

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	17 NOVEMBER 2021
TITLE OF REPORT:	<p>210796 - THE PROPOSED REDEVELOPMENT OF LAND AND BUILDINGS AT BASTION MEWS TO CREATE A MIXED-USE INDEPENDENT QUARTER COMPRISING NEW COMMERCIAL FLOOR SPACE AND VISITOR ACCOMMODATION, ASSOCIATED DEMOLITION, USE OF EXTERNAL AREAS AS EVENTS SPACE AND ASSOCIATED WORKS OF ALTERATION TO NO.18 UNION STREET TO ENABLE A SECOND MEANS OF ACCESS/EGRESS. AT BASTION MEWS, HEREFORD, HEREFORDSHIRE, HR1 2BT</p> <p>For: Mr Manning per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210796&search-term=210796
Reason Application submitted to Committee – Redirection	

Date Received: 25 February 2021

Ward: Central

Grid Ref: 351266,240098

Expiry Date: 19th November 2021

Local Member: Cllr Jeremy Milln

1. Site Description and Proposal

- 1.1 This application relates to the Bastion Mews site which is a predominantly commercial mixed use area located in the centre of Hereford. The site lies to the south of Bath Street and east of Union Street, with existing access to the site via the latter.
- 1.2 The site lies within the central conservation area and also abuts the city walls, which are a Scheduled Ancient Monument. Bastion Mews is also considered a 'non-designated heritage asset'. The police station lies immediately south east of the site and the Magistrates Court opposite. There are listed buildings in the vicinity of the application site.
- 1.3 Bastion Mews has been acquired by the applicants, who run 'The Shack Revolution' from Units 16 and 17, and the associated courtyard. The venue has been extensively refurbished and the use of that premises has expanded to incorporate weddings and functions. At present, there is only one means of access and egress to The Shack Revolution via Union Street. As a consequence there is a cap on the number of guests to 130.

- 1.4 There are also a number of other commercial and residential uses which form part of the application site including retail/café units fronting Union Street, with residential apartments located in the upper floors and also within Bastion House. Further retail units within the site include the Bike Shop and Temple Records, both of which are to be demolished as part of the proposals.
- 1.5 An extract of the site location plan is provided below:
- 1.6 As part of the proposals, a second access route is provided via no. 18 Union Street which the applicant sets out is crucial to the viability of Bastion Mews as a whole.



- 1.7 Planning permission is sought for the redevelopment of land and buildings at Bastion Mews to create a mixed-use independent quarter comprising new commercial floor space and visitor accommodation. The scheme has been designed to be flexible and interchangeable to respond to changing demand. Additionally, permission is also sought for the use of external areas as an events space and for works to No.18 Union Street to enable a second means of access/egress to increase the capacity of The Shack Revolution. The documentation accompanying the application identifies the provision of the secondary access is crucial in terms of viability of the scheme as a whole. Amended plans have been received during the course of the application and re-consultation undertaken.

- 1.8 Key elements of the scheme have been set out below, together with extracts of submitted plans. Please note the plans below are not to scale and are for illustrative purposes.

Extract of submitted Block Plan (drawing no. 1694 200 - Koda Architects)



- 1.9 **Proposed demolition:** Proposed demolition comprises the garage (abutting the City Wall Scheduled Ancient Monument), the Bike Shop and the Music Shop. The applicant has already obtained Scheduled Monument Consent for the demolition of the garage.
- 1.10 **Bike Shop:** The proposals are for the erection of a structure comprising modular pods for flexible commercial uses falling within Class E of the Use Classes Order (Commercial, Business and Service).
- 1.11 At ground floor level, the modular pods are arranged to provide restaurant space with outdoor seating and a separate office/retail unit. A pod is proposed to be positioned upright to provide accessible WC facilities at ground floor and a staircase to the upper floors. The first floor space would be a mix of retail and office space, including the addition of an office above the existing office serving The Shack. At second floor, three modular pods are proposed. This is in response to the existing flats located to the north west.
- 1.12 Screening is proposed to prevent overlooking. Solar PV arrays are included on the pods which are orientated appropriately.

Extract of proposed bike shop submitted plans (drawing no. 1694 313 – Koda Architects)



001 | PROPOSED NORTH EAST ELEVATION
1:100 @ A1



002 | PROPOSED SOUTH EAST ELEVATION
1:100 @ A1



003 | PROPOSED SOUTH WEST ELEVATION
1:100 @ A1



003 | PROPOSED NORTH WEST ELEVATION
1:100 @ A1

- 1.13 **Music Shop:** The proposals for the music shop also include the erection of a building comprising repurposed modular pods which would also be for flexible commercial uses within Class E of the Use Classes Order 2020. This part of the scheme also includes short term visitor or student accommodation. The pods would be two storey in scale. Rainwater is to be harvested and held in containers for re-use, and PV panels are also located on the pods which are orientated appropriately.

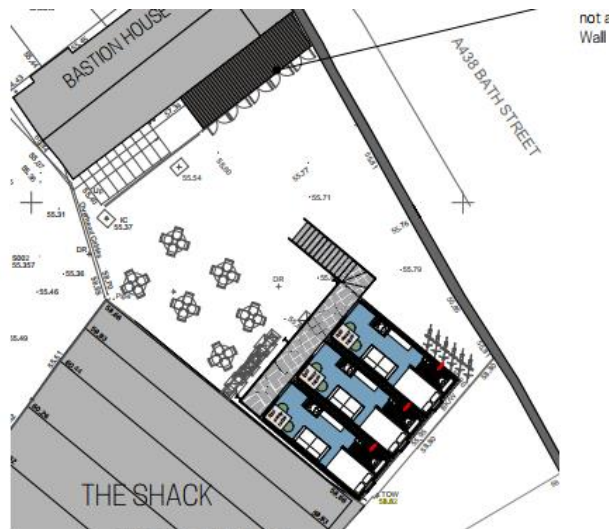
Extracts of submitted 'Music Shop' Plans (drawing no. 1694 315 - Koda Architects)



Extract of submitted 'Music Shop' Plans (drawing no. 1694 315 - Koda Architects) – view from north pavement of Bath Street.

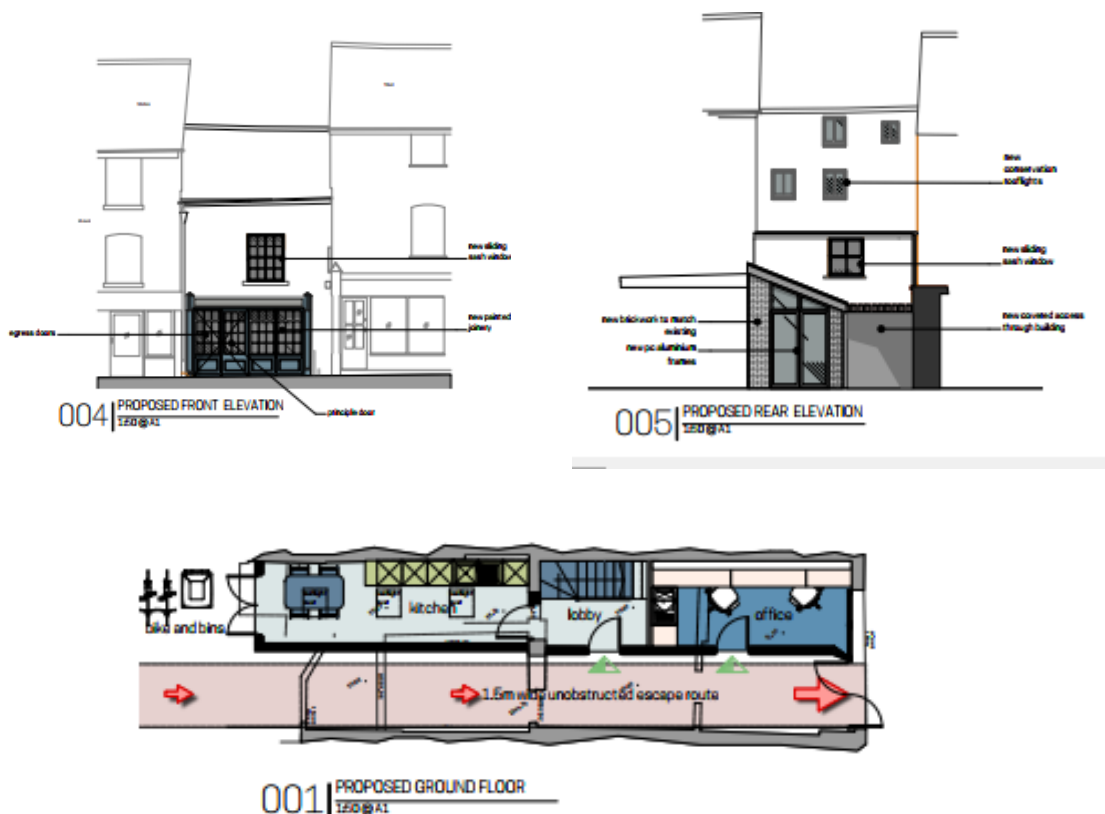


Extract of submitted plans showing revised location of bin store



- 1.14 **18 Union Street:** This property is a former shop. The proposals comprise the replacement of the existing shopfront with a new one to allow the incorporation of a 1.5 metre wide unobstructed means of escape. The building will also include a lobby, kitchen and office at ground floor level, and a living room, bedroom and shower room at first floor level. The removal of later flat roof element to the rear is also proposed.

Extracts of submitted 18 Union Street Plans (drawing no. 1694 402 - Koda Architects)



Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

- 1.15 **Extension to Unit 3:** A two storey extension is proposed to Unit 3 to provide retail floorspace at ground floor and retail/residential above. The extension is located on the site of a former building.

