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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Wednesday, 12 January 2022
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454529)

<b>AGENDA</b>		
<b>Item</b>		<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b>		
<b>2. DECLARATION OF INTERESTS</b>		
	Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>		
	To confirm and sign the minutes of the meeting held on 2 November 2021.	<b>3 - 6</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>		
	Report of the Head of Planning and Infrastructure.	<b>7 - 10</b>

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<b>21/00094/FUL : Change of use to six apartments and one dwelling, external alterations, erection of cycle and bin stores and provision of landscaping</b>  Kilwardby House 6 - 8 Kilwardby Street Ashby De La Zouch Leicestershire LE65 2FU	<b>PERMIT</b>	<b>11 - 30</b>
<b>A2</b>	<b>21/00095/LBC: Internal alterations including the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures and external alterations including the installation of replacement windows and doors (listed building consent)</b>  Kilwardby House 6 - 8 Kilwardby Street Ashby De La Zouch Leicestershire LE65 2FU	<b>PERMIT</b>	<b>31 - 38</b>

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 2 November 2021

Present: Councillor N Smith (Chairman)

Councillors R Boam, D Bigby, A J Bridgen, D Everitt, S Gillard, J Hoult, J Legrys, R L Morris, J G Simmons and M B Wyatt

In Attendance: Councillors R Johnson, K Merrie MBE, D Harrison and R Canny

Officers: Mr C Elston, Jones, Mrs C Hammond, Ms S Grant, Mr J Knightley and Ms D Woods

### **37. APOLOGIES FOR ABSENCE**

There are no apologies received

### **38. DECLARATION OF INTERESTS**

In accordance with the Code of Conduct, Members declared the following interests:

Councillor D Bigby declared a non-pecuniary interest in item A1, application number 21/00471/REMM, as he had opposed the associated outline permission through his role on Ashby Town Council Planning Committee, but had come to the meeting with an open mind and would make his decision on the facts presented to him at the meeting.

Councillor J Hoult declared a non-pecuniary interest in item A1, application number 21/00471/REMM, as the Chairman of Ashby Town Council Planning Committee and that he had voted against the application in a different context, but he had come to the meeting with an open mind.

Members declared that they had been lobbied without influence in respect of the following applications but had come to the meeting with an open mind.

Item A1, application number 21/00471/REMM

Councillors D Bigby, J Legrys and N Smith

### **39. MINUTES**

Consideration was given to the minutes of the meeting held on 5 October 2021.

It was moved by Councillor N Smith, seconded by Councillor J Legrys and

RESOLVED THAT:

The minutes of the meeting held on 5 October 2021 be approved and signed by the Chairman as a correct record.

### **40. PLANNING ENFORCEMENT UPDATE Q2 2021/22**

The Senior Planning Enforcement Officer presented the report to members.

The Head of Planning and Infrastructure took the opportunity to advise members that the Planning Enforcement team now sat within the Planning and Development service, and should members wish to discuss with him the progress of individual matters he would be happy to do so.

It was moved by Councillor J Hoult, seconded by Councillor R Morris and

RESOLVED THAT:

The information contained within the report be noted.

#### **41. PLANNING APPLICATIONS AND OTHER MATTERS**

Consideration was given to the report of the Head of Planning and Infrastructure, as amended by the update sheet circulated at the meeting.

- 42. A1**  
**21/00471/REMM: ERECTION OF A ROAD RELATED STORAGE, MAINTENANCE AND MANAGEMENT FACILITY AND ASSOCIATED SITE WORKS (RESERVED MATTERS TO OUTLINE PLANNING PERMISSION REF.17/01081/OUTM)**  
 Land Off Lountside, Ashby De La Zouch  
**Officer's Recommendation: PERMIT**

The Principal Planning Officer presented the report to members.

Mr W Moore, objector, addressed the committee highlighting that the application sought to put a large building in the centre of a countryside area with a predicted 30 HGV movements per hour, adding that no traffic risk assessment had been completed. He raised concerns over the additional pollution that would occur into the River Mease through stormwater, sewage discharge and fuel discharged from the vehicles visiting the site, and the visual impact the unit would have on the surrounding amenities.

Councillor D Harrison, ward member, addressed the committee reading extracts from a letter that had been received from an objecting business. He highlighted that the land had been designated as open countryside under policy S3 and that the proposal would have a detrimental impact on the businesses surrounding the area, therefore contravening policies S3 and D2. He noted that the proposal had been submitted with inadequate levels of detail, design information and technical assessment. He urged the committee to refuse the application.

In determining the application, members expressed concerns over the lack of information that had been provided by the applicant, the scale and height of the building that would be visually intrusive on the area, in particular the nearby hotel, and what the storage units would actually be used for. They felt that additional landscaping would be able to mitigate any noise issues.

Members noted that the external storage of aggregate materials had been removed and any deviation from the agreed layout would require a further application to do so, that the HGV turning had been improved, and that the proposed tree planting and design of the building had been changed to meet the request of the National Forest. They also had regard to the fact that conditions around landscaping, design and prevention of external storage of aggregate material could be added if members felt that it was required.

The recommendation to refuse the application on the grounds that it contravened policies S3 and D1 of the Local Plan as the proposed development, by virtue of its scale, massing, visual dominance and appearance, together with its proposed siting immediately adjacent to an existing estate road, would be out of character with existing development within the road-related services area, to the detriment of visual amenity was moved by Councillor D Bigby and seconded by Councillor J Hoult.

The Chairman put the motion to the vote. A recorded vote being required, the voting was as detailed below.

## RESOLVED THAT:

The application be refused on the grounds that it contravened policies S3 and D1 of the Local Plan as the proposed development, by virtue of its scale, massing, visual dominance and appearance, together with its proposed siting immediately adjacent to an existing estate road, would be out of character with existing development within the road-related services area, to the detriment of visual amenity.

<b>Motion to refuse the application on the grounds that it contravened policies S3 and D1 of the Local Plan as the proposed development, by virtue of its scale, massing, visual dominance and appearance, together with its proposed siting immediately adjacent to an existing estate road, would be out of character with existing development within the road-related services area, to the detriment of visual amenity (Motion)</b>	
Councillor Nigel Smith	Against
Councillor Russell Boam	Against
Councillor Dave Bigby	For
Councillor Alexander Bridgen	For
Councillor David Everitt	For
Councillor Stuart Gillard	Abstain
Councillor Jim Houl	For
Councillor John Legrys	For
Councillor Ray Morris	For
Councillor Jenny Simmons	Abstain
Councillor Michael Wyatt	For
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.05 pm

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## **APPENDIX B**

### **Report of the Head of Planning and Infrastructure to Planning Committee**

**12 January 2022**

### **PLANNING & DEVELOPMENT REPORT**

## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

For the purposes of Section 100(d) of the Local Government (Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

### **2. Late Information: Updates**

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

### **3. Expiry of Representation Periods**

In cases where recommendations are headed "Subject to no contrary representations being received by ..... [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Head of Planning and Infrastructure are material planning considerations and relate to matters not previously raised.

### **4. Reasons for Grant**

Where the Head of Planning and Infrastructure report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Planning and Infrastructure.

### **5. Granting permission contrary to Officer Recommendation**

Where the Head of Planning and Infrastructure report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, eg. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Head of Planning and Infrastructure.

## **6 Refusal contrary to officer recommendation**

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Head of Planning and Infrastructure.

## **7 Amendments to Motion**

An amendment must be relevant to the motion and may:

1. Leave out words
2. Leave out words and insert or add others
3. Insert or add words

as long as the effect is not to negate the motion

If the amendment/s makes the planning permission incapable of implementation then the effect is to negate the motion.

If the effect of any amendment is not immediately apparent the Chairman will take advice from the Legal Advisor and Head of Planning and Infrastructure/Planning and Development Team Manager present at the meeting. That advice may be sought during the course of the meeting or where the Officers require time to consult, the Chairman may adjourn the meeting for a short period.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

## **8 Delegation of wording of Conditions**

A list of the proposed planning conditions are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Head of Planning and Infrastructure.

