



Gloucester City Council

Planning Committee

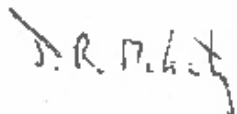
Meeting: Tuesday, 4th April 2023 at 6.00 pm in North Warehouse, The Docks, Gloucester, GL1 2EP

Membership:	Cllrs. Taylor (Chair), Morgan (Vice-Chair), Bhaimia, D. Brown, J. Brown, Conder, Dee, Finnegan, Sawyer, Toleman and Tracey
Contact:	Democratic and Electoral Services 01452 396126 democratic.services@gloucester.gov.uk

AGENDA

1.	APOLOGIES To receive any apologies for absence.
2.	DECLARATIONS OF INTEREST To receive from Members, declarations of the existence of any disclosable pecuniary, or non-pecuniary, interests and the nature of those interests in relation to any agenda item. Please see Agenda Notes.
3.	MINUTES (Pages 7 - 12) To approve as a correct record the minutes of the meeting held on Tuesday, 7 th March 2023.
4.	LATE MATERIAL Please note that any late material in respect of the applications detailed below will be published as a supplement on the Council's website in the late afternoon of the day before the meeting. Additional late material will be uploaded as a supplement on the Council's website on the day of the meeting, should further relevant representations be received thereafter.
5.	DOWNINGS MALTHOUSE, MERCHANTS ROAD, GLOUCESTER - 22/00628/FUL (Pages 13 - 70) Application for Determination: Alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor. The development of a new building comprising basement ground and nine upper floors on the

	<p>site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.</p>
6.	<p>DOWNINGS MALTHOUSE, MERCHANTS ROAD, BAKERS QUAY, GLOUCESTER - 22/00563/LBC (Pages 71 - 94)</p> <p>Application for determination:</p> <p>Listed building consent for the alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor.</p> <p>The development of a new building comprising basement ground and nine upper floors on the site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.</p>
7.	<p>63-65 DENMARK ROAD - 22/00807/FUL (Pages 95 - 116)</p> <p>Application for determination:</p> <p>Change of use from 28 bed HMO (sui generis) to 10 x self contained one bed flats (C3). Two storey rear extension and associated landscaping.</p>
8.	<p>DELEGATED DECISIONS (Pages 117 - 122)</p> <p>To consider a schedule of applications determined under delegated powers during the month of February 2023.</p>
9.	<p>DATE OF NEXT MEETING</p> <p>Tuesday 2nd May 2023</p>



Jon McGinty
Managing Director

Date of Publication: Monday, 27 March 2023

NOTES

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
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Land	Any beneficial interest in land which is within the Council's area. For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
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Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with

whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

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- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.

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HUMAN RIGHTS

In compiling the recommendations on the following reports we have given full consideration to all aspects of the Human Rights Act 1998 in relation to the applicant and/or the occupiers of any affected properties. In particular, regard has been had to Article 8 of the ECHR (Right to respect for private and family life, home and correspondence); Article 1 of the First Protocol (Right to the use and enjoyment of property) and the requirement to ensure that any interference with the right in this Article is both in accordance with the law and proportionate. A balance needs to be drawn between the right to develop land in accordance with planning permission and the rights under Article 8 and also Article 1 of the First Protocol of adjacent occupiers. On assessing the issues raised by the applications no particular matters, other than those referred to in the reports, warrant any different action to that recommended.

EQUALITY ACT 2010

In considering this matter, full consideration has been given to the need to comply with the Public Sector Equality Duty under the Equality Act 2010 and in particular to the obligation to not only take steps to stop discrimination, but also to the promotion of equality, including the promotion of equality of opportunity and the promotion of good relations. An equality impact assessment has been carried out and it is considered that the Council has fully complied with the legal requirements.

