

## **PLANNING COMMITTEE – 18 JANUARY 2022**

<b>Application No:</b>	<b>21/02470/LBC</b>
<b>Proposal:</b>	<b>Provision of a general access staircase within the Buttermarket atrium leading from ground floor to the first floor mezzanine level.</b>
<b>Location:</b>	<b>The Buttermarket, 27 Middle Gate, Newark-on-Trent, NG24 1AL</b>
<b>Applicant:</b>	<b>Newark and Sherwood District Council – Mr Pete Preece</b>
<b>Agent:</b>	<b>Jackson Design Associates - Mr Alex Brown</b>
<b>Registered:</b>	<b>22<sup>nd</sup> November 2021</b> <b>Target Date: 17<sup>th</sup> January 2022</b>
	<b>Extension of Time Agreed Until 21 January 2022</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage</a>

**This application is being presented to the Planning Committee in accordance with the Scheme of Delegation, as the applicant is Newark and Sherwood District Council.**

### The Site

The application site comprises the building known as the 'Buttermarket' in Newark Town Centre. This building fronts Middle Gate, with a side access to Chain Lane. It is connected to Newark Town Hall.

In accordance with Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), the building complex known as the Buttermarket is considered to form part of the Grade I Town Hall listing, which adjoins to the east of the application site.

The Buttermarket is otherwise surrounded by important period buildings within a highly sensitive location at the heart of Newark Conservation Area (CA). In terms of the Council's Local Development Framework, the site lies within the area defined as Newark Town Centre and Primary Shopping Area, and also within Newark's Historic Core.

The main building within the Buttermarket complex comprises a distinctive former Victorian covered market, built 1883-84. It has an attractive gabled façade to Middle Gate, and is constructed in red brick externally with lead, glazing and slate roofs. Ancillary areas to the rear of 23 and 25 Middle Gate include an area at first floor known as the 'old bar' area. For ease of reference, the Buttermarket is considered to be the entirety of the building complex comprising the former covered market (which currently includes Tambo and Iguazu), and the Exchange (including Hobsons Shoes), as well as vacant upper floor space behind 23 and 25 Middle Gate (Specsavers and Gracegentle). Reference within this report to the former covered market will relate specifically to the main building element only which includes the central atrium and mezzanine.

The Buttermarket complex is an important thoroughfare between Middle Gate, Chain Lane and the Market Place (via the Town Hall). The Council has invested significantly in the renovation and repurposing of this building complex.

### Relevant Planning History

19/01410/FUL & 19/01411/LBC - Alterations and conversion of units 4, 9, 10 and 11 into a single unit including demolition of internal partitions and centralising of incoming services along with all required strip out; new openings into mall area; new floor levels within unit(s); tanking and damp proofing works to basement and creation of extract ducting through the building; Block up window and door to Chain Lane and re-design of shopfront to Middlegate. Approved, all conditions discharged fully.

20/00210/LBCLDC - Application for a Certificate of Lawfulness for proposed works to include the strip out and removal of former additions (not part of the original building fabric) at first floor. Certificate issued.

20/00322/LBCLDC - Certificate of lawfulness for proposed works to Listed Building to include combining 3no former units to create 1no single unit, the internal alterations include the removal of former additions to the building (not part of the original building fabric). Certificate issued.

21/02468/LBCLDC – Fit out and refurbishments of 'old pub' area, refurbishments of Atrium floor and ceiling finishes at first floor and refurbishment of ground floor staff toilets. Certificate issued.

21/02462/LBC - Removal of existing in-filled wall within the Buttermarket First Floor Atrium and provision of new access doors. Pending decision on this Committee Agenda; officer recommendation for approval.

### The Proposal

The proposal seeks consent for a new staircase within the main atrium area, connecting the ground floor with the first floor. The new staircase will be located at the eastern end of the main atrium, immediately adjacent to the existing lifts.

A concurrent application to re-open a blocked doorway through the wall between the first floor atrium and former bar area has also been submitted (ref 21/02462/LBC) and is being considered on this Committee Agenda. It is understood that this proposal, as well as that of the new staircase, form part of the Council's wider project to renovate and repurpose the Buttermarket.

