as such has not included and reported to committee within the Heads of Terms. This is based on the application of the 'Leicester decision' with regard to the funding formula and the application of the CIL Regulations therein, which would not meet the CIL tests in full, namely:
1. necessary to make the development acceptable in planning terms;
  2. directly related to the development; and
  3. fairly and reasonably related in scale and kind to the development.
- 7.113 Furthermore, the Worcestershire Acute Hospitals NHS Trust are continuing to pursue Judicial Review of this council's decision to grant outline planning permission to Welbeck Strategic Land for a mixed use development including 2204 homes that form part of the south of Worcester urban extension (ref:SWDP 45/1), delegating development management decision making to Malvern Hills District Council.

A decision not to seek s106 funding towards acute healthcare in the current case is consistent with the decision of the south Worcestershire councils, not to seek s106 funding towards acute healthcare in respect of the urban extensions to the South and West of the City.

### **Human Rights Issues**

- 7.114 Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.
- 7.115 The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the Local Planning Authority can grant planning permission in accordance with adopted policies in the development plan.
- 7.116 As part of the consideration of this application, human rights issues have been considered in so far as they are relevant. It is considered that an appropriate balance between the interests and rights of the applicants (to enjoy their land subject only to reasonable and proportionate controls by a public authority in the public interest) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties) has been achieved with conditions controlling the development where necessary.

### **Public Sector Equality Duty**

- 7.117 In making this decision, the council has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.118 These considerations are relevant to the duties that decision makers have under s149(1) of the Equality Act 2010.

## **8. Conclusion and planning balance**

- 8.1 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.

- 8.2 The NPPF is a significant material consideration. At paragraph 12 the NPPF confirms that 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.'
- 8.3 The NPPF identifies a series of the components that are considered critical to achieving sustainable development. It states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social, and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 8.4 Paragraph 74 of the NPPF states that '*Local Planning Authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against the local housing need where the strategic policies are more than five years old*'. In order to maintain a supply of housing Paragraph 76 requires that Local Planning Authorities should monitor progress in the build out of sites which have permission. These monitoring reports shape the Government's Housing Delivery Test figure. Paragraph 62 makes it clear that housing delivery should include that which is needed for different groups in the community should be assessed and reflected in planning policies.
- 8.5 Over recent months 5YHLS has been tested on appeal across South Worcestershire with Inspectors concluding that a 5 year supply cannot be demonstrated. Based on the agreed approach for individual authority area 5YHLS figures, Worcester City has a 3.06-year HLS. The joint supply for the three South Worcestershire Councils is 3.94 years. The 2021 Housing Delivery Test (HDT) published in January 2022 indicates that South Worcestershire is delivering 155% of the standard methodology requirement.
- 8.6 For the purposes of considering this planning application, where a 5YHLS cannot be demonstrated, the 'tilted balance' under paragraph 11(d) of the NPPF is engaged:
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 8.7 The assessment of the proposal has identified '*less than substantial harm*' to a designated Heritage Asset, which has been given great weight and consideration, and the harms have been weight against the public benefits, such that concludes that there is no clear reason to refuse permission.
- 8.8 Turning next, as required, to the '*tilted balance*' that is set out in para 11 d) ii, given the foregoing assessment of the principle of development and topic-based considerations which are considered to accord with the SWDP and NPPF it is concluded that there are no adverse impacts that would significant and demonstrably outweigh the benefits of the proposal, when appraised in terms of the three



objectives of sustainable development. The '*tilted balance*' assessment follows:

- 8.9 This development would assist in providing the range of accommodation that is required across this City for specific groups, in this case Student accommodation. Particularly given the appropriate and sustainable location of the development. There are a number of 'public benefits' that would flow from the development in boosting the supply of student housing in the district, it would also provide short term employment in terms of construction work, and given that a total of 54 rooms would be facilitated by the proposals, helping to boost footfall in the locality, which are factors in support of the development to which substantial positive weight should be attached (given the amount of new units proposed).
- 8.10 In respect of potential adverse impacts, the proposal has generated identified harms with regard to the impact on the identified heritage assets, including the loss of the non-designated asset (the church hall), the harms are considered to weigh moderately negatively in visual terms.
- 8.11 The improvements regarding the introduction of an enhanced cycle parking offer, together with the financial contributions that have been agreed with the applicants, including local footway widening, zebra crossing and signage, will individually and collectively introduce further sustainable modes of transport options to the site and local infrastructure enhancements, and should be attributed moderate positive weight in the planning balance, especially considered against the existing baseline position.
- 8.12 The provision of renewables and improvements regarding the sustainability credentials of the site have been attributed minor positive weight in the planning balance, especially considered against the existing baseline position.
- 8.13 In light of the above, the public benefits arising from the scheme are considered sufficient to outweigh the harms that have been identified. As such, subject to use of planning conditions, and the financial contributions identified, the planning application is considered to be acceptable. On balance, it is therefore considered that the submitted scheme has indicated sufficient detail to warrant approval subject to the use of conditions and the agreed financial obligations to be secured via the s106 legal agreement.
- 8.14 All comments received as part of the consultation process have been acknowledged and consider all material planning issues have been considered in the determination of this application. Having regard to the totality of the policies in the Framework, it is considered that the proposed development is sustainable when looking at its social, economic, and environmental credentials in the round. The adverse impacts of the development do not significantly and demonstrably outweigh the benefits.
- 8.15 Overall, it is considered that the proposals constitute an environmentally, socially and economically sustainable form of development that accords with the Framework and the Development Plan as a whole.