## **9. Decisions on Items of the Head of Planning and Infrastructure**

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

**Kilwardby House 6 - 8 Kilwardby Street Ashby De La Zouch  
Leicestershire LE65 2FU**

**Report Item No**  
**A1**

**Grid Reference (E) 435603**  
**Grid Reference (N) 316692**

**Applicant:**  
**John Gillespie Sales Limited**

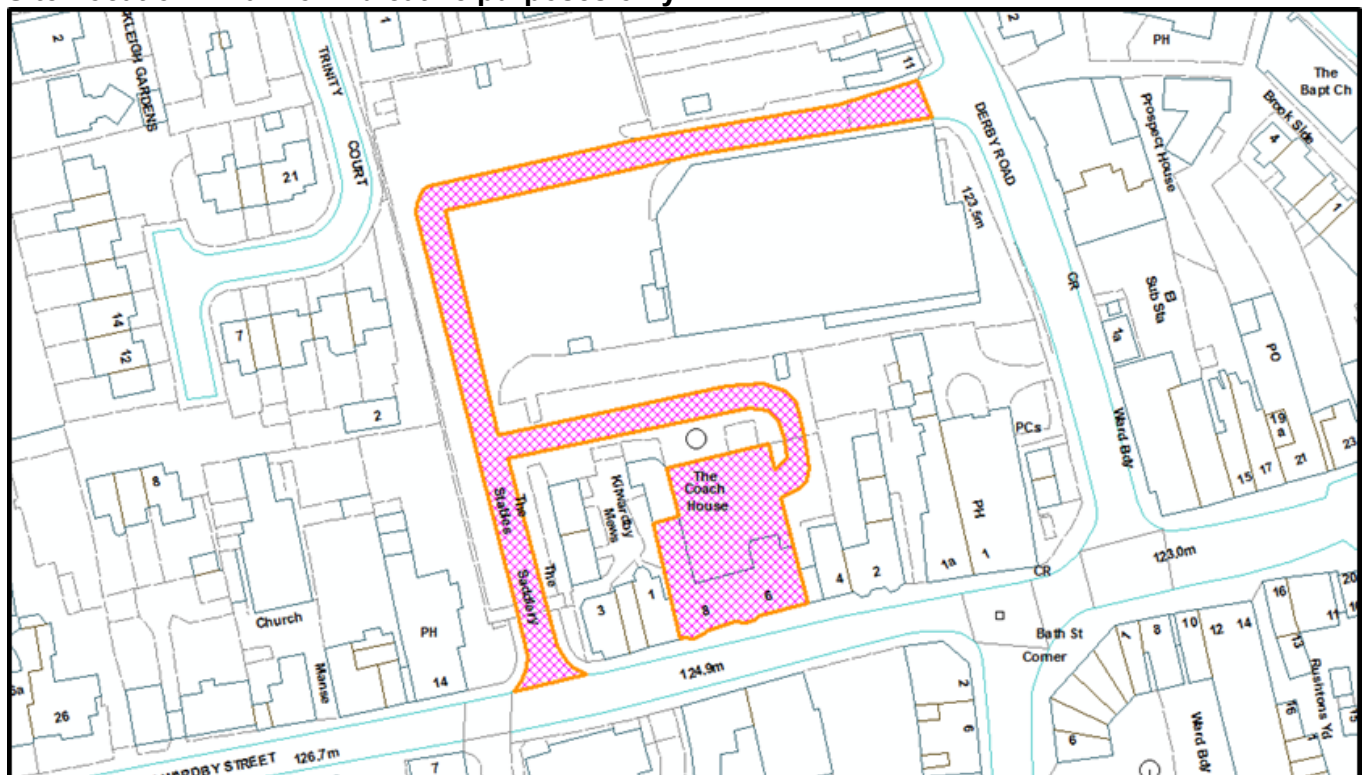
**Case Officer:  
Jenny Davies**

**Recommendation:**  
**PERMIT**

**Application Reference**  
**21/00094/FUL**

**Date Registered:**  
**2 February 2021**  
**Consultation Expiry:**  
**13 December 2021**  
**8 Week Date:**  
**30 March 2021**  
**Extension of Time:**  
**None Agreed**

### Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application is brought to the Planning Committee as the agent is related to Councillor Richard Blunt and objections have been received.

### **Proposal**

Planning permission is sought for the change of use to six apartments and one dwelling, external alterations, erection of cycle and bin stores and provision of landscaping at Kilwardby House, Nos. 6-8 Kilwardby Street, Ashby de la Zouch. The site is occupied by a three storey building that has been empty since November 2019 and was previously in use as offices. A car park to serve the proposal is located to the rear of the building which would be served by an existing private right of way via the adjacent Co-op car park.

### **Consultations**

Members will see from the main report below that a total of 12 letters of representation have been received from residents. 11 of these are in support of the proposal and the other raises queries regarding fire barriers. Ashby de la Zouch Town Council initially raised objections but now has no objections. The Council's Conservation Officer raises objections. All other statutory consultees have raised no objections.

### **Planning Policy**

The application site is located within the Limits to Development as defined in the adopted Local Plan and the adopted Ashby de la Zouch Neighbourhood Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local and Neighbourhood Plans and other relevant guidance.

### **Conclusion**

The key planning issues arising from the application details are:

- The principle of loss of the offices and the change of use to apartments and a dwelling
- Impact on the listed building and its setting, the setting of other listed buildings and the Ashby de la Zouch Conservation Area
- Impact on residential amenities
- Impact on highway safety
- Impact on a protected tree
- Impact on flood risk and surface water drainage
- Impact on the River Mease SAC
- Bin storage and collection arrangements

The report below looks at these details, and Officers conclude that the details are satisfactory. The proposal meets the requirements of relevant NWLDC policies, including the Good Design for North West Leicestershire SPD, as well as in the Ashby Neighbourhood Plan and the NPPF.

**RECOMMENDATION - THAT PLANNING PERMISSION BE GRANTED SUBJECT TO CONDITIONS**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the change of use to six apartments and one dwelling, external alterations, erection of cycle and bin stores and provision of landscaping at Kilwardby House, Nos. 6-8 Kilwardby Street, Ashby de la Zouch. The site lies on the northern side of the street and is adjoined by dwellings/flats to the west, offices to the east and the Co-op retail store and car park to the north, with residential and commercial properties lying to the west on the opposite side of the street.

Kilwardby House is a Grade 2 listed building and an application for listed building consent for the proposed works (21/00095/LBC) has been submitted concurrently. The site is occupied by a three storey property and its listing description states:

*Early C19. Stucco facade with plinth, eaves cornice and blocking course. Stucco bands at 1st and 2nd floor sill heights. 3 storeys.*

*No 8 (was No. 21 Kilwardby Street). 3 windows in symmetrical facade. 2 full height bows flank centre window. All barred sashes. Advanced round arched centre porch with panelled reveals and moulded architrave to modern door.*

*No 6 (was Nos. 23 and 25 Kilwardby Street). 1 window each, generally 3-light, unbarred sashes. Former No 23 has door with rectangular fanlight and flat canopy. Former No 25 has window inserted in former doorway which retains former round arch with moulded archivolt, keystone and pilasters*

The site also lies within the Ashby de la Zouch Conservation Area and forms part of a row of buildings that extends along the northern side of Kilwardby Street from its junction with Bath Street and Market Street to the exit from the Co-op's car park. The building has been empty since November 2019 and was most recently used as a solicitors' office.

The six apartments would be provided across the three floors, with the proposed dwelling being within the building's rear projection (part of which forms part of Kilwardby House, with the other part forming part of one of the adjacent dwellings to the west).

Some external alterations are proposed including the installation of replacement windows and doors but most of the alterations would be internal and include the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures.

The building is currently served by a rear car park, which is accessed from Derby Road through the Co-op car park, along a private drive at the rear of the site and then through the land to the rear of the adjacent property (No. 4 Kilwardby Street). A right of access is in place allowing access to the site along this route. The car park is exited by returning along the same route into the Co-op car park, and then exiting the Co-op car park onto Kilwardby Street (as a one way system is in place to enter and leave the Co-op car park). The existing car park would be split into a car park with nine spaces, a small garden area for Unit 1 and a communal garden area with bin and cycle store.

There are no trees or hedgerows within the site or on its boundaries. A sycamore tree that lies just outside the site on the land to the rear is protected by a Tree Preservation Order (T406).

Amended plans have been submitted to address officer concerns relating to loss of the office space, impacts on the listed building, residential amenities and bin storage. The precise dimensions of the proposal are available to view on the planning file.

The site lies within the Limits to Development as identified in the adopted North West Leicestershire Local Plan (2021) and is also within Ashby de la Zouch Town Centre. The site lies within the catchment area for the River Mease Special Area of Conservation.

Nos. 2, 3 and 4 Kilwardby Street, No. 10-12 Kilwardby Street (now known as Kilwardby Mews), the former Fallen Knight Hotel (Nos. 14-18 Kilwardby Street), The Manse at No. 20 Kilwardby Street, the Congregational Church, the Church of the Holy Trinity and Nos. 1 and 3 Market Street are all Grade 2 listed buildings. Nos. 7, 11 and 13 Kilwardby Street are considered to be undesignated heritage assets.

