

Application Number	22/00900/FUL
Site Address	42-44 Barbourne Road, Worcester, WR1 1HU
Description of Development	Conversion and extension of two existing guest houses into 12 self-contained apartments
Expiry Date	12 May 2023
Applicant	Mi World Services
Agent	Mr Neal McTavish
Case Officer	Dale Jones
	dale.jones@worcester.gov.uk
Ward	Arboretum Ward
Reason for Referral to Committee	Major Development
Key Issues	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/22/00430/FUL
Recommendation	<p>The Corporate Director - Planning and Governance recommends that the Planning Committee grants planning permission subject to:-</p> <p>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</p> <p>ii) the recommended conditions set out in section 9 of this report.</p>

1. Background

- 1.1 The application was registered on 13 January 2023 and was due for a decision on 10 March 2023. An extension of time for the determination of the application has been agreed until 12 May 2023.

- 1.2 The application has been referred to the Planning Committee as a "major development".
- 1.3 The application was subject to revisions during the application review process, based on the advice of officers, with the revisions explored in the report below.

2. The site and surrounding area

2.1 The application site (illustrated by the location plan below) relates to the two Guest Houses, at 42-44 Barbourne Road, Worcester, WR1 1HU. The existing buildings are three-storey in height, and are currently vacant, although was previously/last used as a guesthouse. The site is sited on the eastern side of Barbourne Road, opposite to Thorneloe Road (to the west) and to the immediate south of St George's Lane South (as illustrated below).



Image 1: The application site (location plan)

- 2.2 The application site is unlisted and situated within the Shrubbery Avenue Conservation Area. Operated jointly with the adjoining No.44, the properties were converted to use as a guest house c.1981. There are grade II listed buildings in the immediate vicinity, including properties on St. Georges Square, Thorneloe House, 27-29 Barbourne Road and the former engine house for Spreckley's Brewery.
- 2.3 In terms of access, currently both guest houses, Barbourne Guest House and Homeleigh Guest House at 42 – 44 Barbourne Road have separate front entrances. There is a shared courtyard between the two guest houses and is a stand-alone garage to the rear. Parking is available for up to three cars. The bin storage is located within the courtyard. Access for pedestrians to the guest houses is from Barbourne Road. Access by vehicle is via an entrance off St George's Lane South, which is protected with a roller door.
- 2.4 There are no flooding issues related to the site and it falls within flood zone 1 as stated on the published Environment Agencies flood risk maps.

2.5 The site benefits from sustainable credentials being on the main bus route to the city centre and with local amenities nearby, plus there are parking restrictions and a bus lane on Barbourne Road to prevent displacement and the wider area is subject to a Residential Parking Scheme on the side roads. A catalogue of site images is illustrated below:



Image 2 - Series of site photos

2.6 **Site Constraints**

Air Quality Management Area (AQMA): Worcester City
Archaeological Sensitive Areas (ASA)
Conservation Area (CA): Shrubbery Avenue

3. **The proposals**

3.1 Planning permission is sought for the proposed conversion and extension of the existing guesthouses at No's 42 and 44 Barbourne Road to provide a total of 12 residential flats, together with external alterations.

- 3.2 It should be noted that the application proposal has been revised since its original submission. Planning permission is sought for the proposed development:
- reconfiguration of the internal layout, which has been amended from the 13 x 1-bed units (as original proposed) to a revised internal layout and housing mix of 10 x 1-bed flats and 2 x 3-bed flats (12 flats in total);
 - revised rear garden layout for the provision of private amenity space and refuse provision.
- 3.3 Extensions are proposed on the second floor, to accommodate the proposed residential conversion, it is also proposed to raise the existing pitched roof and replace an existing flat roof with a pitched one; both the proposed pitched roof ridges will be the same height. A new dormer is also proposed for both buildings to accommodate bathrooms and kitchens.
- 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 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 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.

• Developer Contributions SPD

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

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

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

- 4.10 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.
- 4.11 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 Relevant planning records include:

21/00052/PA – Pre-application advice issued regarding change of use of 2no existing bed and breakfasts to 15no. residential apartments.

Advice concluded (inter alia): The proposed development is well thought through and in visual terms provides a generally welcome improvement to the existing flat roofed elements of the properties on St Georges Lane South. The proposals seem to provide a good quality living space for future occupiers which meets space standards. It is acknowledged that the distance separation between some units in the rear wings is compromised, however it is stated by the agents that the proposed oriel windows in Units 9 and 10 are designed so that they do not comprise privacy. *Should a planning application be submitted, there are outstanding matters that would need to be addressed regarding SWDP 4, SWDP 6, SWDP 14, SWDP 15 and SWDP 21 before this proposal could be fully policy compliant. implementation of SWDP 21.*

6. Consultations

- 6.1 Formal consultation, inclusive of the 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 (in summary):

- 6.3 The application has been subject to two separate rounds of public consultation with the second round of public consultation pertaining to the revised layouts (as noted above).
- 6.4 **First round of public consultation in November 2022** (a total of 12 objections have been received in response), raising the following issues and concerns:
- Parking stress concerns. County Highways propose that this Application be granted "car free" status but this will not relieve pressure on the finite number of parking spaces available either for any 3-hour user during the day or at out of hours parking times.