Extracts of submitted plans for proposed extension to unit 3 (drawing no. 1694 601 - Koda Architects)



- 1.16 **Other works:** The applicant also intends to undertake various other works to enhance the Bastion Mews area which will include investigating opportunities for utilising the Commercial Street elevation of Sensory and Rye for a mural display to incorporate site signage. This will be non-illuminated and intended to consolidate the existing signage. This does not form part of the current application and the applicant will obtain the necessary consent for signage work at a later date. It is anticipated design competitions would involve Hereford College of Arts and local/schools/colleges.
- 1.17 The overall intent of the scheme is to provide a vibrant independent quarter, building on the success of The Shack Revolution. The scheme is intended to diversify the city centre offer by creating flexible commercial space capable of easy reconfiguration which would be used by small scale start ups.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS)

SS1 – Presumption in favour of sustainable development
 SS4 – Movement and transportation
 SS5 – Employment provision
 SS6 – Environmental quality and local distinctiveness
 SS7 – Addressing climate change
 MT1 – Traffic management, highway safety and promoting active travel
 E1 – Employment provision
 E4 – Tourism
 E5 – Town centres
 LD1 – Landscape and townscape
 LD2 – Biodiversity and geodiversity
 LD3 – Green Infrastructure
 LD4 – Historic environment and heritage assets
 SD1 – Sustainable design and energy efficiency

Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

SD2 – Renewable and low carbon energy
SD3 – Sustainable water management
SD4 – Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans to be undertaken at least every 5 years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9 November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application

2.2 National Planning Policy Framework (July 2021)

2 – Achieving sustainable development
4 – Decision making
6 – Building a strong, competitive economy
7 – Ensuring the vitality of town centres
8 – Promoting healthy and safe communities
9 – Promoting sustainable transport
11 – Making effective use of land;
12 – Achieving well-designed places;
14 – Meeting the challenge of climate change, flooding and coastal change
16 – Conserving and enhancing the historic environment

2.3 The NPPF, together with all relevant documents and revisions, can be viewed at the following link: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2.4 Planning Practice Guidance Planning Practice Guidance, can be accessed through the following link: <https://www.gov.uk/government/collections/planning-practice-guidance>

3. **Planning History**

- 3.1 There have been a number of recent planning applications in respect of the site which are set out below.
- 3.2 **160452/F:** Change of use of premises to a mixed use A3 and A4 to include the enclosed courtyard next to Unit 17 – Approved with conditions 7th April 2016;
- 3.3 **162637/PAA:** Proposed licensed café, 37 Commercial Street – Prior Approval not required;
- 3.4 **1920262/F:** Add D2 (Assembly and Leisure) to existing A3 and A5 permissions (retrospective), 16 and 17 Bastion Mews, Hereford. Approved with conditions 31st March 2019;
- 3.5 **202601/K:** Removal of T1 and T2 due to ongoing damage to building and light formative pruning to T3 – Works can proceed 24th September 2020.

4. **Consultation Summary**

- 4.1 Statutory Consultations – Consultee responses can be viewed in full via the link below:
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210796&search-term=210796
- 4.2 ***Historic England – Provided initial consultation response dated 19th April 2021 suggesting changes made to the scheme. Following amendments and re-consultation, Historic England confirm no objection (24th September 2021).***

Initial Consultation Response (19th April 2021)

Historic England has concerns on heritage grounds that are limited to the music shop area of the proposed development. We assess the proposal as causing less than substantial harm as defined by the National Planning Policy Framework (NPPF), but capable of modification to avoid or minimise harm.

These concerns relate to the masking of the internal face of the city wall, particularly masonry components at low level. Also that the height and design of the development lessens the dominance of the city wall in views from Bath Street and impedes views across to St Peters Church and the Cathedral.

Modifications that will reduce the harm are set out below, including reducing the height of the development and re-siting of components from in front of the internal face of the city wall. There are also opportunities that can sustain, enhance and better reveal the heritage assets.

Scheduled Monument Consent (SMC) will be required for some of the proposals adjacent to the city wall that are within the scheduled monument area.

We look forward to further consultation on this scheme following amendment and would be willing to attend a site meeting to discuss.

Advice

The proposal is for the redevelopment of land and buildings at Bastion Mews to create a mixed-use independent quarter. The application is supported by well-presented documentation and there is much to be commended in its approach in considering heritage assets. In particular the limited ground interventions that will be required to achieve the design, reducing the risk of harm to below ground archaeological remains.

Our comments are limited to the music shop development proposal area, which is adjacent to Hereford city wall, a scheduled monument (National Heritage List for England 1005528). Some of the works are within the area of the scheduled monument and will require scheduled monument consent (SMC) in addition to planning permission.

Based on the information provided we have no comment to make on other aspects of the proposal. We recommend that you seek the advice of your specialist conservation and archaeological advisers regarding the whole scheme proposals.

Significance of heritage asset

The section of wall forming the northern boundary of the site is one of the highest surviving sections of the Hereford city wall circuit and is included within the 'Hereford city walls, ramparts and ditch' scheduled monument along with some land within the yard of the proposed development site (<https://historicengland.org.uk/listing/the-list/listentry/1005528>). Hereford's city defences are reviewed and described in Herefordshire Council's 'Hereford city defences: a conservation management plan' prepared in 2011. This area of the city wall is part of the 12th century expansion and reconfiguration of the city defences. It was originally constructed as a

gravel rampart with external ditch that was strengthened with a stone wall frontage in the 13th century.

Gravel rampart

Ground investigations within Bastion Mews to the west of Bastion House have confirmed the presence of a gravel layer at 0.7m to 2.0m below the current ground surface confirmed as surviving evidence of the rampart. These remains and the pre 12th century deposits they will seal provide an important understanding of the development of the city defences and the landscape they were constructed in. Remains of the rampart contribute to the significance of the scheduled monument and should be considered of equivalent significance as set out in the NPPF. They should be safeguarded in the design and careful detailing of the scheme.

City wall

This is one of the highest sections of the city wall and is, notwithstanding modification and a degree of rebuilding, very important to the appreciation of the scale and dominance in the landscape that the city defences would have had. The external face is masonry to full height. The internal face is masonry at the base to a height of about 60cm at the north end of the yard to about 1.5m at the southern end. The masonry appears to be pointed in lime mortar and therefore is likely to represent fabric contemporary with its use as a city wall defence. It will be important to maintain access and visibility of this internal face as part of proposals.

The masonry is overlain to the full height of the wall by a single phase of course brick construction. The height of this section of wall and the visibility of masonry fabric on both external and internal faces enables understanding of the monument and its former scale. It is of national significance and is designated as a scheduled monument.

Views across city wall

The view from Bath Street over the city wall includes the spire of St Peters Church and at greater distance the Cathedral tower. The low character of the development within this area maintains the visual relationship between the city defences and these landmarks of medieval Hereford, which would have been evident when the area was largely open ground as depicted on historic mapping. This connection with other medieval landmark buildings and open character contribute to the significance of the city wall.

Impact on designated heritage assets

Although the scheme is relatively low impact due to its choice of construction units reducing the need for substantive foundations and utilises existing drainage connections, the proposals have a number of impacts on the designated heritage assets.

Impact on dominance of city defences and relationship between city defences and other medieval landmark structures Available views online from the north side of Bath Street (in front of Hereford Justice Centre) indicate that 'The Shack' is just visible above the city wall top with both St Peters church and the Cathedral visible beyond. The proposal is taller and closer to the city wall than 'The Shack' and the pitched roof coverings will have fitted solar panels. This additional height and nature of roof fittings will be more prominent in views than 'The Shack'. It will compete with the city wall reducing its dominance and impede views to the Cathedral and to St Peters church. This represents a degree of harm to the designated heritage assets. Reducing the height of the proposal below the height of 'The Shack' would remove this impact.

Impact on internal face of city wall

The city wall has stonework at its lower levels that is contemporary with its use as a defensive circuit. The siting of the bin store and the cycle rack in front of this impedes physical and visual access to this fabric and therefore represents a degree of harm to the designated heritage assets. Resiting of the bin store and cycle rack away from the wall would remove this harm. Retaining the area adjacent to the city wall as open and accessible to visitors would be an enhancement.

Impact of foundation design, services and re-surfacing works

Although low impact, the foundation design, installation of services and re-surfacing will need careful consideration to ensure that the risk of harm to below ground remains of the medieval city defences is avoided. You should seek the views of your specialist archaeological adviser regarding these aspects of the proposal. Works to, and adjacent to, the city wall will require SMC in addition to planning permission. These include the bin store, the cycle rack, the steel mesh pergola and re-surfacing works. The applicant should address concerns set out in this letter, seeking views from Historic England as necessary including guidance on next steps should planning permission be granted.

Overall we assess the proposal as causing less than substantial harm as defined in the NPPF.

Policy

The information in this letter should be used to avoid or minimise any conflict between the conservation of the heritage assets and any aspect of the proposal in accordance with NPPF 190. Your authority should take account of the desirability of sustaining and enhancing the significance of heritage assets (NPPF 192) and the opportunities to enhance or better reveal their significance (NPPF 200). As some elements of the proposals will require SMC, your authority should bear in mind that the determination of SMC is made in accordance with the Government's 2013 policy statement (<https://www.gov.uk/government/publications/scheduledmonuments-policy> statement). Paragraphs 18 and 20 of this statement will be relevant to determination of SMC and we are able to advise further following adjustments to the scheme whether we would advise the Secretary of State to grant SMC.

Position

Historic England has some concerns on heritage grounds that are limited to the music shop area of the development. We assess the proposal as causing less than substantial harm. These concerns and the level of harm can be reduced through modification of the proposal. These modifications are sought to avoid or minimise any conflict between the heritage assets conservation and the scheme, and to sustain, enhance and better reveal their significance.

We advise the following modifications:

- Reduce the height of the music shop development to below that of The Shack to avoid harm to the dominance of the city wall and views over the city wall to St Peters and the Cathedral.
- Remove the bin store and cycle rack elements from in front of the city wall and relocate to adjacent to police station or beside The Shack.
- Retain the area adjacent to the city wall as open and accessible space for visitors

Opportunities to enhance the city wall should be sought through the scheme, in particular the careful removal of emulsion paint from the face of the wall. This will require SMC.

You should seek the views of your specialist conservation and archaeological advisers regarding the proposal. The design of foundations, connections for services and drainage provisions should be discussed with your archaeological adviser to ensure that harm to below ground archaeological

remains related to the city wall is minimise, and if necessary is informed by appropriate archaeological assessment.

We would be minded to advise the Secretary of State to grant SMC for re-surfacing works subject to their detailing to avoid harm to below ground archaeological remains, and likewise for the pergola subject to detail of construction and ensuring it does not inhibit access to the wall or appreciation of the scale of the wall.

We look forward to further consultation on this scheme following amendment and would be willing to attend a site meeting to discuss modifications.

Historic England Re-consultation (20th September 2021)

Thank you for your letter of 20 September 2021 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Advice

The further information is an amendment to the scheme. Our comments relate to the amendments to the music shop site only, whose site is bounded on the north by Hereford City Wall, a scheduled monument (National Heritage List for England 1005528). The scheduled area extends into the site and scheduled monument consent will be required for some works.

The amendments to the scheme includes the following changes:

- removal of the pitched roof elements and a lowering of the height of the structure by 150mm, which is to be achieved by a 150mm ground reduction of the current concrete slab.
- Adjustment or removal of elements adjacent to the city wall, including the cycle store, pergola and bin store have been removed or adjusted to leave the city wall visible to the visitor.
- Removal of paint from face of city wall.

The amendments have addressed our previous concerns, reducing the visual impact of the development on the experience of the city wall both from Bath Street and within the development site. The freeing of the elevation of the city wall within the development from elements of the proposal and the commitment remove masonry paint from its fabric are enhancements that will better present the monument to the public and is welcomed.

