

Planning Committee 14th November 2023

APPLICATION NUMBER		23/00959/LBALT	
SITE ADDRESS:		Market Place and Victoria Square	
DESCRIPTION OF DEVELOPMENT		Various proposed works at Market Place and Victoria Square	
CASE OFFICER	Chris Whitmore	APPLICANT	Mr K. Parkes – Derbyshire County Council
PARISH/TOWN	Ashbourne	AGENT	Mr Z. Croft - AECOM
WARD MEMBER(S)	Cllr P. Dobbs Cllr S. Lees	DETERMINATION TARGET	2 nd November 2023 (EOT until 17 th November)
REASON FOR DETERMINATION BY COMMITTEE	Market Place and Victoria Square are District Council owned and managed public space/ land. The District Council is also the accountable body for the Ashbourne Reborn Programme, within which Derbyshire County Council is acting as delivery partner for the Highways and Public Realm project.	REASON FOR SITE VISIT (IF APPLICABLE)	For members to consider the extent of works and impact on the heritage assets engaged.

MATERIAL PLANNING ISSUES

Impact of the works on:

- the Grade II listed surface and setting of surrounding listed buildings;
- the character and appearance of this part of Ashbourne Conservation Area, and;
- below ground archaeology

RECOMMENDATION

That Listed Building Consent be Granted subject to Conditions

1.0 THE SITE AND SURROUNDINGS

- 1.1 The surface of the Market Place, Ashbourne is grade II listed (listed 1974). The listing description states that the surfacing is “18th century or early 19th century or earlier” and includes the “paved surface of the Market Place and flanking pavements. Mostly limestone setts with some flagstones. Raised pavements to the west and north-eastern sides”.
- 1.2 The surface of the adjoining Victoria Square is also grade II listed (listed 1974). The listing description states that the surfacing is “18th century or early 19th century or earlier” and includes the “paved surface of limestone setts and flagstones with narrow modern surfaced footway through centre”. Located within Victoria Square is an historic, 19th century (1864) lamp post on a stone plinth/base that is grade II listed (listed 1974).
- 1.3 The listing of surfaces is rare and their statutory protection is based on their age, extent, materials and their contribution to the character and appearance of the town. The statutory listing affords protection and recognises the importance and significance of the surfaces of both Market Place and Victoria Square.
- 1.4 Surrounding and bounding the Market Place and Victoria Square are a large number of listed buildings whose setting and context is the Market Place and Victoria Square.

2.0 DETAILS OF THE APPLICATION

- 2.1 The application which has been submitted relates to the ‘Ashbourne Reborn’ project which has government funding through the ‘levelling up’ programme. The proposed works to the Market Place and Victoria Square are briefly summarised as follows –
 - The removal of the car parking to Market Place (and removal of thermoplastic lines);
 - Provision of a disabled bay and three short stay parking spaces (dermarcated by setts) to the north of no. 5 Market Place;
 - Repairs to existing limestone setts and sandstone flagstones;
 - Introduction of new areas of stone surfacing to areas of tarmac;
 - Installation of new electricity points (for events), some up-lighters and bollards;
 - Removal of old/existing and provision/installation of new street furniture to both areas, and
 - Provision of new trees and associated tree pits within the Market Place.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. National Planning Policy Framework (2021) - Conserving and Enhancing the Historic Environment
2. National Planning Practice Guide (2014)
3. Historic England Advice Note 2 - Making Changes to Heritage Assets (2016)

4.0 RELEVANT PLANNING HISTORY:

13/00058/LBALT	Alterations to listed building - Application of painted ground markings for the control and regulation of car parking	PERC	23/04/2013
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5.0 CONSULTATION RESPONSES

Ashbourne Town Council

5.1 No objection.

Highways Authority

5.2 There are no objections to the proposed development from a traffic and highway point of view.

Archaeology (DCC)

5.3 The surfaces of the Market Place and Victoria Square are designated Grade II listed (MDR12718). No 33 Market Place is also a Grade II listed building (MDR10853). In terms of below ground archaeology, the large triangular Market Place (MDR12718) at Ashbourne was almost certainly laid out as part of the medieval planned town. Due to the nature of the Market Place being at the centre of the medieval town it is possible that the various below ground interventions, such as those for tree planting, lighting and services, etc. may impact below ground archaeological deposits and further archaeological works, in the form of archaeological monitoring will be required. A written scheme of investigation condition is therefore recommended.