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PLANNING COMMITTEE

MEETING : Tuesday, 7th March 2023

PRESENT : Cllrs. Taylor (Chair), Morgan (Vice-Chair), Bhaimia, D. Brown, J. Brown, Campbell, Conder, Dee, Finnegan, Sawyer, Toleman and Tracey

Officers in Attendance

Planning Development Manager

Planning Officer

Locum Planning Lawyer, One Legal

Democratic and Electoral Services Officer

APOLOGIES : None.

46. DECLARATIONS OF INTEREST

There were no declarations of interest.

47. MINUTES

RESOLVED that the minutes of meeting held on Tuesday, 7 February, 2023 were confirmed and signed by the Chair as a correct record.

48. LATE MATERIAL

Late material had been circulated in relation to agenda item 5 – 130 Reservoir Road (22/00884/FUL).

49. 130 RESERVOIR ROAD, GLOUCESTER GL4 6RY - 22/00884/FUL

The Planning Officer presented the report, detailing an application for a Change of Use from retail (Class E) to Mixed Use comprised of Hot Food Takeaway (Sui Generis) and retail (Class E). Retrospective application for installation of External Extraction Unit.

Using Chairs Discretion, the applicant and a local resident addressed the Committee in favour of the application.

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They stated that the application should be granted on the following grounds:

- The business had been operating and addressing the needs of the local community for over 20 years.
- The hot food service was set up before the coronavirus pandemic and served hot food in the morning, which received positive feedback.
- The reason hot takeaway food was served, and the extraction flue built without planning consent was because he (the applicant) had not asked the right questions about what needed planning consent, it was not malicious.
- They had not served hot food takeaway since the coronavirus pandemic had started.
- The business had liaised effectively with the Council, the only reason for refusal was now the look of the extraction flue and its impact on visible amenity. There were multiple businesses in the area that had a similar and more domineering extraction flue and look. This included a fish and chip shop across the road from the store.
- The local resident stated that the business had been a life saver for him, as it was easily accessible and that he had been helped when he had previously had a fall.

Members' Questions

The Planning Officer responded to members' questions concerning what the specific reasons for the recommendation for refusal were, whether the principle of development was acceptable on planning grounds, whether reducing the impact of the appearance of the extraction flue would make the application more compliant on planning grounds, whether the extraction flue could be moved to a different wall, how many objections there had been and the nature of these objections, whether there were facilities for oil storage, whether there had been a specific complaint from the neighbouring property, had the kitchen been built, concerns about commercial creep, noise, and odour, litter, parking concerns, who would be using the store and whether the extraction flue could be painted as follows:

- The Vice-Chair was correct to state that the application was not being recommended for refusal on the principle of development. The reason for the officer recommendation for refusal revolved predominantly around its contradiction to policy C4 of the recently adopted Gloucester City Plan. That policy stipulated that hot food takeaways must satisfy six criteria which was laid out in the officer report and that the application in front of the Committee did not satisfy the first of these criteria. This was that the design of the unit could not have a 'significant adverse' impact on the visual amenity of the area.
- It was difficult to say with certainty whether reducing the size of the extraction flue or moving it would make it policy compliant with policy C4 of the adopted Gloucester City Plan. These changes might reduce its visible amenity impact. However, the recommendation could only be based on the application before Committee. When making the assessment of whether the application contradicted policy, as there were other hot food takeaways within the area that had extraction flues, it was stress tested and there were

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three aspects that separated it. They were the location of the flue, the design of the flue and the height of the flue. Further, the City Plan had recently been adopted so more weight could be afforded to policy C4 than previously.