*Planning history:*

- brick up internal door opening at first floor level between no 4 and no 6 Kilwardby Street (20/00283/LBC) approved April 2020;
- installation of pattress plates and tie bars, and provision of internal restraint straps (listed building consent) (08/00140/LBC) approved March 2008
- installation of 3 no. brackets to front elevation of property (Listed Building Consent) (07/00725/LBC) approved June 2007;
- change of use to car park (85/0428) withdrawn;
- demolition of wall (listed building consent) (85/0208) approved June 1985
- change of use of garden to car park (85/0181) refused March 1985;
- conversion of electrical shop/office into solicitor's office (78/0539) approved June 1979.

## 2. Publicity

114 Neighbours have been notified.  
Press Notice published Leicester Mercury 17 February 2021.  
Site notice displayed 19 February 2021.

## 3. Summary of Consultations and Representations Received

### Statutory Consultees

**Ashby de la Zouch Town Council** initially objected on the basis that the car parking is insufficient for the number of properties being proposed and does not comply with our Neighbourhood Plan Policy S4, no.3: 'Adequate off-road parking should be provided to ensure highway safety & to enhance street scene in line with LCC standards'.

Following the submission of amended plans and additional information, the Town Council has no objections.

**Historic England** has no comments to make and suggests the Council seek the views of its specialist conservation and archaeological advisers, as relevant.

**Leicestershire County Council - Archaeology** recommends the imposition of a condition.

**Leicestershire County Council - Ecology** has no objections and requests the imposition of a note to applicant.

**Leicestershire County Council - County Highway Authority** has no objections subject to conditions.

**Leicestershire County Council - Lead Local Flood Authority** advises that it is not a statutory consultee for the application and refers to its Standing Advice.

**Natural England** advises that the proposal will not have significant adverse impacts on designated sites and has no objection.

**NWLDC - Conservation Officer** has raised objections and concludes that the proposal would result in less than substantial harm to the listed building.

**NWLDC - Environmental Protection** has raised some concerns regarding the potential for noise impacts on future residents.

**NWLDC - Planning Policy** initially raised an objection under Policy Ec3 of the Local Plan but following the submission of additional information advises that the requirements of Policy Ec3 have been met.

**NWLDC - Tree Officer** has no significant arboricultural concerns.

**NWLDC - Waste Services** has provided advice on the bin storage and collection arrangements.

### **Third Party Representations**

11 letters of representation have been received which are in support of the application.

One letter of representation has been received which queries what barriers to fire spread were installed or are to be installed in the building and requires assurance that there will be adequate fire barriers in the lofts between the dwellings.

All responses from statutory consultees and third parties are available for Members to view on the Council's website.

## **4. Relevant Planning Policy**

### **National Planning Policy Framework - July 2021**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are applied. The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8, 10 and 14 (Achieving sustainable development)  
Paragraph 11 (Presumption in favour of sustainable development)  
Paragraph 30 (Plan-making)  
Paragraphs 47, 48 and 55- 57 (Decision-making)  
Paragraphs 60, 69, 74 and 75 (Delivering a sufficient supply of homes)

Paragraph 84 (Building a strong, competitive economy)  
Paragraph 86 (Ensuring the vitality of town centres)  
Paragraph 92 and 93 (Promoting healthy communities)  
Paragraphs 104, 105 and 110-112 (Promoting sustainable transport)  
Paragraphs 119, 120 and 124 (Making effective use of land)  
Paragraphs 126, 130-132 and 134 (Achieving well-designed places)  
Paragraphs 152, 154, 157 and 167 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraphs 174, 180, 182-185 and 187 (Conserving and enhancing the natural environment)  
Paragraphs 194, 195, 197, 199-203 and 205-207 (Conserving and enhancing the historic environment)

**Adopted North West Leicestershire Local Plan (2021)**

The North West Leicestershire Local Plan forms part of the development plan and the following policies of the Local Plan are relevant to the determination of the application:

S1 - Future Housing and Economic Development Needs  
S2 - Settlement Hierarchy  
D1 - Design of New Development  
D2 - Amenity  
Ec3 - Existing Employment Areas  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
En1 - Nature Conservation  
En2 - River Mease Special Area of Conservation  
En3 - The National Forest  
En6 - Land and Air Quality  
He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment  
Cc2 - Water - Flood Risk  
Cc3 - Water - Sustainable Drainage Systems

**Adopted Leicestershire Minerals and Waste Local Plan (September 2019)**

The Leicestershire Minerals and Waste Local Plan forms part of the development plan although none of its policies are relevant to the determination of the application.

**Ashby Neighbourhood Plan (2018)**

The Ashby Neighbourhood Plan forms part of the development plan and the following policies of the Neighbourhood Plan are relevant to the determination of the application:

Policy S1 - Presumption in favour of Sustainable Development  
Policy S2 - Limits to Development  
Policy S4 - Design  
Policy S5 - Support to be Given to Brownfield Sites  
Policy H1 - Sustainable Housing Growth  
Policy H3 - Windfall Sites  
Policy H4 - Housing Mix  
Policy H5 - Affordable Housing  
Policy E1 - Employment Land and Buildings  
Policy T1 - Traffic Management  
Policy T4 - Walking and Cycling  
Policy HE1: Ashby De La Zouch and Heath End Conservation Areas  
Policy HE2: Areas of Archaeological Interest

Policy NE4: Nature Conservation  
Policy NE5: Trees and Hedgerows

### Other Guidance

Sections 66(1) and 72 Planning (Listed Buildings and Conservation Areas) Act 1990  
The Community Infrastructure Levy Regulations 2010  
The Conservation of Habitats and Species Regulations 2017  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System  
Planning Practice Guidance - November 2016  
River Mease Water Quality Management Plan - August 2011  
The River Mease Developer Contributions Scheme (DCS) - September 2016  
Good Design for North West Leicestershire SPD - April 2017  
National Design Guide - October 2019  
Leicestershire Highways Design Guide (Leicestershire County Council)  
Cycling Strategy SPD - Part 2 (Ashby de la Zouch) - September 2018  
Ashby de la Zouch Conservation Area Study and Appraisal - April 2001  
Making Changes to Heritage Assets - Historic England (2017)  
National Forest Strategy 2014-2024

## 5. Assessment

### Principle

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, comprises the adopted North West Leicestershire Local Plan (2021), the adopted Ashby de la Zouch Neighbourhood Plan (2018) and the adopted Leicestershire Minerals and Waste Local Plan (2019).

The application site lies within the defined Limits to Development within the Local Plan and the Neighbourhood Plan. Policy S2 of the Local Plan defines Ashby de la Zouch as a 'Key Service Centre' which are settlements that play an important role in providing services and facilities to the surrounding area, are accessible by some sustainable transport and supports a significant amount of development taking place. Policy S2 of the Neighbourhood Plan states that within the Limits to Development, development proposals will be viewed positively where they accord with other policies of the Neighbourhood Plan and other District and national planning policies, subject to detailed considerations.

The site is within the Ashby Town Centre as defined in the Local and Neighbourhood Plans but is not in the Primary Shopping Area. The proposal would result in the loss of office space, which is a 'main town centre use' as defined in the NPPF. However Policies Ec10 of the Local Plan and TC3 of the Neighbourhood Plan do not apply (as they relate only to the Primary Shopping Area). Policy EC12 of the Local Plan also does not apply as that relates to Local Centres only.

Policy Ec3 of the Local Plan is however considered to be relevant, site is considered to be within an existing employment area given the commercial uses that dominate the town centre, as is Policy E1 of the Neighbourhood Plan. Part 3 of Policy Ec3 states that in employment areas (that are not Primary Employment Areas), proposals for non-employment development will be supported, provided it can be demonstrated that it meets one of the following criteria:

- (a) The property has been vacant for at least six months and has been the subject to

genuine marketing for commercial (B class) uses for at least that period of time, at reasonable market values, and which has proved unsuccessful, or where the use is no longer economically viable;

(b) The site is no longer capable of meeting the needs of modern businesses;

(c) Continuation in employment use would be inappropriate in terms of adjoining uses or the amenity of the wider area.

Policy E1 supports the retention of sites/buildings that provide employment.

At paragraphs 84 and 93, the NPPF seeks the retention of accessible local services and seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

At paragraph 86 the NPPF also identifies that housing is acceptable as part of the mix of uses in town centres and recognises the role it can play in ensuring the vitality of town centres.

The Council's Planning Policy team initially objected as satisfactory evidence had not been provided to demonstrate that one of the three criteria of Policy Ec3 had been met. However following the submission of additional information regarding its limitations to meet modern business needs, the Planning Policy team are satisfied that criterion (b) of part 3 of Policy Ec3 has now been met. The property was first marketed in October 2019 and an offer made in July 2020. The Planning Policy team have also confirmed that the additional information confirms that the marketing requirements of Policy Ec3 have been met.