Plans and documents considered within this application:

- Application form
- Site location plan
- Proposed stair plans, section and details – dwg no. 2255 (24) 401
- Proposed area of works plan – dwg no. 2255 (22) 311

- Heritage Impact Assessment

### Departure/Public Advertisement Procedure

Occupiers of 4 properties have been individually notified by letter, a site notice has been displayed at the site and an advertisement placed in the local press.

### Legal and Policy Framework

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations, including:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance (NPPG) on line resource
- Historic England's Good Practice Advice Note 2 and 3 – Managing Significance in Decision Taking in the Historic Environment and The Setting of Heritage Assets
- Historic England Advice Note 2 – Making Changes to Heritage Assets

Furthermore, Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised July 2021). 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, for example. 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. In determining applications, local planning authorities should take account of: 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. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development within their setting (paragraph 206).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). Historic England Advice Note 2 (2016) states: "The junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the

impact on the contribution of its setting. Where possible it is preferable for new work to be reversible, so that changes can be undone without harm to historic fabric. However, reversibility alone does not justify alteration; if alteration is justified on other grounds then reversible alteration is preferable to non-reversible. New openings need to be considered in the context of the architectural and historic significance of that part of the asset and of the asset as a whole. Where new work or additions make elements with significance redundant, such as doors or decorative features, there is likely to be less impact on the asset's aesthetic, historic or evidential value if they are left in place" (paragraph 43).

### **Is the Buttermarket listed?**

There is no mention of the Victorian covered market in the list entry.

The listing description for Newark Town Hall advises: 'Town Hall and former gaol. 1774-6, with late C18 and mid C19 additions. By John Carr of York. Restored 1989-91 by Guy St John Taylor Associates and James Brotherhood Associates. Mansfield white sandstone ashlar and brick with slate roof. Plinth, frieze, dentillated cornice, open balustrade with urns at the corners. Windows are glazing bar sashes. 3 storeys; 7 window range. Projecting 3-bay centre has a giant tetrastyle Doric portico with balustrade, and pediment containing the Town Arms, topped with a central figure of Justice renewed c1983. At the angles of the pediment, pedestals with a lion to left and a unicorn to right. Within the portico, 3 tall windows, the central one pedimented and the flanking ones corniced. Above them, 3 smaller windows. Outer first floor windows have cornices and pseudo-balustrades. Smaller second floor windows have moulded architraves. Rusticated ground floor has round arched openings with multiple keystones and impost band. In the centre, 3 doorways with wrought iron grilles and gates. Beyond, single glazing bar windows and beyond again, single doorways with half-glazed doors with fanlights. To left, late C18 addition forming Mayor's Secretary's office. Red brick with ashlar lintels and slate roof. 4 storeys; single window range of glazing bar sashes, and a round arched entry with keystone. Interior has an outstanding ballroom with paired pilasters and domed apsidal ends, screened by pairs of giant Corinthian columns. Coved compartmented ceiling by Kilminster of Derby. Central enriched marble fireplace on each side wall. Front has 4 doors in decorated surrounds, and rear 2 doors. Rear has central window with fanlight, flanked by single busts on console brackets. Central council chamber has metope and triglyph frieze, ceiling bosses and door and window architraves with cornices. Mayor's Parlour and picture room have moulded cornices, elaborate doorcases and marble and wood fireplaces. Oval stairwell has dogleg stair with winders and ramped and scrolled mahogany handrail. Below the ballroom, an 8 x 3 bay market hall with Doric arcades and engaged columns in the aisles. Round arched side openings. On the north side, former gaol, mid C19, brick, with slate roof. Single storey, with 3 windows and 4 doors, one of them blocked, all with segmental heads. The Town hall is described as "a fine example of its type and period" (Pevsner) and is a good example of the work of John Carr'.

The building range known today as 'The Buttermarket' is connected to Newark Town Hall. The fabric of the former covered market is keyed into the masonry of the Town Hall, and by that definition, is 'fixed' to the principal listed building. There is a long standing historic relationship between the two. The former Victorian market hall can be considered ancillary to the historic functions of the Town Hall.

