

PLANNING COMMITTEE – 24 JULY 2018

Application No:	18/01020/FULM (MAJOR) and 18/01021/LBC	
Proposal:	Partial demolition of the former Robin Hood Hotel with retention of the façade, eastern gable and parts of the roof and internal fabric and integration with a new 66 No. bedroom Travelodge Hotel (Class C1) along with 3 No. units for flexible retail (Class A1), financial and professional services (Class A2), café/restaurant (Class A3) and leisure (Class D2) uses.	
Location:	Site Of Robin Hood Hotel 1-3 Lombard Street Newark On Trent NG24 1XG	
Applicant:	M F Strawson Limited - Mr N Strawson	
LBC:	Registered: 30.05.2018	Target Date: 25.07.2018
FULM:	Registered: 30.05.2018	Target Date: 29.08.2018

This application is being referred to the Planning Committee for determination due to the impact of the development on designated heritage assets. In any event, Officers consider it necessary for the application to be determined by Planning Committee in acknowledgement of the complex and lengthy planning history.

The Site

The site comprises three Grade II listed town houses known as the Robin Hood Hotel at Lombard Street. At the Beaumont Cross junction with Lombard Street, the site forms a key gateway to the town occupying a prominent position within the Newark Conservation Area and the Potterdyke redevelopment scheme.

The Robin Hood Hotel comprises 3 former houses and a public house last occupied as a hotel and shop, although the buildings have now been vacant since 1999. The building was listed in 1971 and its listing description (last amended in 1992) describes these houses as early and late 18th century, early and mid-19th century and late 19th century, with 20th century additions and alterations. For completeness the full listing description is repeated below:

“3 houses and public house, now an hotel and shop. Early C18, late C18, early and mid C19, with late C19 and early C20 additions and alterations. Colourwashed brick and render, with slate and concrete tile roofs. Early C18 central block has steep pitched slate roof with single ridge stack. Plinth, first floor band, gutter brackets, single coped gable. 2 storeys; 5 window range of 12 pane sashes. Below, 4 plain sashes. Late C18 block to right has first floor band and dentillated eaves. 2 storeys; 3 window range of segment headed 12 pane sashes. Central early C19 Ionic stucco surround to moulded doorcase flanked by single segment headed plain sashes. To right again, late C19 addition, colourwashed brick with stone dressings. First floor band, eaves cornice and parapet, with side wall stack. Segment

headed plain sashes, those to ground floor with keystones. 2 storeys. Angled corner with 3 windows on each floor. Right return has 8 windows, the 3 to left being smaller. To left, mid C18 block has incomplete first floor band, eaves band, cogged and dentillated eaves and single gable stack. 2 storeys; 3 window range of segment headed 12 pane sashes. To left, late C20 shopfront, and to right, a segment headed plain sash. To left again, mid C19 addition in 3 blocks. Stucco dressings, chamfered quoins, first floor band, 2 side wall stacks. 2 blocks to right have parapets. Single and 2 storeys. Right block has 2 small plain sashes and below, C20 shopfront. Single storey central block has a pair of carriage doors flanked to right by 2 plain sashes. Left block has moulded eaves and hipped roof with hipped clerestorey. 3 window range of C20 single pane windows. Below, C20 door to right. Interior refitted mid and late C20. Part of the building was formerly listed as 3 Lombard Street, PRN 619-0/3/108”.

Although the Robin Hood Hotel appears to have originally been three town houses, it is assumed that these were adapted into one by the point of the first historic reference to the Robin Hood Hotel as a public house in 1781. Survey plans from 1790 demonstrate service elements probably including stables, brewery and kitchens. In 1852, the site was sold as part of a lot which also included the Newark Theatre, and there is reference to the ‘Newark Club’ within the Robin Hood Inn Yard. By the 1870s, the site had been much expanded, and now included stables and extensive outbuildings. Late 19th century County Series maps show the site behind the buildings now known as the Robin Hood Hotel as comprising a brewery and two malthouses.

During the early 20th century, a distinct Edwardian phase can be understood following the removal of various 19th century additions and the creation of a new two-storey 11 bay wing that included extensive internal remodelling.

The Hotel was expanded further during the post-war period, with further extensions. The external masonry was also painted during this period. The Hotel closed in 1999 and has significantly deteriorated since then. The precise phasing and evolution and use of the building has been a matter of debate in the past, however the broader age, history and social interest of the building continues to justify the significance discussed in further detail below.

It is clear that there were extensive rear additions and service elements from the 19th and 20th century although most of these elements were removed during the recent Potterdyke redevelopment.

The building group is in parlous condition. Since closing in the late 1990s, the Robin Hood has suffered from neglect and lack of usage. Slipped tiles and damaged windows have been left unrepaired, with dilapidation increasing through internal rot, pigeon infestation, vandalism and in more recent years, severe water ingress from the two lantern lights at the rear. The consequence of the water ingress has rendered the two internal staircases unsafe.

Lombard Street forms the northern boundary of the site with Beaumont Cross and its associated traffic junction lying to the east, beyond which is Carter Gate. There are a number of other listed buildings nearby on Lombard Street.

Members will be aware that this site is linked to the wider redevelopment of the Town Centre. With the exception of this part of the site, the Potterdyke redevelopment scheme as it is widely

referred to, comprises the Doctors Surgery at Lombard Street, the PCT building, ASDA supermarket, various retail units, the new bus station, and an as yet undeveloped residential element.

Relevant Planning History

As stated above, the site has a complex planning history, details of which are summarised as follows:

02/01094/FULM & 02/01095/LBC - Planning Permission and Listed Building Consent (“LBC”) for the conversion/restoration, demolition and change of use from hotel to three dwelling houses and erection of a new block of 48 residential flats was approved 3rd March 2003.

A detailed Development Brief for the Potterdyke Area was approved by the Council in **July 2004**.

07/01460/FULM & 07/01461/LBC & 07/01462/CAC – Planning Permission, Listed Building Consent and Conservation Area Consent were sought for the demolition/partial demolition of existing buildings and structures (including total demolition of Robin Hood Hotel (main building), additions to the rear of 15-17 Lombard Street, 14-22 Portland Street and partial demolition of 21 Lombard Street (Newark Health Centre), alterations and extension of cottages adjoining Robin Hood Hotel and alterations to boundary and car park of Potterdyke House and redevelopment to provide retail uses (Use Class A1 and A3), Primary Care Trust facility (Use Class D1), Doctors' Surgery (Use Class D1), office use (Use Class B1), residential (Use Class C3), replacement bus station, new pedestrian street, surface and undercroft car parking, landscaping, access and servicing. Retention of bus facility.

These applications were, following several revisions, approved 12th November 2008, 4th December 2008 and 12th November 2008 respectively. In **November 2012** Members considered an application to discharge **condition 3 of 07/01461/LBC** regarding the extent of the building fabric of the Robin Hood Cottages to be both retained and demolished. Members resolved to agree to discharge the condition which essentially amounts to a façade retention scheme involving demolition of all other listed elements with the exception of the front and east gable façade. All other walls, ceilings, staircases and roof structures were agreed to be demolished. The discharge of condition application was referred to the Secretary of State, who decided not to intervene.

08/00007/FULM & 08/00008/LBC -Planning Permission and Listed Building Consent for the renewal of 02/01094/FULM and 02/01095/LBC was granted 23rd/24th April 2008.

09/006667/FULM – Full planning permission was sought for the variation of conditions attached to full planning permission 07/01460/FULM enabling the construction of the PCT health care centre as phase 1 of the potterdyke redevelopment scheme without compliance with all pre-commencement conditions for entire site. This application was approved under delegated powers on 24th June 2009.

10/00064/FULM – Full planning permission was sought to vary condition 2 (which related to the approved plans and allowed for various minor revisions) of 09/00667/FULM. This was approved under delegated powers on 1st March 2010.

10/00537/FULM – Full planning permission was sought to vary conditions 21 and 29 of 10/00064/FULM. This permission was approved under delegated powers on 21st May 2010. This is the definitive full planning permission that has been implemented. Condition 21 required off-site highway works to be undertaken ahead of the development commencing and this was relaxed so that some works including the bus station, PCT and health care centre could commence earlier. Condition 29 restricted A3 (restaurants/cafes etc) to Unit 8 only but was relaxed to allow greater flexibility (Uses A1, A2 and A3) for Units 1 to 10 provided A2 and A3 were no greater than 30% of the total floor space. In **November 2012**, Members resolved to discharge condition 2 of this permission in relation to the substitution of approved plans to allow for the façade retention scheme as referred to in the commentary above in relation to condition 3 of 07/01461/LBC.

11/SCR/00007 – A request for a screening opinion under the Environmental Impact Regulations was sought for the demolition of the remainder of the Robin Hood Hotel and redevelopment to provide 5 No. retail units with associated servicing. An opinion was given that an Environmental Impact Assessment was not required in May 2011.

11/00476/FULM & 11/00477/LBC – Both full planning permission and listed building consent were sought for ‘demolition of the remaining elements of the former Robin Hood Hotel and redevelopment to provide 5 No. new retail units (Units 5, 6A, 6B, 7 and 8) with associated servicing’. These applications were presented to the Planning Committee in November 2011 with a recommendation of approval. However following a lengthy debate, Members resolved to refuse the listed building application (by a vote of 8 to 4) and defer the full planning application. The listed building application was subsequently withdrawn before any decision was issued and the full application remains as pending consideration. The reason Members were minded to refuse is a matter of public record as follows:

“the application to demolish the Grade II Listed Buildings forming part of the former Robin Hood Hotel at 1-3 Lombard Street, Newark be refused on the grounds that it does not fulfil the criteria in the 1990 Listed Buildings Act and does not satisfy the full range of issues identified in PPS5. It is also contrary to Core Strategy policies 14 and Local Plan Policies C1, C3, C4, C5, C9, C11 and C23.” In essence the concern of Members was that the benefits of allowing demolition were insufficient and that further exploration of grant funding to secure re-use had not been exhausted.

