

## PLANNING COMMITTEE – 8 OCTOBER 2019

<b>Application No:</b>	<b>19/01410/FUL</b>
<b>Proposal:</b>	<b>Alterations and conversion of units 4, 9, 10 and 11 to form a single unit; Blocking up of window and door on Chain Lane; Re-design of shopfront on Middlegate; Change of allowable uses within the building to incorporate use A1, A2, A3, B1, D1 and D2</b>
<b>Location:</b>	<b>The Buttermarket, Between 27 And 28 Middle Gate, Newark On Trent, NG24 1AL</b>
<b>Applicant:</b>	<b>Newark and Sherwood District Council</b>
<b>Agent:</b>	<b>Guy St John Taylor Associates</b>
<b>Registered:</b>	<b>05.08.2019</b> <b>Target Date: 30.09.2019</b>
	<b>Extension of Time Agreed Until 11 October 2019</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=PVFY1PLBKMT00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=PVFY1PLBKMT00</a>

**This application is being presented to the Planning Committee as the applicant is Newark and Sherwood District Council.**

### The Site

The application site comprises the building known as the 'Buttermarket' and the Royal Exchange Shopping Centre which lies between no. 27 and 28 Middle Gate in the sub-regional centre of Newark Urban Area. In accordance with Section 1 (5) of the Listed Building and Conservation Area Act 1990 the building known as the Buttermarket is considered to form part of the Grade I listed Town Hall listing, which lies to the east of the application site with through access onto the Newark Market Place. The building is surrounded by listed buildings and has a sensitive location. The site lies within the Newark Town Centre and Primary Shopping Area, within Newark's Historic Core and the defined Conservation Area.

The main Buttermarket access which is of brick wall construction and is formed of elaborately shaped brick gable with a pediment at the top and is accessed off Middle Gate to the north-west. This façade features a large pedestrian access point and four glazed arched openings. There is through access into the exchange shopping area which exits into Chain Lane in addition to through access via the Town Hall onto the Newark Market Place.

### Relevant Planning History

**19/01411/LBC** - Alterations and conversion of units 4, 9, 10 and 11 into a single unit including

demolition of internal partitions and centralising of incoming services along with all required strip out; new openings into mall area; new floor levels within unit(s); tanking and damp proofing works to basement and creation of extract ducting through the building; Block up window and door to Chain Lane and re-design of shopfront to Middlegate – *Pending consideration*

### The Proposal

The proposal seeks the alteration and conversion of units 4, 9, 10 and 11 (which are on the northern side of the Buttermarket when accessing via Middle Gate into one single unit to form a bar and restaurant and the change of use of the entire shopping area and existing units to have flexible use classes of A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure).

To facilitate this change there are a number of external alterations that are proposed to the building:

#### **Middle Gate Façade**

Proposed new shop front design includes the repainting of the existing fenestration within the glazed arched openings either side of the main entrance door. The two side doors are proposed to be retained and repainted however the northern side is proposed to be altered with the removal of 8 no. brick courses to mirror the existing opening on the opposite side of the building. Four indicative areas of signage have been shown on the proposed plan, two above the side doorways and two broadly centrally within the glazed arched openings – two indicative hanging signs are also shown either side of the façades which is shown as a timber hand painted sign hung on a metal decorative bracket bolted to the masonry through the mortar joints as far as practicable and painted black.

#### **Chain Lane Elevation**

- An existing window is proposed to be blocked in with masonry, rendered and painted in a 'tax relief' style.
- Doorway proposed to be blocked in with recessed masonry.
- Existing shopfront is proposed to be repaired and repainted and the doorway is proposed to be recessed within the existing shopfront.

There are a number of internal works proposed to facilitate the change of use of the units, these do not require planning permission and are covered in the listed building (**19/01411/LBC**) application that has been submitted concurrently with this application.