The Town Hall was designated Grade I (List UID 1196430) in 1950. The law makes it clear that any building or structure physically attached to a listed building, or if detached, having formed part of the land since before 1948, is also listed (section 1(5) of the Planning (LBCA) Act 1990). In addition to current Historic England advice, the tests set out under the old PPG15 provide a useful framework by which to clarify the extent of curtilage listing (as reiterated in the Courts). Ownership at the time of listing, historic association, subservience and physical relationship are key in that assessment.

It is felt that the former covered market (this being the main building within the Buttermarket complex) meets the curtilage tests entirely, and should therefore be treated as part of the Town Hall listing. Nevertheless, the covered market structure has undergone significant restoration in the later-20th century, introducing a row of shops and mezzanine floor. This 1989 phase remodelled and altered areas outside of the covered market between Chain Lane and Middle Gate, furthermore, and much of it is not 'special'. This includes the upper floor area known as the 'old bar', and at ground floor, the west side of the Exchange parade (within Tambo). The recent renovations to form the Tambo Lounge revealed extensive 1980s phase steel work, concrete and blockwork. The upper floor has some exposed timber rafters and purlins, but nothing particularly special in terms of historic fabric. There is a modern glazed roof covering over the walkway which also dates to the 1980s.

However, there is some external architectural interest. The building range along Chain Lane has been extensively reconstructed, but otherwise appears to be the historic service range to the former Inn on Middle Gate (23 Middle Gate). Some of the masonry is 1980s stretcher bond, but areas on Chain Lane at higher level include traditional dentillation and some English Garden Wall with off-centre stretcher bond, suggesting 19th century masonry. The annexation of this unit from 23 Middle Gate prior to 1992 (when that building was designated) ensures that this building range cannot be characterised as listed curtilage to that property.

Ownership and physical connection of this building element to the Town Hall in the modern era is not necessarily sufficient to make it curtilage listed to that listed building either (albeit the extent of openness within the Tambo unit at ground floor out of the original building wall line of the covered market ensures that this is a complicated consideration). The line of units on the east side of the Exchange (including Hobsons) appear to contain some historic fabric and some level of connection through to the cells (this area is marked stables on historic conveyance plans), and perhaps might be more obviously determined as curtilage (as an extension of the Town Hall ground floor).

The proposal currently before Members only affects the covered market. For the reasons set out above, the former covered market is considered to be curtilage listed. The installation of a structure within this building, fixed to ground and first floor mezzanine, is considered to effect special interest in this case, engaging the provisions of section 7 of the Act.

### Consultations

**Newark Town Council** - No objection.

**Historic England** - did not wish to offer any comments, but wanted to be consulted again if the scheme was materially changed.

### **NSDC, Conservation -**

#### Significance of heritage asset

On 3 July 1882, the Borough Council resolved to erect a covered market on the site of the shambles, between the Buttermarket and Middlegate. Four plans were examined, those of C Bell (London) (£2,000) and Mr Lees of Nottingham (£2,048) having iron and glass roofs. Mr Bell's plan was adopted. The foundation stone was laid in October 1883 and the market was opened in October 1884. The plans for internal fittings were prepared by George Sheppard, Borough Surveyor, who also made the only known contemporary drawing of the New Market, published in 1886.

In celebration of the opening, the Newark Advertiser wrote thus: 'The area was formerly covered by the shambles but the shops were very old and dilapidated... various difficulties arose owing to the property dealt with belonging to three distinct bodies, the Corporation, and the Trustees of Bell's and Phillipott's Charities, and also owing to the question of ancient rights of light. The iron roof is supported by elegant but powerful iron pillars standing on stone corbels. The interior is of white brick and the floor is of concrete. The roof is of wood, boarded and the exterior slated in. A long range of windows on the north side admits plenty of light while at night the building will be illuminated by two large Bray's lamps of seven lights each, and four gas lights round each pillar. Each of the lock-up shops is also fitted with gas burners. The exterior of the building is of red brick. The circular window at the Middlegate end is filled with coloured glass. There are 17 lockup stalls let at £5-4-0 p.a. apiece exclusive of gas. In the centre are 25 stalls rented at £3-18-0 p.a. each. All have been let.' The memorial stones were originally on either side of the entrance, with a drinking fountain in the central wall.