A section 215 Notice was served on the 8th December 2016. The Notice requires the owner to do the following:

- i) Remove all vegetation growth from the exterior of the building;
- ii) Remove all flaking paint and flaking render from the north and west exterior of the building;
- iii) Remove all boarding from the elevations of the building;
- iv) Prior to repainting, clean and prepare all external timber window and door joinery, including the shop front, removing in the process any flaking paint, replacing any rotten or perished timbers with replacement woodwork which is an accurate replica of the original design in terms of pattern, detail and profile, so as to ensure that all external timbers are in an appropriate condition for repainting. Where no window or door exists, the opening shall be boarded out. Any new timber board shall be set within the opening reveal and externally painted black;
- v) On completion of the works in step (ii) of this schedule, clean and repaint all of the external north and west exterior of the building (except the roof) with a minimum of two coats of

exterior paint in a colour to match the existing. Prior to re-painting treat all previously painted render with a suitable fungicidal wash;

vi) On completion of the works in step (iv) of this schedule, clean and repaint all of the external timbers in white exterior paint, with primer, undercoat and gloss;

vii) Re-paint the string course of the north and west external elevation with matching exterior paint (darker contrast to rest of masonry);

viii) Replace any broken or missing glazing with new single glazed glass panes;

ix) Restore or replace all damaged or missing gutters, rainwater down pipes, hoppers, waste pipes and soil and vent pipes to all main buildings, rear additions and outbuildings in matching materials, i.e. cast iron for cast iron, and in a like-for-like manner. Ensure that all rainwater and waste pipes discharge correctly into below-ground drainage. Clean, prepare and paint all soil and rainwater goods in black gloss finish paint (except where black plastic goods already exist);

x) Carry out repairs to all existing pitched roofs and flat roofs to all main buildings, rear and side additions and all outbuildings, as necessary, in matching materials. This includes re-fixing or replacing any defective lead flashings or through gutters. Repair or replace any broken or slipped roof tiles. If replacement is required use an accurate replica tile.

The Notice took effect, subject to the provisions of section 217 of the Act, on Friday 13th January 2017.

16/00914/FULM and 16/00915/LBC – Planning permission and listed building consent were submitted for the demolition of the former Robin Hood Hotel and redevelopment to provide new retail units and a 66 no. bedroom (Travelodge) Hotel in June 2016. The recommendation of Officers to approve the development (subject to a suite of conditions and an associated S106 agreement) was presented to Members on 7th March 2017. Members were minded to approve the application in line with the officer recommendation but before issue the decision was referred to the Security of State (SoS). The SoS confirmed by letter dated 28th September 2017 that the applications would be called in for determination at a Public Inquiry scheduled for 12 days commencing in May 2018. However, the applications were withdrawn by the applicant following extensive discussions for a revised scheme which now formulates the current application. Where relevant, the following appraisal will make reference to the details of the previously withdrawn scheme for comparative purposes to the current applications subject to determination.

The Proposal

The current proposals seek to re-develop the site of the Robin Hood into a mixed use scheme of commercial development and a 66 bed hotel. Unlike the previously withdrawn schemes, the current applications seek to retain the façade and some additional walls of the Robin Hood buildings in the development. The design of the current proposal has evolved following pre-application discussions with interested parties including Historic England and Travelodge as the end occupier of the hotel.

As is clarified by the submitted Design and Access Statement, the scheme proposes commercial development at ground floor. This takes the form of commercial units, a hotel entrance and supporting ancillary hotel spaces. The intermediate, first and second floors provide hotel accommodation and supporting ancillary hotel/commercial spaces.

The ground and intermediate floors would contain 3 commercial units, with gross internal floor areas as follows:

- Unit 1 = 310.3 m² / 3340 ft² (62.9m² / 677 ft² of total at intermediate floor)
- Unit 2 = 338.3 m² / 3641 ft²
- Unit 3 = 381.5 m² / 4106 ft²

The proposed use of these units would be flexible to allow shop (Class A1); financial and professional services (Class A2); café/restaurant (Class A3); and leisure (Class D2) uses.

The first and second floors provide a total of 66 beds of hotel accommodation, linen areas and stores. The hotel accommodation breaks down into the following room types:

- Accessible room - 4
- Double shower room - 36
- Standard family room - 20
- Squeeze family rooms - 6

The proposal involves gaining pedestrian access to the commercial retail units from both Lombard Street and New Street with pedestrian access to the hotel entrance at the end of the building associated with Beaumont Cross.

In general the proposed building is scaled at 3 storeys with a maximum height of approximately 13.6m. The ground floor of the new build elements will contain glazed panels. Windows, shop fronts, spandrel panels and the hotel entrance foyer surrounds will be powder coated aluminium. The materials required to renovate the retained historic structures will be pantile, slate, timber for the windows and doors, and the use of an agreed heritage colour on the external walls.

It is proposed that parking arrangements will be secured through a discounted rate with the adjacent NCP Car Park following an agreement to retain opening of the car park overnight.

The applications have been accompanied by the following documents:

- Existing plans and elevations;
- Proposed plans, elevations and illustrative perspectives;
- Design and Access Statement prepared by Framework Architects;
- Historic Building and Conservation Area Assessment prepared by Cotswold Archaeology;
- Transport Statement prepared by ADC Infrastructure;
- Protected Species Survey prepared by Rob Frith Associates;
- Ground Conditions Report prepared by Delta Simons;
- Financial Viability Assessment prepared by Banks Long & Co.

In addition to the suite of plans which were submitted to accompany the original application submission, revised plans have been received during the life of the application (28th June 2018) in relation to the retention of the historic fabric proposed.

Departure/Public Advertisement Procedure

Occupiers of 165 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press. An additional one week period of consultation has been undertaken on the basis of the aforementioned revised retention plans with an overall expiry date for comments of 13th July 2018.

Planning Law and Policy

18/01021/LBC

Section 38(6) of the Planning and Compulsory purchase Act 2004 1990 does not apply to decisions on applications for Listed Building Consents, since in such cases there is no statutory requirement to have regard to the provisions of the Development Plan. LBC applications should be determined in accordance with the law (see, in particular, s.16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) and the relevant policies in the NPPF (in particular paragraphs 126-141). The objectives of the Development Plan and its policies may, though, be a material consideration in those decisions.

S.16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that the LPA may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions. S.16(2) states that in considering whether to grant listed building consent for any works, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

S.66(1) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

S.72(1) states that in the exercise, with respect to any buildings or other land in a Conservation Area, of any of the provisions mentioned in subsection (2) (the planning acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

18/01020/FULM

Applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise (s.38(6) of the Planning and Compulsory Purchase Act 2004 and s.70(2) of the Town and Country Planning Act 1990).

The Development Plan

The relevant policies of the Development Plan in relation to this application are as follows:

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 1: Settlement Hierarchy
Spatial Policy 2: Spatial Distribution of Growth
Spatial Policy 7: Sustainable Transport
Core Policy 6: Shaping our Employment Profile
Core Policy 8: Retail Hierarchy
Core Policy 9: Sustainable Design
Core Policy 10: Climate Change
Core Policy 14: Historic Environment
NAP 1: Newark Urban Area

Allocations & Development Management DPD (adopted July 2013)

Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy

Policy DM3: Developer Contributions and Planning Obligations

Policy DM5: Design

Policy DM9: Protecting and Enhancing the Historic Environment

Policy DM11: Retail and Town Centre Uses

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Historic England Good Practice Advice Notes (notably GPA2 and GPA3)
- Newark and Sherwood Plan Review – Publication Amended Core Strategy

Consultation and Representations

All comments received during consultation have been appended in full at Appendix 1.

Comments of the Business Manager – Growth and Regeneration (Appraisal of the Applications)

There are several key issues that require consideration in assessing this scheme. For ease of reference these have been addressed in turn below. The assessment requires very careful consideration, having regard to primary legislation, the development plan, and all other material planning considerations.

Background

Members will be aware that in 2003, this Council selected a Consortium comprising ASDA Stores Ltd, Simons Developments and MF Strawson to deliver a major redevelopment scheme in the town centre known as Potterdyke. This food store led scheme also included a new Bus Station, Retail Units, car parking, a new Doctors Surgery and Health Centre. The majority of the Potterdyke scheme has now been built out, with Asda, the Doctors Surgery, and retail units (closest to Asda) being operational. The Robin Hood site comprises the final part of the Potterdyke scheme at that part of the Town Centre.

Principle of Development

The site is situated within Newark Urban Area and Newark Town Centre, both envisaged by the Core Strategy to be the key focus for growth within the District. Despite some changes to the overall Settlement Hierarchy of the Core Strategy, Newark continues to be the focus for further growth within the District.

The scheme proposes 'town centre uses' as defined within the NPPF. The site is within Newark Town Centre with the proposed retail units being in close proximity to the Secondary Shopping Frontage along Carter Gate (as defined by the Allocations Map). Policy DM11 supports new retail development within the Town Centre boundary and the proposal is thus acceptable in land use planning terms. Additional retail units would complement the existing units recently delivered by the wider Potterdyke development.

In terms of the proposed hotel use, Policy DM11 supports a greater diversity of town centre uses that contribute to the overall vitality and viability. This will assist in meeting the objectives of Core Policy 7 and contribute towards the night time economy of the town centre.

The site is within the designated Newark Conservation Area and incorporates a designated heritage asset in the form of the Grade II listed former Robin Hood Hotel. As Members will be aware Grade II Listed buildings represent 92% of all Listed Buildings nationally. Within Newark and Sherwood there are 1285 Grade II Listed buildings (compared to 45 no. Grade I and 57 no. Grade II*). Clearly each listed building has its own historic interest importance, and significance, which must be assessed on a case-by-case basis.

Members will be aware that the principle of demolishing this building in full has been previously considered by the Council, as the Local Planning Authority (LPA), most recently through the consideration of recently withdrawn proposals. Prior to this, the Council also considered demolition in line with historic applications in November 2011. The Officer recommendation of approval on both accounts is a matter of fact and public record, as is the Planning Committee's resolution to agree with Officer's to allow full demolition at the March 2017 Committee Meeting. For the avoidance of doubt, the SoS removed the ability for the LPA to determine the 2016 applications through their powers of call-in and therefore no formal decisions were issued that would constitute an approved planning fall-back position (the matter of fall back positions which do exist will nevertheless be further discussed later in the appraisal). It is worthy of note that the current application is an entirely different scheme which must be assessed on its own merits against the relevant statutory provisions and development plan policies as is undertaken below.