Documents considered within this appraisal:

- Revised Site Location Plan – Ref. 34.492.14-08-OS Rev A
- Existing Elevations and Sections – Ref. 20977 04 ES 0
- Existing Ground Floor Plan - Ref. 20977 02 P A
- Existing First Floor Plan - Ref. 20977 03 P A
- Existing Basement Plan – Ref. 20977 01 P A
- Proposed Ground Floor Plan - Ref. 34.492.14-20-01 Rev B
- Proposed First Floor and Basement Plan – Ref. 34.492.14-20-02
- Existing and Proposed Elevations Middlegate – Ref. 34.492.14-21-01 Rev B
- Existing and Proposed Elevations Chain Lane – Ref. 34.492.14-21-02 Rev A
- Supporting Statement – Policy DM11 – Ref. 34.492.14
- Historic Impact Assessment Revision D

## Departure/Public Advertisement Procedure

Occupiers of 55 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.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9 - Sustainable Design

Core Policy 14 – Historic Environment

NUA/TC/1 - Newark Urban Area - Newark Town Centre

#### **Allocations & Development Management DPD**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM9 – Protecting and Enhancing the Historic Environment

DM11 – Retail and Town Centre Uses

DM12 – Presumption in Favour of Sustainable Development

#### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- 2018 Retail and Town Centre Uses Monitoring Report 1st April 2017 to 31st March 2018 and Survey Data (April/May 2018)

## Consultations

**Newark Town Council** – “The following comments were AGREED at Newark Town Council's Planning Meeting held on

4.9.19:

i) it was decided to raise No Objection and fully support this application that would enhance the town centre leisure and night time economy.

ii) however, the District Council's attention is drawn to the comments made by Heritage England, in this regard, Members asked that a review of the proposed building frontage/signage works on Middlegate be undertaken to achieve an outcome that would satisfy Heritage England.

iii) The District Council should submit and agree a scheme with the Town Council to deal with the storage and disposal of waste arising from the premise.”

**Newark Business Club** – Support the proposal.

**NSDC Environmental Health** – “The proposal includes a change to include a food take away. This will require extract ventilation for the removal of cooking vapours which may smell of cooked food. Details of the means of extract ventilation and odour control for the purposes of food hygiene and nuisance abatement must be described in full before this application can be fully supported. This must include sufficient detail of noise emissions associated with any extraction system.

The food business operator will be required to register the establishment with the Council. It is recommended that the applicant be advised to register within 28 days of opening.”

*Additional Comments 16.9.19* – “The point of discharge of cooking fume and odour is not clear although the proposed ducting route between ground and first floor has been identified.

Before final consent is discharged the controls to be put in place against potential odour and noise nuisance from the intended kitchen extract ventilation system must be submitted for evaluation.

Advice notes

1: To meet food safety requirements access to ventilation ducting will be required for cleaning purposes.

2: Drainage details. The proposal refers to a grease filter unit. Details of the installation of this unit and its intended maintenance plan will need to be checked to ensure there is no conflict with food safety requirements”

**NCC Highways** – “The site is located within the town centre. This proposal does not affect the public highway; therefore, there are no highway objections.”

**Louise Jennings LCC Archaeology** – “No archaeological input required.”

**Historic England** – “Significance

The Town Hall is listed Grade I as a building of exceptional interest, placing it within the top 2.5% of buildings in the England. It is an imposing and important civic building by John Carr of York expressing the Palladian approach to architecture fashionable at the time. Dating to 1774-6 with late C18 and mid C19 additions, the building is described by Pevsner as ‘a fine example of its type and period.’ (The Buildings of England: Nottinghamshire, 1979). To the rear of the Town Hall is the Victorian covered market known as the Buttermarket. It dates to the 1880’s and was designed by Mr C Bell FRIBA. The Buttermarket was restored and converted to a shopping arcade in 1989-91.

Sufficiency of information

The accompanying Heritage Statement & Impact Assessment identifies the Buttermarket as being grade II listed (Page 8), this is not the case. The local planning authority identify the building as being part of the grade I listed Town Hall. Having reviewed the information provided within the document, we note that whilst an assessment of the significance of the ground floor (Page 20) is provided, there is no assessment of the significance of the basement area. We are therefore unable to assess the potential impact of the proposed tanking of the basement and removal of the staircase on the overall significance of the building and the character of this area. We advise that further information is provided to meet the requirements of paragraph 189 of the NPPF 2019 and address this important issue.