- Impacts on highway safety, the main A449, A38 arterial approach to the city - construction vehicles and construction accompanying vehicles will cause additional problems to an already constant traffic saturation.
- Impact on St George's Lane South in terms of parking and where refuse blocks the highways.
- Works have started without planning permission.
- No outside amenity area is planned, and consideration not given to the conservation area.
- Harmful impact on privacy and increased overlooking of neighbours.
- Antisocial behaviour concerns.
- Noise and light pollution.
- Overdevelopment of the site and the flats are far too small.
- There are a number of former guest houses adjoining this property that are now used as houses of multiple occupancy, and it is considerably noticeable that there has been an increase in the amount of rubbish that is piled up in bags & fly tipped next to public rubbish bins which indicates that there are not adequate provisions for the existing properties let alone any further HMO properties.
- Have not seen any plans for fire escapes, essential in a building of multiple occupancy and 3 storeys.
- Number 44 was extended by a two-storey flat roofed rear extension (75/0606) in 1975 and number 42 was extended by a two-storey rear extension (80/0922) and changed use from private house to guest house (80/0287) in 1980. I.e., both buildings are now much bigger than original and the garden/amenity space at the rear is significantly reduced.
- Confusion over the applicant/ownership (Officer comment: this is a non-planning issue that cannot be considered).
- Design implications. Increasing the height of the rear extension of number 44 would damage the aesthetics of the north elevation of the building by creating an overbearing and dominating concentration of raised additional brickwork. These extensions would be contrary to SWDP 6 and 14 which seek to protect and manage the historic environment of conservation areas.
- The intensity of the proposed occupation is excessive in terms of demands on the infrastructure (e.g., drains), services (e.g., waste bin storage and collection; parking) and on the local amenity and character of the conservation area which also adjoins a large number of listed buildings.
- It is stated on the application there are no listed buildings. This is totally incorrect - one is opposite and others nearby. To sum up this application goes against SWDP6.
- County Highways brought this section of Barbourne Road within the St George's Square Scheme originally, at a time when the B&Bs here were commercially viable and the proprietors had asked for inclusion in the Scheme.
- Regarding waste and recycling, there are concerns in relation to emergency vehicle access should bins be left out on the adjacent street.

- Is it justifiable to allow the conversion of Nos 42,44 Barbourne Road into a number of flats which create what is virtually an HMO by any other name but depriving the Council of management controls available under HMO legislation?
- Under the Streetscape Design Guide thirteen car parking spaces should be provided.
- Two key conditions would still be required and monitored for their application. First a s106 agreement that the development should be 'parking free' i.e., car free with no parking permits for residents or visitors, and second that a concierge service should be provided by the freeholder to supervise the disposition of the waste bins before and after collection every Thursday.
- The proposed height and roofline would be out of scale and overbearing.
- The current foundations may not be suitable for the additional weight, as the existing extensions were built as large as they could be at the time.
- Harmful impact on the character and appearance of the conservation area and listed buildings.

6.5 **Second round of public consultation in March 2023** (a total of 8 objections have been received in response), raising the following issues and concerns:

- The amended Design and Access Statement which has been uploaded appears to be incomplete (Officer comment: the full version was uploaded and is available via the public website).
- Overdevelopment of the property.
- There is also a health and safety objection giving rise to potential fire escape route issues.
- Note from the amended plans that the basements have changed from independent flats to become bedrooms 2 and 3 from the flats on the ground floor. These bedrooms have no natural light and would suggest therefore that they are wholly unusable as habitable spaces.
- The design of these puts into question the viability and purpose of the development. The 'shared turf' area with artificial turf, an area of around 5x5m, surrounded by 1.8m high walls, will, in reality, be a dark and dismal space and will offer no amenity space for the flat occupiers.
- The living spaces afforded each dwelling are not conducive to a pleasant or healthy way of life.
- The developer argues that this scheme should be approved without any car parking required on site due to its city centre location. Therefore, if this development is granted permission, I would hope that this property, is denied access to the residential parking permits that are currently allowable for this property.
- The Highways team are citing that the combined 20 room max capacity of the prior use of the buildings. There is, however, no evidence of occupancy level over time and a big difference to one night stays vs permanent address. There are currently 6 permits for the existing 2 properties, but no proposal for the remainder required which as a minimum is a further 6 and a realistic further 9.
- The cycle provision idea is unviable.
- Inconsistencies on the application form (i.e. firstly that in the first section of site location that it is blatantly obvious that 44 Barbourne road has been omitted off the

application form and that in right should raise suspicions, in the next section applicant details Mr Ajay Mahan of Mi World Services when ask if he is the agent acting on behalf of the applicant quite clearly states yes, and then later on in the application in the section relating to Ownership certificates states that he is the sole owner and the applicant, this obviously is very contradictory, along with room and unit numbers.