Legislative Framework and Planning Policy

There are both legislative requirements and policy tests to consider in relation to the proposed development:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *"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."*

As the application concerns designated heritage assets of a listed building and the conservation area, sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are particularly relevant. Section 16(1) requires the decision maker in considering whether to grant listed building consent for any works, to *"have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess."* This stance is mirrored by Section 66 which outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker *"shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 72(1) also requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat

the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognise that a finding of harm to a listed building, or harm to the setting of a listed building, or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. The presumption is not irrefutable; it can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering. This is a matter that has been considered in a number of recent court cases (in particular: *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* (2014); *The Forge Field Society v Sevenoaks District Council* (2014); and *Mordue* (2016).

Alongside the statutory tests, the NPPF forms a material consideration to the determination of the applications. Paragraph 14 of the NPPF outlines a presumption in favour of sustainable development.

The NPPF, at paragraph 17 also outlines a number of core planning principles which should underpin both plan-making and decision-taking. Of the 12 principles, the 10th bullet point warrants specific mention in the context of the current applications. This states that heritage assets should be conserved in a manner appropriate to their significance.

Indeed, the importance of considering the impact of new development on the significance of designated heritage assets, is set out in detail in section 12 of the National Planning Policy Framework (NPPF). Paragraph 128 requires LPAs to ensure that in the submission of applications affecting heritage assets applicants should describe the significance of any heritage assets affected, including any contribution made by their setting. For clarity in the context of the current applications, the applicant has done this through the submission of a 'Historic Building and Conservation Area Assessment' undertaken by Cotswold Archaeology dated May 2018.

As identified above, the current state of the Robin Hood Hotel is recognised as being in a visually dilapidated state which has deteriorated over recent years. On this basis, paragraph 130 is of direct relevance to the current determinations. This states that "*where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.*" As will become clear throughout discussion within the report officers do not consider that there is evidence of deliberate neglect to the building. Throughout recent years, the LPA have taken proportionate approaches to safeguard the listed building (most recently through the serving of the aforementioned S215 notice). Officers continue to negotiate the compliance with the notice taking a pragmatic approach given the ongoing discussions with regard to the current application submissions.

Paragraphs 132 and 133 of the NPPF direct decision makers as to the tests which apply when considering the impact of a proposed development on the significance of a designated heritage asset. For clarity these tests apply to both the designated heritage assets of the listed Robin Hood Hotel and Newark Conservation Area.

132. 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**. The **more important the asset**, the **greater the weight** should be. **Significance can be harmed or lost** through alteration or **destruction** of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss **should require clear and convincing justification**. Substantial harm to or **loss of a grade II listed building**, park or garden **should be exceptional**. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

133. Where a proposed development **will lead to** substantial harm to or **total loss of significance** of a designated heritage asset, local planning authorities **should refuse consent**, unless it can be demonstrated that the **substantial harm or loss is necessary** to achieve **substantial public benefits that outweigh that harm or loss**, or **all** of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

The setting of heritage assets is defined in the Glossary of the NPPF:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

In addition, significance (for heritage policy) is also defined:

“The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.”

I do note that there has been a recent consultation on a new draft NPPF. The outcome of this consultation remains unknown (as therefore does the final wording of any new NPPF) and consequently its weighting as a material planning consideration is minimal. Nevertheless, I do note that the NPPF continues to state that substantial harm (for a Grade II building as in this case) should be exceptional and that permission should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss

Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

In addition to the above focus on relevant heritage policies, it is also worthy of note that the NPPF outlines at paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental. Clearly there will be elements of these roles which are relevant to the determination of the current application. For example, whilst the proposals will undoubtedly negatively contribute to the environmental role in respect of the historic environment, there will be benefits in the economic and social roles attributed to the delivery of the a new hotel and commercial units as proposed.

At a local level there are a suite of policies which are also of relevance. These include Policies CP14 and DM9 of the Council's LDF DPDs. CP14 acknowledges the rich and distinctive historic environment of the District and seeks to ensure *"the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment."* The policy goes on to explicitly identify the need for the *"preservation of the special character of Conservation Areas."* It is noted that CP14 of the Core Strategy (adopted in March 2011) pre-dates the NPPF. Whilst it is acknowledged that some of the wording differs from that used in the NPPF, the general thrust of the policy and the objectives it seeks is consistent with the stance of the NPPF.

As is referenced above, the LPA are currently undergoing a Plan Review process in respect of the Core Strategy. The publication document which was subject to examination in February 2018 does slightly amend the wording of Core Policy 14 albeit not substantially. Core Policy 14 is not currently subject to dispute through the Examiners initial report and therefore Officer's consider that it can be attached significant weight at this time.

Policy DM9 follows the intentions of CP14 in that, *"all development proposals concerning heritage assets will be expected to secure their continued protection of enhancement"*. In respect of development proposals *"affecting heritage assets and their settings, including new operational development and alterations to existing buildings, where they form or affect heritage assets,"* proposals *"should utilise appropriate siting, design, detailing, materials and methods of construction."* Policy DM9 was adopted after publication of the NPPF and was found by the independent plan examiner to be NPPF compliant.

Impact on Heritage

Heritage Significance

As required by paragraph 129 of the NPPF, LPA's should identify and assess the particular significance of any heritage asset that may be affected by a proposal. When considering the significance of the heritage assets, I have had regard to the substantive reports and comments on this issue to date. This includes the correspondence from both Historic England (formally English Heritage) and the Council's Conservation Officer, as well as the Conservation bodies referred to in Appendix 1.

Dealing firstly with the asset of the Listed Building, the former Robin Hood Hotel has a complex

building history. This evolved from a cluster of houses fronting onto Beaumont Cross with various additions as they consolidated to form a hotel and a shop. The significance of the listed building largely rests with the former houses on the street frontage.

The former Robin Hood can be split into three different buildings (labelled A, B and C from east to west). The central building (B) is the oldest and originates from at least the early 18th century. The building closest to Beaumont Cross (A) was built next, followed by the most westerly building (C). The heritage significance of the buildings has been previously assessed by this Authority, notably as part of the committee report presented to Members in November 2012 (to allow discharge of conditions to 07/01461/LBC and 10/00537/FULM) which was subsequently repeated in the committee report presented to Member in March 2017 (in relation to applications 16/00914/FULM and 16/00915/LBC). The significance remains of relevance to the current determinations:

“What we do know about surviving fabric is set out as follows.

Building A (adjacent to Beaumont Cross)

This was built after Building B, thought to be mid C18 in date. It contains:

- Small pane sashes at first floor (typical of C18 into early C19), single ground floor plain sash at ground floor (typical of later C19/early C20);*
- Readable plan form, including gable chimney stack, showing development of building and its relationship to adjacent buildings;*
- Brick vaulted cellar;*
- Two cross beams of original ground floor ceiling survive, along with original ground floor ceiling and floor (partially collapsed);*
- East section of ground floor wall survives;*
- First floor walls surviving to front and rear;*
- Some early 19th century plaster work (coving) to one first floor room;*
- Cruck blade survives on one side in second floor. Evidence of truss adaptation is visible on other side. We are unsure how much of this cruck truss survives on rear roof slope or below the height it is visible and it is not clear if this will be re-used. Cruck blades are often seen in conjunction with timber framed structures and can be as early as the Medieval period but were also seen into the C19 in more vernacular buildings.*

Building B (the building in the middle)

This is the earliest building on site and is likely to be early C18 or possibly earlier. It contains:

- Small paned sashes at first floor (typical of C18 into early C19) and plain sashes at ground floor (typical of late C19/early C20);*
- Slate roof (presumed to be C19) and pantile roof. Roof form (steep pitch and raised coped gables with kneelers) which are indicative of possible earlier thatched roof;*
- Readable plan form evolving from at least C18 into C19 including central chimney stack;*
- Stone cellar with stand for basin, cold slab and wine bins. Blocked openings giving clear archaeological evidence of evolution of buildings adjacent. The presence of a stone cellar is unusual and suggests it pre-dates the supposedly C18 structure above. This may indicate an*

earlier structure once existed on the site or the stone cellar may have been the plinth for a timber framed structure which may yet survive within the later C18 brickwork. Note that building A also has a cellar but that this was constructed of brick, reinforcing the unusual presence of stone here;

- Ground floor ceiling beam from early ceiling. Replacement ground floor ceiling dating to perhaps 1852;
- External stair tower surviving in part at first floor and in entirety at second floor;
- Majority of external walls surviving from first floor up;
- Lime ash floors;
- First floor ceiling beams with reed and plaster ceilings;
- Intact attic.

Building C (the end building closest to Castlegate)

This is the latest building of the three. The list description gives a later C18 date although the report by Prospect Archaeology suggests C19. The presence of larger yellow bricks is more typical of the C19.

- Yellow brick construction; the yellow bricks themselves are significant as these bricks are not typical of this local area but had to be transported in, showing an ostentatious display of wealth and status through this choice of brick. While there are some yellow brick structures in Newark it is relatively unusual in what is predominantly a red brick area.
- Readable plan form;
- Front facade survives;
- Rear wall and part of stair tower wall survives;
- Small paned sashes at first floor (typical of C18 into early C19), plain sashes at ground floor (typical of later C19/early C20).

When the Robin Hood Hotel was listed in 1971, English Heritage did not specifically state why a building was worthy of listing and what was of particular significance. The building is Grade II listed and described in the list description as three houses and public house dating from the early C18 with late C18, early and mid C19 and early C20 phases. The rest of the list description simply describes its architectural form. The following is a summary of my interpretation as to why the building is of significance.