- The potential moving of the extraction flue onto a different wall, would be a discussion for the applicant and the agent to have. The proximity of the flue to the neighbouring property was originally a reason for refusal. However, after changes were made to the application, the environmental health consultant was satisfied with the application.
- The extraction flue was installed prior to seeking planning consent so he was unsure as to when it was installed.
- There was no through traffic through Selwyn Road.
- It was difficult to speculate as to who would be using the store for Hot Food Takeaway purposes. People may come from outside the catchment area to use the store. However, it would probably be mainly by the local residents. However, this would be speculation and was not a planning consideration.
- There were five total objections, four of which were outlined in the report and one in the late material. The main concerns related to the impact it had on the neighbouring property. There was concern about traffic in the area that would be caused by users of the Hot Food Takeaway and parking on Reservoir Road. There were also concerns raised about litter.
- The Highways Authority undertook a full assessment as part of their role as a statutory consultee. They raised no objection to the proposals.
- He did not believe that a kitchen extension had been installed.
- He was not aware of any Oil Storage Facilities.
- In regard to concerns raised about parking, he could only reiterate that Gloucestershire Highways had assessed the application in detail and raised no objections.
- Regarding concerns about littering, there was an adequate provision of public dustbins in the vicinity.
- It was not for the officer to comment on whether the extraction flue could be relocated, he could only judge the application that was put before him.
- After proposals were resubmitted on the 20th February 2023, The Environmental Health Advisor was satisfied that any noise impacts would not result in an unacceptable amount of harm. They were also content that any odour as a result of the proposals would not be at an unacceptable level subject to the imposition of odour mitigation conditions prior to first use/occupation.
- The Flue installed prior to the seeking of planning permission was lower than the proposed one.
- The position of the Extraction Flue was probably based on the position of the proposed kitchen which was in the back-right-hand side of the property.
- There had been a complaint made by the neighbouring property.
- The kitchen had not yet been built.
- In regard to whether the Extraction Flue could be painted, he felt that it would be speculative to state whether painting it would overcome the issue of the significant negative affect on the visible amenity of the area.

The Locum Planning Lawyer answered a members' question concerning whether the application could be deferred as follows:

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- The application could be deferred if the Committee but reasons for deferral would need to be provided such as to secure amendments, without which the application would have to be refused.

Members' Debate

The Vice-Chair noted that the reason for refusal was that it would have a significant adverse impact on the visual amenity of the area and that he believed, on balance that the proposed application would not have a 'significant' impact and that, therefore, he may vote against the officer recommendation.

Councillor David Brown highlighted paragraph 5.2 of the officer report, which outlined the content of the letters of objection to the application. He said that none of them talked about the visual amenity impact on the area. He added that he agreed with the Vice-Chair that he did not think that there may not be a significant adverse impact and that he was finding the decision to make difficult.

Councillor Toleman stated that he believed that the extraction flue being in a high position was advantageous as that would mean that there would be less sound and odour issues.

Councillor Dee stated that whilst she was sympathetic to the needs of the business, she had driven past the site on several occasions and observed that the Extraction Flue had a significant negative impact on the visual amenity of the area. She believed that the proposed application would still have a negative effect on the area's look. Additionally, she expressed concerns about parking and traffic that she believed would be exacerbated if the application were granted. She noted that there were numerous parked cars in the area, which caused cars to pull out which could lead to an accident. She believed that the granting of the application would worsen the parking and traffic situation.

Councillor Sawyer suggested that deferring the decision could be an option, allowing for a more sensible design and location for the Extraction Flue to be found that would be more sympathetic to the area's visual amenity. She pointed out that since the kitchen had not yet been installed, it was still possible to make changes.

Councillor Conder expressed the view that granting the application would heavily impact the neighbouring property. She mentioned that cars would park on the pavement while people ate hot food bought at the store, causing pedestrians to walk into the road. She also believed that the visual impact of the Extraction Flue would still be significant and considered it an eyesore. She suggested that changing the flue's location as it would be beneficial for all parties.

Councillor Tracey stated that she believed that the application should be granted. She said that there were other facilities that provided hot food takeaways in the area, so that the extraction flue was not out of the character.

The Vice-Chair proposed, and Councillor Toleman seconded a motion to grant the application on the basis that the ventilation unit would not have a significant adverse impact on the visual amenity of the area, making the application compliant with policy C4 of the adopted Gloucester City Plan and that conditions placed on

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the application would be delegated to the Planning Development Manager and approved by the Chair and Vice-Chair of the Committee.