On the basis of the revised application we have no objection to the application on heritage grounds.

Works within the scheduled monument area will require scheduled monument consent (SMC) in addition to planning permission. These works will include the removal of the paint and any fittings from the elevation of the city wall, the siting of the bin store under the external stairs to Bastion House and adjustments, replacement or making good the existing ground surface. An informative note should be included with any forthcoming planning permission to instruct the applicant to contact Historic England to clarify the extent of works requiring SMC and make an application.

You should seek the views of your specialist conservation and archaeological advisers regarding the proposal. The extent of ground reduction to lower the height of the proposed structure and provision of any new underground services will need discussion with your archaeological adviser and may need to be informed by limited archaeological assessment if insufficient knowledge of existing ground make up is available. Further advice from Historic England may be required if this ground reduction extends into the scheduled monument.

Recommendation

Historic England has no objection to the application on heritage grounds.

Please include in informative note with any forthcoming planning permission to inform the applicant that the proposal will require scheduled monument consent in addition to planning permission and advise them to contact Historic England to discuss and make an application. Application forms and guidance can be viewed at <https://historicengland.org.uk/advice/planning/consents/smc>.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

4.3 *Natural England – No objection – based on the plans submitted, Natural England considers that the proposed development will not have adverse significant impacts on designated sites and has no objection – Response dated 20th September 2021.*

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site 1 Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

Natural England's advice on other natural environment issues is set out below. Page 2 of 5 explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have. European site - River Wye SAC - No objection Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

It is noted that foul drainage will be dealt with by connecting to the existing local mains sewer connection at the Eign Waste Water Treatment Works, discharging into the River Wye and surface water will be dealt with via a proposal for SuDS. River Wye SSSI – No objection Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Other advice Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A. We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

4.4 ***Welsh Water - No objection dated 22nd April 2021.***

We refer to your recent planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Sewerage

With regards to foul water we recommend that any existing drainage shall be utilised where possible to avoid the need to make any new connections to the 900mm public combined sewer in Union Street, as such a connection would need to be made by a Welsh Water framework contractor.

We can advise that Eign WwTW has a phosphate permit. This matter will need to be considered further by the local planning authority.

Surface Water Drainage

It is unclear how the application proposed to discharge surface water flows, however we advise that any drainage strategy should consider utilising a sustainable drainage technique.

In addition, please note that no highway or land drainage run-off will be permitted to discharge directly or indirectly into the public sewerage system. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Conditions

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers

and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

4.5 Internal Council Consultations

Archaeological Advisor - No objection dated 23rd April 2021.

Summary of advice.

This proposal, relating to a key location within the historic city, has been made following a long period of survey work and pre-application discussions. Entirely within the designated Area of Archaeological Importance or AAI, and directly abutting the scheduled city wall, the location is inarguably sensitive, and challenging to develop. However, and despite some remaining concerns, it is considered on balance that the proposals do have merit and are likely to be acceptable in principle, subject to any modifications thought necessary.

Therefore, I have no objection, and would view the proposal as being broadly in compliance with policy as regards archaeology. As would be expected with any permission in such a location, the exact scope and nature of all ground-disturbing works will need to be agreed, and proper archaeological mitigation will need to be put in place in order to record archive and publish any finds or remains of significance that may be encountered as a result of site works.

Details of advice.

The application site occupies a prominent but currently rather shabby and under-used location in the angle of Union Street and Bath Street. The largely extant and scheduled city wall forms the north eastern perimeter of the area proposed for re-development. Whilst the particular alignment of the city wall here is somewhat intermittent and has been subject to a number of rebuilds, it is nevertheless of considerable importance, and has been explicitly recognised as such in [e.g.] the 2011 Conservation Management Plan. The whole of the application site is within the designated Hereford Area of Archaeological Importance or AAI, and is self-evidently sensitive as regards potential risks to below-ground remains. On the whole, the application as made does properly describe and reflect this.

As would be the case for any proposed new structures of height here, there are potential risks also relating to the setting and appreciation of upstanding heritage assets in the close and further urban townscape, and how these might be perceived in relation to the city wall. These include, but are not limited to, the Cathedral, St Peters church, and the Town Hall. It is important to emphasise however that limited changes to this townscape may not necessarily be harmful ones, and that retention of an unsatisfactory status quo (as I consider exists in this instance) may in itself do harm. In terms of the long term and ongoing historic environment strategy adopted by Herefordshire Council, I am of the view that suitable redevelopment of challenging city centre sites should be encouraged, and indeed has been, throughout this millennium. Potential opportunity is easily lost; conservation is not fossilisation.

I am aware of the varied concerns that Historic England and others have in relation to (for instance) any additional 'overtopping' of the city wall, and the possible compromising of significant vistas in and out of Hereford's iconic medieval core. There may be a particular issue, which I would acknowledge, concerning the part loss of some views of and appreciation of the structure of St Peter's tower and other landmarks when seen from the vicinity of the Magistrates Court. On the other hand, such loss would I think be quite limited in the round and would likely be compensated for by the generally improved environment that would arise. Also, whilst accepting that there will be differing opinions about the form of the new structures, the flexible methodology adopted does have the dual benefit of both limiting ground disturbance and being readily reversible.

On current evidence from documentary surveys and field evaluation, although there is potential for the presence of below ground remains of interest across the site, the likelihood of major and at - risk remains of significance is only moderate. Nevertheless, if this proposal, or one substantially similar, were to be permitted, the Council needs to ensure that a full programme of archaeological work takes place. To be clear and for the avoidance of doubt, given the appreciable size of the site in its context, it is probable that some quite extensive archaeological works will be required with associated costs etc. These works would be needed despite the efforts made to lessen the ground impact already referred to. Although it would not in itself represent a reason to permit the application, the deposition of an appropriate excavation archive and report in due course would be a key public benefit to be sought here.

Conclusions.

1. In the final analysis, it is considered that the proposal would conserve and enhance the historic environment locally; it may also be seen as being in accordance with longer term imperatives for the historic city.
2. However, if the proposal is to be permitted, appropriate archaeological conditions must be imposed, in order to comply with local and national best practice guidance and policy.
3. The first of these conditions would in this case be the standard C50 submission of foundation design condition. The broad purpose of this condition would be to secure a minimally invasive groundworks specification that will help to protect the archaeological resource.
4. The second of these conditions would be the standard C48 archaeological survey and recording condition. The broad purpose of this condition would be to secure suitable archaeological recording (i.e. archaeological excavation) with its resultant benefits.
5. Given that the site is situated within the AAI, the developer will need to make a separate notification [to ourselves] under Section 35 of the 1979 Ancient Monuments and Archaeological Areas Act. Standard Informative I01.
6. Given that some (limited) locations of work appear to fall just within the scheduled monument, a separate Scheduled Monument Consent is likely to be required. The applicant should contact Historic England about this matter.

4.6 ***Ecology – No objection subject to confirmation from Natural England that they raise no objection and subject to inclusion of suggested conditions – response dated 31st August 2021. Natural England has subsequently confirmed no objection is raised.***

A relevant Habitats Regulations Assessment is triggered by this application located in the Wye SAC catchment. The completed assessment should be subject to formal consultation with Natural England PRIOR to any grant of planning consent.

Notes in respect of HRA process:

- The development proposes additional residential/holiday accommodation with associated increases in foul water flows.
- The change in business floor space and activities can be considered as nutrient neutral
- All foul water will be discharged to existing local mains sewer connections.
- At this location the mains sewer network is managed through the Welsh Water Wastewater Treatment Works at Hereford (Eign) that discharges in to the 'upper lower' Wye catchment of the River Wye SAC.
- Welsh Water have confirmed that a connection to the local mains sewer is achievable and that the local system has sufficient capacity to accommodate additional flows from this development.
- At the current time Natural England have not advised the LPA that the River Wye (upper lower catchment) is failing its conservation status.
- The additional foul water flows can be allocated within the development 'Phosphate Allowance' currently approved as part of the Core Strategy.
- Discharge of all foul water to existing mains sewer can be secured by condition on any planning consent granted.
- The applicant has advised that all surface water will be managed through appropriate Sustainable Drainage Systems (SuDS)
- The SuDS management of all surface water can be secured by condition on any planning consent granted
- Based on all current plans and information there are no other effects from this development on the River Wye SAC identified

Suggested Conditions:

Habitat Regulations – foul water management

All foul water shall discharge to the local Welsh Water mains sewer network managed through the Hereford (Eign) Wastewater Treatment Works unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.*

Habitat Regulations – surface water management

All surface water created by the development shall discharge to on-site Sustainable Drainage Systems unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3*

Other ecology comments

From available information and supplied preliminary ecological appraisal the LPA has no reason to consider that there are likely to be any effects on 'protected species from the proposed development. The applicant and their contractors in respect of all demolition, site preparation and construction works have their own legal duty of care to wildlife protection as afforded by the Wildlife & Countryside Act that lies above any conditions the LPA could include; with any breach being investigated by the local Wildlife Crime Officer from West Mercia police. A relevant informative is suggested for inclusion on any planning consent granted.

Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that further advice from a local professional ecology consultant is obtained.

As identified in supporting information and as identified in the NPPF, Council’s Core Strategy policies and ethos of the soon to be enacted Environment Bill all development should clearly demonstrate how it will deliver/has delivered and secured, net gain in local biodiversity potential – this ‘net gain’ should be clearly detailed and secured through condition.

NS based on CKR (modified to brexit) is relevant

Nature Conservation – Biodiversity and Habitat Enhancement

Prior to any new construction work above foundation level commencing a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including provision of ‘fixed’ habitat features such as habitat boxes supporting bird nesting (including provision for Swifts), bat roosting features and pollinator homes must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3.

- 4.7 ***Building Conservation Officer – Initial consultation response dated 1st July 2021. Further response received following amendments to drawings and re-consultation dated 30th September 2021. Heritage concerns still remain.***

Initial consultation response (1st July 2021)

Recommendation:

Whilst the site does afford positive development opportunities, and there is heritage support for its improvement, elements of the proposed scheme attract a heritage objection as they will result in harm to the surrounding historic environment.

Concerns relate primarily to the use of the shipping containers as the basis for design proposals, and the impact these will have on the character and appearance of the conservation area, the setting of adjacent heritage assets, and views from, and between, those assets.

As per Paragraph 193 of the NPPF, the conservation of heritage assets should be given *great weight* regardless of the degree of harm identified, which in this instance would be classed as *less than substantial*;

Case law has established that the statutory duties outlined in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 - for decision makers to pay *special regard* and *special attention* to preserving the setting of listed buildings, and preserving or enhancing the character and appearance of conservation areas - equates to a *strong presumption* against granting planning permission where harm is identified; and that a finding of *less than substantial harm* constitutes a *substantial objection*. (*Barnwell v East Northamptonshire DC* - [2014] EWCA Civ. 137).