- Pre 1840 in date, for at least Building B and possibly Building A. Between 1700-1840 most buildings are listed.
- Indications of a possible preC18 origin for at least Building B and possibly Building A
- Readable plan form from possibly pre C18 onwards
- Surviving example of C18 (or earlier) and early C19 vernacular town house which was once quite widespread. The English Heritage guide on Town Houses (Designation Listing Section Guide, Domestic 2: Town Houses, October 2011) states that the typical layout of a town house was two rooms deep and that the 'one room layouts are rare but were much more widespread, so survivals are of particular interest '
- Early surviving example of a public house, particular significance given Newark's rich brewing heritage.
- Few pre 1840 commercial buildings survive nationally

- *Interesting use of yellow bricks in Building C, an unusual feature for Newark and surrounding area and ostentatious display of status. Shows the filtering out of popular polite architecture from London, where yellow bricks were very common.*
- *Stone and brick cellars with typical 'below stairs' features*
- *Interesting and relatively rare external stair tower, seen on vernacular building from early C17 into the C19.*
- *Survival of historic fabric, especially, but not exclusively, above ground floor. Fabric including vernacular building techniques of reed ceilings and lime ash floors, the latter being a strong local feature albeit not in good condition.*
- *Use of a cruck blade, indicative of timber framed buildings, crucks are used as early as medieval times but in vernacular buildings up into the C19. Even if this was dated to the C19 it is important as an illustration of the long survival of traditional vernacular building techniques. A cruck blade in Potterdyke House was dated (dendrochronology) to the C19.*

There is a lot of discussion about the extent of internal alteration and survival and while I still believe there are many internal features of merit surviving (see above) it is significant to note that the listing officer noted that the 'interior [was] refitted mid and late C20', and still found the building to be of national significance at a level to warrant it being listed. The description offered with the listing does not list surviving historic internal features we now know to be of significance, like the cellars, stair tower, and cruck blade, for example. "

In addition to the above, interrogation of previous consultation responses provided by Historic England (at various occasions in relation to various planning applications sited above), has referenced in detail the significance of the asset:

- *Evidential value* is most noticeable in the front elevations, the plan form and historic fabric which reflects the changing nature of the structures.
- *Historic value* is derived from the survivals of the form as former town houses fronting a main route through the important urban settlement.
- The positive contribution to the character and appearance of the CA aide retention of an *aesthetic and communal value* (notwithstanding the existing neglected appearance of the buildings discussed in more detail later in the report).

The above points combine to offer a helpful summary of the historic significance of the building. Members are advised that work by the Nottinghamshire Building Preservation Trust (NBPT) led to the production of a 'Viability Appraisal Report' dated July 2015 by Soul Architects. This document does not form part of the applicant's planning application and remains the property of its authors and the NBPT. Nevertheless Officers were provided with this report and have previously received written confirmation that it can be used as part of an evidence base to assess previous applications.

As well as a detailed description of the buildings, the report incorporates a chapter discussing the 'Importance of the Buildings.' This confirms that the buildings retain their distinctive identities on the street frontage and the detail on the Lombard Street facades – brick banding, dentilled and cogged eaves and treatment of the openings adds some architectural interest. Internally, it is stated that substantial alterations over many decades has resulted in almost complete removal of 18th century internal and rear walls of the properties at ground floor level.

The report also goes on to discuss the following values of heritage:

- *Aesthetically* the Robin Hood Hotel has formed a distinctive landmark at one of Newark's busiest road junction for over 250 years (acknowledging that the aesthetic heritage values are compromised by the existing poor condition and state of preservation)
- *Evidential* heritage value of the site is of local, and perhaps regional interest, as excavations to the rear have demonstrated the presence of some early post-medieval features
- The former hotel has no current *communal* heritage value – however it was an important social venue in Newark during the 19th and 20th centuries, and possibly the mid-late 18th century also.

The report also incorporates a condition report and structural survey (noting that this is now some 3 years old). The structural report (prepared by William Saunders) advises that the property was suffering badly from water ingress to all areas resulting in the following defects:

- Approximately two-thirds of the principal listed building has a timber suspended floor at ground level, and most of the timber boarding and joists are rotten;
- All of the first floor timber boarding, joists and beams are showing signs of extensive rot and decay, with evidence of dry rot and wet rot visible. It is assumed that second floor timbers and roof timbers are similarly parlous;
- The two staircases leading to upper floors have both partially collapsed due to timber rot and decay;
- Structural steel beams at ground floor level show extensive corrosion and delamination;
- External masonry appears to be in a reasonable state with no visible evidence of settlement or distress. Some isolated timbers in the exposed masonry on the east side and rear is showing signs of rot and decay.

The structural report made a number of recommendations, including urgent works which were subsequently undertaken by the applicant. Overall, the report found that the masonry walls were generally sound and can be retained provided that remedial works were carried out to remove isolated timbers built into the external walls (and then made good with matching bricks) and that any areas of fungal infection be identified and treated. However, all floor, roof and stair case timbers would need to be fully replaced, and all steel beams would need to be replaced (or load bearing walls reinstated).

As the proposal also affects the heritage asset of the designated conservation area, it follows that it is necessary to also identify its significance. This has been done previously by the Conservation Officer. Given the importance of the conservation area significance, Officers consider the following extracts to be of direct relevance in the context of the current appraisal.

Newark Conservation Area was originally designated in 1968 and focused on the Market Place. In 1974, the conservation area was extended to include Millgate, Parnhams Island and the traditional residential streets up to Victoria Street.

The conservation area was then extended in four more stages: in 1979 when a more rational boundary to the central area was defined; in 1987 when the majority of Northgate either side of the Trent was included; and in 1992 and 1995 when the London Road suburbs and the Cemetery were added.

Further parts of Lombard Street were included in the 1979 amendments, but Beaumont Cross formed part of the original designation (including the Robin Hood Hotel complex).

The Lombard Street character area forms the southern edge of Newark's historic core, stretching from the intersection with Castle Gate to the area where the Beaumont Cross once stood at the historic junction with London Road.

It is known from documentary sources and excavations that the medieval town defences enclosed roughly a square area of which Lombard Street formed the southern boundary. It is thought that these defences were built along with the castle after the Conquest in the late 11th century. The name Potter Dyke (now Lombard Street) is first recorded in 1331 and reflects its position over the south line of the 'town ditch'. Several excavations showed that the line of the wall lay directly under the line of the modern property frontages.

Other than the medieval town defences, there is limited evidence of extensive activity on Lombard Street before the 16th and 17th century. Mapping from 1646 reveals that Lombard Street is a prominent roadway within the main town defensive ring.

Chapman's Map of Nottinghamshire 1774 and Attenburrows's 1790 Map show that Lombard Street had buildings on both sides of the street. In particular it is noticeable that on the north side of the street there are narrow burgage plots running perpendicular from the Market Place with extensive yards to the rear and buildings fronting Lombard Street.

On Woods 1829 Map, it can be seen that to the south the street was not as densely developed as the north with a large open space belonging to the Duke of Newcastle. Also on this side of the street were two significant buildings set in large grounds. The first known as Potterdyke House, is a significant town house which dates from the mid-17th century and has been refronted in the 18th century with subsequent alterations. The second polite building is known as Lombard House, and originates from the late-18th century. Other buildings of interest at this time are identified on Wood's Map, notably the Johnsonian Chapel on the southern side of the road (which has since been demolished) and on the north side of the street is the distinctive Independent Chapel built in 1822 and designed by W. Wallen in a classical revival style (this building is now an antiques warehouse).

Also marked on the map at the junction where five roads meet is the area known locally as the Beaumont Cross, an association which dates from as early as the 14th century and is the former site of Beaumont Cross. The original Beaumont Cross consists of a medieval stone socle (a type of stone base) and shaft which stands on four octagonal steps (which are a more modern addition). The Cross otherwise formed a distinctive boundary marker at the crossroads. The Cross underwent significant renovations in 1778 and again in 1801, which included the addition of conical stone cap and weather vane. In more recent years, railings were erected around its base (presumably to protect it from the increasing traffic levels at the junction) and more significantly, in 1965 it was moved to its current position in Beaumont Gardens on London Road.

The Robin Hotel is an important focal building in this context. Beaumont Cross was certainly a significant junction at the time that the Robin Hood buildings were constructed.

Development on Lombard Street continued throughout the 19th century. Christ Church was built on the north side of the road, being designed by J. D. Paine in 1836.

In the early 20th century, a bus station was opened to the rear of the Robin Hood Hotel. This remained the case until the 1960's when the bus station was relocated to its current position.

By the late 1960's, demolition had taken place on the north side of Lombard Street to reveal backs of buildings and hotel yards, and a large open area was became used as car parking.

During the 1970's, this car-park area was redeveloped and the St. Marks Shopping centre was built which incorporated shops and a multi-storey car park.

The Potterdyke redevelopment began in 2010 and the large, modern buildings forming ASDA and the medical centre on Portland Street. Combined with the modern car park on the opposite side of the road, modern development has had a massive impact on the street.

Nevertheless, the enclosure of the road and remnants of historic buildings and cottages renders the roadway an important part of the conservation area, culminating in the focal area of Beaumont Cross.

The Extant Position

As Members will be aware, the LPA have previously accepted a 'façade retention' scheme which forms an extant planning permission on the site. As a result of the discharge of planning conditions in association with planning permission 07/01461/LBC (as detailed in the site history section) the extant, implemented permission on this site is for a façade retention scheme. For the avoidance of doubt this allows for the following:

- The retention of the front elevations of Building A, B and C as well as the gable end to A
- The roof completely stripped and taken down (before being set aside for examination of condition with possible re-use)
- All other listed elements (walls, floors, ceilings, staircases) to be demolished
- In-fill of the cellars
- Existing historic windows replaced with double glazed units
- The shape of the historic buildings rebuilt with a pitched roof to exactly the same height.

To put it in simple terms I offer the attached quote from the Discharge of Condition report:

"The proposals now submitted can, for all intents and purposes, be described as facade retention and would entail demolition of all other listed elements with the exception of the front and east gable facade. To clarify, all other walls, floors, ceilings, chimneys, staircases and roof structures are proposed for demolition and the cellars would be in-filled. Whilst this is described as facade retention, the existing historic windows are also proposed for replacement with double glazed units."

These works were subsequently approved (with the relevant NPPF tests having been applied) and the Secretary of State was clear that this was a matter for the Authority to determine in not calling the matter in.

Unlike the previously withdrawn applications which related to the complete demolition of the listed buildings, the current proposals again relate to a façade retention scheme, together with some additional retention of building fabric. Notably, as is outlined by Historic Building and

Conservation Area Assessment submitted to accompany the application, the current submissions have been submitted on the basis that they *'revisit and enhance an earlier design proposal which sought to maintain and restore the existing façade of the Listed Building, whilst demolishing all other structures.'* Furthermore the document contends that the, *'current proposals incorporate the retention of significantly more of the original fabric than the formerly approved scheme, with the intention of preserving as much of the original historic structure as is feasible, given the deterioration over time due to the vacant state of the building.'*

Elements which have been incorporated within the current proposals which do not form part of the extant scheme include the roof to Building A; the chimney stack within Building B; and the maintenance of the cellars below buildings B and C as well as a number of internal walls on the first floor (notably in Building C). Discussion surrounding the negotiations of retention for the current proposals is included below in the section relating to the public benefits of the scheme.

