

## Planning Committee 12<sup>th</sup> December 2023

<b>APPLICATION NUMBER</b>		23/00940/LBALT	
<b>SITE ADDRESS:</b>		Land to Rear of 38-40 St John Street, Ashbourne, Derbyshire, DE6 1GH	
<b>DESCRIPTION OF DEVELOPMENT</b>		Works to boundary walls in association with development in rear yard (resubmission)	
<b>CASE OFFICER</b>	Mr J Baldwin	<b>APPLICANT</b>	M & P Properties
<b>PARISH/TOWN</b>	Ashbourne North	<b>AGENT</b>	Mrs T Critchlow
<b>WARD MEMBER(S)</b>	Cllr S Lees Cllr P Dobbs	<b>DETERMINATION TARGET</b>	30.10.2023
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Associated planning application called to committee by local Ward Member	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	For Members to appreciate the site and context and the impacts to heritage assets arising from the proposal.

### MATERIAL PLANNING ISSUES

- Impact upon heritage assets

### RECOMMENDATION

- Refusal

## 1.0 THE SITE AND SURROUNDINGS

1.1 The site is located between St Johns Street to the north and Shawcroft Car Park to the south in the centre of Ashbourne and within the Ashbourne Conservation Area. The application relates to a burgage plot to the rear of 38-40 St John Street which is a grade II listed building. The site is currently accessed via Shawcroft Car Park and is currently hard surfaced and used for vehicular parking. The site is located within the Town Centre of Ashbourne as defined by policy EC6 of the Adopted Derbyshire Dales Local Plan (2017).



## 2.0 DETAILS OF THE APPLICATION

2.1 Listed building consent is sought for alterations to the existing boundary walls of the site and the construction of two new retail units adjacent to the Shawcroft car park as shown on the submitted plans received by the Local Planning Authority on 4<sup>th</sup> September 2023. The proposed retail units which would be sited along the north eastern boundary would be of red brickwork construction with a Staffordshire blue tiled roof. Four car parking spaces are proposed to the northern end of the site.

## 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. National Planning Policy Framework (2023) - 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:

22/00212/FUL	Erection in rear yard of 2no. retail units (Use Class E - Commercial) with 2no. apartments above, with associated landscaping works and works to boundary walls	Refused	05/09/2022
22/00213/LBALT	Works to boundary walls in association with development in rear yard	Refused	05/09/2022
23/00020/WREP	Erection in rear yard of 2no. retail units (Use Class E - Commercial) with 2no. apartments above, with associated landscaping works and works to boundary walls	In progress	
23/00021/WREP	Works to boundary walls in association with development in rear yard	In progress	

#### 5.0 CONSULTATION RESPONSES

##### Ashbourne Town Council

- 5.1 Objection. Members feel that although the wall is to the rear of the property it is also facing a prominent and visible entrance to the town (from Shawcroft). They feel it does not blend in with the surroundings and will have a negative visual impact.

##### Design and Conservation Officer (Derbyshire Dales)

- 5.2 The current proposal is for a detached, single-storey, linear commercial building adjacent and following the cranked historic boundary forming the eastern side of the medieval burgage plot. The proposed development will occupy over half the length of the open burgage plot. The western side of the plot will form the pedestrian and vehicular access to the new (& existing) commercial properties with associated car parking provision at the northern end of the plot. The south-western elevation of the proposed development is of three principal attached 'blocks' (of different lengths), each one stepping down slightly as the land slopes gently from north to south and cranked to follow the burgage line. The whole block will contain two commercial units. This elevation is to contain a series (5No.) of large segmental headed fully glazed openings incorporating two doorways. The south-west facing roof slopes are to contain 6No. conservation rooflights. The north-west and south-east end gables are to be blank as is the entire north-eastern facing elevation. The development is to be built in red brickwork with clay tiled roof and painted timber windows/doors.