## Impact

The proposals include both internal and external alterations. Having reviewed the supporting information, our concerns relate to the sufficiency of information in relation to the basement as outlined above and the proposed alterations to the Middlegate façade. We are content to defer to your in-house conservation team in relation to the remaining proposals.

The Middlegate façade is a fine architectural composition. It is built of red brick and consists of a pedimented Dutch gable with three large arched openings in the central section flanked by a further arched opening either side. Architectural features include a circular window within the gable and decorative brickwork, including three distinct decorative bands. The facade contributes to the overall significance of the building and has a strong presence within the street scene, making a strong positive contribution to the character and appearance of the conservation area.

The proposal is to provide new doors and shop fronts within the arched openings and to provide steel fretwork panels within the upper sections of the openings, providing areas for signage. The steel panels occupy a large proportion of the openings and would project below the decorative horizontal band. This would alter the architectural proportions and disturb the balance of the façade which would have an adverse visual impact. The proposed signs would compound this effect. In our view, this would harm the architectural significance of the building.

We appreciate that it is desirable to have effective signage to attract footfall into the Buttermarket but consider that there are less harmful ways of achieving this. We therefore advise that the proposed signage and steel fretwork panels are reconsidered. An alternative option could be to provide hanging signs of an appropriate design. These would be less visually intrusive, subject to design and have the potential to attract more passing trade as opposed to the proposed signs which would only be visible from directly opposite the building. We are content to defer to your in-house conservation team in relation to the detailed design.

## Policy

Our advice is given in accordance with Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework (NPPF), the Planning Practice Guidance and the Historic Environment Good Practice Advice in Planning Note 2.

Paragraph 192 of the NPPF encourages local authorities to sustain and enhance the significance of heritage assets. The NPPF states that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (paragraph 194).

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

## Recommendation

Historic England has concerns regarding the applications on heritage grounds as outlined above. We recommend you seek further guidance from your in-house conservation team in relation to the issues raised.

In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to

the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.”

#### **NSDC Conservation Officer – “Site Analysis**

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

The covered market meets the curtilage tests entirely, and I therefore consider the Victorian building to be part of the Town Hall listing.

As part of the complex between Middle Gate, Market Place and Chain Lane, no. 23 Middle Gate is Grade II listed (LEN 1196432) and was designated in 1992.

The listing description for Newark Town Hall advises,

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

The listing description for no. 23 Middle Gate advises,

*'Former public house, now shop. Early C18, restored 1989. Brick with steep pitched plain tile roof. Plinth, first floor band, cogged and dentillated eaves, coped gables. 2 storeys plus attics; 4 window range of segment headed glazing bar sashes. Above, 2 C20 gabled dormers with 2-light casements. below, off-centre half-glazed panelled door with overlight, flanked to left by 2 glazing bar sashes, all with segmental heads. To right, a plain carriage opening. Left gable has a C20 3-light shop window'*

The covered market, known as the Buttermarket has undergone a significant restoration in the 1980s, introducing a row of hops and mezzanine floor.

The other parts of the land holding now identified as the shopping centre are less clear cut. The 1989 phase has remodelled and altered this space extensively, and much of it is not 'special'. However, the physical connection and single ownership of these service areas, including the Royal Exchange, Hobsons, Escape and the upstairs former bar area, could be interpreted as being one single 'extension' to the principal listed building. Inevitably, this interpretation is not so simple.

The building range along Chain Lane containing unit 11 (currently Escape) has been extensively reconstructed, but otherwise appears to be the historic service range to the former Inn on Middle Gate (23 Middle Gate- see late 19<sup>th</sup> century OS maps). Some of the masonry is 1980s stretcher, but areas on Chain Lane at higher level include traditional dentillation and some English Garden Wall with off-centre stretcher bond, suggesting 19<sup>th</sup> century masonry. The annexation of this unit from 23 Middle Gate prior to 1992 ensures that this building range cannot be characterised as curtilage to that property. On the other hand, it seems insufficient to find that the ownership and physical connection of this unit to the Town Hall in the modern era is sufficient to make it curtilage listed either, despite the extent of openness within the unit out of the original building wall line of the covered market (formed by the two arched openings) which encourages the concept of the larger 'extension'.