RESOLVED that: - the application is GRANTED, as the ventilation unit would not have a significant adverse impact on the visual amenity of the area, making the application compliant with policy C4 of the adopted Gloucester City Plan.

AND

Subject to the application complying with conditions that would be delegated to the Planning Development Manager and approved by the Chair and Vice-Chair of the Committee.

50. DELEGATED DECISIONS

The schedule of applications determined under delegated powers during the month of January 2023 was noted.

RESOLVED that: - the schedule be noted.

51. DATE OF NEXT MEETING

Tuesday 4th April 2023 at 6pm in Civic Suite, North Warehouse.

Time of commencement: 6.02 pm

Time of conclusion: 7.08 pm

Chair

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GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Address/Location: | Downings Malthouse, Merchants Road, Gloucester

Application No: | 22/00628/FUL

Ward: | Westgate

Expiry Date: |

Proposal: | Alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor.

Proposal: | The development of a new building comprising basement ground and nine upper floors on the site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.

Report by: | David Millinship

1.0 SITE DESCRIPTION AND PROPOSAL

1.1 Site description

The application site forms part of “Phase 2” of the wider Bakers Quay Regeneration site. It comprises two areas within Bakers Quay, the first being the grade II listed building known as Downing’s Malthouse that sits between the public highways at High Orchard Street and Merchants Road. Downings Malthouse shares its western boundary with the Docks Conservation Area (CA), but is not within the CA itself. The second area of the application site comprises an area of land that is currently vacant land with part occupied by parking in association with Phase 1. This area is sited to the south-west of Downings Malthouse, to the south of the substantial grade II listed building at Downings Malthouse Extension and grade II listed former Transit Shed sited marginally to the north. This section of the site is within the Docks CA.

1.2 To the east and north are the modern buildings housing the Gloucester Quays Outlet Village and part of the Docks Restaurant Quarter. Located to the south is the completed Phase 1 of the Bakers Quay Regeneration site (comprising a modern coffee shop unit, hotel building and rebuilt Llanthony Provender Mill building in a mixed-use featuring residential and restaurant units).

1.3 Downings Malthouse has been vacant for a number of decades and is currently required to be supported by a substantial amount of scaffolding since public safety works were undertaken to stabilise the buildings in 2020. The remains of the building include a four-storey section to the north of the site comprising the High Orchard St. Malthouse and High Orchard St. Kiln (subsequently referred to as “Downing’s Malthouse”) and three four storey

walls that were previously part of the former warehouse and an earlier kiln building.