- Having looked at the planning statement 42 - 44 Barbourne road and the first inconsistency of this document is that it was issued in February 2023 however it was only uploaded to review on the 21-3-2023 this would seem to have been delayed on purpose making it hard for people to object or comment.
- The work has already proceeded without permission and builders' vans and lorries have already damaged residents' properties.

6.6 **Saint George's Square Residents' Association ("SGRA") (in full):**

Parking

The existing three parking spaces are to be removed to provide bin and bicycle storage. The creation of 12 new flats without parking appears to be claimed as acceptable on the grounds that the flats are close to the city centre and there are good public transport facilities. However, no mention is made of the existing parking problems. The small CPZ which the building currently falls within is already under pressure, i.e., 'full'. Under the Streetscape Design Guide there would be a requirement for 12 parking spaces to be provided. No mention is made of the developer offering a s106 agreement to make the development car free, i.e., no parking permits or visitors' permits available; or of a request for the Council to remove the properties from the CPZ (i.e., no permits available) or to provide that the new residential units may not be occupied by any person who holds a parking permit. The proposal should therefore be rejected.

Bins and fire safety

Saint George's Lane South is a very narrow, single-track road with no pavements to protect pedestrians and is currently much used as a 'short cut' by motorists to and from Barbourne Road. The only passing spaces are on land belonging to houses which back onto the Lane but which have not (yet) been enclosed by the owners. On bin collection day the existing number of bins already threatens safe passage along the Lane. With an additional 12 bins every week the Lane would become a major safety risk being potentially completely blocked. Access by fire engines or escape by residents in the event of a fire would be at risk putting the safety of residents in danger. With no provision for a 'concierge' service to be provided every week by the freeholder the issue of bin collection requires that this proposal should be rejected.

Significant overdevelopment

This represents significant overdevelopment of the site and would involve an important increase in population. The proposed flats are so tiny, and the amenity space so limited (approximately 25 square metres surrounded by 1.8-metre-high walls) this intensification of use could lead an increase in the existing local anti-social behaviour incidents which would negatively affect general neighbourhood amenity. The nature of the surrounding area would be adversely affected and the creation of 12 new separate units in what are important 'gateway' buildings to two Conservation Areas risks, removes any coherent control over future property maintenance and repair.

HMO policy

The proposed development is very close to that of an HMO but does not seem to be subject to the standards (e.g., parking), management requirements and Council oversight of HMOs or Council imposed limits of HMOs within proximity. Indeed, the proposed two 3-bedroom flats would appear to be potential HMOs, but no application has been submitted.

Design

The proposed additional third storey (providing two of the flats) would damage the aesthetics of the north elevation and appears to be contrary to SWDPs 6 and 14 which seek to protect and manage the historic environment of conservation areas. The proposed dormer windows in these two flats would overlook each other and remove any privacy for the occupants. The proposed four bedrooms in the cellar have no natural light or ventilation and appear unusable as habitable rooms. In general, the bedrooms – some of which appear to be only 2.5m by 2.5m barely meet the minimum standards and demonstrate the very poor quality of this proposal. In summary this proposal should be rejected.

- 6.7 The following **statutory and non-statutory responses** have been received:
- 6.8 **Lead Local Flood Authority Response:** No objections.
- 6.9 **Worcester City Council Archaeological Officer:** No objection subject to the use of a planning condition to ensure that 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.
- 6.10 **Worcester City Council Conservation Officer (initial comments dated November 2022):** The application site is unlisted and situated within the Shrubbery Avenue conservation area. Operated jointly with the adjoining No.44, they were converted to use as a guest house c.1981. There are grade II listed buildings in the immediate vicinity. It is considered that this proposal will have a neutral impact upon the conservation area.
- 6.11 **Updated comments (dated March 2023):** I stand by and reiterate my previous comments upon this application. I also note the revisions to the proposals, which wholly relate to the interior of the property and would see a reduction by one residential unit (from 13 down to 12). The changes are internal and appear to be limited to the basement and ground floor.

Most of the proposed changes will be internal and the principal elevation to Barbourne Road will not change, save in one aspect. To the sides the proposed roof raising extensions should blend in well, but a Materials condition should ensure this. The contrastingly modern materials proposed for the two new dormers will also emphasise their more recent addition to the buildings. New white triple-glazed uPVC windows are proposed to replace existing; their style is said to match both the existing and the other windows in the terrace. Also, new entrance doors are also proposed, their style to be sympathetic to the existing doors on other properties within the terrace. Again, the style and choice of the proposed uPVC window replacements should be subject to condition, also that of the proposed entrance doors.