The New Market Hall does not seem to have been a commercial success. In 1896 a local paper wrote that: 'The large and commodious New Market Hall, built for business which never came, offers at once seclusion... and a perfect quietude and atmosphere of repose, around which... the town's trade and commerce runs without disturbing the solitary interior.'

Historic photographs record that a campaign of 'restoration' was undertaken in 1936 but it is unclear how extensive this was. Further works were undertaken in 1950 including 'alterations to main entrance and provision of male cloakroom and toilets' and in 1959 the main entrance was altered.

By the 1970s the interiors had 'deteriorated markedly' as a result of many phases of repair. In 1982 the Town Council acquired the freehold from the District Council. The restoration of the Town Hall was led by the Town Council and funded by a commercial partnership by which, in 1988, Lovell Enterprise (Newark) Ltd acquired the 1884 New Market from NSDC and leased the ground floor of the Town Hall itself, intending to create a single retail complex. The interventions included the introduction of a mezzanine floor and stairs within the shell of the New Market, the creation of new retail units at ground and first floor levels, and new connections to the buildings to the north and to Chain Lane. The intention was that the building should subsequently be self-financing. The roof of the Market Hall was replaced. The

work was carried out by the developer and his architect to the Town Council's recommendations with Guy St John Taylor [of Newark] acting as consultants.

The New Market is not listed in its own right, although it is physically connected to the Town Hall and is considered to form part of the Town Hall's curtilage (thus part of the listed building, as explained in the section above)). Its architect, Charles Bell FRIBA 1846–99 was prolific but not distinguished. He is best known for his Methodist Chapels and schools. His design for the New Market was straightforward. Beyond the somewhat chapel-like elevation to Middlegate, it is essentially utilitarian. The primary construction details are of good quality- for example the white brick facing of the interior. Only the west façade aspires to polite architecture; it makes an attractive contribution to the streetscape in Middlegate, in which it is the principal 'event' in long views from north and south.

A number of Bell's buildings are listed, although not his only other known (and surviving) market building in Darwen, Lancashire (it is rather more elaborate than Newark). The principal significance of the New Market is its street elevation and while the Market Hall is characteristic of its date and is at least potentially, an attractive space, its original design is utilitarian and it has been greatly altered internally. Nevertheless, the building contributes positively to the character and appearance of the CA and forms a key element in the setting of the listed town hall.

Useful photos and images of the building interior are included within both the Heritage Impact Assessment and the Council's Conservation Officer's background report, which can be found in full on the online planning file.

### Assessment of proposal

The existing mezzanine within the main atrium dates to the late 1980s. A central staircase was added at that time. This staircase was arranged centrally within the main covered market area, with risers on both sides leading to a central landing and risers leading to both sides of the atrium (in which small shops were located). This staircase was a significant piece of engineering, taking up a large area within the former covered market. Whilst the design of this staircase took its references from the ornate neo-Victorian decorative balustrading inherent in the 1980s remodelling, its removal, along with the loss of the shop units has considerably improved the legibility of the former covered market.

Nevertheless, access to the upper floor is critical in the Council's plans to repurpose the old bar area and maintain access to the administrative areas from the atrium. Whilst there is an existing fire escape staircase to Chain Lane, and lifts within the atrium area, a second staircase is needed to provide a safe primary access.

The applicant has sought to reduce the engineered scale of the previous staircase, preferring a simple metal construction with only a single staircase. The staircase will be positioned to the side of the atrium with a dog-leg adjacent to the lifts at the eastern end of the atrium. This will help reduce physical impact on the openness of the former covered market. Although the dog leg of the staircase will fall within the open area adjacent to the important arched

openings into the Town Hall, it is recognised that the position proposed is the optimum viable option and that disruption in sight lines along the linear building line has been minimised.

When compared to the 1980s solution, this is a significant improvement. These matters were extensively discussed with the Council's Conservation Team prior to the submission, and various approaches were considered. The final submission was considered to be the optimum solution.

Breaking through the existing mezzanine balustrades is not harmful as this is 1980s fabric and of only limited interest.