The building has been vacant since November 2019. It should also be taken into account that the site is located at the edge of the Town Centre, in a mixed residential/commercial area. There are no other shops, public houses or restaurants beyond this site (other than the exit from the Co-op store's car park) and the footfall is likely to be lower than in the core area of the town centre and the eastern end of Kilwardby Street. As such it is considered that the loss of the office space and the residential use of the building would not adversely impact on the vitality and viability of the town centre.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Council is able to demonstrate a five year supply of housing (with 20% buffer) against the housing requirement contained in the Local Plan.

Policy H4 of the Neighbourhood Plan requires developments to provide a range of housing, with at least 60% of new market housing in developments of five dwellings or more to have two or three bedrooms and a balance of accommodation including bungalows. All of the residential units would have two bedrooms and it would be difficult to require some three bedroom units or a better balance of accommodation given the constraints of the building due to its listed status and internal layout.

Given the range of services/facilities available in the town and that it is readily accessible via public transport, it is considered that the site is sustainable in terms of access to services/facilities.

In terms of environmental sustainability, the NPPF encourages the effective use of land in meeting the need for homes, and as much use as possible of previously developed land. The site falls within the definition of previously developed land, which is the most appropriate land for new development in the context of paragraph 119 of the NPPF.

Furthermore, as set out in more detail below, there would be less than substantial harm to the listed building due to some of the proposed internal alterations, although it is considered that this harm would be outweighed by public benefits. However the proposal would not result in any other unacceptable impacts on the natural or built environment. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area.

In conclusion, whilst the proposal would result in less than substantial harm to a heritage asset, this harm would be outweighed by the public benefits of the of the repair and bringing back into use of a Grade 2 listed building in the Conservation Area that is in a poor state of repair and has been empty since November 2019 along with the provision of new dwellings to make a small contribution to the Council's five year housing land supply. Furthermore the proposal would comply with Policies S2 of the Local Plan and Neighbourhood Plan and Policy Ec3 of the Local Plan. The re-use of previously developed land, the site's social sustainability credentials and limited economic benefits all weigh positively in the balance. The lack of unacceptable impacts on the natural or built environment is a neutral factor. Therefore in the overall balance it is considered that the proposal represents a sustainable form of development and is acceptable in principle.

### **Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building and its setting and the character and appearance of a Conservation Area, to have special regard to the desirability of preserving the building and its setting and to the desirability of preserving or enhancing the character or appearance of that area. Reference should also be made to paragraphs 197, 199 and 200 of the NPPF.

#### *Significance of the Heritage Assets*

In terms of heritage assets, the application site, Nos. 2, 3 and 4 Kilwardby Street, No. 10-12 Kilwardby Street (now known as Kilwardby Mews), the former Fallen Knight Hotel (Nos. 14-18 Kilwardby Street), The Manse at No. 20 Kilwardby Street, the Congregational Church, the Church of the Holy Trinity and Nos. 1 and 3 Market Street are all Grade 2 listed buildings. Nos. 7, 11 and 13 Kilwardby Street are considered to be undesignated heritage assets. The site lies within the Ashby de la Zouch Conservation Area.

The building lies on the edge of the medieval core of the town and is one of the last non-residential buildings at this end of the town centre. The building previously formed three separate buildings (formerly Nos. 21, 23 and 25 Kilwardby Street). No. 21 was the larger of the buildings with the two full height bow windows on either side of a central door, with Nos. 23 and 25 being two separate single fronted dwellings attached to the east. The majority of the building (the former Nos. 23 and 25 and the easternmost of the full height bay windows) date from 1890, with the remainder of the former No. 21 dating probably from the 1770s. The part dating from the 1770s was built as a dwelling, with the 19th century element built as an extension to the dwelling and purpose-built offices for Fisher, Jesson and Wilkins solicitors.

Given its imposing principal elevation, the building is visually prominent within Kilwardby Street. The building's rear elevation is less prominent in public viewpoints but can be seen from Trinity Court and from the Co-op store's car park.

The original building's external character has largely been retained as the majority of its original

and distinctive external features to its front elevation are still in place although a front door has been replaced with a window (although the door surround is still in place). The building's setting within Kilwardby Street is as part of a high quality and characterful terrace of buildings. Its setting when viewed from the rear is somewhat marred by the Co-op store and its car park which dominates the land to the rear of the site, and the building is also less prominent due to the differing rear projections and roof designs to the buildings on Kilwardby Street. Many of the buildings' original internal features remain intact and some distinctive features are in place, e.g. the dome rooflight, staircases, cornices, fireplaces and floor tiles.

The County Archaeologist advises that the building is or has the potential to constitute a heritage asset with archaeological and heritage interest.

The significance of this part of the Conservation Area comes from it forming the edge of the medieval core of the town, and being characterised by a mixture of building styles and ages, with buildings of a similar age, scale, design and position to Kilwardby House located on the northern side of the eastern end of the Street towards the town centre. The Conservation Area Appraisal notes that 'Many of the buildings along Kilwardby Street are of some pretension, either displaying fine red brickwork or a stucco render finish.' The height and scale of the buildings create an enclosed feel on the approach to the town centre. Further to the west along Kilwardby Street lies Holy Trinity Church with dwellings opposite.

#### *Impact on the Heritage Assets*

Significant weight is given to preserving the fabric and setting of the Grade 2 listed buildings and Conservation Area.

A limited number of external changes are proposed to the building relating to the replacement of some doors and windows within existing openings, reinstatement of a front door and the installation of obscure glazing to some windows. External soil pipes and vent outlets are also proposed. No new openings are proposed to be installed.

Most of the proposed changes would be internal, and include the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures.

As some features within the building may be lost as a result of the proposal, the County Archaeologist recommends the imposition of a condition to secure an appropriate level of building recording of both the interior and exterior of the building.

The Conservation Officer initially advised that no evidence of marketing had been submitted and alternative development options have not been considered. Two sets of additional information demonstrating the marketing that was undertaken and consideration of other uses of the building has been submitted. The Conservation Officer did not consider that the marketing efforts were genuine. The agent advises that the property was marketed but that there was no interest from any purchasers to keep the building as offices or as one building, and the only limited interest was to convert the building to residential use.

The agent has also submitted advice from local estate agents who are of the view that the residential use of the building would be its most viable alternative use, and also advise that given the building's considerable size, a company looking to take on that level of office space would be looking for a substantial amount of parking spaces (which cannot be provided at the site) and it is not clear whether the office market will recover from the impacts of the covid-19 pandemic. It is also advised that other main town centre uses, e.g. retail, restaurants etc would

not be suitable given the site's location at the edge of the town centre where there is substantially reduced footfall compared to Market Street.

These agents have also advised that upgrading the building to modern office requirements or introducing other non-residential uses may require similar internal alterations to those proposed as part of this application. Uses such as shops or restaurants are likely to need shop fronts to create a more active frontage which would significantly alter the character of the building, and even if these uses were provided at ground floor, the upper floors would need to be converted to residential use to ensure they did not remain empty. Furthermore as noted above the Council's Planning Policy team are satisfied with the evidence of marketing. Therefore it is considered that the site has been satisfactorily marketed and that satisfactory consideration of alternative uses has been undertaken, and that residential use is the most viable and suitable new use for the building.

There were a number of different elements of the original proposals that were not considered acceptable as they would detract from the historic characteristics and importance of the building, including the removal of an original secondary staircase within Unit 3, the insertion of a door in Unit 1 into a wall containing a glazed brick dado, the removal and installation of partition walls and the insertion of stud walls over locked doors, and objections were raised by the Council's Conservation Officer on such grounds.

The Conservation Officer also requested that an acoustic survey be undertaken before determination of the application so that any noise mitigation/ventilation measures required as a result of such a survey could be considered in terms of impact on the fabric of the listed building. However as set out below in the section of this report relating to residential amenities, an acoustic survey is not required.

Amended plans have been submitted throughout the course of the application to address most of the Conservation Officer's concerns relating to the internal and external alterations.

The windows that would be replaced are of poor design and the replacement windows would reflect the windows that are to be retained. The doors to be replaced are a mix of designs and the replacements would provide more consistency of design. The new front door (to serve Unit 1) would be installed within the original front door opening (its architrave and pilasters are still in place), and would mean that the original front door arrangements when the building was three separate buildings would be reinstated. The soil pipes and vent outlets would be of the same style and material as those already on the building.

The limited extent of external alterations would ensure that the building retains its current character, and the amendments would improve the overall appearance of the rear elevation. As such the proposal would not adversely impact on the setting of nearby listed buildings or the Conservation Area.