## **9. Recommended Conditions**

- 9.1 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.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 and the time-period was offered by the applicant.

2. The development hereby approved shall be carried out in complete accordance with the submitted plans and submitted information (including recommendations within reports), except where otherwise stipulated by conditions attached to this permission.

Reason: For the avoidance of doubt and to secure a satisfactory form of development in accordance with policy SWDP 21 of the South Worcestershire Development Plan and aims and objectives of the National Planning Policy Framework.

3. The units of accommodation hereby approved shall only be occupied as short term let Student Accommodation and for no other purposes whatsoever.

Reason: To control the use of the development as approved and in view of the specific financial contributions that have considered or discounted as part of the consideration of the application.

4. Prior to the commencement of development, a detailed scheme for the site access works at Church Walk, shall be submitted to the Local Planning Authority (and Worcestershire County Council Highways). The development shall not be occupied until the submitted scheme, which is broadly in accordance with drawing Proposed Site Plan (1001/205 Rev F) subject to any necessary changes identified during the detailed design and Road Safety Audit processes, has been agreed in writing by the Local Planning Authority, in consultation with Worcestershire County Council Highways, and has been implemented in full.

REASON: In the interests of achieving safe and suitable highway access for all user

5. Prior to the occupation of the development hereby approved, a visibility splay of no less than 2m x 25m (as shown on drawing Swept Path Analysis Visibility Splay SK104) shall be created at the site access and thereafter maintained free of obstruction at all times.

REASON: In the interests of achieving safe and suitable highway access for all users.

6. Prior to the occupation of the development hereby approved, a Transport Implementation Strategy (TIS) shall be submitted to and approved in writing by the Local Planning Authority (and Worcestershire County Council Highways). The TIS must include, but not be limited to:

- Residential Travel Information Pack to be issued to all units prior to accommodation.
- Delivery and Servicing Plan.
- Term Start Arrangements.

Thereafter, the TIS shall be implemented in accordance with the approved details.

REASON: In the interests of sustainable development and highway safety

REASON: In the interests of sustainable development and highway safety.

7. Prior to the occupation of the development hereby approved, a Car and Parking Management Strategy (CPMS) shall be submitted to and approved in writing by the Local Planning Authority (and Worcestershire County Council Highways). The CPMS must include, but not be limited to:
- A template Assured Shorthold Tenancy (AST) agreement including a clause that the tenant will not keep or run a motor vehicle within a prescribed distance from the premises (typically 1km, but to be agreed with the Highway Authority).
  - Arrangements for the property manager to oversee designated move in days (which must be at weekend) at the start of the academic term.
  - A schedule to be compiled of all student tenants along with a record of their license plate of the car they arrive in, and car make and model
  - Quarterly checks within the vicinity of the property to be undertaken by the property manager to observe if any students are utilising a motorized vehicle.
  - Arrangements for neighbours in surrounding streets to receive a letter/notification at the start of the academic term informing them of the terms of the tenancy agreement, specifically the policy in relation to parking or keeping a motor vehicle within 1km (to be agreed) of the property. Contact details of the property manager to be included within the notification to neighbours.
  - Monitoring strategy for the complaints log so that prompt action can be taken if any complaint is received from an external party such as residents living on the surrounding roads.
  - Enforcement procedures to be undertaken against students identified as using or storing a motorised vehicle within the 1km (to be agreed) of the accommodation.
  - Identification of the person(s) responsible for the day-to-day management of the CPMS.

Thereafter, the CPMS shall be implemented in accordance with the approved details.

REASON: In the interests of sustainable development and highway safety.

8. The Development hereby approved shall not be first occupied until sheltered and secure cycle parking to comply with the County Council's adopted highway 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 County Council's parking standards.