5.4 Trees and Landscape Officer (DDDC):

I recommend that details regarding the planting specifications for these should be required to be submitted for approval. This is likely to include suitably specified planting soil cells.

I note underground services are proposed to be installed in the vicinity of existing and proposed trees. I recommend that details relating to how this would be achieved without harm to existing or proposed trees should be submitted for approval.

I note proposed filling of gaps between existing limestone setts around an existing tree in the SW part of the site. This would reduce gas exchange and change water relations with the substrate beneath. The tree's rooting system will have grown accustomed to the existing conditions. It requires gas exchange and appropriate water conditions to survive and to keep the tree healthy and safe. Sealing of the surface as proposed would likely have an adverse effect on the tree potentially leading to its demise and death.

I recommend that alternative methods of creating an accessible surface be considered and an appropriate specification be submitted for approval. Alternatively, it may be more appropriate to remove the tree and replace with one planted in a suitably specified planting soil cell.

5.5 Design and Conservation Officer (DDDC):

It is considered that the proposals, as detailed in the application will, in general terms, constitute an enhancement of the surfaces of both areas and retain historic character and appearance. The proposed works will provide the areas with new street furniture and other elements that will allow both spaces to be actively and regularly used by the general public as communal spaces within the core of the town. The proposed removal of the existing car parking within the Market Place is considered a fundamental enhancement as this will allow the public to regain this space in the town centre and the open space will allow the numerous

listed and historic buildings to both areas to be better appreciated and re-connect them with the historic Market Place as a holistic entity.

Notwithstanding the above, the following comments are made on some of the proposals –

- Street Furniture – this appears to be of a modern and contemporary type/design. This design approach is considered to be generally acceptable, however, it will be important to control the proposed methodology for fixing each element to the historic/listed surfacing. In this regard, a proposed schedule of work/methodology for the fixing type/method of each new element of street furniture will be required (via condition) for approval.
- Disabled Parking Space & short-stay parking bays – the area of the Market Place identified for disabled parking bay & three short-stay parking bays is currently laid with historic limestone setts. The submitted drawing indicates that these existing setts are *'to be taken up and set aside for re-use and replaced with limestone setts'*. Submitted drawing '006-Rev. P01.1' is ambiguous as it states *"replace areas of asphalt with new setts to match existing, add contrasting colour setts to create symbol and demarcation lines (replacing either asphalt and/or existing setts)"*. An image on the drawing shows modern concrete block pavements in white and dark grey. Confirmation is required that if the area of current, historic, limestone setts to this area are to be taken up that they will be re-used and re-laid in the same area and to the same laying pattern but including the contrasting setts to form the symbol and demarcation lines. Confirmation is also required as to what material will be used for the darker setts to form the symbol and demarcation lines. The use of a concrete block pavement is not deemed to be appropriate and would be harmful to the listed surface within the Market Place.
- On the 'proposed Layout' plan it identifies 'new lighting column'. In the submitted 'Public Realm Material Palette' there is no reference to lighting columns or a depiction of what is proposed. It will be important to identify the type of lighting column(s) proposed, for approval.
- With regard to a number of commercial bins within the Market Place/Victoria Square a note on the drawing states *"bins to be managed by consultation with affected businesses. Timber storage will not resolve issue and cannot be located in sufficient quantities"*. Based on this statement it appears that this issue has not been satisfactorily resolved and is, therefore, likely to be an issue going forward.