Many of the concerns relating to the internal alterations have been addressed. However the door proposed to be installed in the wall containing a dado rail in Unit 1 has not been omitted from the scheme. The agent and officers have considered whether a door could be installed elsewhere within Unit 1, or the internal layout amended.

The Conservation Officer is of the view that some of the internal alterations, including the insertion of the doors into the glazed brick dado, would result in harm as they would be contrary to advice in Historic England's document 'Making Changes to Heritage Assets', and that these alterations arise from the manner of the proposed subdivision of the building. He advises that

these harmful alterations may be avoided by changing the proposal so that the building is subdivided into a commercial unit on the ground floor, two dwellings and another unit used for commercial or residential purposes.

The agent has advised that providing fewer, larger dwellings within the building would not be viable as this would result in dwellings with little or no private garden space and there is a limited market for this type of property, and that there is strong evidence of a market within the town for two bedroom properties.

As noted earlier in the report, other non-residential uses would not be suitable given the site's location at the edge of the town centre and some commercial uses being likely to need shop fronts to create a more active frontage which would significantly alter the character of the building.

It is noted that some harm would result from the proposed layout, and it is regrettable that part of the glazed brick dado would be lost. However having regard to alternative uses or layouts not being viable or suitable, and that without a change in its use the building is likely to remain empty, it is considered that the proposed form of subdivision is acceptable. It is also noted that the majority of the brick dado would be retained.

The other amended internal alterations would result in the proposal being more sympathetic to the original layout and character of the building, and would ensure that many of the building's original features would be retained.

The bin and cycle store would be single storey and set away from the rear of the building. Some amendments have been made to improve its design and the Conservation Officer has not raised any objections. The immediate setting of the building would be improved through the formation of the communal garden which includes some soft landscaping and the small private garden to Unit 1.

Therefore it is considered that the proposal would have no adverse impacts on the nearby listed buildings and the Conservation Area and would result in less than substantial harm to the listed building. Considerable weight and importance is attached to this harm to the listed building. Paragraph 202 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.

The less than substantial harm to the listed building is in this case considered on balance to be outweighed by the public benefits of the repair and bringing back into use of a Grade 2 listed building in the Conservation Area that is in a poor state of repair and has been empty for over two years, since November 2019, along with the provision of new dwellings to make a small contribution to the Council's five year housing land supply. Therefore the proposal complies with the NPPF, Policy HE1 of the Local Plan and Policy S4 of the Neighbourhood Plan.

### **Visual Impact**

The need for good design in new residential development is outlined in Policy D1, Policies S4 and H3 of the Neighbourhood Plan, the Council's Good Design SPD, the National Design Guide and paragraphs 126 and 130 of the NPPF. Policy En3 of the Local Plan requires development in the National Forest to be appropriate to its Forest setting.

The site can be seen from and alongside land and buildings that lie outside the Conservation Area, namely the Co-op store's car park, the footpath link from this car park to Derby Road and

Trinity Court to the north of the site.

Limited external alterations are proposed to the rear elevation and no extensions are proposed. The changes to the car park and the bin and cycle store would not be visible from these areas due to the existing site boundary wall. There is space within the site for all the required elements, e.g. parking/turning, communal garden space, bin storage and so the development would not appear cramped.

As such it is considered that the proposal would not be significantly harmful to the character and visual amenities of the wider locality to the north of the site that lies outside the Conservation Area. and would comply with Policies D1 and En3 of the Local Plan, Policies S4 and H3 of the Neighbourhood Plan and the Council's Good Design SPD.

## **Residential Amenities**

### *Impacts on Existing Residents*

The proposal is unlikely to result in a significant increase in traffic using the private drive and car park to the rear of the site from the previous office use.

Part of the building's main rear projection is in separate ownership and occupied by a separate dwelling (The Coach House at Kilwardby Mews). This dwelling's eastern elevation and roofslope face into the site but contain no windows or rooflights. There are dormer windows in its western roofslope (which is at a lower level than parts of the rear and side elevations to Kilwardby House) but no rooflights. No new windows are proposed in the second floor of the building's northern elevation (where it adjoins The Coach House's western roofslope).

No new windows are proposed in the building's main western (side) elevation and two existing first and second floor windows would be bathrooms and so could be obscure glazed.

No new windows are proposed in the building's main eastern (side) elevation. An existing second floor window would serve a bedroom to Unit 6, and is immediately adjacent to a second floor window in the rear of No. 4, as well as overlooking first floor side windows in No. 4. There does not appear to be a flat in the upper floors of No. 4 but as a precautionary measure this side window would be obscure glazed, which is considered acceptable given that this bedroom would also be served another larger window.

Planning permission was granted in June 2018 for a dwelling at the rear of No. 2 Kilwardby Street (17/00279/FUL). It's not known if this permission has been implemented so consideration is given to the potential for impacts on this dwelling.

The first and second floor rear bedroom windows to Units 4 and 6 and their staircase would be between 14.5 and 20 metres from the side windows to the approved dwelling. There would not be a direct back to back relationship between these windows and there would be a more acute angle between the rear windows and the closer side windows. A two metre high wall on No. 2's boundary would significantly reduce the potential for direct overlooking of the garden area to the approved dwelling and whilst there may be some views of the end part of this garden from the second floor windows, this part is at least 20 metres away. An element of overlooking from these windows could also have taken place when the buildings were in use as offices. Views towards the approved dwelling and its garden from other first and second floor windows in the rear of the building and the eastern elevation of the main rear projection would be screened by the smaller rear elevation and would be between 17 and 28 metres away from the garden and 21 and 33 metres from the dwelling.

The first floor element of the smaller rear projection has side and rear windows that could overlook the approved dwelling and garden, and so amended plans have been submitted to show that its windows would be fully obscure glazed (as they are proposed for storage only).

There is potential for the flat roof to the smaller western projection to the rear of Unit 4 to be used as a balcony which could also result in overlooking and so a condition could be imposed to prevent this use.

The bin storage area would be 14 metres from The Coach House (which as noted above does not have any windows facing towards the site), and 18.5 and 12 metres respectively from the approved dwelling and its garden, and so given these distances is unlikely to result in adverse impacts to residents from noise, disturbance and smells.

### *Impacts on Future Residents*

Consideration needs to be given to the potential for adverse impacts on future residents of the site arising from existing businesses and community facilities, as required by paragraph 187 of the NPPF, to ensure these businesses and facilities do not have unreasonable restrictions placed on them in the future. The nearest businesses comprise the Co-op retail store to the rear and a retail unit across the road, offices and tutoring (including immediately adjacent at No. 4 and Kilwardby Mews), a café at No. 2, a pub 30 metres to the east and a car sales business, also across the road.

There will be some noise from comings and goings to these businesses but those closest to the site are unlikely to generate significant levels of noise and disturbance when in operation. In addition there are also other dwellings or flats closer and sometimes immediately above or adjacent to these businesses. As such these businesses are unlikely to adversely impact on the future occupiers of the proposed flats and dwelling.

The Council's Environmental Protection team has raised concerns that prospective occupiers of the proposed development would be exposed to significantly high levels of road traffic noise and has requested submission of an acoustic survey to assess noise from surrounding roads and any other identified noise sources. However it is not considered reasonable for such a survey to be undertaken, given that one was not requested in respect of other nearby applications for residential development on Kilwardby Street (e.g. the conversion of the former Fallen Knight Hotel).

Most of the bedrooms originally proposed at the front of the building adjacent to Kilwardby Street, in particular at ground floor, have been repositioned at the rear of the building, and whilst these bedrooms could be subject to noise and disturbance from use of the communal garden space, this is unlikely to be at significant levels.

Consideration has also been given to the potential for noise impacts within the building where living rooms/kitchens would be positioned above bedrooms. Whilst the Environmental Protection team advise that this matter would be dealt with under the Building Regulations, given the potential for any sound insulation to impact on the fabric of the listed building, details have been submitted during the course of the application.

Given the proximity of some habitable room windows in some of the proposed units, e.g. the first floor side and rear windows to bedrooms to Units 3 and 5, obscure glazing and non-openable elements are proposed to these windows. A side ground floor window to serve

Bins would be left for collection on Kilwardby Street, reached by taking the bins through the

communal garden area and ground floor passageway between Units 1 and 2 (more details of this are set out in the section of this report below relating to bin storage and collection arrangements). There may be some noise and disturbance from bins being taken along this route, in particular to the occupiers of Units 1 and 2, and some smells from the bins being left for collection adjacent to the front elevation of these units.

However bins would only need to be taken back and forth once a week and should not be left out on the street (other than just before and after emptying). The Council also has separate powers under the Environmental Protection Act to deal with noise and smells and to require bins to be moved out of the footway once they have been emptied. No comments have been received from the Council's Environmental Protection team in respect of this matter.