9. Prior to work commencing on site, a detailed Demolition and Construction Logistics Plan (DCLP) shall be submitted to the Local Planning Authority (and Worcestershire County Council Highways). Demolition and/or construction works shall not commence until the submitted Plan, which is broadly in accordance with the Preliminary Demolition and Construction Logistics Plan (November 2022) subject to any necessary changes identified during the detailed design and Road Safety Audit processes, has been agreed in writing by the Local Planning Authority, in consultation with Worcestershire County Council Highways.

The measures set out in the DCLP shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place in locations approved by in writing by the Local Planning Authority.

REASON: To ensure the provision of adequate on-site facilities and in the interests of highway safety.

10. Prior to occupation of the development hereby approved, a lighting assessment undertaken in accordance with Worcestershire County Council's Street Lighting Design Guide shall be submitted to the Local Planning Authority (and Worcestershire County Council Highways). The development shall not be occupied until the submitted scheme has been agreed in writing by the Local Planning Authority, in consultation with Worcestershire County Council Highways, and has been implemented in full.

REASON: In the interests of highway safety.

11. The development hereby approved shall not be first occupied until a Health Impact Assessment has been submitted to and approved in writing by the Local Planning Authority.

REASON: To encourage sustainable travel and healthy communities.

12. Prior to the construction of any walling, drainage plans for the disposal of foul water flows shall be submitted to and approved by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development hereby approved is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

13. Prior to the commencement of the development hereby approved a Tree Protection Plan in accordance with the recommendations of BS5837:2012 shall be submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with this plan.

Reason: To ensure that those trees to be retained are not subject to damage either as a result of works carried out on site or during the carrying out of such works in accordance with policies 22, 25 and 38 of the South Worcestershire Development Plan and the aims and interests that the National Planning Policy Framework seeks to promote and protect with regard to the conservation and enhancement of the natural environment.

14. The approved refuse storage facilities shall be implemented prior to the first occupation of the development hereby approved and retained thereafter.

Reason: To ensure adequate refuse storage facilities are incorporated in the development hereby approved and/or ensure high quality design in accordance with policies SWDP21 and SWDP33 of the South Worcestershire Development Plan.

15. Samples of facing, roofing, and surfacing materials shall be submitted to and approved by the Local Planning Authority in writing prior to implementation as part of the development hereby approved. The development shall not be carried out otherwise than in accordance with such approved details.

Reason: To maintain the character of the site and the quality of the street scene in accordance with policies SWDP 6, 21 and 24 of the South Worcestershire Development Plan and the aims and objectives that the National Planning Policy Framework seeks to protect and promote.

- 16.(A) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the Local Planning Authority in writing.

The scheme shall include an assessment of significance and research questions; 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 site investigation 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.

17. Should human remains be identified within the watching brief or excavation, a scheme for re-burial should be proposed to the local authority within 12 months of their discovery or within one month of the submission to the Local Planning Authority of the final excavation report.

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.

18. During the demolition and construction phases of the development hereby approved the applicant shall refer to the WRS Demolition & Construction Guidance and ensure its recommendations are complied with.

Reason: In order to minimise any nuisance from noise, vibration and dust emissions during the demolition and construction phases.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first respective planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the landscape planting die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation, and such new planting shall be similarly maintained for a five year period from its planting.

Reason: To maintain the visual and environmental quality of the site and surrounding area in accordance with policies SWDP 5 and SWDP 21 of the South Worcestershire Development Plan and the aims and objectives that the National Planning Policy Framework seeks to protect and promote.

- 20.No works in connection with site drainage shall commence until infiltration tests have been carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the Local Planning Authority. The results of the tests shall be submitted to and agreed in writing by the Local Planning Authority and the agreed recommendations shall be implemented in full prior to the first use of the development hereby approved.

Reason: To ensure that the site can be adequately drained in accordance with policy SWDP29 of the South Worcestershire Development Plan.

- 21.No works in connection with site drainage shall commence until a SuDS management plan which will include details on future management responsibilities, along with maintenance schedules for all SuDS features and associated pipework has been submitted to and approved in writing by the Local Planning Authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the agreed terms and conditions and shall be managed and maintained in accordance with the approved maintenance plan and thereafter.

Reason: To ensure that the site can be adequately drained in accordance with paragraph 165 of the NPPF 2018 and policy SWDP29 of the South Worcestershire Development Plan.

- 22.Notwithstanding the submitted Drainage Strategy, no construction of walling shall commence until detailed design drawings for surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that the site can be adequately drained in accordance with paragraph 165 of the NPPF 2018 and policy SWDP29 of the South Worcestershire Development Plan. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

- 23.Prior to the demolition of any part of the existing building, a binding contract for the construction of the new building approved as part of the development shall be entered into by the landowner and the intended construction company. A copy of the signed contract shall be submitted to the Local Planning Authority prior to demolition.

Reason: To ensure that the site is not left vacant and to comply with paragraph 198 of the NPPF.