As the Market Place & Victoria Square have been open areas from the medieval period it is probable that any excavation work may reveal archaeological deposits/remains. In this regard any excavation works should be undertaken under an archaeological watching brief. With regard to new materials (i.e. limestone setts, sandstone/gritstone paving flags) samples of these will need to be approved prior to laying. Similarly, any proposed pointing or re-pointing of the gaps between limestone setts and flagstone should be a traditional lime-based mortar, of a suitable colour, texture and finish within the joints and samples of such pointing/re-pointing should be approved. There is a reference in the submission to pointing/re-pointing to fill joints to create a more level surface. The physical definition of the individual setts/flagstones is an important part of the character and appearance of the listed surfaces and, therefore, any such proposed works should be agreed/approved via a sample panel area.

In conclusion, and subject to the above comments, it is considered that the proposed works to the listed surfaces of the Market Place & Victoria Square and to the setting & context of the large number of listed buildings surrounding/bounding the areas, would, under architectural and archaeological supervision, not be deemed harmful.

6.0 REPRESENTATIONS RECEIVED

6.1 One objection has been received and it is summarised below:-

- a) The position of parking spaces near cafe and chip shop would be better placed on the opposite side of the tarmac facing into the market place as the whole premise for doing up the market place is to provide a lovely area for socialising and eating and drinking out.
- b) With the position of parking flipped picnic benches could be used for the community near the cafe and chip shop safely.
- c) On current plan there are a few bistro tables on flag stones by cafe and 2 benches by chip shop but there is no sign of safety barriers or landscaping barriers to prevent cars encroaching onto the tables.
- d) As owner of the café, there have been 3 occasions this year that cars have hit benches and if the parking can't be switched around. Bollards are required for safety of both public and buildings.

7.0 OFFICER APPRAISAL

7.1 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for any works the local planning authority 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 of the Act also requires local authorities, in exercising their planning functions to pay special attention to the desirability of preserving or enhancing the character and appearance of land and buildings in a conservation area.

7.2 Having regard to the above, the following matters are relevant to the consideration of this application:

Impact of the works on:

- the Grade II listed surface and setting of surrounding listed buildings;
- the character and appearance of this part of Ashbourne Conservation Area, and;
- below ground archaeology

7.3 The application seeks consent for works associated with the Ashbourne Reborn project. The project aims to reduce the dominance of the traffic by redesigning the vehicular carriageway and increasing the space and quality of pedestrian routes and areas surrounding them. This application relates specifically to the works to the Market Place and Victoria Square surfaces, which require Listed Building Consent. Wider works to the highway and public realm constitute a permitted form of development, undertaken by a local authority. The works requiring listed building consent and can be controlled comprise repairs and upgrades to the listed surfaces including proposed pedestrian crossing works, and installation of lighting, services, tree infrastructure and street furniture.

7.4 Section 16 of the National Planning Policy Framework (2023) relates to Conserving and Enhancing the Historic Environment. Paragraph 194 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. A Heritage Statement has been prepared and submitted with this application. The statement considers the effects of the proposed works on the listed assets and has been assessed by the District Council's Design and Conservation Officer.

7.5 The Heritage Statement identifies harm, albeit at the lower end of less than substantial harm in NPPF terms. Metal studs are proposed to be installed to demarcate the proposed spill out seating area. There are some areas where some loss of historic surfacing will occur i.e. the widening of the pedestrian crossing between the Market Place and the pavement on Buxton Road, the addition of a pedestrian crossing at the south-east end of Buxton Road to the

traffic island and the installation of proposed trees and services for lighting and power for events requires the excavation. The relocated ticket machine also results in some harm.