The existing sections of red brick boundary walls (which are deemed to be curtilage-listed to the principal listed building) – to the east and west sides of the burgage plot – are to be repaired and new, matching, sections added in to replace sections of modern timber fencing. The land is to be landscaped with pavements, Yorkstone paving and planted areas. These proposals are generally considered to be acceptable (subject to approval of the new brick & surfacing materials etc.).

Whilst there are some garden/service buildings to the rear plots between No.s 30 & 58 St Johns Street these are small and diminutive in scale. Within this, therefore, series of relatively open plot areas to the rear of the listed & historic buildings the proposal (which has been reduced in height from application 22/00213/LBALT) will, nevertheless, present a substantial block of built development, in terms of its scale, mass, length and width. In this

relatively 'open' area this would, therefore, be a decidedly isolated architectural introduction and present an anomalous intrusion that would contrast detrimentally, and be competitive, with the largely un-developed nature of the area. The proposed development would, therefore, appear out of scale & context and present an alien built addition to this open site & area.

In terms of the burgage plot this has never had (historic) development on it and has remained open and un-developed. It is currently used for (private) vehicle parking. In this regard, the burgage plot is readily identifiable and readable and the south elevation of the listed building looks down over the plot (as it was intended to do so). The ACAA states, in reference to potential development of historic burgage plots, the 'possibility of development eroding, removing or diminishing their presence'. Whilst the proposed development is confined within the historic burgage plot (and partly cranked to follow its historic line) it is considered that it will both erode and diminish the historically open character and appearance of the burgage plot, although it will not remove the burgage plot. In terms of the architectural design, character and detailing of the proposed building it is considered that this is not convincing in its narrative – i.e. the general uniformity of its principal elevation and the run of large, unified, glazed arched-headed openings etc., and its detailing and does not, in this regard, convey a range of former, historic, service building of which it is purporting to present.

The 1990 Act Section 16(2) & 66(1) requires that when considering whether to grant Listed Building Consent/Planning Permission for any works (to a listed building), 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'. Under section 72 of the 1990 Act a general duty is also imposed on Local Planning Authorities, in respect of proposed development in a Conservation Area, that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Area'. Furthermore, Paragraph 199 of the NPPF (2023) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation.

It is considered that the proposed development would fail to preserve the listed building(s), its/their setting(s) and this part of the Ashbourne Conservation Area. Furthermore, it is considered that the siting, scale, mass & presence of the proposed development would not constitute an enhancement to the character or appearance of this part of the Conservation Area. In this regard, there is a finding of harm. It is considered that the level of harm would not be substantial and, in that regard, paragraph 202 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset(s), that harm should be weighed against the public benefits of the proposal.

## **6.0 REPRESENTATIONS RECEIVED**

- 6.1 A total of 1 representation has been received in relation to the application which states:
- We have received your letter dated 5th September 23. The boundary wall fell down over 15 months ago, we notified the property owners, but nothing has been done and we have had to erect Heras fencing to secure our own property. Also, during the last windy days some 3 weeks ago, the fence was blowing backwards and forwards that much that we had put bollards on our own property with tape in between as we felt they were a danger to anybody walking up the carpark.

## **7.0 OFFICER APPRAISAL**

The following material planning issues are relevant to this application:

- Impact upon heritage assets

7.1 This application follows the refusal of previous applications 22/00212/FUL and 22/00213/LBALT which sought permission for similar repair works to the walls and a building of the same footprint as currently proposed. This application has however reduced the height of the proposed units and therefore omitted the residential accommodation which was previously proposed at first floor level. 22/00213/LBALT was refused for the following reason:

*The siting of a building of such scale and design in this location is considered to erode the significance of the historic burgage plot which forms the site. This is considered to result in harm to the special character and appearance of the grade II listed 38-40 St John Street and the wider Ashbourne Conservation Area that would not be outweighed by the public benefits to be derived from the proposed development. The development would therefore be contrary to policies guidance contained within the National Planning Policy Framework (2021), National Planning Practice Guidance and the Historic England Advice Note 2 - Making Changes to Heritage Assets (2016).*

7.2 As set out during the consideration of the previous applications The re-instatement and repairs to the boundary walls of the site are, in isolation considered to be largely acceptable. However, as the boundary wall would be physically attached to the proposed retail units and the units would form part of the enclosure of the burgage plot, this element of the development should also be assessed under the application for listed building consent.

