

<b>Application Number</b>	<b>22/00960/FUL</b>
<b>Site Address</b>	<b>24A Barbourne Road, Worcester, WR1 1HT</b>
<b>Description of Development</b>	Change of use of ground floor from existing retail shop (Class E) to 2no one-bedroom apartments.
<b>Expiry Date</b>	30 March 2023
<b>Applicant</b>	Mr Dan Jones
<b>Agent</b>	Mr Daren Hall
<b>Case Officer</b>	Dale Jones
	dale.jones@worcester.gov.uk
<b>Ward</b>	Arboretum Ward
<b>Reason for Referral to Committee</b>	Councillor "Call In" request
<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/22/00430/FUL">https://plan.worcester.gov.uk/Planning/Display/22/00430/FUL</a>
<b>Recommendation</b>	<b>The Corporate Director - Planning and Governance recommends that the Planning Committee grant planning permission subject to the conditions set out in section 9 of the report.</b>

## 1. **Background**

- 1.1 The application was registered on 04 November 2022 and was due for a decision on 31 January 2023. An extension of time for the determination of the application has been granted until 30th March 2023.
- 1.2 The application has been referred to the Planning Committee following a "call in" request from Councillor Lewing (correspondence dated 13 November 2022).

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

2.1 The application site (illustrated by the location plan below) relates to 24A Barbourne Road, Worcester, WR1 1HT, comprising a two-storey mid-terraced property located on the eastern side of Barbourne Road.

The property is in use as a retail shop (Class E) with storage at basement level. The application site is unlisted and sited just within the southern extremity of the Shrubbery Avenue Conservation Area. There are Grade II listed buildings adjacent which include Nos.12-20 Barbourne Road and opposite Albany Lodge although intervisibility between these and the application site is limited.



*Site Location Plan Extract (site outlined in red)*

2.2 The site has sustainable credentials including public transport links to the city centre and there are parking restrictions in the vicinity of the site to prevent displacement parking.



## *The application site (external and internal views)*

### 2.3 **Site Constraints**

Air Quality Management Area: St. John's Worcester  
Archaeological Sensitive Areas (ASA)  
Conservation Area

### 3. **The proposals**

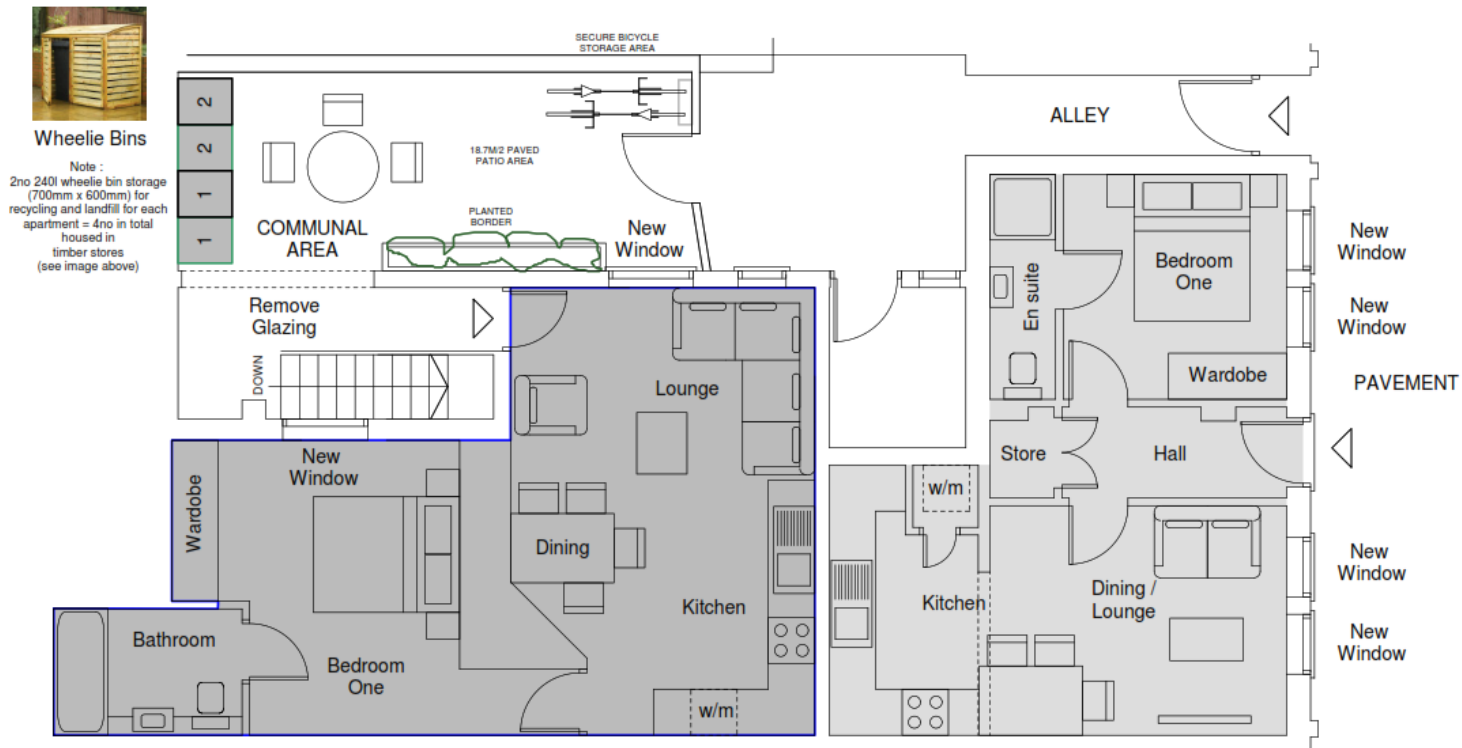
3.1 The application proposal has been revised since its original submission, in the following methods:

- 1 Retention and amendments to/of the existing shop front facade and side entrance (the fascia would be retained and the cast-iron supports would be embedded in the new frontage) together with the proposed installation of new sash windows and front entrance door).
- 2 Retention of the existing cast iron support columns albeit concealed behind new front facade brickwork.
- 3 Proposed brickwork replacing glass shopfront to match existing brickwork at first floor level
- 4 New windows to match existing in type, material, brick head detailing and stone cills.
- 5 New timber front door recessed, with glass fanlight above and new stone step.
- 6 New window design aligned with existing first floor windows (centre lines shown on drawings).



- 3.2 Planning permission is sought for the proposed change of use of ground floor from existing retail shop (Class E) to 2no one-bedroom residential flats.
- 3.3 The 2no single bedroom flats as proposed, would have their own en-suite bathrooms and separate kitchen, dining, and lounge spaces. The basement level would provide extra secure storage space for both apartments, with an area also allocated for cycle storage. This area would be accessible via the shared passageway and side external entrance. At ground level, the amended plans include shared communal amenity space along with areas for cycle parking (two spaces) along with waste provision,

accessed via the existing side passageway, as illustrated on the below image of the revised ground floor plan.



*Proposed ground floor plan*

3.4 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.

3.5 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 considered. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan unless material considerations indicate otherwise.

4.2 The National Planning Policy Framework (NPPF - 2021) is also 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.*'

4.3 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).

- 4.4 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.
- 4.5 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.
- 4.6 The Development Plan 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 relevant to the proposal:

SWDP 1 - Overarching Sustainable Development Principles  
SWDP 2 - Development Strategy and Settlement Hierarchy  
SWDP 4 - Moving Around South Worcestershire  
SWDP 6 - Historic Environment  
SWDP 10 – Protection and Promotion of Centres and Local Shops  
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 29 - Sustainable Drainage Systems  
SWDP 33 - Waste

### **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.

• **Planning for Health in South Worcestershire SPD**

The Planning for Health SPD primarily focuses on the principal links between planning and health. It provides guidance and interpretation of the SWDP from a public health perspective. The SPD addresses following nine health and wellbeing principles:

- Sustainable development
- Urban form
- Design and the public realm
- Housing and employment
- Age-friendly environments for the elderly and those living with dementia
- Community facilities
- Green infrastructure and play spaces/recreation
- Air quality, noise, light and water management
- Active travel
- Encouraging healthier food choices

**Other Material Considerations**

- 4.9 The following documents are relevant to the application proposals. Due to their status as evidence or guidance they cannot be given full weight.