Assessment of Current Proposals in Heritage Terms

As is referenced above, para. 128 of the NPPF requires an applicant to describe the significance of any heritage asset affected with the following paragraph placing a similar requirement on LPA's. The current applications have been assessed by various bodies offering heritage expertise including Historic England and internal Conservation Officers. Comments are listed in full in Appendix 1 but for completeness it is necessary through the current discussion to clarify that the LPA's internal conservation expertise *"take the view that the demolition works now proposed are not necessarily going to result in substantial harm."*

This is clearly a departure from the heritage implications of the 2016 applications for complete demolition but also as Members will note, a difference from the conclusions of Historic England who have identified substantial harm to the Grade II Listed Building through their comments listed in Appendix 1. Indeed, it is also worthy of note that Cotswold Archaeology, who have produced the Historic Building and Conservation Area Assessment dated May 2018 on behalf of the Applicant, have identified substantial harm. For completeness, this document in its concluding chapter states the following, *"The proposed development is considered to result in substantial harm to the significance of the former Robin Hood Hotel on the basis of the demolition of parts of the Grade II Listed Building."* It goes on to state that, *"There is the potential for beneficial change to the character and appearance of the Newark Conservation Area"*.

It is perhaps an unusual scenario for an application submission to identify a greater level of heritage harm than that identified by the LPA expertise; however the conservation officers of this council are required to set out and justify their view, as they have done. It is now for me to balance of the evidence before me in providing a recommendation to the Committee. It will then be for you to balance such matters.

Given the complex planning history which affects the site, and indeed the previous level of interest by the SoS to intervene into the LPA's decision, it is considered vital that any decision on the site represents a transparent and comprehensive process. Both the recommendation of Officers and resolution of Members, (which may or may not lead to the LPA issuing a decision pending on confirmation as to whether the SoS would again wish to intervene), must weigh in the balance all material planning considerations.

Clearly this includes, but is not limited to, heritage implications. In terms of heritage it is clear that this Council, as LPA (both Officers and Members) have found substantial harm when considering full demolition of the RHH. It is equally clear, if one looks at the previous discharge of condition approval for façade retention (i.e. retention of only the front and east gable facades and the total loss of all other walls, floors, ceilings, chimneys, staircases and roof structures; the filling in of the cellars, and the replacement of historic windows with double glazed units) that substantial harm was found by the LPA (again officers and Members), but that the necessary benefits of the scheme achieved substantial public benefits that would outweigh such harm. In this case, given greater elements of retention and more sympathetic restoration the Council's conservation officer has been persuaded in a finding of less than substantial harm (albeit at the higher end of), which of course is still harm which should be assessed.

If I were to conclude less than substantial harm, in accordance with the Council's Conservation Officer but contrary to Historic England, the relevant test for me as recommender and you as decision-makers would be para. 132 of the NPPF, which requires that *"any harm or loss should require clear and convincing justification."*

On the basis of the differing conclusions towards the level of heritage harm caused by the current proposals, in making a recommendation, I offer an assessment of the proposals on the basis of a 'worst case scenario'; i.e. that the level of heritage harm in this case is substantial. I therefore return to paragraphs 132 and 133 of the NPPF.

Members' attention is drawn to the fact that *"substantial harm to or loss of a grade II listed building...should be exceptional."* (paragraph 132). In testing whether the application can be justified paragraph 133 assists (set out again below for completeness and importance):

*"Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should **refuse** consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, 'OR' all of the following apply {emphasis added}:*

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use.*

As will become apparent in the following paragraphs, in this case it is the first test (underlined by officers) which is promoted by the applicant as being met. Officers concur that this is the appropriate test to apply in this instance, albeit in the interest of completeness, I offer some comment on the "bullet point" elements of the second test in paragraph 133.

With respect to the first bullet point, the asset itself does not prevent all reasonable re-uses of the site (albeit that re-use may depend on viability/grant issues). However, it may be that such re-use does not retain the level of asset currently on the site.

Viability, referred to in the second bullet point, is a matter that has been extensively discussed throughout the planning history of the site. It remains telling that despite previous approvals, the

market has still been unable to deliver the restoration of the Robin Hood Hotel complex in any manner (e.g. either the original proposal or the more recent façade retention scheme). In acknowledgement of this, the current application has been accompanied by a 'Financial Viability Assessment' dated May 2016. This confirms that, at the time of the 2011 application (for total demolition) independent surveyors CBRE commissioned on behalf of the council concluded that the retention of the Robin Hood Hotel complex was not financially viable (giving an estimated 4.77% of profit on cost). It is notable that no updated financial report has been submitted since the time of the previously withdrawn 2016 scheme for total demolition. The only commentary on the matter is through the covering statement through the current submission that the applicant have continued discussions with Travelodge who have, *'over time, adopted a more flexible approach to layout and standard specifications which is a reflection of their commitment to securing representation in Newark.'* Given that Officers (and indeed Members through the resolution of the March 2017 Committee Meeting) accepted the viability position presented at that time, it is not considered necessary or reasonable to request an updated viability position for the current submissions given that clearly the expense of the current façade retention scheme would be greater than the previously considered applications for demolition.

Work done for NBPT in the Viability Appraisal Report by Sole Architects 2015 (referred to in more detail below) has also raised viability concerns in relation to conservation without gap funding (see comments below on bullet point 3). Whilst there remains disagreement on the actual level of viability gap between Strawsons and the NBPT, for the purposes of this report, the key point is that there is a viability issue to address. It is stated that the current proposal represents a loss of £638,299.

This is not a case which turns on the issue of viability or indeed the bullet points contained within paragraph 133 of the NPPF. The applicant instead relies on the first test in paragraph 133 of the NPPF, that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

Bullet point 3 requires the decision-maker to be satisfied that conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible. Discussions between Strawsons and the NBPT took place in June 2014 when the Trust was given an option to buy the Listed Building and, NBPT commissioned a feasibility report from Soul Architects (with the help of a 66% grant from the Heritage Lottery Fund). This report, dated June 2015, established that, with the help of a Heritage Lottery Fund Conservation Deficit Grant, a viable future for the buildings would be the development of independent office suites (promoted as Option 4 in the report). The report explores a number of options for the site, discounting industrial or leisure / assembly uses on the basis of the location of the site and the physical arrangement of the buildings. Similarly, restaurants and bars were discounted in preference to retail, office and residential uses. For clarity, all options assumed the repair and retention of the street front façade. The trusts preferred option (Option 4) details that *'a significant amount of historical fabric and internal floor plan would be retained and this scheme would be very 'light touch' in terms of impact to the historical fabric.'* The rationale for favouring Option 4 includes that this option would involve the least change to the historic fabric and that it is the most likely option to attract HLF funding.

However, by the time this work was completed, Strawsons had progressed with the Travelodge scheme and withdrew the letter of comfort for NBPT to continue. Therefore, it is accepted that charitable or other grant aid funding might be available for an alternative scheme and whilst this would take time to explore, it cannot be said to have been exhausted. The failure to exhaust the

possibility of grant-funding therefore means that the third bullet point in paragraph 133 has not been satisfied. Nevertheless, given that the current proposals now include the retention of the façade as well as other elements of the historic fabric, there is no guarantee that options previously explored by NBPT would represent a betterment in terms of heritage harm. It is notable in this respect that NBPT have submitted comments which overall support the current application (notwithstanding commentary on certain elements of the design discussed in more detail on the following section on the current proposals design).

Bullet point 4 refers to the harm or loss to the asset being outweighed by the benefit of bringing the site back into use. For the reasons set out below, I consider that the harm and loss would be outweighed by the benefit of bringing the site back into use in terms of substantial public benefits. However, it is accepted that, overall, the second test in Paragraph 133 has not been met in this case.

The first test in paragraph 133 is set out above. In summary, where substantial harm or potential loss of significance is identified, consent should be refused unless it can be demonstrated that the substantial harm or loss is *necessary* to achieve *substantial public benefits* that *outweigh* that harm or loss.

Given that the end use remains the same as that previously proposed through the withdrawn proposals, there will be elements of this assessment in respect of identification of public benefits which remain similar. Clearly the balance undertaken in the weighing exercise of benefits against harm will be tilted favourably given that the current scheme retains elements of the listed buildings rather than their complete demolition.

The glossary of the NPPF does not define what is meant by a public benefit. However, paragraph 20 of the NPPG {ID: 18a-020-20140306} deals explicitly with the meaning of the term:

“Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (Paragraph 7). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

Public benefits may include heritage benefits, such as:

- *sustaining or enhancing the significance of a heritage asset and the contribution of its setting*
- *reducing or removing risks to a heritage asset*
- *securing the optimum viable use of a heritage asset in support of its long term conservation”*

In the determination of the current scheme, unlike previous assessment of the 2016 applications, benefits *can* be attributed in the heritage context. The proposal would secure a long term use of the buildings and in doing so minimize the harm that the vacant nature of the site has experienced in the past.

The original application submission incorporated a plan titled ‘Historic Fabric to be Retained’

reference J1565 (08) 113 Rev. A. This plan separates each of the floor plans of the existing building and annotates areas of 'Existing fabric to be retained' in red; and 'Extent of retention previously proposed within extant planning permission' in hatched red. The purpose of this plan is to again emphasise that the current proposals amount to the potential for additional elements of the buildings historic fabric to be retained in comparison to the extant scheme which exists on the site (as discussed in the preceding section). The rest of the floor plan is left blank indicating areas of demolition. During the life of the application Historic England (and indeed other parties including SPAB) has raised concern with the wider annotation on the key for the existing fabric to be retained. Essentially these elements are caveated on the basis that their retention would be subject to condition pending further on site assessments as part of the construction process.