In terms of terminology, *special regard* and *special attention* are equivalent to *great weight*.

Preliminary design revisions - following the provision of pre-application advice - were not provided for any assessment or heritage comment prior to this submission.

Legislation & Policy:

Planning (Listed Buildings and Conservation Areas) Act 1990

Sections 66(1) & 72(1)

National Planning Policy Framework

Paragraph 140 – Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 192 – In determining applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 – When considering the impact of a proposed development on the significance of a designated heritage asset, *great weight* should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 – Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 196 – Where a development proposal will lead to *less than substantial harm* to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 – Where a development proposal will affect the significance of a non-designated a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 200 – Local planning authorities should look for opportunities for new development within Conservation Areas..., and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Herefordshire Core Strategy

Policy LD1 –Development proposals should: demonstrate that character of the...townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;

Policy LD4 –Development proposals affecting heritage assets and the wider historic environment should: Protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible’.

Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;

Heritage Comments:

Heritage Statement:

The submitted heritage statement satisfied the provision requirement set out in Paragraph 189 of the National Planning Policy Framework, but failed to accurately describe the significance of the relevant heritage assets, their settings, and the positive characteristics within the city centre sector of the conservation area; nor did it accurately identify what impact the proposed scheme would have on those assets.

The largely superficial differences between schemes demonstrates what little influence it had on any meaningful amendments following its production, and that it merely served to justify previous designs which were identified as harmful.

As one example, and in relation to Bastion House, it chose to focus on lack of maintenance and condition issues rather than identifying its former associations with the City Prison (1842-1878), and corresponding architectural merits/value (connections evidenced by documentary references, historic mapping, its distinctive orientation in relation to the prison, and the containment of architectural features to its eastern elevation).

Modern structures within the site were given a low significance rating, when in reality they have no significance, and removal of the music and bike units was considered to be positive, yet retention of the other detrimental structures was not assessed.

An erroneous *industrial aesthetic* interpretation was relied upon to wrongly suggest preservation and enhancement of CA character and appearance would be achieved as a result of this development.

It would seem that the success of the commercial venture contained within one of the modern structures influenced this statement, and the new development scheme, rather than any objective understanding of the harm these structures have on surrounding heritage.

Finally, from the conservation area perspective, it relied overly on line of sight interpretations and failed to acknowledge that the character of an area exists in many forms within multiple spaces which may not be visually connected but which influence how that area is experienced when people move through it, or live or work within it.

Architectural Appropriateness:

In terms of satisfying legislative requirements to preserve and/or enhance character and appearance of the conservation area, and policy stipulations relating to local character and distinctiveness, it has not been sufficiently demonstrated that re-purposed shipping containers would be an appropriate, and not alien, architectural choice in this context; particularly as they do

not reference any historic architectural vernacular, or indeed historic industrial practices, representative in this part of Hereford.

Within this sector of the conservation area the industrial history was primarily associated with land to the north-east of the City Wall, which included the structures demolished to make way for the wider road, and buildings further along Bath Street (flour and timber mills); the majority of the proposed site was associated with the commercial and residential properties fronting Union Street, St. Peter's School to the south, and the former City Prison (now Magistrates Court).

The 1888 OS map extract clearly identifies all structures which were present on the site during that era as being of brick or stone construction, with timber employed for a covered passageway from Union Street, and for small shed-type structures.

The presence of the modern corrugated steel structures – one of which is the truncated remnants of a longer, open-sided, structure introduced to the site in the 20th century – does not represent a connection to any former industrial past.

As previously detailed, these were negative, piecemeal, additions to the site whose presence has had a detrimental impact on the character and appearance of the conservation area.

Any connection between this structure type and shipping containers - which have more in common with modern storage site facilities, railway sidings or shipping ports - is tenuous at best.

Although there may be commercial incentives for their use, this doesn't justify their incongruity; and whilst the addition of cladding materials and other screening devices alters their appearance and presence somewhat (bike shop units), the necessity of these additional treatments just highlights their unsuitability in this context.

There is no objection to the principle of good quality contemporary architecture which is informed by the positive characteristics within this sector of the conservation area, but the site deserves design solutions of greater substance than those proposed.

On the basis of an objective and detailed understanding of the site history previous heritage advice advocated this approach, and highlighted the opportunity for negative elements to be removed or their impact minimised.

Impact on Views:

Whilst the majority of new development is contained closer to the centre of the site, the replacement music shop units are situated in a prominent position next to the City Wall.

In addition to their contextual incongruity previously outlined, their presence will impact on the last remaining public views between the scheduled wall and the spire of St. Peter's Church (Grade II*); views which have existed historically, and since the conservation area was designated in 1969.



Proposed development Mock-Up (not to scale)

Other heritage asset related views which will be impacted by the development include a view northwards from the Magistrates Court (Grade II) on Gaol Street (and from its upper floor windows); and views from the Commercial Street – Bath Street – Union Street junction from 8-9 Commercial Road (Grade II) and The Kerry public house (Grade II).

Containing development on this portion of the site to single storey height would be the advised approach.

Proposed Fire Damage Re-build:

Amendment of the architectural form of the music and bike shop units may influence the design approach for this area of re-development; but on the basis of the submitted drawings, the proposed scheme reads more as an extension to the shipping container design than a contemporary re-instatement/re-interpretation of the former structure lost to fire damage.

The specification of brickwork and large section timber joinery of appropriate tonal varieties would be preferable to the corrugated cladding treatment, as, again, it would better reference the positive historic structure it is part of rather than a separate modern structure of no particular merit.

The *design narrative* of the existing terrace is referenced on the proposed drawing, and so this amendment would seem logical from a design perspective, and provide a sufficient degree of enhancement if executed properly.

Whilst the historic brickwork on the two remaining parts of the terrace has been painted, its character still remains evident and compliments the backdrop of Bastion House; removal of this paintwork, or re-painting in a uniform colour, would be preferable to the introduction of render as this appears to have been a modern remedial intervention elsewhere on the building, and detracts from the overall appearance of the terrace range and its street frontage.

Proposed No. 18 Adaptions:

Adaptions to the shopfront of No.18 Union Street are supportable and successfully maintain the character of the streetscape.

As no indication of the existing shopfronts age or significance has been provided, retention and repair of the pilasters, brackets and fascia would be welcomed (and may be intended) if they have some heritage value.

Given the building's historic character, diminutive scale, and uninterrupted roof surface, it would be preferable to locate rooflights on the rear roof pitch; the proposed lounge benefits from a reasonable size window, and a light well or sun tunnel could be employed to service the shower room.

Bin Storage Area:

The proposed Block Plan indicates a new bin storage area situated on the footprint of a former brick structure.

Removal of this structure would be seen as a beneficial intervention for the City Wall as it would be better presented and enable more of the wall to be experienced; and for Bastion House, it would make some contribution to returning its frontage to that of its most significance period.

However, infilling this area with a new, larger, structure which takes no consideration of its position would just replace one negative element with another, causing harm to the amenity of Bastion House outside its primary elevation, and obscuring a section of wall identified as highly significant.

On a site of this size there should be sufficient space to locate a facility of this nature in a less harmful position; space to the north-west of Bastion House would seem a more logical and practical proposition.

Further Information Required:

Design revisions for a scheme which successfully meets heritage legislation and policy requirements.

Building Conservation Officer Re-consultation response (30th September 2021)

Recommendation:

Unfortunately the minor amendments to the proposed scheme have not satisfactorily addressed key areas of heritage concern.

On this basis the finding of *less than substantial* harm to the character and appearance of the conservation area, and setting of heritage assets, remains as a substantial objection.

In accordance with the statutory duties outlined in Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and policy requirements in Paragraph 199 of the NPPF, this objection should be afforded considerable importance and weight in the planning balance.

Additional Heritage Comments:

Music Shop Re-development:

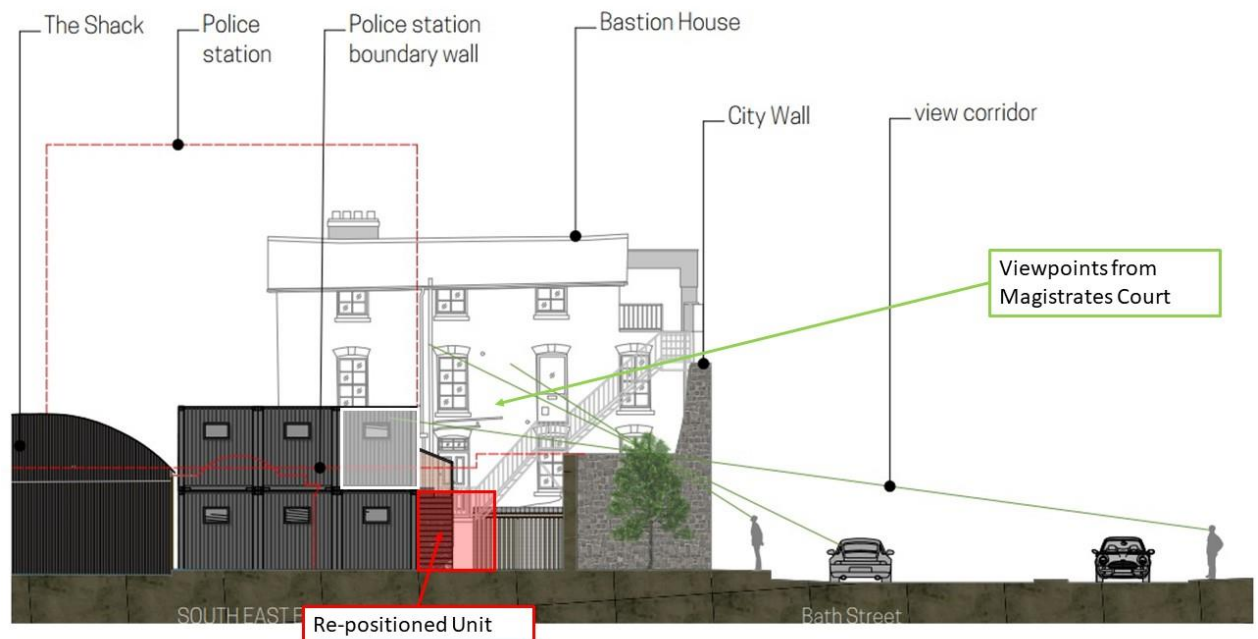
The revised 150mm reduction in height is not sufficient to address heritage concerns previously highlighted.

It is important to stress that the heritage objection to this aspect of the development relates to both the alien character of the architectural scheme proposed (re-purposed shipping containers) and the impact that any development above the City Wall might have on the setting of St. Peter's Church.