- 7.6 The above works are, however, minor. The wider repairs to and relaying of the surfaces would enhance the appearance of Market Place and Victoria Square addressing damage and sunken setts / flags. The existing surfaces reflect piecemeal development with several different phases of construction evident and a range of different materials, bonds, and coursing direction used. The works conserve and reflect this existing character whilst enhancing pedestrian connectivity, the amount of usable public open space and improving the surfaces, through the relaying of setts and flags and removal of paint demarcating existing parking bays.
- 7.7 The street furniture will be of a contemporary style and have been purposefully selected to have low impact fixings to reduce surface impact. Contemporary bollards are also proposed to deter vehicle access to restricted areas. Whilst the concerns of an adjacent business are noted with regard to vehicles colliding with benches, causing damage to property, the works limit the number of parking spaces and propose dedicated parking spaces and adequate space for vehicle manoeuvres to prevent damage to property. The area is already accessible to the public and can be used for events. This application is also limited to the works requiring Listed Building Consent. The requirements of Martyn's Law under the Terrorism (Protection of Premises) Bill, which is currently in draft will need to be considered in respect of any events held. Temporary measures in addition to the bollards proposed as part of this application can / will be introduced to ensure public safety.
- 7.8 As set out in the consultation comments received by the Council's Conservation and Design Officer it is considered that the proposals, as detailed in the application would, in general terms, constitute an enhancement of the surfaces of both areas and retain historic character and appearance. The proposed works would provide the areas with new street furniture and other elements including trees that would allow both spaces to be actively and regularly used by the general public as communal spaces within the core of the town and enhance this part of the town. The proposed removal of the existing car parking within the Market Place is considered a fundamental enhancement as this would allow the public to regain this space in the town centre and the open space would allow the numerous listed and historic buildings to both areas to be better appreciated and re-connect them with the historic Market Place as a holistic entity. The public benefits to be derived from the works are considered to far outweigh the less than substantial harm to the listed surfaces. No harm would result to adjacent listed buildings and the development would enhance the character and appearance of this part of Ashbourne Conservation Area.
- 7.9 With conditions to control any new materials used and pointing, method of fixing of the street furniture, the design of the street lighting, location of commercial bins and details of any enclosures to minimise the impact on the listed surfaces, the works are considered to be acceptable and it is recommended that listed building consent be granted on this basis. A condition to secure details of the retained trees protection, and how the gaps between the surfaces will be treated and services provided so as to not prejudice the health of the tree is recommended to address the comments of the Council's Trees and Landscape Officer. The applicant has clarified that new underground services are only proposed near to some of the six new trees at the Market Place, not the existing tree at Victoria Square.
- 7.10 With regard to new tree planting the application explains that each tree pit is proposed to be made up of root protection boxes, rootspace (or similar and approved) with a root director placed centrally to support tree growth, avoid future disturbance of the setts and protect any existing utilities within the anticipated root area. The area of root boxes excavation will allow for 200mm provided on all sides of excavation to allow suitable working and backfill. Each root box is 500mm wide, 500mm long and 400mm/600mm height, and they are interconnected to create a rigid surround. They will be filled with a suitable planting soil to

manufacturer's specification. Rootball Anchoring, geotextiles and aeration pipes will be installed, along with the tree pit to support healthy tree growth and prevent future damage to the setts. Tree grilles will then be installed at the base of the trees. The proposed tree grilles (Zeta or similar and approved) will allow the setts to continue over the top of the tree pit seamlessly to minimise visual surface impact and allow the historic surfacing to run as close as possible to the tree without risk of root damage. A small gap will be provided at the centre to allow for trunk growth and water ingress. The proposed street tree species have been selected as they have low impact root systems and absorb pollutants in the air. This is considered to be an acceptable level of specification and detail in relation to the new trees that will ensure minimal damage to the listed Market Place surface.

7.11 The Development Control Archaeologist and District Council's Conservation Officer have both pointed to the likelihood of works revealing archaeological deposits/remains of significance given that they have been open areas from the medieval period. An archaeological watching brief is recommended (which will need to be secured by condition) to ensure that any archaeology of significance is appropriately recorded.

8.0 RECOMMENDATION

That Listed Building Consent be granted subject to the following conditions:-

1. The works hereby permitted shall be begun before the expiration of three years from the date of this consent.

Reason:

This is a statutory period which is specified in Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. This consent relates solely to the application plan no's, DR-ZZ-0100 005 P01, DR-ZZ- 0100 006 P02, DR-ZZ-0100 007 P02, DR-ZZ- 0100 008 P01, DR-CH-0100 014 P01 and DR-LA-3000 006 P01.1 and Public Realm Material Palette and Guidance on the rehabilitation of natural stone pavements documents received by the Local Planning Authority on the 7th September 2023.