As such it is considered that the proposal would not adversely affect the amenities of occupiers of nearby dwellings from overlooking, loss of light or creation of an oppressive outlook, nor adversely affect the amenities of existing or future residents from or noise, disturbance or smells, and as such would comply with Policy D2 of the Local Plan, Policy S4 of the Neighbourhood Plan and the Council's Good Design SPD.

### **Highway Safety**

The County Highway Authority (CHA) advises that the proposed access arrangements to the site (from Derby Road through the Co-op car park, along a private drive at the rear of the site and then through the land to the rear of the adjacent property (No. 4), and exiting along the same route into the Co-op car park, and then onto Kilwardby Street) are acceptable. A right of access is in place allowing access to the site along this route.

Whilst there have been 14 recorded Personal Injury Collisions (PIC's) within 500m of either point of access within the last five years (to June 2021), the CHA advises that, it should be noted that the site is located in close proximity to the town centre, where typically it is not unusual to see a higher number of incidents occur. The CHA does not consider that the proposal would exacerbate the likelihood of further such incidents occurring.

Ashby de la Zouch Town Council initially objected to the application on the basis that the car parking is insufficient for the number of properties being proposed and so does not comply with Neighbourhood Plan Policy S4. The CHA advises that whilst the Leicestershire Highway Design Guide (LHDG) requires two-bedroom dwellings to have two car parking spaces, the LHDG also advises that where car ownership may be low, such as town centres, one space per dwelling is acceptable. The CHA advises that the proposed nine spaces, and the proposed cycle parking, is acceptable. Subsequently the Town Council has advised that it has no objections to the application.

The CHA has not raised any objections to the collection of bins from Kilwardby Street.

The CHA therefore advises that in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. The proposal therefore complies with Policies IF4 and IF7 of the Local Plan, Policies S4 and H3 of the Neighbourhood Plan and paragraphs 110 and 111 of the NPPF.

### **Trees/Hedgerows**

There are no trees or hedgerows within the site or on its boundaries. A sycamore tree that lies just outside the site on the land to the rear is protected by a Tree Preservation Order (T406).

The Council's Tree Officer advises that the potential impacts on this protected tree are likely to be limited as the area of the site within the tree's root protection area is existing hardsurfacing likely to have been in place for some time. As this area would remain for parking it's unlikely the tree's roots would be disturbed but if resurfacing took place the base layer would need to remain intact. Therefore conditions could be imposed relating to resurfacing of the car park and for protective fencing to be erected around the root protection area during construction works. As such the proposal would comply with Policy En1 of the Local Plan and Policies S4, H3 and NE5 of the Neighbourhood Plan.

### **Ecology**

There are not considered to be any sites of ecological importance on or close to the site. There is a tree adjacent to the site and an empty building would be converted. These are features that could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2017 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

Whilst a protected species survey was not submitted with the application, the County Ecologist advises that that the site is in an urban area well-lit by street lighting with limited opportunities for bat foraging and therefore a bat survey is not required. Notes to applicant could be imposed regarding bats and also breeding birds.

On this basis it is considered that sites of ecological importance and protected species would not be adversely affected by the proposal and the proposal complies with the Habitats Regulations 2017, Policy En1 of the Local Plan and Policy S4 and NE4 of the Neighbourhood Plan.

### **Flood Risk and Drainage**

The site is within Flood Zone 1 and is not within an area of low, medium or high risk of surface water flooding. Areas at low, med and high risk area of surface water flooding cover parts of the access route through the Co-op car park and along the private drive, but these areas already in use as to provide access to the Co-op and other sites on Kilwardby Street as well as for parking. Such areas also cover Kilwardby Street to the front of the site but no development is proposed here.

A condition relating to surface water would not need to be imposed as considered below in the section of this report relating to the River Mease SAC.

As such the proposal is unlikely to result in an increase in flooding on the site or elsewhere or have a significant impact on flood risk or drainage and so would comply with Policies CC2 and CC3 of the Local Plan and Policy S4 of the Neighbourhood Plan.

### **River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

As a result of the proposed development there could be an impact on the River Mease SAC, which may undermine its conservation objectives, from an increase in foul and surface water drainage discharge. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The proposal would result in the building being occupied by seven residential units. Previously the whole building was in use as offices. As such there could be an increase in occupancy of the site resulting in an increase in foul drainage discharge from the site. Additional foul drainage discharge from the site would therefore adversely impact on the SAC as it would pass through the sewage treatment works within the catchment area of the River Mease SAC and contribute to the raised phosphate levels in the river.

Discharge into the river from surface water disposal via a sustainable drainage system or via the mains sewer system can also result in an adverse impact on the SAC, including in relation to water quality and flow levels.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 182 of the NPPF. There is no capacity available under DCS1 or DCS2.

When the offices were in use, at least 42 staff occupied the building. Based on the average occupancy figures for two bedroom dwellings set out in DCS2, the seven proposed units would be occupied by 12-13 residents which is a lower occupancy rate. Whilst the Council cannot control the number of people living in the proposed units, it also could not control the number of staff that were occupying the former offices. In addition the use of modern more water efficient facilities if the building is converted would assist with a reduction in the level of foul discharge from the site. As such mitigation measures are not required.

Natural England has no objection as it considers that the proposal would not have significant adverse impacts on the SAC and SSSI.

In addition it is has to be considered that as offices are now in Use Class E, the use of the building could change under the Use Classes Order for a variety of other uses also in Class E (e.g. indoor sport/recreation/fitness, day nursery) without the need for planning permission or prior approval, and that such uses could generate a higher foul drainage discharge than the office use and the proposed residential units.

Given that the proposal relates to an existing building which has had previous uses, including offices, the flows from use of the building will already have been taken into account against the existing headroom at Packington Treatment Works, which serves this area. As such capacity is available at the relevant treatment works for foul drainage from the site.

There would be no increase in hardsurfacing nor are any new roofs proposed, and so a condition requiring discharge to soakaway or a sustainable drainage system is not required in this case, as there would not be an increase in surface water discharge to mains.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and Policies En1 and En2 of the Local Plan and Policies S4 and NE4 of the Ashby Neighbourhood Plan.

### **Bin Storage and Collection**

Bins for all seven units would be stored within a bin store within the communal garden area.

The Council's Waste Services team advises that the waste and recycling receptacles would need to be left out for collection at the front of the building on the Kilwardby Street footway.

In this case the bin store would be around 20 metres from Kilwardby Street, which is below the distance set out in the Building Regulations between where bins are stored and where bins are left for collection. There would also be a fairly level route through the site. Whilst the receptacles from seven units would need to be left out for collection on the footway at the same time, the Waste Services team is of the view that the footway appears to be wide enough to accommodate them. The CHA has not raised any concerns in respect of this matter.

The bin store and location for bin collection would not adversely impact on visual and residential amenities, the protected tree or highway safety as outlined earlier in this report.

It is therefore considered that there is not any policy justification to warrant a refusal of permission in respect of bin collection and storage. A note to applicant could be imposed advising that residents would need to leave their bins for collection on the footway, and that Council has powers to remove the bins from the footway once emptied.

### **Other Matters**

No request has been received from the Council's Environmental Protection team in respect of contaminated land. As such the proposal complies with Policy En6 of the Local Plan and Policy S4 of the Neighbourhood Plan.

No developer contributions have been sought as the number of units proposed falls below the thresholds for affordable housing as set out in the Local Plan and recently adopted SPD, for National Forest planting and for education, library, civic amenity sites and healthcare contributions.

In respect of matters raised in the letters of representation that have not been addressed above, matters relating to adequate fire barriers in the lofts between the dwellings is not a planning matter. The agent has also advised that one of the drawings notes that all the loft spaces between neighbouring properties are enclosed and bricked up, there are no shared loft spaces, and that one of the submitted plans is annotated to say that 'All existing and proposed party walls within loft space to have 60min fire rating to prevent spread of fire between residential units'.