The line of units on the east side of the Exchange (including Hobsons) appear to contain some historic fabric and some level of connection through to the cells (this area is marked stables on historic conveyance plans), and perhaps might be more obviously determined as curtilage (as an extension of the Town Hall ground floor).

### Legal and policy considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In addition, section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). Section 16 advises that the significance of designated heritage assets can be harmed or

lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development. LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. 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.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the main issues to consider in proposals for additions to heritage assets, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting (paragraph 41).

#### Assessment of proposal

The scheme includes alterations to Chain Lane elevation, Middle Gate elevation and internal alterations.

#### Chain Lane

Existing shop front is to be retained, repaired and repainted. A new recessed door to be inserted

Chain Lane, block up existing window and door with recessed brick. It is proposed to plaster and paint it a window to look like a 'tax relief' window. The bricks will match as closely in a stretched bond. A NHL 3.5 mortar will be used. These features reference a historic design approach.

#### Middle Gate

The scheme looks to remove brick work below the left glazed arch, to create a doorway. This reflects the arch on the right hand side.

Signage is to be located along existing panels along with two additional hanging signs. The hanging sign are to be on a decorative metal bracket fixed within the mortar joints. The sign will be painted.

It is proposed to feed any ductwork up through the first floor again only disturbing 1980s fabric.

The existing fenestration will be retained, repaired and repainted.

#### Internal

Internal works relates to northern section of the Buttermarket towards Chain Lane. This includes units 4, 9 – 11. The proposal creates a large single unit. The fabric to be removed relates to the



1980s restoration, original Georgian cast iron post are to be retained. Therefore, the creation of a single unit does not affect the historic or architectural interest of the building.

The plans identify the area for ventilation and extraction. As the layout of future tenants is unknown therefore the details are indicative. This part of the building is largely a later infill and does not have significant historic fabric.

The proposed stairs to be removed and replaced are modern therefore will not harm the historic significance of the listed buildings. The cellar is to be tanked due to the future use of the building and the requirement to have a dry space. The cellar does not have any significance fabric or architectural features.

The proposal complies with the objectives of preservation required under section 66 of the Act. In addition the proposal follows the heritage objectives contained within the Council's LDF DPDs and section 16 of the NPPF."

### Comments of the Business Manager

#### *Principle of Development*

The NPPF supports sustainable economic growth and places significant weight on the need to support economic growth through the planning system. Core Policy 6 requires the economy of the District to be strengthened and broadened and enabling employment levels to be maintained and increased by meeting requirements of business sectors. Policy NUA/TC/1 states that development of retail and other town centre uses within Newark town centre will be considered against general policy requirements in the Core Strategy and the Development Management policies in chapter 7, with particular reference to Policy DM11.

The proposal seeks the alteration and conversion of units 4, 9, 10 and 11 (which are on the northern side of the Buttermarket when accessing via Middle Gate into one single unit to form a bar and restaurant and the change of use of the entire shopping area and existing units to have flexible use classes of A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure).

Use classes A2, A3, B1, D1 and D2 cannot strictly be defined as retail uses and policy DM11 advises that proposals for non-retail uses at street level within the Primary Shopping Frontages will not be supported unless they can demonstrate a positive contribution to the vitality and viability of the town centre. On this basis it is considered important to understand the health of the town centre to ascertain whether this proposal would contribute to supporting its vitality and viability so that a pragmatic view can be taken. The recently undertaken review of the primary shopping frontage and shopping area in relation to use class is helpful in providing an overview of the current status of the town centre. The last retail assessment undertaken was at the end of March 2018 by NSDC. The assessment detailed the breakdown of the primary shopping frontage (PSF) as follows:

Category	Number of Units in Newark Primary Shopping Frontage	Percentage Split (%)
Total	161	N/A
Vacant	13	8.07
A1 (Shops)	170	66.46
A2 (Financial and	22	13.66

Professional Services)		
A3 (Restaurants and Cafes)	11	6.83
A4 (Drinking Establishments)	3	1.86
A5 (Hot Food Takeaways)	2	1.24
C3 (Dwellinghouses)	0	0
D1 (Non-residential institutions)	3	1.86
D2 (Assembly and Leisure)	0	0
Sui Generis	0	0

As the figures show the primary shopping frontage retains a strong retail element. The proposed development would result in further diversification of the primary shopping frontage which, in accordance with NUA/TC/1 would support and improve the shopping and leisure facilities within the town centre, particularly within the primary shopping frontage. This policy does however state that within the primary shopping frontage there will be a focus for retail activity, which I note does form part of this application within the list of flexible uses applied for, albeit within a range of other proposed uses. NUA/TC/1 states that other town centre uses within the Newark Town Centre will be assessed against the general policy requirements of DM11.