**Worcestershire’s Local Transport Plan (LTP4) 2018 – 2030  
Worcestershire County Council Streetscape Design Guide (July 2022)**

**Relevant Legislation**

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

Town and Country Planning Act 1990 (as amended)  
Planning Act 2008  
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)  
Localism Act 2011 - Section 143 (amending S70 of the Town and Country Planning Act 1990) regarding local finance considerations.  
Accessibility and Equalities Act 2010  
The Human Rights Act 1998.

**The National Planning Policy Framework (2021) (NPPF):**

- 4.11 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.
- 4.12 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.
- 4.13 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.

- 4.14 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.
- 4.15 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.
- 4.16 On 6 March 2014 the Government published National Planning Practice Guidance (NPPG) to compliment the NPPF. It 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 published the National Design Guide.

## **5 Planning History**

- 5.1 Planning permission (Ref. P92M0234) was refused for the proposed change of use from Class A1 to A3 use, for the following reasons:

- 1. The City Council has approved a non-statutory policy in respect of proposals for hot food takeaway shops and because the proposal does not relate to a specific Class A3 use; this policy should be taken into consideration when addressing the merits of the proposal. The proposal does not comply with the operative criteria of the policy in that: 1. It is located in close proximity to residential properties, and 2. The proposal does not include satisfactory provision for the control of fumes and cooking smells in terms of visual and environmental impacts. The proposal would thereby be damaging to the interests the policy is intended to protect, particularly in that it would be detrimental to the residential amenities of nearby residential properties by reason of noise, disturbance and cooking fumes/smells, and detrimental to the character of the area.*
- 2. The site is located on the A38 which is a busy classified road into the city centre. There is a 'no waiting at any time' restriction on each side of the road along this part of the A38. The proposal would therefore cause unsatisfactory on-street parking which would add to the existing congestion of the A38 and the surrounding predominantly residential roads to the detriment of the safety and convenience of highway users and the character of the area.*

## **6 Consultations**

- 6.1 Formal consultation, including display of site notices, has been undertaken in respect of the application.



6.2 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**

6.3 None received.

6.4 The following **statutory and non-statutory responses** have been received:

6.5 **Worcester City Council Archaeological Officer (first response):** Objection to the loss of the shopfront which is a fine example of its kind. However, should the scheme be recommended for approval, then the development should be subject to conditions to secure a suitable programme of archaeological work, including a Written Scheme of Investigation (WSI).

6.6 **Updated comments** dated 09.03.2022 based on the revised plans:

The building appears on mapping between 1891-1912. From its design I think it likely to be very early 20<sup>th</sup> C, but I have no hard evidence to confirm that. The form of shop is a wide-open front with occupation at the rear and above, this is the type of 'general' design that even Tesco started with. As the 20<sup>th</sup> C continued this form of shopfront became rarer and most lost one side of the shopfront window, often this was to incorporate more storage or a redesign of the internal shop floor.

During the 1960's the widespread growth of the supermarket took hold meaning there were even fewer double fronted glazed shopfronts in towns and cities throughout the country. The resource continued to dwindle until it appeared that only a few examples survive, normally bespoke small establishments.

In Worcester City the type and form of a double shop front is now quite rare. 24A was seemingly constructed to be a shop/dwelling, it's reuse is supported but the impact upon its archaeological significance should be mitigated to allow its former use to be understood and enjoyed as a style of architecture that will never be seen again.

Retaining the supports is welcomed but the fascia without the shop window is incongruous. It is suggested at least keeping one of the shop windows so that the shops historic use can be understood as an echo of the former site. With one shop window in place the fascia becomes a sensible retention which adds to the historic understanding of the site. I suggest a condition (condition 7) for building recording and watching brief on ground works (should they be required) if the application gains approval. To remove the requirement for a watching brief the applicant should provide details showing that no ground works will be undertaken. To remove the requirement for the building recording the entire shop front should remain in place.

6.7 **Worcester City Council Conservation Officer:** No objections (January 2023). It is considered that this proposal will have a neutral to slightly positive impact upon the conservation area. A Materials condition is needed for the external changes, plus a record of all areas external and internal areas where change is proposed.