This approach is not disputed in principle. It is fully accepted that there may be elements of the buildings that simply are not plausible to be retained. This is agreed by Historic England even in the acknowledged absence of a Structural Survey, partially through a comprehensive knowledge of the buildings through both recent and historic inspections. However, the issue is that the submission offers little comfort to the methodology which would be applied in determining which areas of the building would not be capable of retention. Historic England have confirmed through their submissions that they would be willing to mobilise an appropriately qualified Engineer (at the expense of the applicant) at short notice through the construction phases if required to assist in such assessments. In line with these discussions the applicant has been invited to re-consider certain elements of the originally submitted retention plan and as a consequence have submitted additional information and plans during the life of the application, received 28th June 2018. These plans do show additional areas of the building fabric to be retained albeit there remains elements (now identified through a yellow annotation) that the Applicant is not willing to guarantee retention of and remains of the view that these elements will require further on site investigations.

Despite receipt of such plans prior to the consultation response received by Historic England, the formal comments of Historic England included in full at Appendix 1 continue to raise concern that, *'the applications do not definitively say what historic fabric would in fact be retained.'* On this basis Historic England have identified that the scheme would result in substantial harm to the Grade II listed building. However, it is acknowledged that the primary *'stumbling block'* is the appropriate use of conditions.

Despite the lack of comment from Historic England in relation to the revised retention plans (and associated justification), Officers have considered the revised plans as part of the application submission which supersede the original retention plans. As is confirmed by the comments of Historic England there are a number of specific areas of retention which required additional consideration. These include existing walls in Building A (shown as removed to allow for the proposed layout of the reception and office area and bedrooms at first floor); historic structural timbers; and the roof and rear wall of Building A. Ultimately, it is at this stage not clear as to whether these elements could be reasonably retained but the stance of Historic England is that it is not appropriate to leave these elements to agreement through condition and if they cannot be retained the applicant should be made to go through another Listed Building Consent process at a later date (with HE offering a 'letter of comfort' if they do agree that some fabric must be removed but still requiring this formal, up to an 8 week target process).

The Agent acting on behalf of the Applicant has submitted justification for the revised retention plans including confirmation that the retention of further walls within Building A would

compromise the end user requirements in terms of room layout and customer arrival experience. It has however been confirmed that the removal of these internal walls would not automatically compromise the retention of the roof to Building A (which remains to be shown as retained on the amended retention plans to be subject to condition pending further site assessments) and that these would only be removed if further inspection on-site during the course of implementing the scheme found that this was justified.

Having considered the justification offered by the Agent acting on behalf of the Applicant, Officers are satisfied that the latest revision of retention plan (reference J1565 (08) 113 Rev. B - Historic Fabric to be Retained) would be appropriate in respect to the elements of the buildings which potentially be secured through condition. Officers concur entirely with Historic England that there would need to be an agreed methodology for recording elements of removal for potential reuse where possible, which our recommended condition 3 effectively captures.

It is fully appreciated that the heritage benefits are balanced by the harm owing to the partial demolition of the buildings. They nevertheless represent a greater heritage benefit (through the potential for additional elements of retention) than that accepted by the extant façade retention scheme, a scheme with which the then Secretary of State made clear they should not intervene.

The Historic Building and Conservation Area Assessment submitted to accompany the application contends that, *“There is a potential for beneficial change to the character and appearance of the Newark Conservation Area, and specifically that element of it defined as Beaumont Cross and its approaches arising from the proposed demolition of elements of the Grade II Listed former Robin Hood Hotel and the construction of the new hotel building to its rear.”* Officers strongly dispute this apparent stance that the partial demolition of a designated heritage asset could lead to the enhancement of another. For the avoidance of doubt, in respect of heritage benefits, Officers submission is that the overall balance should not include an enhancement to the CA. That does not mean that the impact on the CA could not be taken as neutral.

I now turn to other benefits derived from what a hotel and retail scheme will deliver. The position in this respect remains unchanged since the time of considering the 2016 applications (if anything the flexibility of the end occupier Travelodge shows a greater commitment than was previously the case). Both the applicant (in their letter dated 1st June 2016) and Travelodge themselves (in their letter dated 19th January 2017 available to view as part of the 2016 applications files) outline that the proposed Travelodge at Lombard Street will occupy a prominent, town centre location, which will take advantage of the retail, food and beverage facilities and tourist attractions nearby. The Applicant and Travelodge have previously shared with Officers details of the legal arrangements between the two parties. There is a commitment to deliver the scheme should Members be minded to approve the application, as reflected by a willingness to enter into a S106 Agreement with the Council in order to ensure that no demolition takes place unless and until a contract has been let to build the Travelodge in accordance with the approved plans. There have been many hotel planning permissions over the years, both in-centre and out of centre. All permissions have lapsed (with the exception of the already implemented Premier Inn at the A46 end of Newark, well beyond the town centre) on the basis of lack of interest and/or viability. I am aware of discussions and public consultation events in relation to a proposed hotel at Farndon roundabout but at the time of writing these have not advanced to planning stage, there are planning issues to address, and in any case would again be some distance from Newark Town Centre. The current application would on the contrary deliver much needed new accommodation within the centre.

The benefits which derive from this scheme do genuinely go beyond simply benefit to the applicant and operator. The scheme represents an investment in the town of c.£5.5m. The proposals would generate 65 – 71 new full-time equivalent jobs (a recruitment scheme which targets local employment could be secured via a S106), and the ability to increase the overnight hotel accommodation offer is likely to generate knock-on spend benefits within the area. Newark and Sherwood is also clearly a significant tourism designation in its own right, notably in relation to Sherwood Forest and (in the context of Newark itself) - the Castle and National Civil War Centre. Additional hotel accommodation for visitors remains vital. In addition, the scheme would increase the employment and commercial offer of the Town through the introduction of 3 commercial units.

The support for overnight accommodation to enhance the tourism industry is outlined by Core Policy 7 of the Core Strategy. The stance is that development should be appropriate to the size and role of the settlement and the needs of the local community concerned. Indeed paragraph 23 of the NPPF is clear that in order to ensure the vitality of town centres, planning policies should be positive in promoting competitive town centre environments.

According to statistics compiled by 'Experience Nottinghamshire' tourism contributes approximately £1.556 billion per annum to the county of Nottinghamshire with the district of Newark & Sherwood contributing a value of £206 million. The vast majority of this is provided by day visitors, which account for 90.4% of the volume of visitors to the area. There are only 113 providers of overnight accommodation countywide and according to 'Experience Nottinghamshire', Nottinghamshire's increase in overnight visitors is in contrast to the national trend, with national overnight stays down by - 2.42%.

According to 'Marketing Nottinghamshire' each overnight visitor is worth nearly 5 times more than day visitors and the corporate and commercial overnight visits to the county, excluding Nottingham City, are worth 7 times more. Figures specific to Newark and Sherwood (dated 2016) state visitor numbers were 451,860 and visitor days 548,330 with a total economic impact of £25.32m (£19.2m direct). The average spend for a day visitor is £34.73 whereas overnight visitors spend is on average £234.41 based on historical data. The Newark and Sherwood Steam Trend Report for 2009 – 2016 (undertaken by Global Tourism Solutions (UK) Ltd. identified that between 2015 and 2016 overnight visitors to the town were down between 3 and 4 %. It is therefore clear that overnight accommodation can bring significant benefits to the vitality of a town centre and that this is where the biggest potential for improving economic impact lies.

The concentration of the vast majority of overnight accommodation in the District is around the Sherwood Forest area (noting the presence in Rufford of national chain Centre Parcs). The website 'Visit Newark and Sherwood' lists 12 hotels in the accommodation section of their website (separately from B&Bs and self-catering) of which just 3 are in Newark Town Centre. I'm conscious that this is not a comprehensive list given that it does not include the Premier Inn in Newark but I am also conscious that the hotel offer is somewhat limited and of varying size reducing the opportunity for competitive rates. South of Newark, the provision of accommodation is sparse with a heavy reliance on B&Bs.

The scheme also provides for the opening of the St Marks NCP car park beyond its current 7pm closure time. This has clear associated benefits not just for patrons of the hotel, but critically for wider customers wishing to benefit from the night time activity within the town centre. Members will be aware of several pubs, bars, and restaurants within and on the edge of the town centre, all

of whom will be able to benefit from additional car parking.

I am satisfied that the applicant has demonstrated the application scheme is deliverable through the provisions of an associated legal agreement and consider the proposed development would complete the most prominent missing piece of the Potterdyke redevelopment jigsaw. It will allow for the completion of the link between Asda and Cartergate, thereby creating the potential to increase footfall and patronage within the town centre.

The applicant refers to public opinion as an indication of benefit in overall planning terms. Members will be aware that a decision on the current application needs to be taken in the context of all material planning considerations. As the NPPG makes clear *“Members must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.”* (Paragraph: 016 Reference ID: 21b-016-20140306).

As set out in Appendix 1, at the time of the agenda going to print, the planning application had been subject to 4 contributions and the listed building consent application to 6 contributions from members of the public (some from the same party to both applications) of which 2 of the FULM application and 3 of the LBC application object to the proposal. The Town Council, themselves elected on behalf of constituents, has resolved not to object. I am mindful however that the number of responses received to the planning and listed building applications are not necessarily representative of the overall opinions of the community. I am aware that there have been various polls etc. on the future of the Robin Hood (the covering letter to the application refers to a specific poll on demolition which was apparently supported by 79.9% of respondents) but given that these have provided contradictory outcomes, and indeed that they are skewed towards the question asked, I consider the weight that can be attributed to these polls in the current assessment on public benefits to be limited.

As with the previous consideration of the 2016 applications given that the public benefits attributable to the current scheme mainly relate to the delivery of the proposed hotel, it is not considered that the public benefits would be substantial without securing physical delivery prior to implementation. As detailed above a 106 agreement will be provided, if Members are minded to approve, to prevent commencement without a secured end occupier (potentially leaving a vacant site). Put simply, Officers consider that the delivery of the hotel is required to make the proposed development constitute a substantial public benefit. Officers consider that this approach would be consistent with paragraph 136 of the NPPF:

“Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.”

In this context, officers are mindful of the continuing deterioration of the heritage asset and its associated significance. Paragraph 130 of the NPPF states that where there is evidence of deliberate neglect of or damage to a heritage asset, the deteriorated state of the asset should not be taken into account in any decision. It is acknowledged that disrepair is not always a sign of deliberate neglect or damage. However, where it appears that a heritage asset has been left to decay in the hope of making consent or permission easier to gain, the LPA should disregard the worsened state of the asset.