The introduction of a traditional slate roof line would also be considered a harmful intervention in respect of St. Peter's setting if it impeded established views of the church spire, whereas the impact that roof type on the character and appearance of the conservation area would likely be considered neutral as it is a roof form commonly represented.

The visual impact from outside the site is not solely related to a static viewpoint on the opposite pavement but will be experienced along a stretch of that pavement, and from positions within the Magistrates Court building.

The submitted elevations illustrate the extent of the existing music shop structure and the increase in scale of the new structure/s; reducing the number of containers at 1st floor level may help address the harm to setting from the most readily accessible public viewpoints, but would not address the impact of the group as a whole.

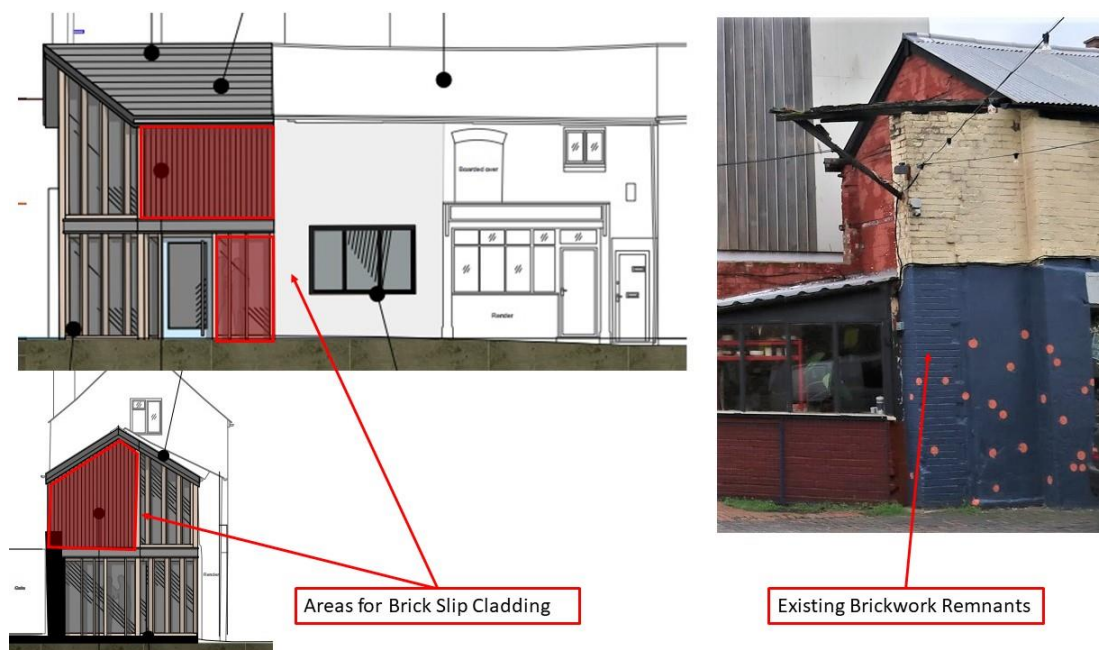


Fire Damage Re-build:

Previous heritage comments highlighted the disparity in character between the proposed re-build element and the host terrace.

The change in cladding type, from metal to timber, doesn't sufficiently improve the new structures integration with the historic terrace in any meaningful or positive way.

Specification of a painted brick slip facing in place of the timber or metal cladding would provide better cohesion with the existing brickwork, and the large section joinery and glazing elements would provide the contemporary balance which would reflect the re-built nature of the structure.



18 Union Street:

Removal of the rooflights from the road-facing roof pitch is welcomed; however, the revised layout on the rear roof pitch presents a very disjointed appearance which could be further improved to the benefit of the building's appearance and that of the conservation area.

Does the proposed living room require additional lighting given the presence of an existing window and the relatively compact dimensions of the room (c. 2.8m x 3.3m)?

The small shower room could utilise mechanical extraction through the eaves.

A new window inserted into the rear elevation would provide light into the staircase area.

Implementation of these measures would positively improve the appearance of the roof by reducing rooflight numbers to a more typical amount given the size of the roof (1-2).

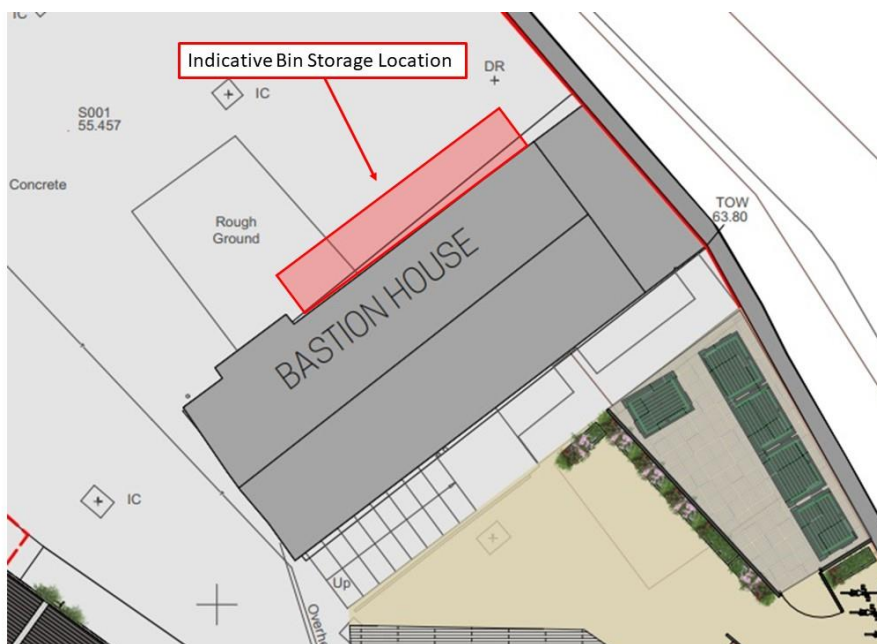
Bin Storage Area:

The following image illustrates the potential for enhancement in this location, as the existing brick structure detracts from both the City Wall and Bastion House.



However, its replacement with a commercial bin storage area would merely swap one harmful element for another, and would compound that harm by introducing the additional issues of noise, smell and increased movement; this is particularly relevant given the residential nature of Bastion House.

Siting the bin storage on the northern side of Bastion House would these address issues somewhat, as the north-western elevation is a secondary one without any original window/door openings; and this would also reduce access distances for refuse/re-cycling collections.



The amended proposal would still result in harm to CA character and appearance in this publically accessible sector.

4.8 ***Area Engineer (Transportation) – Initial consultation response dated 22nd April 2021 and further response received following additional information. No objection***

Initial consultation (22nd April 2021)

Further information is required regarding servicing and deliveries for both the proposed units and also The Shack Revolution. Where would deliveries take place, by what type of vehicle and what is the anticipated frequency?

Re-consultation on amended plans (25th August 2021):

The local highway authority has no objection subject to the following conditions:

- Delivery vehicles larger than a LWB Transit type van should not enter Bastion Mews, deliveries from larger vehicles should take place from the loading bay on Union Street.
- CB2 - Cycle parking – both residential (should be in a secure store such as a shed, Sheffield stands with a hood will not be acceptable) and commercial/visitor (these can be Sheffield stands with hood/cover).

4.9 *Minerals and Waste – (7th April 2021) – No objection*

Thank you for consulting me on the above pre-application. I can confirm that there are no known mineral reserves across the site and therefore no safeguarding issues to consider.

In relation to waste, if the proposal is accepted in principle and recommended for approval, then it is suggested that a planning conditions is included with a requirement for a Construction Materials and Site Waste Management Plan to ensure waste management provisions compliment the construction activities on site and that all waste emanating from the development are dealt with in an appropriate manner and follows the waste hierarchy.

Suggested condition

No phase of development shall commence until a Construction Materials and Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall thereafter be adhered to throughout the construction period for that phase. The plan shall include, but is not limited to, the following matters:

- site management arrangements, including on-site storage of materials, plant and machinery; contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
- a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery;

Reason: The treatment and handling of any site waste is a necessary initial requirement before any demolition and groundworks are undertaken in the interests of pollution prevention and efficient waste minimization and management so as to comply with the Policy SD1 of the Herefordshire Local Plan - Core Strategy.

4.10 *Environmental Health – Contaminated Land (29th April 2021) – No objection*

I refer to the above application and would make the following comments in relation to contaminated land and human health issues.

Our records indicate that the proposed development is situated on a former garage and engineering works.

Given that the proposed development is a new build and is situated on potentially contaminative uses, we'd recommend the following condition be appended to any approval.

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

- a) A 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.
- b) If the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all potential pollutant linkages and an assessment of risk to identify receptors
- c) If the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation report shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how the unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Technical notes about the condition

1. Assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework.
2. All investigations of potentially contaminated sites are required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.
3. Where ground gas protection measures are required, they shall be validated in accordance with current best practice guidance.

4.11 *Environmental Health (Noise and Nuisance) dated 2nd June 2021 – No objection*

My comments are from a noise and nuisance perspective.

Our department has no objections to the proposal but recommends the following condition:

No noise generating plant nor equipment shall be installed to the exterior of the proposal without agreement from the local authority in writing.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

5. Representations

5.1 Hereford City Council – No comments received

5.2 No letters of representation have been received from members of the public.

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 Policy Context

6.2 This application is considered in line with the statutory requirements of Section 70 (2) of the Town and Country Planning Act 1990 (as amended) which requires that when determining applications, the local planning authority shall have regard to the provisions of the development, local finance considerations (in so far as material to the application) and any other material considerations.

6.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states as follows:
"if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

6.4 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy.

6.5 The application site also lies within a conservation area and abuts a Scheduled Ancient Monument. When dealing with conservation areas, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 relates to preserving a listed building or its setting. There is no explicit statutory duty in respect of the impact of proposals on Scheduled Ancient Monuments, however, the local planning authority are under a duty to take account of consultation responses received and have regard for policy.

6.6 The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The NPPF sets out a presumption in favour of sustainable development. This does not change the statutory status of the development plan as a starting point for decision making. Where an application conflicts with an up-to-date development plan, permission should not usually be granted as set out in Paragraph 11c) of the NPPF, unless material considerations indicate otherwise.

6.7 There are a number of considerations which are relevant in terms of assessing the overall acceptability of the proposals. Each is discussed under the relevant heading below.