- 1.4 A 1950s concrete silo previously occupied the southern area of Downings Malthouse. It was a square concrete structure with metal framing that extended to approximately 6-7 storeys in height. Although the silo was part of the listed building, it was not considered to possess any notable significance and was permitted to be removed in its entirety to enable access into the former kiln and warehouse sections to permit the previously mentioned stabilisation works to be undertaken (the silo site is subsequently referred to in the report as the “New Build” site).
- 1.5 **Planning History and background to current applications**
The Bakers Quay regeneration (comprising the Phase 1 site, Downing’s Malthouse redevelopment and Malthouse Extension conversion) was granted planning permission and listed building consent in 2016 (ref: 15/01144/FUL & 15/01152/LBC). The scheme was supported as a phased development including a substantial element of new build to support the redevelopment and conversion of the heritage assets within the site. Phase 1 included the construction of a purpose built hotel, a stand-alone coffee shop unit and mixed-use building (comprising the rebuilding of the fire damaged grade II listed Llanthony Provender Mill) to provide a number of residential units with restaurant and leisure floor space at ground floor level. An element of Phase 1 that shares part of the northern boundary of Downing’s Malthouse was the completion of a part conversion of a section of the High Orchard St. Warehouse into 4 residential units now known as “The Maltster’s Cottages”. Phase 1 was completed in 2018-2019.
- 1.6 The original permission sought to deliver Phase 2 of the Bakers Quay Regeneration scheme as a conversion of the grade II listed Downings Malthouse Extension (subsequently referred to as “Malthouse Ext.”), rebuilding of the adjacent grade II listed Transit Shed (and its conversion into restaurant use) and redevelopment of the grade II listed Downings Malthouse into a mixed-use site of predominantly restaurant floor-space on lower levels with some provision of residential units on upper floors. The more substantial Malthouse Extension, occupying the canal-side within the northern half of Bakers Quay, was granted permission as a residential conversion. The majority of details relating to the Phase 2 works were secured by conditions. Some details have been agreed, of note the demolition works to the Downings Malthouse (removal of the concrete silo and stabilising works) that were formally agreed in 2020.
- 1.7 Whilst the 2015 planning permission remains extant, a subsequent downturn to the restaurant market (compounded by the global pandemic) as well as significantly increased building costs, has stalled delivery of Phase 2 with the applicant forced to review the viability of the extant permission going forwards . Attempts to secure grants (historic building, regeneration enabling grants) or other financial support to enable implementation of the extant planning permission have been unsuccessful and the application has subsequently concluded that a redesign of the redevelopment scheme for the Downings Malthouse phase of the wider Bakers Quay development is the only option to ensure that Phase 2 can be secured.
- 1.8 The scheme as it had originally been planned, had a significantly high budget relating to the heritage works, mainly those relating to the Malthouse Ext. conversion, but also the other historic buildings within the wider site. The heritage budget would have been balanced by the financial surplus that would have been delivered by the new build restaurant floorspace within the Downings Malthouse and Transit Shed redevelopments. As the restaurant market can no longer be relied upon to generate a surplus, redevelopment of the site into a predominantly residential use has been considered the most viable. The Malthouse Ext. was already approved as a residential conversion and options to amend that sub-phase of the scheme are limited due to the heritage constraints.

As such, the applicant's primary option to redesign a viable scheme for Phase 2 site predominantly within the Downings Malthouse site.

1.9 A number of redesigned schemes for the Downings Malthouse have been considered by the applicant with two schemes submitted to the Local Planning Authority (LPA) for pre-application advice (in 2020 and 2021). Several schemes were discounted on viability grounds with both pre-application schemes also rejected due to significant concerns raised by heritage consultees (mainly Historic England and the LPA's Conservation Officer). The current design has been reached as a balance between the ability to deliver completion of the Bakers Quay Regeneration and the aim to preserve as much of the remaining fabric of the listed building that spans the Downings Malthouse sites.

1.10 **Development Proposal**

The proposal seeks the rebuilding/conversion of the northern section of Downings Malthouse to provide 49 residential units (one bedroom to three bedroom in size) across four storeys. A further 68 units would be provided within the New Build occupying broadly the area of the former concrete silo. The New Build would be a nine-and-a-half storey building (nine storeys with duplex apartments at the highest level). Approximately 60 sq/m of new restaurant (use Class E) floorspace would be provided at ground floor level. Communal areas (with access only to residents of the development) would also be provided at lower levels, to be used as breakout home working/shared social areas.

1.11 The New Build would occupy a broadly triangular footprint, designed to enable the retention and support of the remaining walls of the listed building that face onto High Orchard St. and Merchants Rd. The New Build is proposed to be separated from the remainder of the northern section of the Downings Malthouse building that would be partially rebuilt and converted. A publicly accessible cut through between the two separate structures would be created to provide a plaza with sitting-out areas (a mixture of private and public) at ground level. The proposal also includes the reinstatement of a 2nd and 3rd storey bridge link between Downings Malthouse and the Malthouse Ext. (the former bridge link was removed in 2019/2020).