Policy DM11 states that proposals for non-retail uses at street level within the Primary Shopping Frontages, as defined on the Policies Map, will not be supported unless they can demonstrate a positive contribution to the vitality and viability of the town centre. The retention of Primary Shopping Frontages within Newark is cited as being key to maintaining their vitality and viability and consequently substantial justification of the benefits is required in order to support non retail uses. The application has been submitted with a supporting statement in relation to Policy DM11 which outlines the health of the units within the Buttermarket; in the aforementioned retail review, specifically for the Royal Exchange Shopping Centre/The Buttermarket which is a keystone building within the primary shopping frontage 7 units (out of 16) were vacant at the time of the survey; 6 of which have A1 use and 1, A2 – these units amount to c.233 m<sup>2</sup> of vacant unit space which lie within the Primary Shopping Area for Newark (the number of vacant units is thought to have increased to 12 at the time of this application). The application seeks to establish flexible use classes within this building to revitalize the units and improve the viability of uses at ground and first floor which has historically struggled with long term A1 occupation. The supporting statement cites this flexibility of uses as being a way to secure the future viable use of this large keystone heritage asset within the town centre that could act as a catalyst and draw for the town centre as a whole. The statement also cites having secured a national A3 use tenant for the larger unit being created at ground floor is envisaged to act as a draw for future businesses, customers and users of this building.

The units within the Buttermarket/Royal Shopping Exchange are understood to be mostly vacant at present, the units that are occupied and trading currently include one A3 unit, one D1 (non-

residential institutions) and 2, A1 shops. Whilst the application at hand would see the units potentially operating in uses other than A1, out of the 161 units in total in the primary shopping frontage area the units included within this application represent c.10% of these. Therefore, it is considered that even if all units within the Buttermarket/Royal Exchange operated other than in A1 use, there would still be an overall dominance of A1 which would accord with the principles of policy DM11.

In any event, the NPPF defines appropriate uses in town centre locations which predominately include the use classes sought in this application. Whilst I note that this application would mean that the units within the Primary Shopping Frontage could operate other than in A1 use I consider that the principle of this flexibility in use would secure the future viability of this keystone building and importantly the heritage asset to prevent vacancy resulting in the building falling into disrepair. The benefit of flexibility in uses would mean that the units would have a greater appeal to future tenants, increasing the footfall within the Primary Shopping Frontage through this important building within the Primary Shopping Area which will undoubtedly and demonstrably make a positive contribution to the vitality and viability of the town and the revival of the Buttermarket Shopping area.

As such it is considered that the proposed development is capable of supporting the viability and vitality of the Newark Town Centre, will support the reuse of a keystone building within the PSF and therefore the principle of the change of use to include flexible mixed-uses is deemed acceptable. The development is as such considered to accord with policy DM11 of the DPD and the NPPF.

#### *Impact on the Character of the Area and the Heritage Asset*

The site is located within the PSF of Newark, within the historic core of the town, the defined conservation area and is a curtilage listed building in associated with the Grade 1 Listed Town Hall to the east. Internally the building reflects a 1980's arcade style shop frontages which lead onto Chain Lane and through to the Town Hall. Internally the building has a commercial character which translates externally on Chain Lane as a glazed arcade style entrance with adjacent shop units and on Middle Gate as an ornate building entrance with an arched glazed frontage and entranceway. Surrounding units have a mixture of modern and traditional timber glazed shop fronts and the application building is a keystone building within the PSF located within the defined characterful conservation area. As such regard must be had for the impact of any works on the character and appearance of the conservation area and the historic and architectural significance of the curtilage listed building itself in accordance with Policy DM9 of the DPD and Core Policy 14 of the Core Strategy.