### **Conclusion**

The proposal is acceptable in principle. Whilst the proposal would result in less than substantial harm to the listed building, this harm can be outweighed by public benefits. The proposal would not adversely impact on the character and visual amenities of the locality, residential amenities, highway safety, the protected tree, ecology, flood risk and the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

**RECOMMENDATION, PERMIT subject to conditions relating to the following matters:**

- 1 - time period
- 2 - approved plans
- 3 - archaeology historic building report
- 4 - tree protection
- 5 - external materials and internal and external details
- 6 - soft and hard landscaping and boundary treatments
- 7 - bin store
- 8 - external lighting
- 9 - highways - parking and turning
- 10 - tree mitigation measures if car park resurfaced
- 11 - obscure glazing and non-openable elements
- 12 - no extra windows in specific elevations
- 13 - removal of permitted development rights for Unit 3

Internal alterations including the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures and external alterations including the installation of replacement windows and doors (listed building consent)  
Kilwardby House 6 - 8 Kilwardby Street Ashby De La Zouch  
Leicestershire LE65 2FU

Report Item No  
A2

Application Reference  
21/00095/LBC

Grid Reference (E) 435603  
Grid Reference (N) 316692

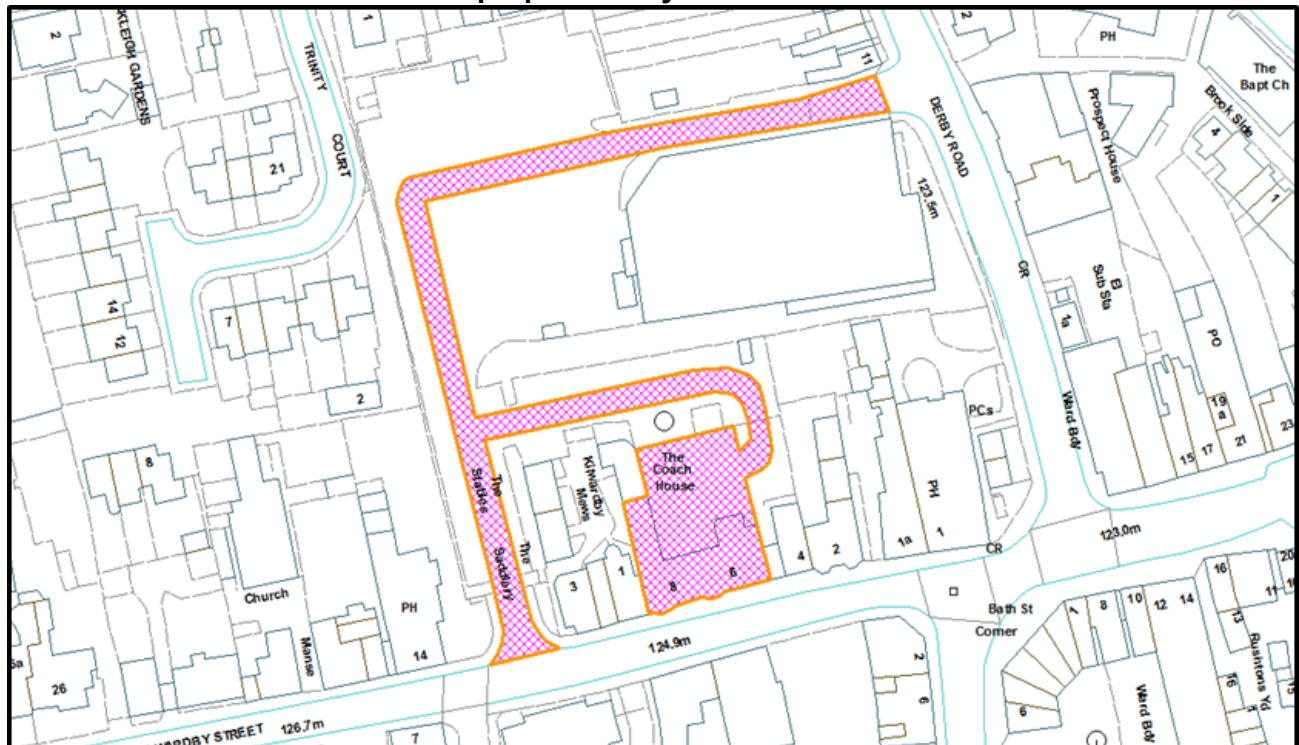
Date Registered:  
2 February 2021  
Consultation Expiry:  
13 December 2021  
8 Week Date:  
30 March 2021  
Extension of Time:  
None Agreed

Applicant:  
John Gillespie Sales Limited

Case Officer:  
Jenny Davies

Recommendation:  
PERMIT

#### Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application is brought to the Planning Committee as the agent is related to Councillor Richard Blunt and objections have been received.

### **Proposal**

Listed building consent is sought for internal and external alterations at Kilwardby House, Nos. 6-8 Kilwardby Street, Ashby de la Zouch. These alterations are proposed in connection with the proposed change of use of the building to six apartments and one dwelling, which is the subject of a separate Committee report. The site is occupied by a three storey building that has been empty since November 2019 and was previously in use as offices.

### **Consultations**

Members will see from the main report below that a total of 12 letters of representation have been received from residents in support of the proposal. Ashby de la Zouch Town Council initially raised objections but now has no objections. The Council's Conservation Officer, the Georgian Group and the Victorian Society raise objections.

### **Planning Policy**

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key planning issues arising from the application details are:

- Impact on the listed building.

The report below looks at these details, and Officers conclude that the details are satisfactory. The proposal meets the requirements of relevant NWLDC policies, as well as those in the NPPF.

### **RECOMMENDATION - THAT LISTED BUILDING CONSENT BE GRANTED SUBJECT TO CONDITIONS**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Listed building consent is sought for internal alterations, including the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures, and external alterations, including the installation of replacement windows and doors at Kilwardby House, Nos. 6-8 Kilwardby Street, Ashby de la Zouch. The site lies on the northern side of the street and is adjoined by dwellings/flats to the west, offices to the east and the Co-op retail store and car park to the north, with residential and commercial properties lying to the west on the opposite side of the street.

Kilwardby House is a Grade 2 listed building and an application for planning permission its change of use to six apartments and one dwelling, external alterations, erection of cycle and bin stores and provision of landscaping (21/00094/FUL) has been submitted concurrently. The site is occupied by a three storey property and its listing description states:

*Early C19. Stucco facade with plinth, eaves cornice and blocking course. Stucco bands at 1st and 2nd floor sill heights. 3 storeys.*

*No 8 (was No. 21 Kilwardby Street). 3 windows in symmetrical facade. 2 full height bows flank centre window. All barred sashes. Advanced round arched centre porch with panelled reveals and moulded architrave to modern door.*

*No 6 (was Nos. 23 and 25 Kilwardby Street). 1 window each, generally 3-light, unbarred sashes. Former No 23 has door with rectangular fanlight and flat canopy. Former No 25 has window inserted in former doorway which retains former round arch with moulded archivolt, keystone and pilasters*

The site also lies within the Ashby de la Zouch Conservation Area and forms part of a row of buildings that extends along the northern side of Kilwardby Street from its junction with Bath Street and Market Street to the exit from the Co-op's car park. The building has been empty since November 2019 and was most recently used as a solicitors' office.

Some external alterations are proposed including the installation of replacement windows and doors but most of the alterations would be internal and include the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures.

Amended plans have been submitted to address officer concerns relating to impacts on the listed building. The precise dimensions of the proposal are available to view on the planning file.

#### *Planning history:*

- brick up internal door opening at first floor level between no 4 and no 6 Kilwardby Street (20/00283/LBC) approved April 2020;
- installation of pattress plates and tie bars, and provision of internal restraint straps (listed building consent) (08/00140/LBC) approved March 2008
- installation of 3 no. brackets to front elevation of property (Listed Building Consent) (07/00725/LBC) approved June 2007;
- change of use to car park (85/0428) withdrawn;
- demolition of wall (listed building consent) (85/0208) approved June 1985

- change of use of garden to car park (85/0181) refused March 1985;
- conversion of electrical shop/office into solicitor's office (78/0539) approved June 1979.

## 2. Publicity

114 Neighbours have been notified.  
Site Notice displayed 12 February 2021.  
Press Notice published Leicester Mercury 17 February 2021.

## 3. Summary of Consultations and Representations Received

### Statutory Consultees

**Ashby de la Zouch Town Council** initially objected on the basis that the car parking is insufficient for the number of properties being proposed and does not comply with our Neighbourhood Plan Policy S4, no.3: 'Adequate off-road parking should be provided to ensure highway safety & to enhance street scene in line with LCC standards'.

Following the submission of amended plans and additional information, the Town Council has no objections.

**NWLDC - Conservation Officer** has raised objections and concludes that the proposal would result in less than substantial harm to the listed building.

**The Georgian Group** has registered a formal objection and considers that the application should be refused.

**The Victorian Society** endorses the objection of the Georgian Group and advises that the authority refuse consent.

### Third Party Representations

12 letters of representation have been received which are in support of the application.

All responses from statutory consultees and third parties are available for Members to view on the Council's website.