- 6.12 **Worcester City Council Landscape and Biodiversity Adviser:** No objections in principle, however as there are roof and tile removals/changes especially to the rear extensions, a bat assessment should be carried out. Bats are known to frequent these areas of Barbourne with older style properties, mature gardens, parks etc all part of the character.

- 6.13 **Local Highway Authority (LHA):** No objection subject to conditions inclusive of securing further details of cycle parking and a welcome travel pack, noting (inter alia) that:

The existing site comprises two guest houses on Barbourne Road with a total of 20 guest bedrooms which represents the fall-back position and in line with the Streetscape Design Guide, the most comparable parking standard is a C3 hotel use which requires 1 space per bedroom, and this equates to an existing parking requirement of 20 spaces. On the basis that the proposed development of 13 self-contained 1no. bedroom flats requires a total 13 spaces; the proposal represents a reduction in parking demand. Moreover, the site location has sustainable credentials being on the main bus route to the city centre and with local amenities nearby plus there are parking restrictions and a bus lane on Barbourne Road to prevent displacement and the wider area is subject to a Residential Parking Scheme on the side roads. Accordingly, whilst it is stated that there are up to 3 parking spaces to the rear, accessed via St Georges Lane South, the site would be accepted as a 'parking free' development. Cycle parking is indicated in the rear yard and further details are required plus a Travel Welcome Pack is expected, to promote the sustainable options to future residents. Guidelines for producing a pack will be provided separately for the applicant's attention.

- 6.14 The LHA have also commented on the amended plans noting that whilst there is an increase in parking demand of 1 space associated with the proposed 2 x 3-bed sized flats and 10 x 1-bed flats which will require a total of 14 spaces with no increase in provision, on the basis that the demand of 14 spaces is still less intensive, the requirement for the existing B&B properties (20 spaces for 20 rooms), highways would not seek to raise an objection. Also, the combined site will still be eligible for a total of six parking permits via the residential parking scheme.
- 6.15 **Conservation Advisory Panel:** No objection in principle. Concerns were expressed regarding the lack of parking provision, amenity space, plus bin and cycle storage.

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 must 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

Housing land supply

- 7.2 Paragraph 74 of the Framework 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'. 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.
- 7.3 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.

- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 This proposal relates to the proposed change of use and reconfiguration of the existing buildings (Nos. 42 and 44) which are currently vacant (but was previously laid out as a 20-bed guesthouse) to provide a total of 12no. residential flats consisting of 2 x 3-bed flats and 10 x 1-bed flats. The net increase in residential units (if approved) would include the provision of 12 net new residential units within the property because of these conversion proposals. It is considered that 12 additional units of residential accommodation, on previously developed land can be attributed moderate positive

weight in the planning balance given the number of new residential units as proposed, which includes 2 x 3-bed (family sized) flats and 10 x 1-bed flats (the housing mix is also assessed further below).

- 7.10 The application site is in a sustainable location within Worcester City 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 vacancy and re-use of the site for residential purposes.

Housing Mix

- 7.11 Policy SWDP 14: Market Housing Mix states in respect of this development:

"A. All new residential developments of five or more units, having regard to location, site size and scheme viability, should contain a mix of types and sizes of market housing. The mix will be informed by the latest Strategic Housing Market Assessment and / or other local data, for example, Neighbourhood Plans, Parish Surveys, Parish Plans, and developers' assessments.

B. Worcester and the main / other towns will be the focus for housing to help meet the needs of residents with specific housing requirements, such as people with disabilities. Elsewhere, proposals to help meet these specific needs should demonstrate that the scheme has good access to public transport, healthcare, shopping and other community facilities. "

- 7.12 The housing layout and associated mix has been revised on the advice of Officers. The proposal in this case seeks a mix of unit sizes, inclusive of 2 x 3-bed (family sized) flats and 10 x 1-bed flats, in accordance with the provisions of policy SWDP 14, and is attributed limited to moderate positive weight in the planning balance.

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 considering any local design guidance and supplementary planning documents such as design guides and codes.
- 7.16 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.
- 7.17 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.

- 7.18 Useable amenity space (illustrated below – Image 3) is to be created at the rear of the property. Two private patio areas are to be created for the ground floor rear apartments. These apartments can be accessed by existing sliding doors. A new turfed area will be constructed. The applicants have suggested that this might be artificial, however, a condition will be added in the event where approval is recommended to control the wider landscaping of the amenity space, to avoid synthetic surfaces which are not sustainable or environmentally friendly, whilst also offering Officers the opportunity to further scrutinise the planting, surfacing and layout of the amenity area as proposed.
- 7.19 A new secure and covered bike store would also be constructed, comprising 1x space per 1 – bed apartment and 3 x spaces per 3- bed residential apartment. The applicants have also clarified that the existing garage walls are to be retained and made into a bin store, whilst new sliding gate access would be provided off St George’s Lane South and a new secure gate would be provided for residents to access the bin store from the shared courtyard.
- 7.20 The existing roller door access from St George’s Lane South to the shared courtyard is proposed to be removed and a new brick wall, matching the existing, is to be erected with secure gated access to the shared courtyard.

