

Application Number	23/00415/LB
Site Address	42 Foregate Street, Worcester, WR1 1EE
Description of Development	Listed building consent for the conversion of 42 Foregate Street. Resubmission of 21/00471/LB. Difference being a larger ground floor commercial unit and two large apartments which will bring the total number of units down from 11 to 9.
Expiry Date	31 st October 2023
Applicant	Foregate Regeneration Ltd
Agent	Mr Nick Carroll
Case Officer	Dale Jones
	dale.jones@worcester.gov.uk
Ward	Cathedral
Reason for Referral to Committee	Councillor "Call In" request.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/23/00414/FUL
Recommendation	The Corporate Director - Planning and Governance recommends that the Planning Committee grants planning permission subject to the conditions set out in section 9 of this report.

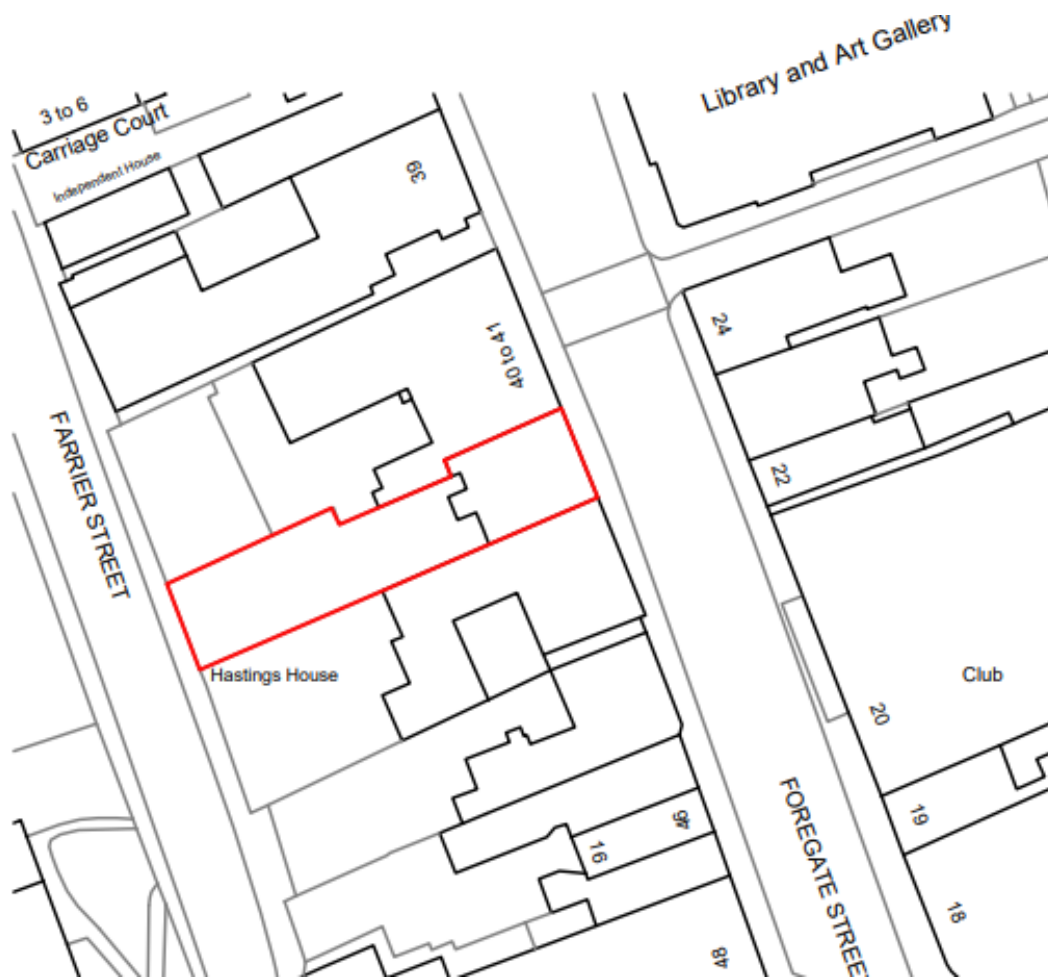
1. Background

- 1.1 The application was registered on 19 May 2023 and was due for a decision on 14 July 2023. An extension of time for the determination of the application has been granted until 31 October 2023.
- 1.2 The application has been referred to the Planning Committee following a "call in" request from Councillor Denham (email correspondence dated 22 August 2023).

2. The site and surrounding area

- 2.1 The application site is in Cathedral ward, and is located on, and to the rear of, the A449, the main entry to the City Centre from the north. The site comprises vacant offices. There are a variety of uses within the surrounding area including commercial, restaurant, retail and residential uses, plus several public houses. The wider area is generally characterised by similar commercial, retail and residential uses. There are

many listed buildings in the immediate vicinity, including Nos.46-33 Foregate Street (except Nos.44 & 36). In contrast, Farrier Street does not have any listed buildings.