Principle of the proposed development and land use

6.8 The Development Plan for this area is the Herefordshire Local Plan - Core Strategy (CS). The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that where there are no relevant policies or where proposals that accord with the policies of the CS (and, where relevant other

Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

- 6.9 The application site does fall within the defined City Centre (as identified in Figure 4.3 of the Core Strategy), where there are more specific policies in terms of city centre proposals. Core Strategy Policy HD2 seeks to maintain and enhance the vitality and viability of the city centre, including providing new commercial and office space in appropriate city centre locations, as well as providing new cultural and tourism attractions. The policy also specifies proposals will be approved where they enable the protection, conservation and enhancement of Hereford's heritage assets, their significance and setting, including archaeology, with particular regard to historic street patterns and the skyline. The supporting text accompanying Policy HD2 highlights the policy promotes living in the city centre, which will contribute to its vitality through broadening from mainly daytime shopping and business uses, to creating an inclusive 'evening' economy beyond working hours.
- 6.10 Matters of heritage and archaeology will be discussed in more detail later in this report. However, in principle, the redevelopment of land and buildings at Bastion Mews to create a mixed-use independent quarter comprising new commercial floor space and visitor accommodation is supported. Parts of the existing site are somewhat dilapidated and the proposal provides the opportunity to regenerate this site through the introduction of new development and by providing a diverse range of uses. The proposed uses will build on the success of the existing businesses in the site and also provide new opportunities in a sustainable location.
- 6.11 With regards to the uses proposed, there has been a conscious effort by the applicant to keep these flexible to allow the site to respond to changing needs and demands. In 2020, the Government introduced significant changes to the Use Classes Order 1987 (as amended) with the intention being to reinforce the vitality and viability of town centres in response to a reduction in footfall and viability issues. Amongst other things, the changes amalgamated a number of uses into a new category known as Class E. Class E is known as Commercial, Business and Service and includes those uses formerly classified as A1 (Shops), A2 (Financial and Professional Services), A3 (Food and Drink), B1 (Business), together with certain uses which were previously classed as D1 (Non-Residential Institutions) and D2 (Assembly and Leisure). In light of the above, it is proposed that the uses permitted moving forward are those which fall within the Class E Use Class and that flexibility is built in to allow the scheme to adapt as required within that use class. The uses proposed are considered to be main town centre uses and in accordance with Policy HD2. Furthermore, the uses will not adversely affect the primary function of the town centre as a shopping destination in accordance with Core Strategy Policy E5.
- 6.12 The National Planning Policy Framework emphasis the need to ensure the vitality and viability of town centres, which includes taking a positive approach to their growth, management and adaptation. At paragraph 81, the Framework advises planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. The Framework identifies 'significant weight' should be placed on the need to support economic growth. Clearly the proposal would achieve those wider objectives as well as those identified in the development plan.

Impact of the proposals on historic environment

- 6.13 The application site lies in a sensitive historic location within a conservation area and adjacent to the City Walls Scheduled Ancient Monument. When assessing applications within a conservation area, local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character and appearance of that area. No such statutory duty exists in respect of proposals affecting a Scheduled Ancient Monument, however the local planning authority are under a statutory duty to take account of any consultation responses received and have regard for any policy.

- 6.14 Core Strategy Policy LD4 is relevant when assessing development proposals affecting heritage assets and the wider historic environment. The policy seeks to protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance. This is through appropriate management, uses and sympathetic design. Additionally, the policy aims to ensure development proposals contribute to character and local distinctiveness of the townscape or wider environment, particularly in conservation areas. Proposals should also use retention, repair and sustainable re-use of heritage assets to provide a focus for wider regeneration schemes.
- 6.15 The National Planning Policy Framework also contains detailed advice in terms of development proposals affecting heritage assets which is set out at Paragraphs 194 to 198.
- 6.16 Paragraph 194 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. In respect of schemes which involve a site which has the potential to affect heritage assets with archaeological interest, appropriate desk based assessment is required and in some cases field evaluation.
- 6.17 At Paragraph 195, it is advised that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected (including by development within its setting) taking account of the available evidence and expertise. This is to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 197 identifies three criteria to take account of when determining applications which includes a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.18 Finally, the Framework then goes on to provide guidance in respect of how potential impacts should be considered. Paragraph 199 identifies that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification, as set out in Paragraph 200. In circumstances where a proposal will lead to substantial harm, consent should be refused, unless it can be demonstrated the harm is necessary in order to achieve substantial public benefits that outweigh that harm (Paragraph 201). Paragraph 202 identifies that in such circumstances where a development would result in less than substantial harm, this harm should be weighed against the public benefits of a proposal, including securing its optimal viable use.
- 6.19 The Framework is clear that the effect of proposals on a non-designated heritage asset should be taken into account and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.20 Finally, Paragraph 206 identifies local planning authorities should look for opportunities for new development within Conservation Areas (and World Heritage sites), and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset or which better reveal its significance should be treated favourably.
- 6.21 The application is accompanied by a detailed Heritage Statement which has been prepared by Koda Architects. This sets out the historic context in respect of the application site and its surroundings, including evidence of historic mapping. It also outlines and provides descriptions of the heritage assets in the area and provides an assessment in terms of their significance. In respect of heritage matters, Historic England, the Council's Historic Building Officer and the

County Archaeologist have been consulted. Councillor Milln has also provided feedback during the course of the assessment of the application which has been circulated to the applicants.

Historic England Assessment

- 6.22 Historic England has commented in detail on both the originally submitted plans (comments dated 19th April 2021) and on the revised plans submitted by the applicant (dated 24th September 2021). Copies of those responses can be viewed in at section 4.2 of this report.
- 6.23 The initial consultation notes the application is supported by well-presented documentation and commends the approach in considering heritage assets. The comments acknowledge the limited ground interventions that will be required to achieve the proposed design, which reduce the risk of harm to below ground archaeological remains. Advice provided by Historic England is limited to the music shop area of the scheme, adjacent to the city wall, which as identified is a Scheduled Ancient Monument. Comments have not been made in respect of other aspects of the scheme and it has been recommended the advice of the Council's specialists in Conservation and Archaeology is sought in respect of the scheme as a whole.
- 6.24 In terms of the significance of the city wall, the section of wall forming the northern boundary of the site is one of the highest surviving sections of the city wall circuit and is included within the 'Hereford city walls, ramparts and ditch' Scheduled Monument along with some land in the yard. There is a conservation management plan document in respect of 'Hereford City Defences' which reviews and describes the monument. This part of the wall is part of late 12th Century expansion and re-configuration of the defences. It was originally constructed as a gravel rampart with external ditch which was strengthened in the 13th Century with a stone wall frontage. Ground investigations have confirmed evidence of gravel under the surface. These remains and the pre 12th Century deposits provide an important understanding of the development of the city walls.
- 6.25 Based on the above and an assessment of the significance of the heritage assets involved, the following amendments were recommended by Historic England:
- Reduce the height of the music shop to that of below the shack to avoid harm to the dominance of the city all and views over the city wall to St Peters and the Cathedral;
 - Remove bin store and cycle rack elements from in front of the city wall and relocate adjacent to the police station or beside The Shack;
 - Retain the area adjacent to the city wall as open and accessible space for visitors; and
 - Opportunities to enhance the city wall should be sought through the scheme, in particular the careful removal of emulsion paint face of the wall (requires SMC).
- 6.26 The applicant submitted a revised set of drawings in respect of the scheme on 26th July 2021 in response to concerns raised by both Historic England and the Building Conservation Officer. Historic England confirmed in its re-consultation response dated 24th September 2021 that previous concerns have been addressed through the revisions and they have no objection to the application on heritage grounds.

Historic Building Officer Assessment

- 6.27 The Council's Building Conservation Officer has provided two consultation responses. The first response was provided on 1st July 2021 and can be viewed in full at section 4.7. A number of concerns were raised in respect of elements of the submitted Heritage Statement, the appropriateness of repurposed shipping containers in this context, impacts on views to the Grade II* listed St Peter's Church. On this matter, the Building Conservation Officer advised single storey development for the 'bike shop' element of the scheme.
- 6.28 In respect of the proposed fire damage re-build, the Building Conservation Officer advised the use of brickwork and large section timber joinery as an alternative to the proposed cladding.

Adaptions to the shopfront of no.18 were fully supported, however there was a suggestion to locate rooflights to the rear of the building. Finally, the location of the proposed bin store was of concern. Removal of the structure from the originally proposed location was considered a beneficial intervention to the city walls and it was advised to amend this to a less harmful position within the site.

6.29 Following initial comments from the Building Conservation Officer and those provided by Historic England, the applicant submitted a revised suite of drawings. An accompanying cover letter dated 26th July 2021, set out all the changes made in light of the feedback received. Changes to the scheme include removal of the metal cladding to the proposed fire damaged area of No.3 Bastion Mews and removal of the rooflights to the front elevation of No.18. In respect of the music shop area, the height of the proposed pods has been reduced to ensure this is less dominant when viewed from the north side of Bath Street. The bin store has also been relocated to an alternative location below the Bastion Mews staircase.

6.30 The latest comments from the Building Conservation Officer can be summarised as follows:

- The minor amendments to the proposed scheme have not satisfactorily addressed key areas of heritage concern;
- Considers the scheme will result in less than substantial harm to character and appearance of the conservation area and setting of heritage assets;
- The reduction in height of music shop redevelopment is not sufficient to address concerns previously identified. Highlights this objection relates both to the alien character of shipping containers and the impact that any development above the city wall might have on the setting of the church;
- Proposed fire damage re-build – change in cladding type from metal to timber does not sufficiently improve the new structures integration with the historic terrace in any meaningful way;
- 18 Union Street – removal of rooflights welcomed, however revised layout on the rear roof presents a disjointed appearance. Suggestion to reduce the rooflights to a more typical number of 1 to 2;
- Bin storage – replacement with communal bin storage would replace one harmful element for another and compound the harm by introducing noise, smells and additional movement. Suggests siting the bin storage on the northern side of Bastion Mews, although considers this would still result in harm to the conservation area.

Summary of impact of proposals on the historic environment

6.31 As discussed, various amendments have been made to the scheme in response to concerns raised from a heritage perspective. Members will note Historic England no longer raise any concerns in respect of the proposal and its impact on the city walls.

6.32 Despite revisions made by the applicant, the Building Conservation Officer remains of the view the scheme would result in less than substantial harm to the character and appearance of the conservation area and the setting of designated heritage assets. The key remaining concerns focus around the use of modular pods, the height of the music shop redevelopment and its impact on the city wall and church views, the number of rooflights to no.18, and the bin storage location.

6.33 Whilst the Building Conservation Officer's comments are noted, officers are of the view the applicant has successfully addressed a number of key concerns from a heritage perspective. Based on the revised plans, it is considered the proposal would to preserve the setting of nearby listed buildings, including St Peter's Church and the nearby listed buildings along Commercial and Union Street. Furthermore, the scheme is considered to preserve and in some respects, enhance the character and appearance of the conservation area.