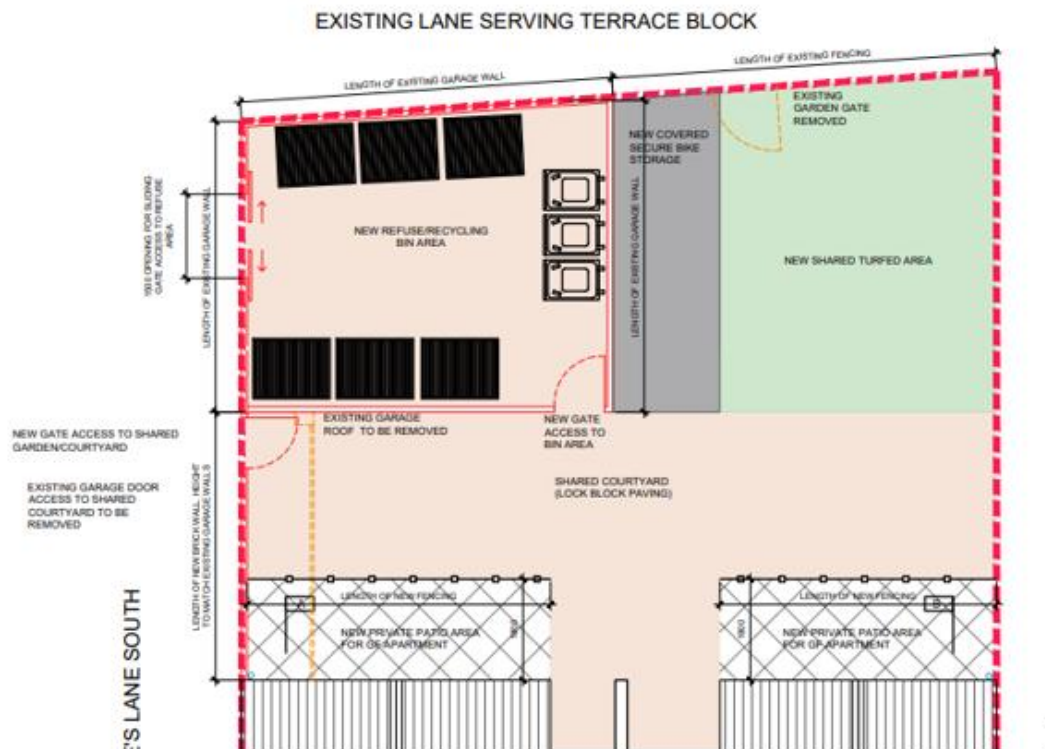


Image 3: The rear amenity space (as proposed)

- 7.21 In terms of the internal layout, the ground floor of the proposal would comprise of 2 x one bed flats at the rear of the property and the upper level of 2 x three bed “duplex” flats. The basement comprises of the lower levels of the 2 x three bed flats. Each apartment is self-contained with its own kitchen, dining area and bathroom. The first and second floors comprise of 4 x 1- bed flats, accessible off a shared corridor. Each flat would be self-contained with each having its own bathroom, kitchen and living/dining area.
- 7.22 Regarding the rear extensions, it should be noted that the proposed materials would comprise of red brick external walls to match existing, white PVCu windows to match the existing, the use of standing seam zinc on proposed dormers, and grey slate to

pitched roof to match existing. Subject to a condition to secure these details, it is considered that the proposed materials palette would be appropriate for the character of the buildings and terrace of properties in which the application site forms a part. Furthermore, the use of a matching brick and zinc (for the dormers) would be robust to stand weathering and will safeguard the character of the properties in the long-term.

- 7.23 In terms of scale, bulk and design, the pitched roof profiles which would be raised. In this respect, on the second floor, to accommodate the proposed residential conversion, it is proposed to raise the existing pitched roof and replace an existing flat roof with a pitched one, with both the proposed pitched roof ridges will be the same height. This is illustrated on the next image below.
- 7.24 Furthermore, it is considered that the proposal would unify the appearance of the rear of the terrace, and the uniform height and scale of the rear additions (where extended) would offer a more balanced and coherent scale of development as evident in the proposed image below. Where viewed from public views (from the east and north), the proposed extensions would appear as subordinate additions to the existing properties and wider terrace of properties.



Image 4: Proposed rear and front building façades

- 7.25 In terms of sustainable design, the applicants have clarified that the proposed development would include high specification sustainable insulation in the roof, walls and flooring, and would use Low-E windows and energy efficient heating, lighting and appliances (inclusive of a smart housing heating system, low-flow toilet and the use of passive and mechanical ventilation).
- 7.26 In summary, it is considered that the external changes and extensions would be of an appropriate design and nature to help facilitate the proposed conversion for residential purposes. As such, the proposed development would adhere with the provisions of policy SWDP21 and with Paragraph 130 of the NPPF and can be attributed minor positive weight in the planning balance.