1.12 Car and cycle parking would be provided at basement level and within the open land located to the north of Downing's Malthouse and the southern elevation of the modern Gloucester Quays/Restaurant Qtr building. Additional public realm and car parking would be provided within the application site area to the south of the Transit Shed/Malthouse Ext. The main public highway access into the development site would follow the Gloucester Quays and Bakers Quay Phase 1 access from St. Ann's Way with Merchants Road reopened at the southern point of Downings Malthouse.

Application Number	Proposal	Decision	Decision Date
22/00628/LBC	Listed building consent for the alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor.	Pending	

	<p>The development of a new building comprising basement ground and nine upper floors on the site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.</p>		
15/01144/FUL	<p>Alteration, including partial demolition, refurbishment and restoration of Downings Malthouse and Downings Malthouse Extension, the demolition and redevelopment of Provender Mill and the restoration and extension of the Transit Shed to provide commercial floorspace for A3/A4 purposes at ground floor level in Downings Malthouse, Provender Mill and the Transit Shed, conversion of basement and ground floors of the Downings Malthouse extension for ancillary car parking, and the upper floors of Downings Malthouse, Downings Malthouse extension and new-build Provender Mill to provide 162 new residential units, and the restoration of 4 no. three-storey cottages. The development of a 105 bed hotel and freestanding unit for use for A3/A4 purposes on the site together with ancillary parking, turning, access and landscaping all at Bakers Quay Gloucester</p>	Granted with Conditions	12 th August 2016
15/01152/LBC	<p>Demolition, internal works and external works to Grade 2 listed buildings associated with redevelopment at Bakers Quay: Alteration, including partial demolition, refurbishment and restoration of Downings Malthouse and Downings Malthouse extension, demolition and redevelopment of Provender Mill, and the restoration and extension of the Transit Shed to provide commercial floorspace for A3/A4 purposes at ground floor level in Downings Malthouse, newbuild Provender Mill and the Transit Shed, conversion of basement and ground floors of the Downings Malthouse extension for ancillary car parking, and the upper floors of Downings Malthouse, Downings Malthouse extension and new-build Provender Mill to provide 162 new residential units and the restoration of 4 no. three-storey cottages. Ancillary parking, turning, access and landscaping all at Bakers Quay Gloucester</p>	Granted with Conditions	12 th August 2016

3.0 **RELEVANT PLANNING POLICY**

3.1 The following planning guidance and policies are relevant to the consideration of this application:

3.2 **National guidance**

National Planning Policy Framework (NPPF), Planning Practice Guidance (NPPG) and National Design Guide (NDG)

3.3 **Development Plan**

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 11 December 2017) (JCS)

Relevant policies from the JCS include:

SP1 – The need for new development;
SP2 – Distribution of new development;
SD2 – Retail and City/Town Centres;
SD3 – Sustainable design and construction;
SD4 – Design requirements;
SD6 – Landscape;
SD8 – Historic Environment;
SD9 – Biodiversity and geodiversity;
SD10 – Residential development;
SD11 – Housing mix and standards;
SD12 – Affordable housing;
SD14 – Health and environmental quality;
INF1 – Transport network;
INF2 – Flood risk management;
INF3 – Green Infrastructure;
INF4 – Social and community Infrastructure;
INF6 – Infrastructure delivery;
INF7 – Developer contributions.

3.4 **Gloucester City Plan (Adopted January 2023) (GCP)**

Relevant policies from the GCP are:

A1 – Effective and efficient use of housing, land and buildings;
A6 – Accessible and Adaptable Homes;
B1 – Employment and Skills Plans;
B2 – Safeguarding Employment Sites and Buildings;
B4 – Development within and adjacent to Gloucester Docks and Canal;
B5 – Tourism and Culture;
C1 – Active Design and Accessibility;
C3 – Public open space, playing fields and sports facilities;
C4 – Hot food takeaways;
C5 – Air Quality;
C7 – Fall prevention from taller buildings;
D1 – Historic environment;
D3 – Recording and advancing understanding of heritage assets;
D4 – Views of the Cathedral and historic places of worship;
E1 – Biodiversity and geodiversity;
E3 – Green/blue infrastructure;
E4 – Flooding, sustainable drainage, waste water;