6.8 **Highway Authority:** No objections (subject to a planning condition to secure cycle parking) noting that there is no vehicle parking associated with this site, however the location has some sustainable credentials being on the main bus route into the city centre where there are onward transport links plus there are local facilities in the



vicinity. Whilst the proposed cycle parking in the basement, is not ideal via the steps, it is nonetheless sheltered and secure.

- 6.9 **Conservation Advisory Panel:** Not acceptable in its current format. It was considered that there was insufficient information, particularly about the proposed street elevation, upon which to comment.
- 6.10 **Worcester Civic Society Planning Panel:** The proposals represent a fairly poor reflection of what can be achieved for shop to residential conversions. There's a basic checklist of 'conversion' principles that can achieve better design in line with Policy SWDP 21 [Design] and the Design Guide SPD which has been adopted to achieve and implement high quality development across Worcestershire.

In order to achieve better design in respect of the proposals, the following principles should be followed: 1. Retain as much of an original, traditional shopfront as possible, remembering the general rule of "cornices, corbels and pilasters should be retained" 2. Ground floor windows and doors should normally be aligned with upper windows, using centre lines and window edges. 3. The shape and style of upper floor windows should be followed. This will include window heads which can be used above windows and doors. Window heads are particularly important as they are often dominant features of the facade. It is welcomed that the applicant is seeking to use timber sash windows. 4. Window reveals (how deep the window is sunken into the facade) should be the same at ground floor as they are at upper floors. 5. The door should be recessed at least as much as the window reveals. 6. Ground floor materials (such as brickwork) should be matched to upper floors. The brick arrangement or bonding pattern, along with mortaring style of upper floors should be followed. It's welcomed that the applicant has indicated clay red/brown brick to match existing is to be used. 7. It is welcomed internal storage of refuse and recycling it to be internal to the building. 8. Paraphernalia such as meter boxes, gas pipes, satellite dishes, etc should not proliferate the front elevation and be well considered. It is recommended the applicant make some minor amendments to align with these principles that will achieve better design. Notwithstanding the above, flat 1 does not comply with the Nationally Described Space Standards.

Therefore, we recommend the applicant revises the application to a 2-bed scheme which could easily be accommodated within the national space standards. The image attached highlights a good example of shop to residential conversion, that follows the checklist of criteria these comments have set out.

- 6.11 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.

## **7. Planning Assessment**

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

## **The Principle of Development**

### *Loss of retail use*

- 7.2 The site is not located within either a primary or secondary shopping frontage or the Barbourne Local Centre. As such the retention of this current retail unit is not protected by policies in the SWDP.
- 7.3 Notwithstanding that there is no planning policy protection of the existing retail use (currently an antiques shop), it noted that the site is located within 400m of an existing 'Sainsburys Local' food store (46 - 48 Barbourne Rd) and near to the Barbourne Local Centre, which includes a range of commercial, business and services uses (Class E).

### *Housing land supply position*

- 7.4 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 Governments Housing Delivery Test figure.
- 7.5 Since the adoption of the South Worcestershire Development Plan (SWDP) the 5-year housing land supply (5YHLS) has been calculated jointly across south Worcestershire area reflecting the plan strategy and sub areas referred to in policy SWDP3. Over recent months 5YHLS has been tested on appeal across south Worcestershire with Inspectors concluding that a 5-year supply cannot be demonstrated.
- 7.6 The adopted South Worcestershire Development Plan (SWDP) (2016) established five separate sub areas (Malvern Hills, Worcester City, Wychavon, Wider Worcester Area Malvern Hills, and Wider Worcester Area Wychavon) for dealing with housing, employment, and retail provision, redistributing the requirements according to land availability and natural and environmental constraints. Since the adoption of the Plan, the south Worcestershire Councils (SWCs) have published five separate 5YHLS Reports on an annual basis against the housing requirements detailed in the adopted Plan. For the monitoring year 2020-2021, the SWDP (2016) was more than 5 years old, and as such the adopted Plan, for housing target purposes, was considered to have expired. Therefore, under national planning policy, the Standard Method of calculating a 5 Year Housing Land Supply had to be applied.
- 7.7 The SWCs are now proposing that each Local Planning Authority (LPA) calculate and publish a single district land supply position, with no apportionment. This is considered to be the approach that is most consistent with the Planning Practice Guidance at the current time and has regard to relevant appeal decisions where HLS has been considered in detail. However, in support of the SWDP's overarching objective to meet needs in full across the Joint Plan Area and the way in which the SWDP strategic sites around the city of Worcester are helping to meet the housing needs of the city, the councils will continue to publish and monitor a joint supply position for information purposes and for the Public Examination of the SWDP Review. The single district versions will be used for the purposes of calculating the 5YHLS for each district and in determining planning applications.