- 6.34 Officers do not consider the proposal would fail to preserve the setting of St Peter's Church or unacceptably alter view points between Bath Street and the church. St Peter's Church is located approximately 145 metres from the application site with a number of intervening buildings between. It is acknowledged there are viewpoints from Bath Street where the Church spire is visible and this will remain the case. The reduction in height of the bike shop area of the scheme has ensured the city walls remain the dominant feature and that views over the city wall to St Peters and the Cathedral are retained. The height has been reduced to that of the adjacent Shack Revolution building. Historic England has acknowledged the improvements made to the scheme in respect of those elements, hence an objection is no longer raised. Amendments to the location of the bin store are also considered successful in better revealing the city wall and ensure it is sited in a discrete location, unlike the suggestion to site it along the western elevation of Bastion Mews. Concerns in respect of the positioning of rooflights are not shared by officers.
- 6.35 A key concern raised by the Building Conservation Officer stems from the use of shipping containers in this context. It is acknowledged the use of shipping containers or modular pods could be considered an unconventional design approach. However, in this instance officers are satisfied the overall scale, massing and external treatment of the proposed pods ensure the scheme will integrate successfully with the site and local context. Furthermore, the use of these pods has been put forward as part of a well thought out scheme for the whole site which as discussed earlier in this report is somewhat dilapidated. The proposals provide the opportunity to make a positive contribution to the local character and distinctiveness of the conservation area, whilst still respecting the significance of the city walls and limiting archaeological disturbance.
- 6.36 Core Strategy Policy LD4 seeks to ensure proposals protect, conserve and where possible enhance heritage assets. The Building Conservation Officer's comments assess the harm resulting from both the original and revised proposals as 'less than substantial'. In such circumstances, Paragraph 202 of the Framework states that this harm should be weighed against the public benefits of a proposal, including securing its optimal viable use. For the reasons discussed above, officers do not share a number of the concerns raised by the Building Conservation Officer and consider any degree of harm to be significantly less than has been concluded within those comments. Notwithstanding this, when considering the scheme in the context of Paragraph 202, there are clearly significant public benefits arising from the proposal. This includes the regeneration of this city centre site, the introduction of structures which will provide a mix of uses in the area, with the opportunity to adapt to suit market demand. Furthermore, the proposals provide further opportunities to existing businesses in the locality and are also intended to provide opportunities for start-up businesses.
- 6.37 Taking all of the above into account, the scheme is considered to meet the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, Core Strategy Policy LD4 and government policy in terms of the impact on designated and non- designated heritage assets as set out in the National Planning Policy Framework.

Impact on archaeology

- 6.38 The proposed development relates to a key location within the historic city and is entirely within the designated Area of Archaeological Importance. It also directly abuts the city wall. Policy LD4 of the Core Strategy is also relevant in terms of archaeology which seeks to protect, conserve heritage assets and their settings in a manner appropriate to their significance. Furthermore, paragraph 194 of the Framework requires appropriate desk based work and in some cases, field evaluation, where a proposal has the potential to affect heritage assets with archaeological interest. There is also a requirement to ensure that when considering the impact of a proposal on the significance of a heritage asset, great weight is given to its conservation.
- 6.39 The application follows an extensive period of survey work and has involved pre-application discussions in respect of archaeological matters. The County's Archaeology Advisor provides detailed comments at section 4.5. Those comments acknowledge the site is challenging to

develop as a result of the archaeological constraints, however, it is acknowledged the proposal does have merit and no objection is raised to the scheme subject to the inclusion of various conditions in respect of archaeology. It should also be noted the nature of the structures proposed as part of this scheme limit the ground disturbance which is of significant benefit from an archaeological perspective.

- 6.40 Based on the assessment of the Archaeological Advisor and with the inclusion of those conditions, it is considered the requirements of Core Strategy LD4 are met, together with the advice contained within the National Planning Policy Framework in respect of archaeology.

Design and Sustainability

- 6.41 Herefordshire Council declared a Climate Emergency in March 2019. This signalled a commitment to ensuring that the Council considers tackling Climate Change in its future work and decisions taken. There is a county wide aspiration to be zero carbon by 2030. In terms of the development plan policy context, at a strategic level, Core Strategy Policy SS7 seeks to ensure development proposals include measures which will mitigate their impact on climate change.
- 6.42 Core Strategy Policy SD1 relates to sustainable design and energy efficiency and requires development proposals to create safe, sustainable, well integrated environments for all members of the community. The policy stipulates various requirements proposals should incorporate. Measures in respect of design include making efficient use of land and designing new buildings to maintain local distinctiveness. This can be achieved through incorporating local architectural detailing and materials, as well as respecting scale, height, proportions and massing of development, while making a positive contribution to the architectural diversity of the area.
- 6.43 From a sustainability perspective proposals are encouraged to utilise physical sustainability measures such as orientation of buildings, water conservation measures and storage for bicycles and waste, which includes provision of recycling. Where possible, on site renewable energy generation should be incorporated.
- 6.44 The proposals incorporate various sustainability measures including utilising repurposed shipping containers and sustainably sourced materials. The shipping containers or pods are no longer required for their original purpose and therefore the proposals provide a new use for these structures. Photovoltaic panels are proposed on appropriately orientated structures, together with rainwater harvesting and the inclusion of 7 electrical charging points for vehicles. Green infrastructure is also proposed to soften up areas of the urban environment.
- 6.45 Whilst it is acknowledged the use of modular pods for this purpose could be considered an unconventional design approach, their overall layout, use, scale and external treatment has been carefully considered. In this instance, the scheme is considered to integrate successfully into the local environment and create a visually attractive environment where people can live, work and visit. The impact on existing and proposed occupiers is also considered acceptable. For these reasons, the application complies with Core Strategy SD1 and advice contained within Chapter 12 of the National Planning Policy Framework.

Transportation

- 6.46 Core Strategy Policy MT1 requires development proposals to demonstrate that the strategic and local highway networks can absorb the traffic impacts of a development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce or mitigate any adverse impact from development. The policy also requires developments should achieve safe entrance and exit and have appropriate manoeuvring space.

- 6.47 The Local Highway Authority has been consulted on the proposals. In an initial consultation response additional information was sought in respect of servicing and deliveries for proposed units and also Shack Revolution.
- 6.48 In response, the applicant's agent confirmed the following in a letter dated 26th July 2021:
- Majority of deliveries and servicing for all existing units and all proposed units are undertaken by van;
 - Deliveries are encouraged where possible before 10am to minimise vehicles in the mews post this time – however due to tight delivery schedules, deliveries are accommodated throughout the day where reasonable;
 - The loading bay on Union Street is used as a drop and go service when larger delivery vehicles arrive (Kegs and drinks for the Shack Revolution);
 - Within Bastion Mews, a space is always made available for delivery vehicles so as to avoid restricting the Mews and these are also drop and go deliveries.
- 6.49 Following the above clarification, the Local Highway Authority has confirmed it raises no objection to the proposal subject to conditions being attached in respect of cycle parking and delivery arrangements. The application site is located in a sustainable location in the city centre and is accessible via a range of transport modes. It is not considered to be a car dependant scheme and based on the additional information provided, delivery arrangements are considered acceptable.
- 6.50 The scheme complies with Core Strategy Policy MT1 and advice contained within the National Planning Policy Framework.

Ecology and Biodiversity

- 6.51 The application is accompanied by a Preliminary Ecological Appraisal. Based on this and other available information, the Council's Ecologist has confirmed the Local Planning Authority has no reason to consider that there are likely to be any effects on protected species from the proposed development. Various conditions have been suggested to ensure this remains the case and also informatives to remind the applicant of their duty of care to wildlife as per legislative framework outside of the planning remit. Those conditions and informatives have been added.
- 6.52 The site falls within the Wye Special Area of Conservation catchment area and therefore the proposal triggers a Habitat Regulation Assessment. The relevant assessment has been undertaken by the Council's Ecologist and suggests conditions in respect of foul and surface water development to ensure no effects on the River Wye SAC as a result of this development. Natural England has been consulted on the Habitats Regulation Assessment and confirms it raises no objection.
- 6.53 Overall, officers are satisfied that based on the information provided and with the inclusion of various conditions in respect of protected species and drainage, the proposal is acceptable in terms of its ecological impact and complies with Core Strategy Policies LD2, SD3 and SD4, together with advice contained with the National Planning Policy Framework.

Environmental Health

Land Contamination

- 6.54 The application site is situated on a former garage and engineering works and therefore the Council's Land Contamination Officer has been consulted on the proposals. A response has been received which can be viewed at section 4.10 of this report. Due to the potential for contamination at the site, a standard condition has been suggested requiring in the first instance, a 'desk based' study to be undertaken and submitted to the Local Planning Authority prior to any development

taking place. The outcome of the initial investigations would inform whether the applicant is required to undertake any further investigations. The wording of the condition is such if further information or investigation is required, this must be agreed with the Local Planning Authority prior to works being able to commence. With the addition of the condition, the proposal meets the requirements of SD1.

Noise and Nuisance

- 6.55 Core Strategy Policy SD1 requires proposals to create safe, sustainable and well integrated environments for all members of the community. Various criteria are listed in order to ensure proposals achieve this, but this includes ensuring new development does not contribute to, or suffer from noise.
- 6.56 The Council's Environmental Health Officer (Noise and Nuisance) has confirmed no objections are raised in respect of the proposals, but recommends a condition is attached requiring no noise generating equipment to be installed to the exterior of the proposal without agreement from the local authority.

Other Matters

- 6.57 The Minerals and Waste Officer has confirmed there are no known mineral reserves across the site and therefore no safeguarding issues to consider.
- 6.58 At this stage, matters in respect of drainage relate primarily to foul and surface water in connection with Habitat Regulations. This has been discussed in detail earlier in this report. Welsh Water has been consulted and has requested further drainage details which can be secured by way of a suitably worded condition attached to any permission.

Conclusions

- 6.59 Applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Herefordshire Local Plan – Core Strategy (adopted 2015). The revised National Planning Policy Framework is also a significant material consideration.
- 6.60 In addition to the above, the application site also lies within a conservation area and abuts a Scheduled Ancient Monument. Listed buildings are located in the vicinity of the application site. When dealing with conservation areas, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, section 66 relates to preserving a listed building or its setting.
- 6.61 This application seeks planning permission for the redevelopment of land and buildings at Bastion Mews which is located in the city centre. The site has been acquired by the owners of The Shack Revolution and would create a mixed use independent quarter comprising new commercial floorspace and visitor accommodation. The scheme has been designed to be flexible and interchangeable and incorporates the introduction of pod structures as a replacement for existing dilapidated structures and alterations to existing buildings. The uses within the site would comprise a mixture of residential and commercial uses. Flexibility is sought for the commercial uses within the Class E of the Use Classes Order.
- 6.62 The principle of the regeneration of this somewhat dilapidated site within a key location in the city centre is welcomed and the proposed uses are acceptable. The proposal will contribute towards the vitality and viability of the city centre and provide opportunities for existing businesses in the locality.