The proposed new staircase design has slim elegant lines. The use of simple balustrade posts and glazed panels will further help reduce physical impact. However, limited detail is given on the precise sections and finishes of the metalwork and timber handrail, or indeed the specifications of the glass panels or fixings, and riser details. For this reason, it is necessary to propose a pre-commencement condition requiring further information. This has been agreed with the applicant.

#### Other material considerations

The Town Council raised no objection to the proposal. As the adjacent landowner, and a key partner in the management of the town centre, the Town Council's opinion is important in this context.

Historic England did not wish to comment on the proposal. Whilst this cannot be interpreted as support for the proposal, it is felt that their lack of concern is due to the modest nature of the proposal and confidence in the Council's in-house Conservation advice.

Safety and accessibility are relevant considerations in this case. The upper floor mezzanine is an approved alteration from the 1980s, with a staircase, and therefore the LPA has already established the principle of access via the atrium. Fire escape is an important consideration, and providing a second staircase (to compliment the access to Chain Lane via the old bar area) will be important in delivering a safe environment for first floor users in the future.

The wider Council strategy has sought to improve the appearance of this building complex, including repurposing areas of the building with positive and sustainable new uses. The new restaurant and retail units for example that now takes up the ground floor of the Buttermarket have added vibrant uses to the building. The next phase of works to the first floor will help continue this positive approach, helping provide a sustainable future for the Buttermarket. The proposal is therefore considered to be a public benefit within the meaning of paragraph 20 of the Planning Practice Guidance (heritage section).

Whilst no fundamental harm to the significance of the listed building has been found with the proposal (in the context of paragraphs 200-202 of the NPPF), it is felt that the applicant's reasons for proposing the scheme carry clear and convincing reasons, including helping sustain the heritage values of the Town Hall (by reusing the heritage asset) and providing safe access to the upper floors.

There are no other material considerations in this case.

**No representations have been received from third/interested parties.**

#### Comments of the Business Manager

The conclusions set out above are concurred and it is considered that the proposed works would cause no harm to the special interest of the Town Hall, a Grade I listed building. The proposal is therefore considered to be consistent with the objective of preservation required under section 16(2) of the Act. The scheme is also considered to accord with section 16 of the NPPF.

The proposal would cause no harm to Newark CA or the setting of any other heritage asset.

The proposal is needed to provide safe and appropriate access to the first floor of the Buttermarket, helping to support the reuse of the remaining vacant parts of the building. The proposal is part of a phased project aiming to bring activity and life back to the Buttermarket, contributing to wider social and economic aims that will benefit the local community.

The proposals have sought to balance the sensitive heritage values of the site through good design with optimum location and minimal disruption to the openness of the atrium. If granted, a condition is needed to ensure that the design and appearance of the new staircase takes the form envisaged by officers in reaching this view.

#### **RECOMMENDATION**

**That Listed Building Consent is granted subject to the conditions below;**

#### Conditions

01

The works to which this consent relates shall be begun no later than three years from the date of this consent.

Reason: In accordance with section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

Prior to the installation of the new staircase shown on drawing 2255 (24) 401, further details and drawings in respect of the following shall be approved in writing by the Local Planning Authority:

- Section drawing at no less than 1:10 scale of the handrail and balustrade;

- Specification of all materials, including the glazed panels;
- Details of all fixtures and fittings, and their finish;
- Details of the finish of all exposed metalwork and the timber handrail; and
- Further details on the specification and finish of the treatment of risers, strings and nosings.

The work shall be carried out in full in accordance with such approved details.

Reason: To ensure that the works take the agreed form envisaged by the District Planning Authority when determining the application and thus result in a satisfactory form of works.

### Notes to Applicant

01

The application as submitted is acceptable. In granting consent without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

02

The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in the application. It should however be noted that:

- a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence and would be liable for enforcement action.
- b) You or your agent or any other person responsible for implementing this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.

03

### REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2015

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations in determining such matters, such as the National Planning Policy Framework (Revised July 2021).

04

Any damage caused by or during the course of the carrying out of the works hereby permitted should be made good within 3 months after they are complete.

BACKGROUND PAPERS

Application case file.

For further information, please contact Oliver Scott on extension 5847.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Lisa Hughes**  
**Business Manager – Planning Development**

Committee Plan - 21/02470/LBC