In this case, the applicant has made some efforts to arrest specific elements of deterioration, but routine maintenance has been limited since they first acquired the site and that the current condition might have been avoided with basic repair work at an earlier stage. However, for clarity, as already identified above, officers do not consider that this constitutes deliberate neglect in the context of paragraph 130. As is confirmed by the comments of the Conservation Officer, *“The exterior of the former Robin Hood has been regularly inspected since it was first identified on the County Buildings at Risk Register in 2004. The Council served a Section 215 Notice which commenced in January 2017 requiring extensive repair works to the exterior of the building, ranging from vegetation removal, repairs to the masonry, roof, joinery and rainwater goods. Other than some removal of vegetation, the Notice has not yet been complied with.”* This is subject to discussions with the owner of the site which fall outside of the current application determinations.

To be clear, in the current assessment no weight has been attached to the current visual state of the building. The above discussion on the building’s historic significance clearly outlines the significance of the building. It is this significance which officers accept would be partially lost in order to deliver the scheme.

Officers have identified that the current scheme would deliver substantial public benefits and that moreover there is additional certainty to control the delivery of the proposal in the context of the aforementioned S106 agreement. The matter of whether these substantial benefits go far enough to outweigh the heritage harm identified (again taking the Applicant’s and Historic England’s submission of worst case scenario of substantial harm) will be debated in the overall planning balance below.

The Acceptability of the Proposed Design

Clearly the scheme before the LPA for consideration at this time is fundamentally different to the previously withdrawn 2016 scheme which amounted to a complete demolition of the listed building and an entire new build development. Nevertheless, it is also clear that even the current proposal would introduce a significant element of new build, both behind the retained facades of the listed buildings and adjoining the buildings to the west occupying the entire site in footprint.

The application has been accompanied by a Design and Access Statement undertaken by Framework Architects and dated May 2018. The stance of the proposed design is that the *“proposal intends to retain as much of the historic fabric as practicable given condition and location with regard to compatibility with the proposed layout and associated operator requirements.”*

In general the proposed building is scaled at 3 storeys albeit the proposed commercial units at ground floor essentially have ceiling heights which mirror the double storey of the existing Robin Hood buildings. There are then two storeys of hotel accommodation above. There is also an intermediate floor which links the hotel stairwell with the first floor of the historic buildings. The building form of the new build elements incorporates a broadly L-shaped plan form with elements of flat roof separating the retained elements of the historic buildings and the new build elements behind. The frontage of the new build elements are set back behind the façade of the Robin Hood buildings within the street scene. The roof line varies along the Lombard Street frontage with the pitch height of the flat roof sitting marginally above the eaves of Building C before increasing in height for the hotel accommodation westwards along Lombard Street.

The application submission has been accompanied by numerous plans including street scene elevations for both Lombard Street and New Street. The applicant has also taken the opportunity to submit comparative street scene elevations which compare the differences between; the façade retention scheme forming the extant planning position; the previously withdrawn 2016 Travelodge scheme; and the proposals now submitted for consideration. In simple terms, the current proposals could be considered as an amalgamation of the extant façade retention scheme and the previously withdrawn complete re-build scheme.

The design of the proposed new build elements has been subject to discussions prior to the submission of the applicants and indeed the applicant has taken on board comments made by Officers within the LPA and Historic England. The plans have been scrutinized by numerous parties with full comments listed within Appendix 1. NBPT whilst supporting the proposals overall, make specific comment on elements of the design to which they raise concern such as the lack of brickwork on the new building hotel element fronting Lombard Street and the detailing of the shop fronts. SPAB content that the current proposals fail to be subservient or to respond to the retained façade or the character of the CA and raise concern that the roof structure of the new build would sit awkwardly against the retained listed façade.

Historic England have commented on the design of the new build elements as follows:

“We consider that in terms of mass and scale the new build elements are an appropriate response to the site with the taller sections along New Street and along the western boundary. This reduces the impact on the prominence of the listed building. We consider that the Lombard Street elevation is sufficiently well ‘divided up’ into units of smaller width to not be out of step with the townscape character along Lombard Street. High quality detailed design and materials, particularly bricks, are vital to the success of the development, including strong articulation of building elements, such as string courses and deep reveals for windows and doorways, particularly for the Lombard Street elevation of the Travelodge.”

Interval Conservation colleagues have responded as follows:

“Nevertheless, the new build elements will tower over the Robin Hood and inevitably have some negative impact. However, we feel that the overall mass and scale of the new build responds appropriately to the rest of the Potterdyke redevelopment. The flat roof component is not naturally a positive architectural feature in this kind of context, but it is recognised that this helps reduce the impact of the main hotel wing directly on the listed building, with taller elements on New Street and the western boundary. The Lombard Street elevation has appropriate activity and detailing at lower levels, although further details will be required on facing materials, shop front design and the parapet section.”

I would concur entirely with these comments particularly when the proposed design is considered in the context of the existing modern Potterdyke developments. The main bulk and scale of the hotel would be interpreted predominantly from the New Street elevation which would be immediately adjacent to the Doctors Surgery which is not dissimilar in design. The design now proposed is deemed an improvement in respect of the previous withdrawn scheme which notably introduced a striking corner entrance to the hotel at the corner of Beaumont Cross. The current scheme however achieves a balance of maintaining the prominence of the Listed Buildings by bringing the hotel entrance below the eaves of building A but still introducing a legible modern glazed designed entrance which will be clearly interpreted by the proposed end users. I would

disagree with the view of Newark Civic Trust that the modern elements result in a conflict between the new and old. I do however concur with the comments of Historic England that the success of the scheme on the ground will be partially governed by carefully worded conditions in respect to materials and finish. This includes in the context of the finish of the proposed shop frontages (as explicitly referenced by NSDC Conservation comments listed in Appendix 1).

As identified the site affects a number of heritage assets and the design of the new build elements of the proposal must be considered in the context of the designated CA but also the setting of the numerous nearby listed buildings. I note that the Applicant's submission is that the proposal gives "*the potential for beneficial change to the character and appearance of the Newark Conservation Area*" (para. 7.5 of the submitted Heritage Statement). Whilst I would dispute this statement insofar as I do not consider that a proposal which amounts to part demolition of a Listed Building could be a beneficial change, I do concur with the conclusions of Historic England that, on the basis of the appropriate design discussed above and ultimately secured by condition, the proposed scheme would not amount to harm to the character and appearance of the CA. On this basis the proposal would achieve the aims of Section 72 (1); CP14; and Policy DM9 in preserving the character and appearance of the CA.

Impact on Amenity

The proposed development is presented as an urban block with built form occupying the majority of the site. The result of this is that the proposal would lead to a tight urban grain sharing a close spatial relationship with neighbouring land uses. Notwithstanding the historic use of the site as a hotel, it is noted that the surrounding area, through the development of the wider Potterdyke scheme, has significantly evolved since the site was last in such a use.

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Noting the constraints of the site, it is considered that the most sensitive receptor in amenity terms will be the recently developed Doctors Surgery and associated retail units immediately south of the site. Given the orientation of the proposed building, I consider that the proposal would not detrimentally affect daytime light to the Doctors Surgery to a degree which would be detrimental to the use of the building in office hours. I note the potential for a loss of privacy to the treatment rooms from overlooking by hotel occupiers. This would be compounded by the close spatial relationship of the buildings at just 6m at their closest point. However, the very nature of a hotel use is that it serves a nighttime economy. Thus the primary occupation of the hotel rooms, albeit not exclusively, would be towards late afternoon evening time. This reduces the potential conflict with more typical business hours of the Doctors Surgery. In any event, the site is in a town centre, where higher levels and density of development and urban grain are to be expected.

The separation distance afforded by Lombard Street would reduce the impact of the scale of the building to land uses on the north of Lombard Street.

Overall, I have identified no detrimental amenity impacts which would warrant refusal of the scheme.

Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The current application submission has been accompanied by a Phase 1 Ecology and Bat Roost Risk Assessment dated May 2016. This details the results of a site survey undertaken in November 2015. The survey incorporated the visual assessment of the buildings for potential access points and evidence of bat activity. The survey concludes that the buildings will have negligible value for roosting bats and does not recommend any further survey work. Nevertheless precautionary measures are recommended.

Usual practice is that ecological surveys remain 'valid' for two years. Given that the survey works for the original ecological submission are now over 2 years ago, an updated report was requested during the life of the application. The revised report has been undertaken by RDF ecology dated May 2018 confirming that a site survey was completed on May 23rd 2018. During this survey, the building was noted to have deteriorated since the 2015 survey such that not all previous internal inspections were considered safe. However, the overall conclusion in respect for the potential for bat roosting is that there was little material change in the value of the buildings for roosting bats since 2015. It remains the case that there has been no evidence of roosting bats during any of the surveys and the buildings within the site have negligible value for roosting bats.

In the context of the extant façade retention scheme, I am mindful that the LPA has already approved significant demolition works of the existing buildings. However, with the benefit of the updated surveys Officers are satisfied that the current application has been supported by the necessary evidence to demonstrate that the ecological position of the site has not altered in the intervening time since this approval to a degree that any demolition would be harmful to ecology.

Suitable conditions could be attached to any forthcoming permission requiring additional surveys should work comment beyond one calendar year after the latest survey in line with the recommendations of the paragraph 7.3.1.7 and also the recommendations at Section 7.4 of the updated Ecological Survey received during the life of the application.

Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

I have already addressed car parking associated with this proposal. The Transport Statement submitted to accompany the application provides a more detailed assessment of the Highways Impacts to the proposal. As part of the overall Potterdyke Scheme a total of 407 on-site car parking spaces were included to serve Asda, the PCT building and the Doctors Surgery. Of these, 367 spaces are confirmed as being available for public use. However, Members will be aware of the restrictions on these spaces. It is not the intention of the current scheme to rely on these public spaces for the purposes of the proposed hotel.

Nottinghamshire County Council raise no objections on the grounds of car parking subject to the NCP arrangements being secured. In any event I note that the site is within the town centre and is sustainable given its associated public transport links (notably the recently developed bus station and 2 no. railway stations).

Taking the parking demand as a worst case scenario (full occupancy of the hotel with all residents arriving by car) the development would create a need for 66 spaces (based on one car per room occupied). Given that the NCP car park is not currently open overnight, the additional demand could be accommodated through this additional provision. However, in order for this to be secured, as confirmed by the comments of NCC Highways, it would be necessary for this to be controlled through an associated legal agreement.