24. Prior to the construction of any walling, a scheme for the reuse of demolished materials on the site shall be submitted to the Local Planning Authority for approval. The construction shall then be carried out in accordance with the approved scheme.

Reason: In the interest of sustainability.

25. Unless otherwise agreed by the Local Planning Authority development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 6 have been complied with;

1. A preliminary risk assessment must be carried out. This study shall take the form of a Phase I desk study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors to determine whether a site investigation is required, and this should be detailed in a report supplied to the Local Planning Authority. The risk assessment must be approved in writing before any development takes place.
2. Where an unacceptable risk is identified pursuant to condition 26 a scheme for detailed site investigation must be submitted to and approved in writing by the Local Planning Authority prior to any further works being undertaken. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
3. Detailed site investigation and risk assessment must be undertaken, and a written report of the findings produced. This report must be approved by the Local Planning Authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
4. Where identified as necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
5. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property, and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy SWDP 31 of the South Worcestershire Development Plan 2016 and the provisions of the National Planning Policy Framework.

26. Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.

Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy SWDP 31 of the South Worcestershire Development Plan 2016 and the provisions of the National Planning Policy Framework.

27. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation. No further works should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the Local Planning Authority, until requirements 1 to 4 below have been complied with:

1. Detailed site investigation and risk assessment must be undertaken by competent persons in accordance with the Environment Agency's 'Land Contamination: Risk Management' guidance and a written report of the findings produced. The risk assessment must be designed to assess the nature and extent of suspected contamination and approved by the Local Planning Authority prior to any further development taking place.
2. Where identified as necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
3. The approved remediation scheme must be carried out in accordance with its terms prior to the re-commencement of any site works in the areas of suspected contamination, other than that work required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.
4. Following completion of measures identified in the approved remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings on site.



Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy SWDP 31 of the South Worcestershire Development Plan 2016 and the provisions of the National Planning Policy Framework.

28. Notwithstanding the submitted Energy and Sustainability Statement, full calculations based on an assessment of regulated, and non-regulated energy use shall be submitted to and approved in writing by the Local Planning Authority, and the development hereby approved shall be carried out in accordance with the approved details and retained thereafter

Reason: To ensure the development hereby approved meets the requirements of Policy SWDP 27 and associated guidance in the Renewable and Low Carbon Supplementary Planning Document and the aims and objectives of the National Planning Policy Framework to mitigate the impact of climate change.

29. Notwithstanding the approved floorplans, prior to the construction of any walling detailed plans showing the provision and position of accessible rooms within the development shall be submitted to and approved in writing by the Local Planning Authority. The approved plans shall be implemented in full as part of the development and the accessible rooms shall be retained throughout the life of the development.

Reason: To provide accessible rooms with the development to ensure the development meets the needs of all users.

## DRAFT HEADS OF TERMS

### Proposed Planning Obligation Agreement

### Section 106 Town and Country Planning Act 1990

#### Planning Application: 22/0334/FUL

**Demolition of existing Church Hall and erection of four-storey building to provide 54 bed student accommodation with associated communal amenity space, landscaping, car/cycle parking and refuse storage.**

**St Clement's Church Hall, Henwick Road, Worcester, WR2 5NP**

#### HIGHWAY CONTRIBUTIONS

1. In order to make the development acceptable the following contributions are required for physical works within the highway

- **£65,000** financial contribution towards the provision of a Zebra crossing (suitable for pedestrians and cyclists) and bus stop cage marking on Henwick Road.

Trigger: first occupation

- **£7,500** financial contribution towards signage on Church Walk, which will indicate a 'shared space' facility

Trigger: first occupation

- **£15,000 financial contribution** towards the provision of footway widening along Grosvenor Walk (45m x 4m).

Trigger: first occupation

2. In the event that the County Council does not for any reason expend or commit the expenditure of the said sums in paragraph 1 for the purposes specified in the Agreement within five years of the date of receipt of the payment, the County Council shall repay to the developer the said sum or such part thereof which has not been used by the County Council. The developer agrees that such sum may be used to reimburse the costs of providing the highway facilities if it is deemed necessary to provide the same before the contribution is paid

3. The Developer shall provide to the City Council and the County Council either a solicitor's undertaking for the reasonable legal costs incurred respectively by the City Council and the County Council in connection with the preparation and completion of the Agreement or if no solicitor is instructed these fees must be paid direct to the City Council and the County Council. These fees shall be payable prior to the commencement of any legal work and are payable whether or not the agreement completes.

4. The developer covenants with the County Council respectively to pay a Section 106 monitoring fee to the County Council which shall be paid on or before completion of the agreement. This fee will be to cover the cost relating to the administration and monitoring of the planning obligations.