Paragraph 200 of the National Planning Policy Framework states that, 'Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.' Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy

Framework (NPPF). Paragraph 194 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).

The application site, whilst not listed within its own right is attached to a listed building, comprises a prominent building within the street scene. Given its prominence, alterations to it have the potential to impact the character and appearance of the Conservation Area. In addition, being attached to the grade I listed building (the Town Hall) the proposals also have the ability to affect the setting, and therefore significance, of the listed building.

Overall the Conservation Officer (CO) has commented in support of this application which sees relatively minor external modifications to the building including the blocking up of an existing doorway with recessed brickwork, blocking up of an existing window with a tax relief style replacement on the Chain Lane façade and alterations to the Middle Gate façade which include minor alterations to the existing fenestration and the addition of four indicative signage fascias and a projecting hanging sign on the northern side of the façade. The alterations are considered to preserve the special architectural and historic significance of the building and the alterations to the Middle Gate façade are also considered to respect the significance of this part of the building.

The principle of the indicative signage is considered to be appropriate and in accordance with the NSDC Shopfronts and Advertisements SPD, the Conservation Officer is also satisfied that the adverts are proportionate and appropriate for the historic façade and will not unduly impact the character of the building or wider conservation area. The tenant will however need to apply for separate advertisement consent once they have devised a complete signage specification. I note that the comments made by Historic England (HE) are in objection to the alterations to the Middle Gate Façade; however the proposal has been altered since these comments were received and the elements that were contested by Historic England have been removed. Their comments relating to proposed hanging signs have been taken on board and advanced within these revised proposals and HE have deferred to NSDC's in house Conservation Team for the final overall assessment.

The Conservation Officer has appraised the historic context of the site in her comments above and as such I do not intend to rehearse these points. I concur entirely with the view of the conservation officer, the revised signage proposal including the new hanging signs proposed are considered to be less visually intrusive than initially proposed and overall the conservation officer has raised no objection to these proposed alterations, which were concluded to have little impact on the building or wider area.

In conclusion, I do not consider the proposed alterations to the building would have a detrimental impact upon the character of the area, nor would the proposed mixed use classes sought particularly given the existing use of the area and the sympathetic alterations proposed. It can be concluded that this proposal will not harm the setting of the listed building or the significance of the conservation area and the re-animation of the front and side façades will be an improvement to the street fronts generally. This application therefore accords with Section 72 and 66 of the Planning (Listed Building and Conservation Areas Act) 1990 as well as Core Policy 14 of the CS, policy DM9 of the ADMDPD and Section 16 of the NPPF.

#### *Impact on Neighbouring Amenity*

Criterion 3 of policy DM5 outlines that regard should be given to the impact of proposals on

amenity or surrounding land uses and should not cause unacceptable loss of amenity. Given that no new building works are required as part of the proposal and that the immediate neighbouring properties, as well as the wider area, are all commercial, it is considered that the proposed uses of the site are acceptable from an amenity perspective.

However, it is acknowledged that some form of extraction system would need to be introduced should an A3 use class be implemented. From the plans submitted and the supporting statement it is understood that A3 use is likely to be implemented in the larger unit to the north of the building that would be created as part of this proposal (opening up of units 4, 9, 10 and 11 to form a single unit). With this in mind an indicative ventilation and extraction plan has been submitted to demonstrate how this unit could be ventilated should the A3 use be forthcoming in this unit. The Environmental Health Officer has reviewed this detail and has advised that the indicative details are considered to be acceptable and prove that an adequate ventilation and extraction scheme could be implemented without resulting in any nuisance through odour or noise to surrounding occupants. The detailed specification would however need to be agreed once a tenant is secured and this scheme is considered appropriate to secure via condition.

For the remainder of the building, should any other A3 use business wish to operate, the ventilation and extraction systems would be subject to a separate planning application as no details have been submitted within this application for the other units. It is therefore considered that an informative attached to any grant of planning permission, reminding the applicant that the installation of an extraction system at the site, if required, would need to be the subject of a separate planning application would be appropriate in this instance.