- 7.8 Based on this individual approach, Worcester City has 3.06 years housing land supply. The joint supply for the three 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.
- 7.9 For the purposes of considering this planning application, where a 5-year housing land supply cannot be demonstrated or the HDT figure is below 75%, the '*tilted balance*' under paragraph 11(d) of the Framework is engaged. This requires the granting of planning permission unless, the application of policies in the 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. In respect of Worcester City 'protection areas or assets' specifically refer to Sites of Special Scientific Interest; land designated as Green Belt, an Area of Outstanding Natural Beauty, irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest); and areas at risk of flooding.
- 7.10 This report sets out in the context of the '*tilted balance*' how any harm and/or benefits have been considered in terms of the three objectives of sustainable development as set out within the Framework.
- 7.11 This proposal relates to the proposed change of use and reconfiguration of the existing building which is currently occupied as a retail shop with storage at ground and basement levels to provide a total of 2no. 1-bed apartments. The net increase in residential units (if approved) would equate to two new units within the property as a result of these change of use/conversion proposals. The provision of two additional units of residential accommodation, on previously developed land can be attributed moderate positive weight in the planning balance given that the net increase in units is limited in number. This report sets out in the context of the '*tilted balance*' how any harms and/or benefits have been considered in terms of the three objectives of sustainable development as set out within the Framework.
- 7.12 The application site is in a sustainable location within Worcester where local and national policy encourages the use or re-use of vacant or under-utilised urban sites, to secure the optimum viable use of a site. Accordingly, there is no objection to the principle of the proposed development on the site, whilst considering the proposed use of the site for residential purposes.

### **Design and visual impact**

- 7.13 The NPPF 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.
- 7.14 Paragraph 126 of the NPPF highlights that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work and helping make development acceptable to communities.
- 7.15 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.

- 7.16 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.
- 7.17 Following revised designs to the frontage, limited external changes are proposed to facilitate the proposed change of user and conversion for residential purposes. The proposals (following revisions) would now retain much of the existing shop front facade and side entrance, including the retention of the existing cast iron support columns which would be concealed behind new front facade brickwork. In terms of materials, proposed brickwork would replace part of the existing glass shopfront to match existing brickwork at first floor level, whilst new windows would be installed to match the existing in type, material, brick head detailing and stone cills. New timber front door recessed, with glass fanlight above and new stone step are also proposed, whilst a new window design aligned with existing first floor windows (centre lines shown on drawings).
- 7.18 In terms of access and circulation, this application seeks to transform the shop area into 2no single bedroom apartments, each with their own en-suite bathrooms and separate kitchen, dining, and lounge spaces. the basement area would be converted and would provide extra secure storage space for both of the residential flats, with an external area allocated for cycle storage (noting that the existing bin storage is evident within the rear yard area). The external area would be accessible via the shared passageway and side external entrance, which is sited to the northern building façade of the application site.
- 7.19 In summary, it is considered that the external changes are minimal in scope and would be of an appropriate design and nature to help facilitate the proposed change of use and conversion. As such, the proposed development would adhere with the provisions of policy SWDP21 and with Paragraph 130 of the NPPF and be attributed limited positive weight in the planning balance.

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

- 7.20 With regard to the policy context, 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 NPPF requires development to deliver safe and healthy living conditions (para 119) and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (para 130f). The Design Guide SPD lays out principles to follow to achieve satisfactory amenity within developments.