Impact on neighbouring amenity and amenity of future occupiers

- 7.27 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.

- 7.28 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.
- 7.29 With regard to overlooking and privacy, the development of the rear additions has been carefully considered to ensure that window-to-window relationships between Nos. 42 and 44 do not result in any increased overlooking between habitable rooms. Furthermore, owing to a minimum 35m separation distance to the nearest neighbouring residential properties to the south-east, and 31m would be maintained to the front (to the west of the site), the proposals would not result in any harmful overlooking of neighbouring sites.
- 7.30 In terms of daylight, sunlight and outlook, the proposed extensions would be confined to the rear elevations, where there are substantial separation distances to neighbouring properties. The proposed upward extension of the rear additions would be modest in scale, and it is considered that no harmful loss of daylight would result given the substantial separation distances and the scale and position of development proposed.
- 7.31 In terms of operational noise and disturbance, it is considered that given that the proposed residential conversion would result in less bedrooms (16 in total) on site than that of the (20) of the previous guesthouses, is such that it would not result in excessive comings and goings to the degree whereby refusing planning permission can be justified. 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 whereby planning permission could be recommended, then matters of noise and disturbance during the construction period could be controlled using planning conditions.

The internal living environment (quality of the proposed development)

- 7.32 Planning permission is sought for the proposed reconfiguration of the previous guesthouses to provide a total of 12no. residential flats consisting of 2 x 3-bed (family sized) flats and 10 x 1-bed flats, across basement, ground, first and second floor levels).
- 7.33 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.
- 7.34 The Nationally Described Space Standards (NDSS) set out a minimum requirement of 39sqm for 1-bed sized flats, where a separate bathroom is proposed, and in the case of a 3-bed, 5-person flat as proposed over two floor levels, the requirement is 84 -93sqm.
- 7.35 It should be noted that objections have been received from the public in response to the council's public consultation exercise in relation to the quality of the accommodation proposed. However, in this case, all 10 of the 1-bed flats as proposed

would meet the NDSS (the 'space standards'). In the case of the 2 x 3-bed flats, these would measure between 90.7 and 91.3sqm respectively against the NDSS requirement (which requires between 84 – 93sqm in the case of 3-bed sized flats (where facilitating between 4 and 5 bed spaces over two floor levels) and the proposal is therefore attributed **limited positive weight** in the planning balance.

Impact on Heritage Assets

- 7.36 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.
- 7.37 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.
- 7.38 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 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.
- 7.39 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.
- 7.40 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.

- 7.41 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.
- 7.42 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 proposed development would result in a "neutral" impact on the Conservation Area.
- 7.43 The proposed extension and conversion of the building is considered to be acceptable in heritage terms. As noted elsewhere above, the proposal would help unify the appearance of the rear of the terrace regarding the scale and design of the rear additions (as extended), and the uniform height and scale of the rear additions would offer a more balanced and coherent scale of development. Furthermore, taking into account the comments of the councils Conservation Officer, it is considered that the proposed development would have a **neutral impact** on the Conservation Area and, subject to the imposition of planning conditions regarding the submission of details of materials, Officers consider that the proposed development would adhere to the provisions of SWDP policies 6 and 24, and with the provisions of paragraph 130 of the NPPF 2021.

Archaeology

- 7.44 The Councils Archaeological Advisor has noted (inter alia) that the proposed development may affect heritage assets of known archaeological significance (WCM91198). 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 to the north of a known Roman site where evidence of iron working was identified (WCM91198).
- 7.45 The extent of the Roman site is unknown, as some iron ore was also identified which is a rare find in the city. Most of the proposed works have no archaeological impact, however the floor of the basement may already be at the Roman levels meaning any excavation could produce archaeology. 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. As such, no objections are therefore raised subject to the imposition of a planning condition.

Heritage Conclusion

- 7.46 In heritage terms, the proposed development complies with Policies SWDP6, and SWDP24 of the SWDP, the South Worcestershire Design Supplementary Planning Document (2018), the Planning (Listed Buildings and Conservation Areas) Act (1990) and the NPPF (2021).
- 7.47 It is considered that, as revised, this proposal would have a neutral impact upon the conservation area. 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. The external works and the upward extension of the building would largely be confined to the rear building façade and in the case of the proposed upward extension of the back addition, would lead to a visual coherence as a pair within the terrace. Furthermore, subject to the imposition of conditions regarding the submission of details of materials, it is considered that the proposed development would adhere to the provisions of SWDP policies 6 and 24.

Access and Highway Safety

7.48 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.

7.49 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.

7.50 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.

7.51 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".

7.52 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.