It is acknowledged that traffic in the town centre can create issues at peak times, as is the case for many sub-regional and historic centres such as Newark. However, it does not fall for the current application to fix existing issues, rather to ensure that traffic generated as a direct result of this scheme is acceptable and mitigated as required.

The submitted Transport Assessment addresses trip generations from the current proposal but rightly acknowledges that there is an extant permission for the development of a mixed use retail, café and office use at the site. It is stated that the proposed hotel will generate up to 33 two-way trips in a peak hour, however once combined with the reduction in traffic resulting from the smaller retail use, the overall picture is one of a reduced amount of traffic from the extant planning position. This is not disputed by the comments of the Highways Authority.

However, the original comments of the Highways Authority (as listed in full within Appendix 1) do raise concerns in respect to vehicles using the service access via Beaumont Cross (where the proposed hotel entrance would be positioned). The Traffic Regulation Order (TRO) in place would allow loading and unloading of hotel guests by private car between 4pm and 10am. The Highways Authority deem that this could result in around 33 vehicles in the morning peak and 22 vehicles in the evening peak entering a large and complex traffic signal junction without signal control and potentially having to reverse out into the junction. The comments formed an objection to the proposals and sought further consideration of the implications of the proposal in respect to this matter.

At the time of agenda print no formal response on this matter has been received. However, the agent has confirmed that discussions are currently ongoing with the Highways Consultant and NCC as the Highways Authority. It has been suggested by the agent that a potential solution to the issue would be to alter the existing TRO's which are in place around the site such that the Beaumont Cross TRO becomes solely for good vehicles and the TRO at the Lombard Street layby is altered to allow for the loading and unloading and loading of all vehicles. It would appear that this would be a pragmatic solution to the concerns raised. Although the layby on Lombard Street would be a less desirable drop off point for hotel guests (being further away from the proposed hotel entrance) Officers do not consider that this would be a reason to resist the suggestion. In some respects the less desirable positioning of the more flexible TRO would be deemed beneficial as it would discourage hotel guests from using private vehicles and potentially encourage a greater use of sustainable means of transport. The informal response received (which remains to be subject to client approval) suggests that the solution has been discussed with NCC Highways and agreed to be acceptable subject to securing by condition. Whilst Officers cannot instruct formal re-consultation on this matter until it is confirmed as the proposed solution by the Applicant, verbal

discussions between Officers and NCC Highways have confirmed that this would be a potentially feasible solution. Members will be provided an update as to the formal position of NCC Highways (and indeed any relevant conditions) through the Late Items Schedule. Given that the proposed solution appears to be feasible, despite a currently outstanding objection, Officers do not consider it reasonable to hold determination of the application on this basis.

As a consequence Officers conclude that the effects of the proposal on the operation of the local highway network could, by appropriately worded condition, be acceptable and consistent with SP7 of the Core Strategy and the relevant elements of Policy DM5 of the Allocations Document as well as paragraph 32 of the NPPF.

Overall Balance and Conclusions

This is a controversial and sensitive matter and Members will note the number of conservation bodies that have been consulted on the current proposals. It is worthy of note in this context that clearly the relevant heritage consultees are dealing solely with matters of heritage, rather than the role of officers and indeed Members which is to weigh in the balance all material planning considerations.

Despite the views of internal Conservation expertise, Officers are mindful that a number of parties, including Historic England (as detailed by full comments in Appendix 1) have identified that the proposals would amount to substantial harm to the Grade II listed building. Such harm gives rise to a strong presumption against consent being granted. Against this backdrop it must be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (paragraph 133 of the NPPF). Despite a disagreement to the conclusion of harm from internal Conservation expertise, Officers consider that an appraisal against a worst case scenario of substantial harm should be undertaken.

I have explained that Travelodge has committed to the proposed scheme through board approval to proceed with the development which would be secured through an associated S106 agreement. I have identified a need for hotel accommodation in Newark and the failures of previous schemes to come forward. I am mindful that the Council has been presented in the past with schemes which the applicant has been confident could be delivered, notably the extant facade retention scheme. The important, material, and persuasive differences in this case are that there is a nationally recognised end occupier involved and that the applicant is willing to enter into a S106 Agreement with the Council in order to secure that no works can take place unless and until a contract has been let to actually build the hotel.

Moreover, the scheme will deliver other substantial public benefits, including a £5.5m investment, up to 71 jobs, an enhanced night-time parking offer for the town, and associated benefits to the over-night visitor and tourist economy. It will finally complete this development in terms of the final link between Asda and the town centre. In combination, I consider that on balance, the proposed development is necessary to achieve substantial and deliverable public benefits. On this basis, having regard to the statutory tests and both paragraphs 132 and 133 of the NPPF, I consider that the partial loss of the building is justified. The current scheme represents a significant betterment to that previously considered in 2016 which amounted to complete demolition. The resolution of the LPA to approve complete demolition (albeit the LPA were denied the opportunity to issue a decision) is a matter of public record. Given that the current applications incorporate elements of retention which go above and beyond that established by the

extant position which even a previous Secretary of State said was a matter for the LPA (subject in some areas to a condition in respect for a need for further site investigations), the proposals now allow the weight to be attached in the overall balance in heritage terms. There have been no other materials planning considerations since the 2016 application resolutions which would outweigh this positive weighting in heritage terms.

Members have been clearly directed to the relevant matters to consider in this case, including all statutory and policy requirements. The officer recommendation in this case is for approval.

Members are advised that given the significance of the scheme (and indeed the planning history whereby the recently withdrawn application was called in by the SoS) if Members are minded to resolve to grant the applications, then they will be referred to the SoS to determine whether they wish to intervene prior to the decisions being issued.

RECOMMENDATION that:

- (1). Members resolve to approve both full planning permission and listed building consent subject to the conditions and reasons shown at Appendix 2;**
- (2). the applications be referred to the National Planning Casework Unit for them to decide if the application should be called in for determination by the Secretary of State; and**
- (3). approval of the applications are subject to a signed Section 106 agreement to ensure that a contract is provided to demonstrate a commitment from the end user to develop the site in line with the approved plans and also secure the overnight parking arrangements with the adjacent NCP car park.**

BACKGROUND PAPERS

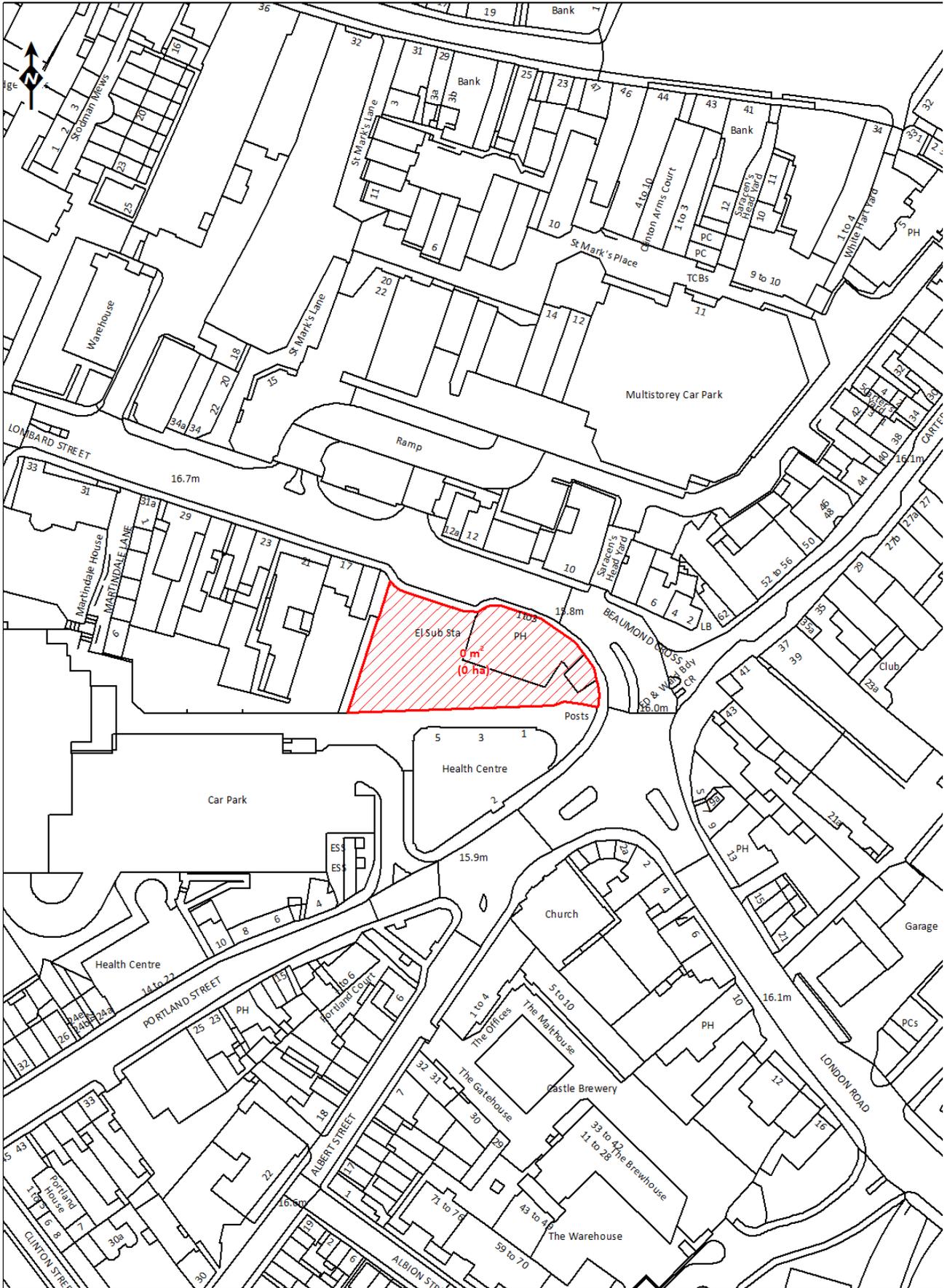
Application case file.

For further information, please contact Laura Gardner on ext. 5907.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb
Business Manager – Growth & Regeneration

Committee Plan - 18/01020/FULM



Committee Plan - 18/01021/LBC