## 4. Relevant Planning Policy

### National Planning Policy Framework - July 2021

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are applied. The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 194, 195, 197 and 199-202 (Conserving and enhancing the historic environment)

### Adopted North West Leicestershire Local Plan (2021)

The North West Leicestershire Local Plan forms part of the development plan and the following policy of the Local Plan are relevant to the determination of the application:

He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment

**Ashby Neighbourhood Plan (2018)**

The Ashby Neighbourhood Plan forms part of the development plan although there are no policies in the Neighbourhood Plan relevant to the determination of the application:

**Other Guidance**

Section 16 - Planning (Listed Buildings and Conservation Areas) Act 1990

Ashby de la Zouch Conservation Area Study and Appraisal - April 2001

Making Changes to Heritage Assets - Historic England (2017)

**5. Assessment**

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant listed building consent, to have special regard to the desirability of preserving the building or any features of special architectural or historic interest that the building may possess. Reference should also be made to paragraphs 197, 199 and 200 of the NPPF.

*Significance of the Heritage Assets*

The building lies in the Ashby de la Zouch Conservation Area on the edge of the medieval core of the town and is one of the last non-residential buildings at this end of the town centre. The building previously formed three separate buildings (formerly Nos. 21, 23 and 25 Kilwardby Street). No. 21 was the larger of the buildings with the two full height bow windows on either side of a central door, with Nos. 23 and 25 being two separate single fronted dwellings attached to the east. The majority of the building (the former Nos. 23 and 25 and the easternmost of the full height bay windows) date from 1890, with the remainder of the former No. 21 dating probably from the 1770s. The part dating from the 1770s was built as a dwelling, with the 19th century element built as an extension to the dwelling and purpose-built offices for Fisher, Jesson and Wilkins solicitors.

Given its imposing principal elevation, the building is visually prominent within Kilwardby Street. The building's rear elevation is less prominent in public viewpoints but can be seen from Trinity Court and from the Co-op store's car park.

The original building's external character has largely been retained as the majority of its original and distinctive external features to its front elevation are still in place although a front door has been replaced with a window (although the door surround is still in place). The building's setting within Kilwardby Street is as part of a high quality and characterful terrace of buildings. Its setting when viewed from the rear is somewhat marred by the Co-op store and its car park which dominates the land to the rear of the site, and the building is also less prominent due to the differing rear projections and roof designs to the buildings on Kilwardby Street. Many of the buildings' original internal features remain intact and some distinctive features are in place, e.g. the dome rooflight, staircases, cornices, fireplaces and floor tiles.

The County Archaeologist advises that the building is or has the potential to constitute a heritage asset with archaeological and heritage interest.

*Impact on the Heritage Assets*

Significant weight is given to preserving the fabric and features of the listed building.

A limited number of external changes are proposed to the building relating to the replacement of

some doors and windows within existing openings, reinstatement of a front door and the installation of obscure glazing to some windows. External soil pipes and vent outlets are also proposed. No new openings are proposed to be installed.

Most of the proposed changes would be internal, and include the removal and installation of partition walls, the permanent locking of some doors, insertion of new doors and the installation of sound insulation measures.

The Conservation Officer initially advised that no evidence of marketing had been submitted and alternative development options have not been considered. The Georgian Group considers that the harm to the building has not been justified as the building has not been effectively marketed at a realistic price to demonstrate that other less damaging solutions to the building's future are not available. The Victorian Society advises that in the absence of any evidence of marketing or a robust options appraisal, it cannot accept that the current proposals represent the optimum viable use for the building.

Two sets of additional information demonstrating the marketing that was undertaken and consideration of other uses of the building has been submitted. The Conservation Officer, the Georgian Group and the Victorian Society were reconsulted on this information. The Conservation Officer did not consider that the marketing efforts were genuine, the Georgian Group still considers that the building was not marketed at a realistic price and no further comments were received from the Victorian Society.

The agent advises that the property was marketed but that there was no interest from any purchasers to keep the building as offices or as one building, and the only limited interest was to convert the building to residential use.

The agent has also submitted advice from local estate agents who are of the view that the residential use of the building would be its most viable alternative use, and also advise that given the building's considerable size, a company looking to take on that level of office space would be looking for a substantial amount of parking spaces (which cannot be provided at the site) and it is not clear whether the office market will recover from the impacts of the covid-19 pandemic. It is also advised that other main town centre uses, e.g. retail, restaurants etc would not be suitable given the site's location at the edge of the town centre where there is substantially reduced footfall compared to Market Street.

These agents have also advised that upgrading the building to modern office requirements or introducing other non-residential uses may require similar internal alterations to those proposed as part of this application. Uses such as shops or restaurants are likely to need shop fronts to create a more active frontage which would significantly alter the character of the building, and even if these uses were provided at ground floor, the upper floors would need to be converted to residential use to ensure they did not remain empty. Furthermore as noted above the Council's Planning Policy team are satisfied with the evidence of marketing. Therefore it is considered that the site has been satisfactorily marketed and that satisfactory consideration of alternative uses has been undertaken, and that residential use is the most viable and suitable new use for the building.

There were a number of different elements of the original proposals that were not considered acceptable as they would detract from the historic characteristics and importance of the building, including the removal of an original secondary staircase within Unit 3, the insertion of a door in Unit 1 into a wall containing a glazed brick dado, the removal and installation of partition walls and the insertion of stud walls over locked doors, and objections were raised by the

Council's Conservation Officer, the Georgian Group and the Victorian Society on such grounds.

The Conservation Officer also requested that an acoustic survey be undertaken before determination of the application so that any noise mitigation/ventilation measures required as a result of such a survey could be considered in terms of impact on the fabric of the listed building. However as set out below in the section of this report relating to residential amenities, an acoustic survey is not required.

Amended plans have been submitted throughout the course of the application to address most of the Conservation Officer, the Georgian Group and the Victorian Society's concerns relating to the internal and external alterations.

The windows that would be replaced are of poor design and the replacement windows would reflect the windows that are to be retained. The doors to be replaced are a mix of designs and the replacements would provide more consistency of design. The new front door (to serve Unit 1) would be installed within the original front door opening (its architrave and pilasters are still in place), and would mean that the original front door arrangements when the building was three separate buildings would be reinstated. The soil pipes and vent outlets would be of the same style and material as those already on the building.

The limited extent of external alterations would ensure that the building retains its current character, and the amendments would improve the overall appearance of the rear elevation.

Many of the concerns relating to the internal alterations have been addressed. However the door proposed to be installed in the wall containing a dado rail in Unit 1 has not been omitted from the scheme. The agent and officers have considered whether a door could be installed elsewhere within Unit 1, or the internal layout amended.

The Conservation Officer is of the view that some of the internal alterations, including the insertion of the doors into the glazed brick dado, would result in harm as they would be contrary to advice in Historic England's document 'Making Changes to Heritage Assets', and that these alterations arise from the manner of the proposed subdivision of the building. He advises that these harmful alterations may be avoided by changing the proposal so that the building is subdivided into a commercial unit on the ground floor, two dwellings and another unit used for commercial or residential purposes.

The agent has advised that providing fewer, larger dwellings within the building would not be viable as this would result in dwellings with little or no private garden space and there is a limited market for this type of property, and that there is strong evidence of a market within the town for two bedroom properties.

As noted earlier in the report, other non-residential uses would not be suitable given the site's location at the edge of the town centre and some commercial uses being likely to need shop fronts to create a more active frontage which would significantly alter the character of the building.

No further comments have been received from the Victorian Society in respect of any of the amended plans and the Georgian Society reiterated its objection in respect of the first set of amended plans, but has not made any comments in respect of the several subsequent sets of amendments.

It is noted that some harm would result from the proposed layout, and it is regrettable that part

of the glazed brick dado would be lost. However having regard to alternative uses or layouts not being viable or suitable, and that without a change in its use the building is likely to remain empty, it is considered that the proposed form of subdivision is acceptable. It is also noted that the majority of the brick dado would be retained.

The other amended internal alterations would result in the proposal being more sympathetic to the original layout and character of the building, and would ensure that many of the building's original features would be retained.

Therefore it is considered that the proposal would result in less than substantial harm to the listed building. Considerable weight and importance is attached to this harm to the listed building. Paragraph 202 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.

The less than substantial harm to the listed building is in this case considered on balance to be outweighed by the public benefits of the repair and bringing back into use of a Grade 2 listed building in the Conservation Area that is in a poor state of repair and has been empty for over two years, since November 2019, along with the provision of new dwellings to make a small contribution to the Council's five year housing land supply. Therefore the proposal complies with the NPPF and Policy HE1 of the Local Plan.

#### **Other Matters**

The Town Council's initial objection related to the level of car parking, which cannot be considered as part of a listed building consent application but which has been considered as part of the concurrent planning application for this site.

#### **RECOMMENDATION, PERMIT subject to conditions relating to the following:**

- 1 - time period
- 2 - approved plans
- 3 - external materials and internal and external details