- 7.21 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.
- 7.22 Given the fact that the front and rear building elevations already contain openings, no concerns are raised regarding loss of privacy.
- 7.23 In terms of noise and disturbance, it is considered that given that the proposed change of use and conversion from retail use would result in a limited number of residential flats, with the proposed conversion of the property forming two 1-bed flats in total and as such would not result in excessive comings and goings to the degree whereby refusing planning permission can be justified (especially where considered the current use of the site as a retail shop). The existing flats on the upper floor would not be compromised to an unacceptable degree as a result of two new one bed flats as proposed in this case given the limited number of bedrooms, and where considered against the existing ground floor retail use of the site. As such, the proposal would adhere with the provisions of policy SWDP 21 (B)(iv) and with Paragraph 130 of the NPPF and is therefore attributed neutral weight in the planning balance. It is considered that in the event that Members are minded to grant planning permission matters of noise and disturbance during the construction period could be controlled using planning conditions.

### **The internal living environment (quality of the proposed development)**

- 7.24 The proposed size of the 2 x 1-bed flats would measure 35.5sqm against a requirement of 37sqm (where a shower room is proposed) and 42.1sqm against a requirement of 39sqm in the case of flat two. The Nationally Described Space Standards (NDSS) set out the minimum internal floor areas for new build dwellings to ensure that such development provides a sustainable and adequate standard of accommodation and environment for all occupants. This minor discrepancy against the NDSS (in the case of flat one) can be justified in this instance given the limited (1.5sqm) shortfall against the (NDSS) guidance when considered with the additional storage area to be provided in the basement and is therefore attributed limited adverse weight in the planning balance given the minor shortfall as identified in this case.
- 7.25 With regard to daylight receipt, the proposed flat at the rear ground level (flat 2) would be served with a series of three south-east facing windows, that owing to their orientation and positioning would maximise the natural light receipt into the habitable accommodation proposed (being a bedroom and lounge areas) for large parts of the day, thereby safeguarding against the need for artificial lighting across daylight hours. As such, it is considered that the proposed flat would afford a good quality of internal living environment for prospective residential occupants.

### **Impact on Heritage Assets**

- 7.26 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.

- 7.27 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".
- 7.28 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.
- 7.29 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.
- 7.30 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 NPPF, 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.

- 7.31 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.
- 7.32 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 Conservation Officer, who has identified that the proposal would have a neutral to slightly positive impact upon the conservation area.
- 7.33 Given the Conservation Officers comments (as summarised above in paragraph 6.7), the proposal would have a neutral to slightly positive impact upon the conservation area, and this is therefore attributed neutral to limited positive weight in the planning balance.

#### Archaeology

- 7.34 The proposed development area (PDA) is to the west of a known Roman site (WCM91198). The Council's Archaeology Adviser has noted (inter alia) that the building in question is not shown on the 1886 OS map of Worcester City but the building is shown on the 1891-1912 First Revision. Works within the cellar may disturb archaeology related to the nearby Roman site, however this is dependent upon the extent and depth of works required. The stepped in forecourt is not the only one of its kind in this part of the city but it is a fine example, the steel supports at the frontage are both physical supports for the floor above and are aesthetically appealing.
- 7.35 The Council's Archaeological Advisor has noted (inter alia) that it is therefore considered to be a non-designated heritage asset of archaeological significance. The PDA is adjacent to a Roman settlement discovered by excavation at the Sainsburys site (WCM99935). The extent of the Roman settlement is unknown but an evaluation less than 15 metres from the PDA identified a 1st C Roman enclosure. From the ditch fills it has been suggested that the focus of the settlement is further away. Removal of historic fabric even in a non-designated heritage asset requires supporting evidence.
- 7.36 Officers have been advised that in the event that the approval of the application is recommended, given the scale of the development, and the possible archaeological potential, the likely impact upon the historic environment caused by this development should be offset by the implementation of a conditional programme of archaeological works.
- 7.37 The Council's archaeology advisor has also since noted (inter alia) that the building appears on mapping between 1891-1912. From its design it is likely to be very early 20<sup>th</sup> Century but there is no hard evidence to confirm that. The form of shop is a wide-open front with occupation at the rear and above, this is the type of 'general' design that even Tesco started with. As the 20<sup>th</sup> C continued this form of shopfront became rarer and most lost one side of the shopfront window, often this was to incorporate more storage or a redesign of the internal shop floor.