- 6.63 The site does lie in a sensitive location from a heritage perspective and the scheme has been revised in response to concerns raised. Historic England and the Council's Archaeological Advisor do not object, however the Building Conservation Officer has raised concerns and considers those would amount to 'less than substantial harm' to the character and appearance of the conservation area and the setting of heritage assets. For the reasons discussed in this report, officers do not share some of the concerns raised and consider any degree of harm to be less than has been identified. Notwithstanding this, there are a number of public benefits in respect of this scheme. Overall, it is considered the scheme meets the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, Core Strategy Policy LD4 and government policy in terms of the impact on designated and non-designated heritage assets as set out in the National Planning Policy Framework.
- 6.64 Various other relevant considerations have been discussed in detail within this report. The design of the proposals is considered to accord with the requirements of SD1 of the Core Strategy and also includes various sustainability features. The Local Highway Authority raise no objection and therefore the proposal complies with Policy MT1 of the Core Strategy. An Appropriate Assessment has been undertaken in respect of Habitat Regulations and confirmation received that Natural England raise no objections. Various conditions have been attached to this recommendation in respect of ecology, drainage, transportation archaeology, land contamination and amenity.
- 6.65 The recommendation in this instance is that this application is permitted, subject to the various conditions and informatives listed below.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. The development to the fire damaged area of No.3 Bastion Mews and to No.18 Union Street shall be carried out strictly in accordance with drawing numbers 1694 601 Rev B and 1694 402 Rev C except where otherwise agreed in writing stipulated by conditions attached to this permission.**

Reason: To ensure adherence to the approved plans in the interest of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

- 3. The siting, layout, scale and external finishes of the of the containers shall be carried out in accordance with the approved plans and the schdeule of materials herein (drawing nos. 1694 308 E, 1694 309 A and 1694 313) unless otherwise agreed in writing by the local planning authority.**

Reason: To ensure adherence to the approved plans and to protect the character, apperance and amenities of the area in accordance with the requirements of Policies SD1 and LD4 of the Herefordshire Local Plan – Core Strategy and the advice contained within Chapters 12 and 16 of the National Planning Policy Framework.

4. The containers hereby permitted (drawing nos. 1694 308 E, 1694 309 A and 1694 313) shall be permanently removed from the site at such time as they are no longer required for the uses hereby approved and the land restored to its former condition in accordance with details to be agreed in writing by the local planning authority beforehand, unless otherwise agreed in writing by the local planning authority.

Reason: The containers hereby approved have been put forward as part of an overall scheme for the site's redevelopment to provide flexibility for occupiers of the units. If they are not required for their original purpose, they shall be removed from the site, in the interests of the character of the area and amenity in accordance with Policies SD1 and LD4 of the Herefordshire Local Plan – Core Strategy and the advice contained within Chapters 12 and 16 of the National Planning Policy Framework.

5. The containers hereby permitted shall be used for purposes within Class E of the Use Classes Order 1987 (As Amended) and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining properties and to comply with Policies HD2 and SD1 of the Herefordshire Local Plan – Core Strategy.

Pre-commencement conditions

6. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
 - a) A 'desk study' report including previous and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.
 - b) If the risk assessment in (a) confirms the possibility of significant pollutant linkage (s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.
 - c) If the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme shall be submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. This information is required prior to the commencement of development as it relates to human health issues and the proposal is new build and situated on potentially contaminative uses.

7. No phase of development shall commence until a Construction Materials and Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall thereafter be adhered to throughout the construction period for that phase. The plan shall include, but is not limited to, the following matters:
 - site management arrangements, including on-site storage of materials, plant and machinery contractors compounds and other facilities; on-site parking and turning

provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;

- a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery

Reason: The treatment and handling of any site waste is a necessary initial requirement before any demolition and groundworks are undertaken in the interests of pollution prevention and efficient waste minimization and management so as to comply with the Policy SD1 of the Herefordshire Local Plan - Core Strategy.

8. No work on site shall take place until a detailed design and method statement for the foundation design and all new groundworks has been submitted to, and approved in writing by, the local planning authority. The development hereby approved shall only take place in accordance with the detailed scheme approved pursuant to this condition.

Reason: The development affects a site on which archaeologically significant remains survive and a design solution is sought to minimise archaeological disturbance through a sympathetic foundation design in order to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement of development in advance of such approval could result in irreparable harm to any identified heritage asset.

9. No development shall take place until the developer has secured the implementation of a programme of archaeological survey and recording [to include recording of the standing historic fabric and any below ground deposits affected by the works]. This programme shall be in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority and shall be in accordance with a brief prepared by the County Archaeology Service.

Reason: To allow for recording of the building/site during or prior to development and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy. The brief will inform the scope of the recording action and the National Planning Policy Framework. The commencement of development in advance of such approval could result in irreparable harm to any identified heritage asset.

10. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Other Conditions

11. The Remediation Scheme, as approved pursuant to condition no. (3) shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. Delivery vehicles larger than a LWB Transit type van shall not enter the site. Deliveries larger than a LWB Transit type van shall take place from the loading bay on Union Street.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

14. Prior to first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities for both the residential and commercial/visitor elements of the development shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. No noise generating plant nor equipment shall be installed to the exterior of the proposal without agreement from the local authority in writing.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

16. No surface water from any increase in the roof area of the building /or impermeable surfaces shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

17. All foul water shall discharge to the local Welsh Water mains sewer network managed through the Hereford (Eign) Wastewater Treatment Works unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

18. All surface water created by the development shall discharge to on-site Sustainable Drainage Systems unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3*

19. Prior to any new construction work above foundation level commencing a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including provision of 'fixed' habitat features such as habitat boxes supporting bird nesting (including provision for Swifts), bat roosting features and pollinator homes must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3.

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework
2. The site is within an Area of Archaeological Importance designated under the Ancient Monuments and Archaeological Areas Act 1979. The effects of this are that notice is required of any proposed operations which will disturb the ground. An Operations Notice and accompanying Certificate should be served on Herefordshire Council prior to the commencement of such operations.
3. The applicant is advised that the proposed development affects the site of a Scheduled Ancient Monument. Section 2 of the Ancient Monuments and Archaeological Areas Act 1979 requires the developer to obtain Scheduled Monument Consent from the Secretary of State for Culture, Media and Sport before development commences. The Scheduled Monument Consent Branch can be contacted at 2-4 Cockspur Street, London, SW1Y 5DH. It is an offence to execute or permit to be executed any works resulting in the demolition or destruction of or any damage to a Scheduled Monument.
4. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that further advice from a local professional ecology consultant is obtained.

Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

5. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com
6. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

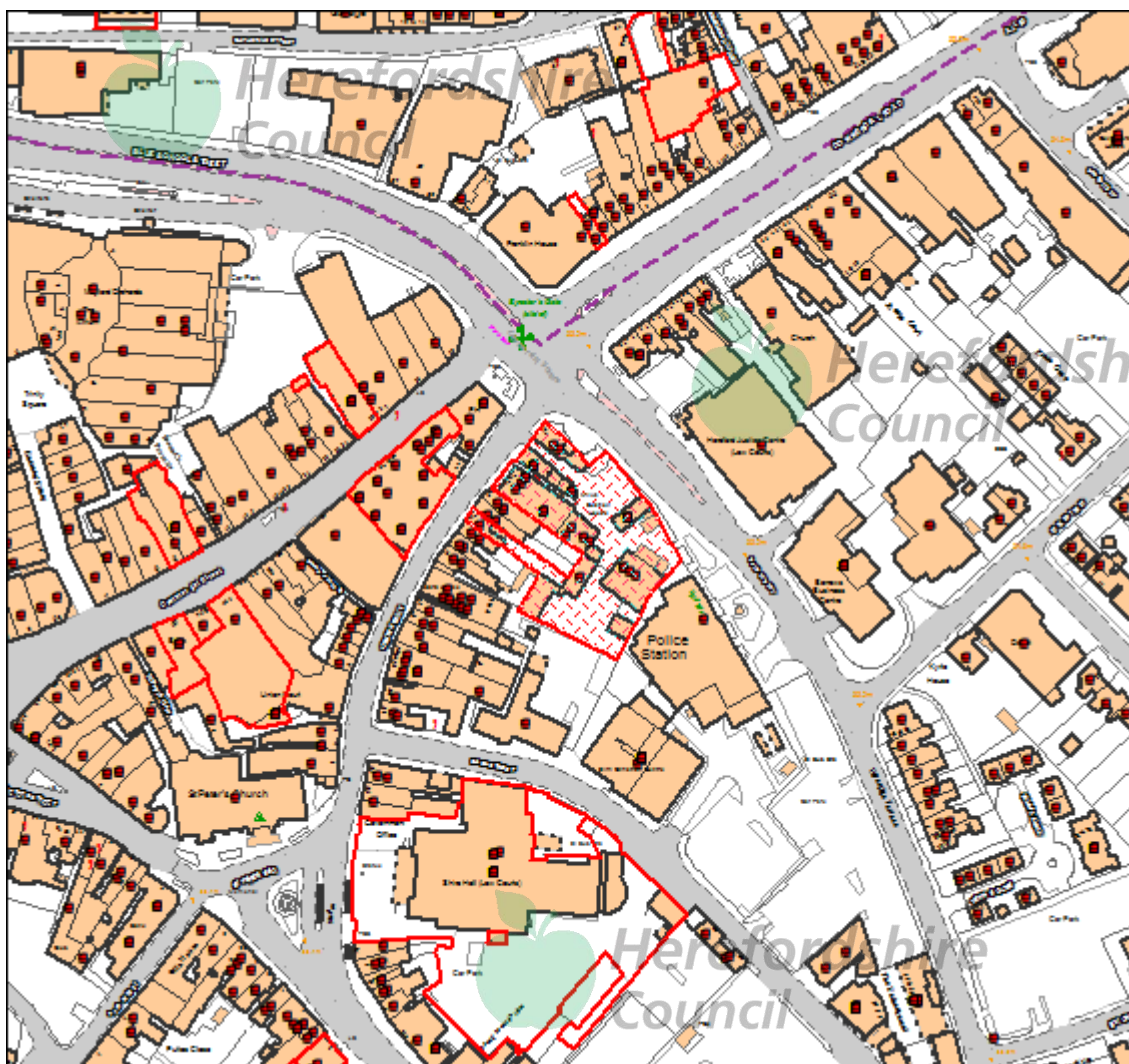
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 210796

SITE ADDRESS : BASTION MEWS, HEREFORD, HEREFORDSHIRE, HR1 2BT

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139