7.3 The site is located within the burgage plot of 38-40 St John Street a grade II listed building and within the Ashbourne Conservation Area. The survival of the burgage plots is considered by the Ashbourne Conservation Area Appraisal to be an “important town scape feature” within the Conservation Area. The appraisal continues “It is considered that as a historical and archaeological resource the burgage plots in Ashbourne should be regarded as a finite heritage asset that should be afforded protection and recognition whenever proposals for development, that may potentially erode, remove or diminish their presence, is considered or contemplated”.

7.4 As acknowledged in the consultation response received from the Design and Conservation Officer, “there are some garden/service buildings to the rear plots between No.s 30 and 58 St John Street” however these existing structures are diminutive in scale. Whilst it is appreciated that the height of the building has been reduced from the previously proposed development under 22/00212/FUL and 22/00213/LBALT, the footprint of the structure remains the same and would accommodate approximately a third of the burgage plot. Concerns have also been raised by the Design and conservation Officer regarding the design of the proposed building. The uniform glazed arch headed openings is not characteristic of a former historic service building which the design is attempting to portray.

7.5 The burgage plots to the rear of the properties along St John Street remain largely undeveloped and can be read in accordance with their former use. This development would begin to erode and diminish the significance of the burgage plots. A structure of such scale and design is considered to appear anomalous in this location and would be harmful to the setting of both the grade II listed 38-40 St John Street and the wider Ashbourne Conservation Area.

7.6 The proposed repair and rebuilding works to the boundary walls of the burgage plot are largely considered to be acceptable and would have a neutral impact on the heritage asset. As set out above however, the erection of the two retail units, albeit of a reduced height than the previous scheme are deemed to result in harm to the setting of both the grade II listed 38-40 St John Street and the wider Ashbourne Conservation Area. This harm is deemed to amount to less than substantial harm.

- 7.7 Paragraph 202 of the National Planning Policy Framework states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.
- 7.8 It is acknowledged that there are some modest public benefits to be derived from the small number of additional employment opportunities provided through the retail units. Previously the proposal included the provision of two market dwellings however this element, and public benefit has been removed as part of this application. On balance, despite the amendments to the previous submitted 22/00212/FUL and 22/00213/LBALT, the public benefits to be derived from the works would not outweigh the less than substantial harm caused to the heritage assets. The development is therefore considered to be contrary to guidance contained within the National Planning Policy Framework (2023) and a recommendation of refusal is made on this basis.

## **8.0 RECOMMENDATION**

That planning permission be refused for the following reason(s).

1. The siting of a building of such scale and design in this location is considered to erode the significance of the historic burgage plot which forms the site. This is considered to result in harm to the special character and appearance of the grade II listed 38-40 St John Street and the wider Ashbourne Conservation Area that would not be outweighed by the public benefits to be derived from the proposed development. The development would therefore be contrary to policies guidance contained within the National Planning Policy Framework (2023), National Planning Practice Guidance and the Historic England Advice Note 2 - Making Changes to Heritage Assets (2016).

## **9.0 NOTES TO APPLICANT:**

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This decision notice relates to the following documents:

Design and Access Statement

Heritage Statement

Archaeological Desk Based Assessment

2017-2240-01 – Existing Conditions Plan and Site Sections

2017-2240-05 – Existing Conditions Boundary Wall Elevations A-D

2017-2240-06 – Existing Conditions Boundary Wall Elevations E-G

2017-2240-10 – Revised Planning Proposal Plans and Elevations

2017-2240-11 – Revised Planning Proposal Location Plan and Block Plan

2017-2240-11 – Revised Planning Proposal Site Layout Plan

2017-2240-13 – Revised Planning Proposal Boundary Wall Elevations A-D

2017-2240-14 – Revised Planning Proposal Boundary Wall Elevations E-G