7.53 It is noted that a great weight of local objection has been raised regarding the impact of the proposed development in terms of highways safety and convenience, including reference that has been made to the potential impact on car parking stress on adjoining streets and the network more generally (amongst other matters also raised). The impact of the proposal in highways terms is assessed as follows in this section below.

7.54 Whilst currently vacant, the existing site comprises two guest houses, which provide a total of 20 guest bedrooms. In terms of the existing context, it has been clarified that the two guest houses have a shared courtyard and there is a standalone garage to the rear. Parking is available for up to three cars.

7.55 The Local Highways Authority (LHA) is the statutory consultee regarding highways safety issues and has advised that as the existing site comprises two guest houses, with a total of 20 guest bedrooms, this represents the "*fall-back position*" from which the acceptability of the proposed development in terms of its highway impacts should be assessed. In line with the Streetscape Design Guide, the most comparable parking

standard is a C3 hotel use which requires 1 space per bedroom, and this equates to an existing parking requirement of 20 spaces.

- 7.56 The LHA has noted (comments dated March 2022) that the proposed development (2 x 3-bed flats and 10 x 1-bed flats), would require a total of 14 off road parking spaces to accord with the Streetscape Design Guide, however on the basis that this is less than the requirement for the existing (now vacant) B&B properties (comprising 20 spaces for 20 rooms) they raise no objection, because the proposed development would not intensify parking requirements compared to the site's lawful use. In reaching this view the LHA have noted that the existing properties combined (Nos. 42 and 44 Barbourne Road) will be eligible for a total of six parking permits via the residential parking scheme. Accordingly, the permit allocation for this site would remain as it is, which is 3 permits per postal address therefore Nos. 42 & 44 Barbourne Road combined will have a total of 6 permits which is the same as the current (baseline situation) with no resulting adverse impact on the highways network.
- 7.57 The application site is sustainably located, being located on the main bus route to the city centre and with local amenities nearby, and there are parking restrictions in the vicinity of the site to prevent displacement parking.
- 7.58 In light of the above rationale, and subject to the use of planning conditions to secure cycle parking and a Travel Information Pack, promoting sustainable forms of access to the development, it is considered that 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 to be 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

- 7.59 Policy SWDP22 requires development to ensure there is no harm to protected species. Further the NPPF sets out the requirement for biodiversity net gain, which will become a statutory requirement in November 2023, through the implementation and Royal Assent of the Environment Act 2021.
- 7.60 The proposals currently do not include any provision for biodiversity net gain at this stage and are therefore attributed **neutral weight** in the planning balance, given the fact that bird and bat boxes would be secured by planning condition (where the application is found to be acceptable in all other respects).
- 7.61 Furthermore, with the agreement of the Councils Landscape Officer, a planning condition is proposed to ensure that prior to any works commencing within the roof space, or any works to the external roof, a bat survey, including mitigation and enhancement plan, shall be submitted to and approved in writing by the Local Planning Authority. The condition proposed would also ensure that where any subsequent reports are recommended, these shall be subsequently submitted to and approved in writing by the Local Planning Authority.
- 7.62 As such, in light of the above rationale, and considering the bat survey condition also required, it is considered that the proposals would adhere with the provisions of Policy SWDP 22 and Paragraph 174 of the NPPF.

Affordable Housing and Planning Obligations

- 7.63 Policy SWDP 15: Meeting Affordable Housing Needs states (inter alia) that:

- A. All new residential development, including conversions, above the thresholds in SWDP 15 B (and adjacent land, if it is anticipated that it will form part of a larger site) will contribute to the provision of affordable housing.
- B. The number, size, type, tenure and distribution of affordable dwellings to be provided will be subject to negotiation, dependent on recognised local housing need, specific site and location factors and development viability and having regard to the sliding scale approach set out below:
 - iii. On sites of 10 – 14 dwellings, 30% of units should be affordable and be provided on site.

7.64 Whilst the number of units in this case (12 in total) would fall in the criteria for Affordable Housing, taking account Vacant Building Credit and the exemptions of paragraph 3.15 of the Affordable housing SPD, no contributions are required in this case. In particular, the proposals are for the conversion of the existing buildings, that because of their design will not provide adequate amenity space (given the limited quantum of external space) to those in affordable housing need, which is a noted exception within Paragraph 51.5 of the SPD (as outlined above).

Planning obligations

7.65 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.

7.66 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.

7.67 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, no charge is levied against residential development within the city.

7.68 **Draft Heads of Terms** for a s106 Agreement have been agreed with the applicants. The financial obligations are set out below:

7.69 The revised Developer Contributions SPD, adopted in July 2018, sets out guidance relating to the collection of developer contributions, to be used when determining planning applications. 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 requirements for contributions towards Public Open Space based on the following calculation:

Open Space – provision:

£2,597.40 per 3 bed unit (x 2) and £1,298.70 per 1 bed unit (x 10).