Reason:

For clarity and in the interests of proper planning.

3. No development shall take place until a written scheme of investigation (WSI) for archaeological work has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Any WSI should be authored by the archaeological company appointed to undertake the work in the field and this be in consultation with this office. The WSI should set out the timing and sequencing for the implementation of the monitoring and be undertaken by an appropriately qualified and experienced archaeologist.

Reason:

To safeguard the identification and recording of features of historic and/or archaeological interest associated with the site.

4. A proposed schedule of work/methodology for the fixing type/method of each new element of street furniture shall be submitted and approved by the Local Planning Authority prior to its installation and implemented in accordance with the approved details.

Reason:

In the interests of conserving the character and appearance of the listed surfaces, setting of adjacent listed buildings and the character and appearance of this part of Ashbourne Conservation Area in accordance with the aims of the National Planning Policy Framework (2023).

5. Details of the lighting columns shall be submitted and approved by the Local Planning Authority prior to their installation and implemented in accordance with the approved details.

Reason:

In the interests of conserving the character and appearance of the listed surfaces, setting of adjacent listed buildings and the character and appearance of this part of Ashbourne Conservation Area in accordance with the aims of the National Planning Policy Framework (2023).

6. Details of the location and any enclosure of the commercial bins areas within the Market Place/Victoria Square shall be submitted and approved by the Local Planning Authority prior to installation and implemented in accordance with the approved details.

Reason:

In the interests of conserving the character and appearance of the listed surfaces, setting of adjacent listed buildings and the character and appearance of this part of Ashbourne Conservation Area in accordance with the aims of the National Planning Policy Framework (2023).

7. Samples of any new materials to be used in re-surfacing works (including demarcation and symbol setts) shall be submitted to and approved in writing by the Local Planning Authority prior to being laid. The works shall thereafter be carried out in accordance with the approved details.

Reason:

In the interests of conserving the character and appearance of the listed surfaces, setting of adjacent listed buildings and the character and appearance of this part of Ashbourne Conservation Area in accordance with the aims of the National Planning Policy Framework (2023).

8. Before application, samples of pointing or re-pointing of the gaps between limestone setts and flagstone shall be inspected and approved in writing by the Local Planning Authority. It shall be a traditional lime-based mortar, of a suitable colour, texture and finish within the joints. The works shall thereafter be carried out in accordance with the pointing details so approved.

Reason:

In the interests of conserving the character and appearance of the listed surfaces in accordance with the aims of the National Planning Policy Framework (2023).

9. Before works begin on the pointing/re-pointing to fill joints to create a more level surface, a sample panel shall be inspected and approved by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

Reason:

In the interests of conserving the character and appearance of the listed surfaces in accordance with the aims of the National Planning Policy Framework (2023).

10. Prior to the commencement of works within the root protection area of the retained tree details of its protection, and how the gaps between the surfaces will be treated and services provided so as to not prejudice the health of the tree shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter proceed in accordance with the approved details.

Reason:

To safeguard an important feature in Victoria Square in the interests of conserving the character and appearance of this part of Ashbourne Conservation Area in accordance with the aims of the National Planning Policy Framework (2023).

9.0 NOTES TO APPLICANT:

1. The Local Planning Authority have prior to the submission of the application entered into positive and proactive discussions with the applicant to minimise the impact of the works on the heritage assets engaged.

This permission relates solely to the application plans and documents

DR-ZZ- 0100 004 P01

DR-ZZ- 0100 005 P01

DR-ZZ- 0100 006 P02,

DR-ZZ-0100 007 P02,

DR-ZZ- 0100 008 P01,

DR-CH-0100 014 P01

DR-LA-3000 006 P01.1

Heritage Statement

Public Realm Material Palette

Guidance on the rehabilitation of natural stone pavements

Public Realm site walk over report