E6 – Development affecting Cotswold Beechwoods Special Area of Conservation;
F1 – Materials and finishes;
F2 – Landscape and planting;
F3 – Community Safety;
F4 – Gulls;
F6 – Nationally Described Space Standards;
F7 – Shopfronts, shutters and signs;
G1 – Sustainable transport and parking;
G2 – Cycling;
G3 – Walking;
G4 – Broadband connectivity;
G6 – Water efficiency.

3.5 **City of Gloucester Local Plan (Adopted 14 September 1983)**

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 215 of the NPPF states that ‘...*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.*’ The majority of the policies in the 1983 Local Plan are out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy. None of the saved policies are considered relevant to the consideration of this application.

3.6 **Other Planning Policy Documents**

Gloucester Local Plan, Second Stage Deposit 2002

Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. The following “day-to-day” development management policies, which are not of a strategic nature and broadly accord with the policies contained in the NPPF, should be given some weight: :

OS.2 – Public Open Space Standard for New Residential Development;

OS.3 – New housing and open space;

A.1 – New housing and allotments.

3.7 **Supplementary Planning Guidance/Third-party Guidance**

- Gloucester City Council – Docks Conservation Area (Conservation Area No.3) Appraisal and Management Proposals (2006);
- Gloucester City Council – *Heights of Buildings* (2008);
- Gloucester City Council – *Townscape Character Assessment: Gloucester* (June 2019);
- Historic England – *GPA2: Managing Significance in Decision-Taking in the Historic Environment*;
- Historic England – *GPA3: The Setting of Heritage Assets (2nd Ed.)*;
- Historic England – *HEAN 1: Conservation Area Appraisal, Designation and Management (2nd Ed.)*;
- Historic England – *HEAN 4: Tall Buildings (2nd Ed.)*;
- Historic England – *HEAN 17: Planning and Archaeology*.

3.8 All policies can be viewed at the relevant website address:- national policies:
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
Gloucester City policies:

4.0 **CONSULTATIONS**

Responses received to the application consultations have been summarised by the case officer as follows (the full responses are available by request from the case officer).

4.1 **Conservation Officer (Gloucester City Council)**

Objection.

The original recommendation to the proposal was for officers to refuse planning permission and listed building consent. Subject to a more detailed assessment the following conclusion was presented:

The poor condition of the Downings Malthouse complex, and its ongoing deterioration, make the need for an appropriate scheme of development vital. In addition, it is acknowledged that a number of schemes for the site have been explored, and that a more residential than mixed scheme is required. However, whilst this is the case, what is currently proposed gives rise to significant concerns, in particular with regard to the harm that this scheme, by virtue of its inclusion of a 9+ storey tower block will cause to the significance and setting of a wide range of designated heritage assets across the centre of Gloucester. This harm varies, from the lower end of less than substantial harm (in terms of the NPPF) to substantial harm, in the case of the Malthouse complex itself.

According to the NPPF, 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)' It also notes that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification' and that 'substantial harm to or loss of ...grade II listed buildings...should be exceptional' and should require 'substantial public benefits'. In cases where the harm is less than substantial, it 'should be weighed against the public benefits of the proposal'

Whilst it is not disputed that the current proposals will provide some level of public benefit for Gloucester, there is no evidence provided to show that it is substantial, which is required to outweigh the harm that will occur. Indeed, it appears that the main benefit in this scheme is the principle of regenerating this site, rather than the current scheme itself. This is of considerable concern as it appears that for this benefit to be achieved the price will be very high and permanent, in terms of the impact that it will have on a number of Gloucester's designated heritage assets and the character of Gloucester's historic centre.