Site Location Plan Extract (site outlined in red)

- 2.2 The application site is listed grade II and situated within the Foregate Street and The Tything Conservation Area. It was built as a house in the mid-18th c and has had later additions and alterations. Listed on 22 May 1954, it forms a good group with the Shire Hall, Statue of Queen Victoria, City Museum and Library and Nos.15, 19, 22, 23, 24, 28, Nos.33-46 (consecutive) and No.40, Foregate Street.
- 2.3 The building is four-storey with a rendered and white painted frontage at ground and first levels. The building has a small canopy above the front door with a pillar either side of the door. The front elevation of the building at ground floor level is dominated by a large window, though the fenestration to the upper floors is aligned sash windows with Georgian glazing bars. The building forms a visual focal point of this part of the street scene by virtue of its height standing proud of the neighbouring buildings and its rendered frontage. To the rear of the building, the site is largely laid to hardstanding and used for vehicular parking.

Site Constraints

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

3. The proposals

- 3.1 This application seeks listed building consent for the mixed-use refurbishment of the building, by retaining and remodelling a commercial use (Class E) at ground floor with

residential flats proposed above at first, second and third floor levels. These proposals are effectively an amended version of the previously approved planning application for the main building at 42 Foregate Street (Ref. 21/00470/FUL and 21/00471/LB), which was granted on 15 March 2023.

3.2 As such, this application involves amendments to the extant permission on this site (21/00470/FUL) and the proposed development seeks to remodel the ground floor commercial use and reduce the number of residential flats on the upper floors from 13 to 9 units (net reduction in 4 residential units). In detail, the proposed amendments sought by this latest planning application (and associated listed building application) seek:

- amendments to the ground floor requiring fewer internal modifications.
- an amended ground floor layout and rear external amenity space.
- a new window to the main ground floor front plate glass to enable ventilation/opening etc., in keeping with the window to the left-hand side when viewed from the street.

3.3 These changes are shown on the following submitted drawings: 2024 / P / 03 H Proposed Floor Plans and 2024 / P / 04e Existing and Proposed Elevations. For the purpose of clarity, these modifications have been assessed on their own planning merits, and against the totality of the works that have been previously consented.

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. 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 Policy SWDP 21 of the Local Plan provides generic design principles for development proposals and states 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. Development 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. 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.

4.3 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special

regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

4.4 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

4.5 The following policies of the SWDP are relevant to the proposal:

SWDP 6 – Historic Environment

SWDP 21 – Design

SWDP 24 – Management of the Historic Environment

The National Planning Policy Framework (2023) (NPPF):

4.6 The NPPF (2023) 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.

4.7 On 6 March 2014 the Government published National Planning Practice Guidance (NPPG) to compliment the NPPF. It has been revised and updated and provides advice on the Historic Environment, Heritage Matters.

5. Planning History

5.1 There is an extensive planning history to the application site though none of it is considered directly relevant to the current applications. The main building has been in office use since at least 1964, first by an estate agent and more recently by a firm of solicitors.

5.2 However, recent planning records pertinent to the current full and listed building consent applications before committee, include the following noted applications as below in bold font:

21/00470/FUL and **21/00471/LB** for the mixed-use refurbishment retaining Commercial use (Class E) with 13 studios, which was approved in March 2023. The current applications relate to modifications to these previously approved and are considered to be the “fall-back” position.

22/00623/FUL, which secured planning permission for the rear of the plot, for the proposed erection of a two-storey building to provide four residential apartments (4 x 1 bed units) alongside associated amenity space, refuse and cycle storage to the rear of 42 Foregate Street (Revised Description following amendments). Approved under Delegated powers on 10 January 2023.

6. Consultations

6.1 Formal public consultation, including display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and amended proposals and are summarised as follows:

Neighbours and other third-party comments

No specific comments raised in respect of the Listed Building Consent application.

- 6.2 The following **statutory and non-statutory responses** have been received:
- 6.3 **Worcester City Council Archaeological Officer:** No objections subject to conditions to secure a suitable programme of archaeological work, including a Written Scheme of Investigation (WSI).
- 6.4 **Worcester City Council Conservation Officer:** No objections, noting (inter alia) that these changes to the consented scheme do not change my previously expressed opinion that this proposal will be Sustaining and Enhancing upon the significance of the heritage asset and will have a positive impact upon the conservation area.
- 6.5 **Conservation Area Advisory Panel:** No objections, noting that this revision is an improvement over the consented one.
- 6.6 **Historic England:** Offer no advice.
- 6.7 **Worcester City Council Landscape Officer:** No objections provided there are no changes adding any roof or roof void works.
- 6.8 **Worcester Civic Society:** The proposed development would bring the listed building at 42 Foregate Street into use, having been vacant for a considerable period of time. Through the proposed works, the development would remove non-original fabric from the building and would better reveal the historic nature, character and significance of the building. This would be in accordance with the relevant local and national planning policies. In addition, the reduction in total number of units and the provision of larger units on the first and third floors is supported. Planning permission should be granted subject to the same conditions as previous approval with minor changes to made to plan references: 2024-P-04D 2024-P-03G.
- 6.9 **West Mercia Police:** There are limited within the Design and Access statement for security, this proposed application is within the heart of Worcester City, safety, and security for all is paramount. Residents of Houses of Multiple Occupation (HMO) do have the right to feel safe and secure in their accommodation, badly designed HMOs are prone to increased levels of crime and disorder, with this in mind I have the follow comments. There is unrestricted access to the rear of the property where there is a shared entry for commercial and residential units, consideration should be given to include fencing and gating to this area, to be operational from both sides, this will reduce the fear of crime for all users and prevent unwanted access to this area which could lead to criminality. The bike area for needs to be suitably secured. Appropriate lighting is required for door sets. There is no mention of mail delivery, facilities should be provided that enable mail to be delivered to safe and secure areas, please note that a tradesperson or timed-release mechanisms are not permitted.