- 7.38 During the 1960's the widespread growth of the supermarket took hold meaning there were even fewer double fronted glazed shopfronts in towns and cities throughout the country. The resource continued to dwindle until it appeared that only a few examples survive, normally bespoke small establishments.
- 7.39 In Worcester City the type and form of a double shop front is now quite rare. 24A was seemingly constructed to be a shop/dwelling, it's reuse is supported but the impact upon its archaeological significance should be mitigated to allow its former use to be understood and enjoyed as a style of architecture that will never be seen again.
- 7.40 The Councils archaeology advisor has advised that retaining the supports is welcomed but the fascia without the shop window is incongruous. It is suggested at least keeping one of the shop windows so that the shops historic use can be understood as an echo of the former site. With one shop window in place the fascia becomes a sensible retention which adds to the historic understanding of the site and suggested that a condition for building recording and watching brief on ground works (should they be required) if the application gains approval. To remove the requirement for a watching brief the applicant should provide details showing that no ground works will be undertaken. To remove the requirement for the building recording the entire shop front should remain in place.
- 7.41 The comments of the archaeology advisor are fully appreciated. The shopfront that currently exists is a later addition added in more recent times. It is accepted that the stepped layout of the frontage will be lost. In this respect, it is also suggested that the proposal would result in harm, and will also be subject to the public benefits exercise, which is considered as part of the overall planning balance.

#### Heritage Conclusion

- 7.42 In heritage terms, the proposed development fails to comply with Policies SWDP6, and SWDP24 of the SWDP, which require development to preserve or enhance the significance of heritage assets. Where harm is identified it is necessary to turn to the NPPF (chapter 16) which sets out the appropriate 'tests' depending on the degree of harm.
- 7.43 It is considered that, as revised, this proposal will still lead to 'less than substantial harm' to the significance of the heritage assets and will have a neutral 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.
- 7.44 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The public benefits are highlighted in full within the planning balance section of the report below.

## **Access and Highway Safety**

- 7.45 Policy SWDP 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.
- 7.46 SWDP 4: Moving Around South Worcestershire (Part A) 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.
- 7.47 Policy 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.
- 7.48 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".
- 7.49 Policy SWDP 4 and the NPPF sets out to reduce the reliance on the private car which in turn tackles climate change and promotes the use of sustainable modes of transport. The NPPF and the requirement of legislation states that the decisions should be made in accordance with the Development Plan unless material circumstances indicate otherwise.
- 7.50 Flexibility and site circumstances should be considered in the context of Policy SWDP 4 of the Development Plan. Policy SWDP 4 (in particular Part A and B) support a reduction in the level of parking provision. This is in keeping with national policy and the aims of Government and managing traffic, climate change and other matters such as air quality and pollution. The Streetscape Design Guide (2022) allows for car free development in circumstances where appropriate infrastructure and services can service the development. It is a matter for the Local Highway Authority (LHA) to consider the specific circumstances of the site and the development proposed and to conclude if it is suitable to be car free.
- 7.51 The LHA have raised no objections and have noted that the location has some sustainable credentials being on the main bus route into the city centre where there are onward transport links plus there are local facilities in the vicinity. The LHA have advised that whilst the proposed cycle parking in the basement, is not ideal via the steps, it is nonetheless sheltered and secure. Provision for cycle parking has also been proposed at ground level to ensure for two bicycles to ensure that it is safe, secure and fully accessible. In total, capacity between basement and ground can provide for four spaces in total. It should be noted that no capacity currently exists on site, therefore, the proposals would introduce new opportunities for sustainable modes of transport to the private car through the proposed introduction of additional cycle parking, which would be safe and secure.

7.52 Considering the above, 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. The proposals will not result in conflict or harm to highway safety, in accordance with the provisions of Paragraph 111 of the NPPF. The proposals are attributed neutral weight in the planning balance.

### **Biodiversity**

7.53 Policy SWDP22 requires development to ensure there is no harm to protected species. Further the Framework sets out the requirement for biodiversity net gain which will become statute in November 2023 through the implementation and Royal Assent of the Environment Act 2021.

7.54 The proposals at this time do not include any provision for biodiversity net gain. It is also not known whether the proposed landscaping would be of sufficient quality to provide a sustainable enhancement. As such appropriately positioned bird and bat boxes would be necessary as a condition should planning permission be granted.