Sub-total: £18,181.80

Open Space - maintenance commuted sum:

£2,028.80 per 3 bed unit (x 2) and £1,014.40 per 1 bed unit (x 10).

Subtotal: £14,201.60

Total Open Space contribution: £32,383.40

Human Rights Issues

- 7.70 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.
- 7.71 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.
- 7.72 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.

- 7.73 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.
- 7.74 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 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 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.*'
- 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'. 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 to any other 'protect areas or assets of particular importance' (as set out in footnote 7, to paragraph 11d) i. of the NPPF), 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' as set out in paragraph 11 d) ii of the NPPF, it is considered that the principle of development and topic based considerations accord with the relevant policies of the SWDP and NPPF and that there are no adverse impacts derived from the scheme, compared to its extant use. On this basis it is axiomatic that there are no adverse impacts that would both significantly and demonstrably outweigh the benefits of the proposal, when appraised in terms of the three objectives of sustainable development.
- 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, and given that 12 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 The housing layout and associated mix has been revised on the advice of Officers. The proposal in this case seeks a mix of unit sizes, inclusive of 2 x 3-bed (family sized) flats and 10 x 1-bed flats, in accordance with the provisions of policy SWDP 14, and is attributed **limited to moderate positive weight** in the planning balance.
- 8.11 The improvements regarding the introduction of an enhanced cycle parking offer, will introduce further sustainable modes of transport options to the site (which will be secured by planning condition), should be attributed **limited positive weight** in the planning balance, especially considered against the existing baseline position, which officers and the local highways authority consider to result in a less intensive parking requirement than the existing (now vacant) B&B properties, which is the baseline position.
- 8.12 As noted in the report all of the proposed units (1-bed and 3 bed) would meet or exceed the requisite NDSS (space standards), thus providing a good standard of living accommodation for future residents. This is therefore attributed **limited positive weight** in the planning balance.
- 8.13 As such, subject to conditions, inclusive of a written scheme of archaeological investigation, the proposed development is considered to be acceptable.
- 8.14 All comments received as part of the consultation process and which raise material planning considerations have been taken into account in the assessment of the proposed development. Having regard to the totality of the policies in the SWDP and the NPPF, it is considered that the proposal comprises sustainable development in terms of the social, economic and environmental roles.
- 8.15 Overall, it is considered that the proposal constitutes an environmentally, socially and economically sustainable form of development that accords with the Development Plan and the NPPF, when taken as a whole, and planning permission should therefore be granted.

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:

4027 - EX(90)001; 4027 - PL(90)001A; 4027 - PL(27)001 4027 - PL(04)001; 4027 - PL(04)002A; 4027 - PL(00)002A; 4027 - PL(00)003; 4027 - PL(00)004; 4027 - PL(00)001A; Design and Access Statement (received March 2023); Planning Statement (February 2023) and 4027-HR001 – Heritage Statement.

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. 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. The approved storage facilities shall be provided prior to the occupation of the first unit of accommodation hereby granted and thereafter retained for such use.

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

5. The Development hereby permitted shall not be occupied until the cycle parking shown on the submitted plan has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the provision shall 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. The development hereby approved shall not be occupied until the applicant has submitted to and had approval in writing from the Local Planning Authority a Travel Information Pack promoting sustainable forms of access to the development. The pack shall be provided to each resident at the point of occupation.

Reason: To reduce vehicle movements and promote sustainable access 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.

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.

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.

8. 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.

9. Prior to any works commencing within the roof space or any works to the external roof, a bat survey, including mitigation and enhancement plan, shall be submitted to and approved in writing by the Local Planning Authority. Where any subsequent reports are recommended, these shall be subsequently submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with recommendation and methods set out within the approved report(s) with any mitigation and enhancement provided prior to the first use of any of the dwellings hereby approved. The mitigation and enhancement measures shall be retained and maintained at all times.

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.

10. Prior to the commencement of any external construction works in respect of the development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall include:-

- a) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
- b) a written specification outlining cultivation and other operations associated with plant and grass establishment.
- c) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner, and thereafter retained and /or replaced.

Reason: To ensure the proposed development would provide high quality landscaping, integrate into its surroundings and provide an appropriate external amenity area for future occupants of the approved development, in accordance

with policies SWDP21 and SWDP25 of South Worcestershire Development Plan and the requirements of the of National Planning Policy Framework 2021.

APPENDIX 1

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement

Section 106 Town and Country Planning Act 1990

Planning Application: 22/00900/FUL

Conversion and extension of two existing guest houses into 12 self-contained apartments

42 – 44 Barbourne Road, Worcester, WR1 1HU

PUBLIC OPEN SPACE CONTRIBUTIONS

1. In order to make the development acceptable the following contributions are required towards public open space and maintenance

- £32,383.40 financial contribution towards the provision of public open space and maintenance (Open Space – provision: £18,181.80 and Open Space – maintenance: £14,201.60)

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.