Overall I am satisfied that subject to compliance with details relating to noise and odour abatement which are to be submitted as part of a discharge of condition application there would be no unacceptable impact upon the amenity of neighbouring occupiers as a result of A3 use in the larger unit to the north.

Given the above, I consider the proposal would not result in unacceptable levels of amenity for surrounding occupiers and the proposal would accord with policy DM5 of the ADMDPD.

### *Highways Safety*

Core Strategy Spatial Policy 7 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. There are no proposed changes to the access arrangements to the site as part of this application and NCC highways have not raised any objection to the scheme. There is ample public car parking in the town centre and given the highway restrictions in place it is not envisaged that the proposal would result in any material highway safety issues. The application is therefore in accordance with Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD.

### *Conclusion*

The principle of the change of use of the building to mixed uses is considered to be acceptable in the context of the town centre and principal shopping frontage location. The proposed uses are not considered to result in any unacceptable neighbouring amenity impact, nor are to proposed external changes considered to result in harm to the character and appearance of the Conservation Area or the setting of the listed building. There are no highways impacts that will

result from this application and therefore subject to conditions there are no material reasons why this application should be refused.

### **Recommendation**

**That full planning permission is approved subject to the following conditions.**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the site location plan, block plan and approved proposed plans reference

- Revised Site Location Plan – Ref. 08-OS Rev A
- Proposed Ground Floor Plan - Ref. 20-01 Rev B
- Proposed First Floor and Basement Plan – Ref. 20-02
- Existing and Proposed Elevations Middlegate – Ref. 21-01 Rev B
- Existing and Proposed Elevations Chain Lane – Ref. 21-02 Rev A

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission

03

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application and annotated on plan references

unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.

Reason: In the interests of visual amenity.

04

The materials to be used in the alterations and repairs hereby permitted shall match those used in the existing building in terms of type, colour and texture, size, profile and bonding pattern unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.

Reason: In order to safeguard the special architectural or historical appearance of the listed building.

05

Notwithstanding the details shown on the approved plan ref. Existing and Proposed Elevations Chain Lane – Ref. 21-02 Rev A the tax relief window shown shall have a glazing pattern of 3 x 4

panes comprising a mock white frame and black panes unless otherwise agreed in writing by the local planning authority.

Reason: In order to safeguard the special architectural or historical appearance of the listed building.

06

Notwithstanding the details shown on the approved plan ref. Existing and Proposed Elevations Chain Lane – Ref. 21-02 Rev A the new masonry forming the blocked doorway shall be recessed between 25 – 50mm unless otherwise agreed in writing by the local planning authority.

Reason: In order to safeguard the special architectural or historical appearance of the listed building.

07

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken and retained for the lifetime of the development in accordance with the approved details.

External windows and doors and their immediate surroundings, including details of glazing and glazing bars.

Soil and vent pipes

Reason: In order to safeguard the special architectural or historical appearance of the building.

08

Prior to the commencement of any A3 use in the larger unit (combined units 4, 10, 9 and 11) as shown on the Proposed Ground Floor Plan - Ref. 20-01 Rev B a detailed ventilation and extraction scheme, including precise manufacturers details and extraction vents and flues shall be submitted to and approved in writing by the local planning authority. The scheme as approved shall be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity

09

Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking or re-enacting these Orders) this permission shall only permit the use of the units as a flexible use of A1, A2, A3, B1, D1 or D2 uses in accordance with Class V (subject to any amendments and variations) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and for no other purpose.

Reason: To protect the vitality and viability of the retail area.

## **Note to applicant**

01

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

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

03

The applicant is reminded that should an A3 use be operated from the site then a separate planning application is required for the installation of suitable odour abatement. This is development in its own right and requires a separate grant of planning permission and listed building consent.

04

This grant of permission does not convey consent for the display of any advertisement on the application site which will require separate advertisement and listed building consent.

05

To meet food safety requirements access to ventilation ducting will be required for cleaning purposes.

06

The proposal refers to a grease filter unit. Details of the installation of this unit and its intended maintenance plan will need to be checked to ensure there is no conflict with food safety requirements.

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Honor Whitfield on ext 5827

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

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



# Committee Plan - 19/01410/FUL