## **8. Conclusion and planning balance (including public benefits assessment)**

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 considered. 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 also a significant material consideration. At paragraph 12 it 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.

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 not identified harm to the Conservation Area as a designated Heritage Asset or other 'protect areas or assets of particular importance' (as set out in footnote 7, to para 11d) i. of the NPPF) that would be harmed, such that there is no clear reason to refuse permission. As such the tilted balance is engaged.

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 delivering the objectively assessed housing need for South Worcestershire over the plan period to 2030. In this respect, with regard to the 'public benefits', the proposal would boost the supply of housing in the district, where the Council is currently unable to demonstrate a 5-year housing land supply, and it would also provide short term employment in terms of construction work, given that only two dwellings would be delivered, these are factors in support of the development to which moderate 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 loss of part of the traditional shop frontage, and whilst elements of the frontage would be retained, and further details conditioned, the harms are considered to weigh moderately negatively in visual terms.

8.11 In terms of the loss of the retail element, in this case, the retention of the existing retail use (currently an antiques shop) is not protected by planning policy due to its location. This consideration is attributed neutral weight in the planning balance.

8.12 The improvements regarding the introduction of an enhanced cycle parking offer, will introduce further sustainable modes of transport options to the site, and provision of biodiversity enhancements, which will be secured by planning condition, should be attributed limited 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 heritage harms that would arise as a result of the identified loss of elements of the existing shopfront. As such, subject to conditions, inclusive of a written scheme of archaeological investigation, the planning application is considered to be acceptable.
- 8.14 On balance, it is therefore considered that the submitted scheme has indicated sufficient detail to warrant approval.
- 8.15 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 NPPF, 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.
- 8.16 Overall, it is considered that the proposals constitute an environmentally, socially and economically sustainable form of development that accords with the NPPF and the Development Plan as a whole.

## **9. Recommended Conditions**

- 9.1 In the event that Members are minded to grant planning permission the following conditions are recommended:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
REASON: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
  2. The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission:  
  
L001 Site Location Plan; L007a Proposed Basement Plan; L009a Proposed Front Elevation; L006c Proposed Ground Floor Plan (with Areas) and Design Statement dated October 2022.  
  
REASON: To ensure compliance with the approved scheme.
  3. No superstructure works shall take place until samples and full particulars of all external facing materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.  
  
REASON: To ensure a satisfactory external appearance of the development and that high quality materials and finishes are used, in accordance with Policy SWDP 21 of the South Worcestershire Development Plan (2016).

4. The development hereby approved shall not be occupied until details of refuse storage facilities have been submitted to and approved in writing by the Local Planning Authority.

REASON: To comply with Policy SWDP 33 of the South Worcestershire Development Plan (2016).

5. The development hereby approved shall not be occupied until the cycle parking shown on the submitted Proposed Basement Plan has been provided. The provision shall thereafter be retained for the purposes of cycle parking only at all times.

REASON: To comply with the Council's parking standards and to encourage sustainable travel and healthy communities, so as to comply with policy 4 of the South Worcestershire Development Plan, the Worcestershire County Council Streetscape Design Guide (July 2022) and the requirements of the National Planning Policy Framework.

6. Development shall not take place until a scheme of surface water drainage, which shall include proposals for sustainable drainage, (SuDS), has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is first brought into use, or in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure satisfactory drainage of the site and to prevent the increased risk of flooding by ensuring a satisfactory means of surface water disposal, in accordance with policies SWDP28 and SWDP29 of South Worcestershire Development Plan.

7. 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.

REASON: In accordance with the requirements of paragraphs 194 and 205 of the National Planning Policy Framework and SWDP 6 & 24 of the South Worcestershire Development Plan 2016.

8. 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.

9. No occupation of the development hereby permitted shall take place until details of bird and bat boxes for roosting have been submitted to and approved by the Local Planning Authority. The agreed details of the bird and bat boxes shall then be fully implemented prior to occupation and/or first use of the development permitted and retained thereafter.

REASON: To ensure that the development enhances green infrastructure and does not impact on, or harm protected species in accordance with Policy SWDP22 and SWDP25 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework 2021, as a material planning consideration.