All residential doors should be dual certified for both security, smoke and fire, the doors should meet security standard PAS24:2016 / PAS24:2022 or equivalent.

The property as it is over two floors, a visitor door entry system and access control system that meets the SBD specification as outlined in sections of Secured by Design guides is required.

Existing windows which are to be retained and repaired do require appropriate security. Please see the police preferred specification in the Secured by Design Homes 2022 guide for standards. SbD is a nationally recognised award aimed at achieving a

minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures.

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

7. Planning Assessment

- 7.1 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.
- 7.2 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".
- 7.3 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.
- 7.4 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.

7.5 The NPPF defines a "heritage asset" as:

"A building, monument, site place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest". The definition includes both designated heritage assets (of which, Listed Buildings and Conservation Areas are relevant here) and assets identified by the local planning authority (including local listing).

7.6 'Significance' is defined within the NPPF as being: "the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives from a heritage asset's physical presence, but also from its "setting". The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss should require clear and convincing justification.

7.7 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.

7.8 Paragraphs 189-208 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.

7.9 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 **positive impact** upon the conservation area and would be Sustaining and Enhancing upon the significance of the heritage asset, being the Grade II listed building.

7.10 It is considered that the proposed conversion of 42 Foregate Street from the existing offices to the mixed commercial use at ground floor level and the flats in the upper floors would better reveal the original and historical nature of the listed building while removing non-original fabric from the building and retaining the original fabric. Many partitions added over the decades of office use would be removed and the rooms would be returned to their original sizes and configurations. This would be of significant benefit to the historical character of the building. No objections are expressed to this aspect of the proposals. The retention of commercial activity on the Foregate Street frontage is also welcomed in historical terms. The development also proposes repair

works to the windows where necessary. If carried out in a sympathetic manner, this would not cause harm to the historic nature of the listed building.

- 7.11 The original appearance of the building has not changed significantly while the proposed development would remove the non- original stud wall partitions in the building at first floor level and above, thereby returning these floors of the building to their original form and layout (and in doing so, would have a beneficial impact upon the historic character and nature of the listed building). Given that the original appearance of the building at these levels has not changed significantly and given that limited changes are proposed as part of this application, this part of the development would preserve the character and appearance of the Foregate Street and The Tything Conservation Area. The development also proposes repair works to the windows where necessary: done sympathetically, they would also preserve the character and appearance of the Conservation Area, whilst an amended ground floor layout and rear external amenity space and new windows to the main ground floor front plate glass to enable ventilation/opening are proposed, these would be in keeping with the window to the left-hand side when viewed from the street.
- 7.12 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 (2023).

8. Conclusion and planning balance

- 8.1 The proposed development would bring the listed building at 42 Foregate Street into use, with it having been vacant for three years. Through the proposed works, the development would remove non- original fabric from the building and would better reveal the historic nature, character and significance of the building. This would be in accordance with the relevant local and national planning policies.

9. RECOMMENDATION

- 9.1 It is recommended that the application for listed building consent be **approved subject to the following planning conditions:**

1. The works to which this Listed Building Consent relates must be commenced before the expiration of three years beginning with the date of this consent.

Reason: To conform with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act

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;

2205 - PP – 02; 2024 / PP / 01; 2024 / P / 04e; 2024 / P / 03 H; 2024 / P / 04D; 2024 / P / 03 G; Design and Access Statement (unnumbered) and Heritage Statement (June 2021).

REASON: To ensure compliance with the approved scheme.

3. Before the first use/occupation of the development hereby permitted a scheme of noise attenuation shall be submitted to and approved in writing by the local planning authority. The scheme shall include noise mitigation measures as appropriate to

minimise the level of noise experienced by the residents of the development from Foregate Street and from the commercial and the other residential units in the property and how the measures shall be installed in the building without harming the historic fabric of the building. The scheme shall be implemented before the first use of the development and shall be retained thereafter.

REASON: To ensure the proposal preserves residential amenity and to prevent unacceptable noise pollution to the detriment of human health and to ensure that the development has an acceptable impact upon the fabric of the listed building, in accordance with policies SWDP6, SDWP24 and SWDP31 of the South Worcestershire Development Plan.