Following the submission of amended elevations, a Heritage Addendum and Heritage Policy Overview the following comments were made:

...whilst the revised drawings that have been submitted are welcome, they are, in reality, a minor change on a major scheme, with no other changes to the application proposed. In addition, further concerns have been raised regarding the additional information submitted, as well as in the planning agent's comments, elements of which are unclear.

Bearing in mind these factors, and the requirement of the NPPF that 'great

weight should be given to the asset's conservation' and that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification', the comments made in the initial conservation officer response remain unchanged.

4.2 **Historic England**

Following the submission of additional landscape visualisations illustrating the Llanthony Priory site, Historic England conclude that there would be some harm to the significance of the Scheduled Priory, by virtue of another dominating structure adding to the already crowded open skies around the site. The open semi-rural nature of the site as a monastic complex on the edge of the city and then a farm contributes to its significance and any loss of the open nature of the surroundings will impact on its significance. The Canal, docks and recent developments have greatly compromised this setting, so any remaining openness is important and should be retained.

4.3 **Archaeology (Gloucester City Council)** Objection.

An initial response sought the undertaking of an archaeological evaluation to establish whether any remains of significance could be affected by the proposal. Some informal discussion agreed that archaeology was unlikely to be present across the entire site (due to previous excavation works) and it was agreed the most sensitive area of the site would require on site investigation prior to the determination of the application.

The applicant has subsequently confirmed that investigative works would not be commenced prior to determination and requested a pre-commencement condition, noting that the extant planning permission had no conditional requirements for investigations of the Downings Malthouse site.

Final comments from the City Archaeologist were subsequently received:

Given the applicants failure to provide the required supporting information the City Council should, in my judgment, refuse consent for this proposed development. It should be noted that archaeological evaluations are only requested by the council when there is clear potential for a scheme to damage archaeological remains... Without the results of an archaeological evaluation we are unable to understand the significance of the heritage assets affected by the development - this is contrary to the NPPF. Furthermore, we are unable to understand the impact of the scheme on the significance of those heritage assets, again this is contrary to the NPPF. We are, in effect being asked to give consent to a scheme without understanding the damage it may cause.

4.4 **Canal and Rivers Trust**

No objection – subject to conditions.

The poor condition of the site currently has a detrimental effect on the canal environment. The redevelopment of the site (and wider Bakers Quay) will deliver much needed improvements to the waterway. Comments in relation to the design of the development have been summarised below.

The re-development of Downings Malthouse features the retention of existing fabric where possible and the reinstatement of historic features where lost, e.g., the former projecting dormer to High Orchard Warehouse, and

reinstatement of features such as the traditional painted signage livery to the gable wall serve to greatly reinforce the heritage values of the site...Although the reinstated link bridge now seems much heavier than the original structure, this element of the scheme sits behind the Malthouse Extension buildings and, as such, does not have a considerable impact upon the navigation.

The Downings Tower element is the more contentious aspect of the proposal, but this has to be judged within the wider context, where it sits adjacent to other modern buildings, and therefore does not seem entirely incongruous, whilst also being of good design quality in terms of its materiality, form and detailing. Whilst the height and mass of the building undoubtedly has an impact on views from the canal, the introduction of height does not seem, in this instance, to be particularly damaging to the historic context or key views, possibly due to the sizable mass of many of the existing historic warehouses. As such, the height and scale of the proposed scheme acts as a kind of counterbalance to the heavier mass of buildings surrounding it...

The parking adjacent to the navigation is of greater concern as it will be very visible from the canal corridor (and Llanthony Priory) and further consideration needs to be given to the landscaping of this area in order to reduce the prominence of vehicles on the waterfront, which will be detrimental to the visual amenity of the canal corridor. The changes in ground levels will exacerbate the prominence of parked cars and more robust landscaping will be required to screen the front row of vehicles. It is suggested that further details of soft landscaping is provided to allow this element of the proposal to be given greater consideration. This can be by way of a suitably worded condition if required.

Conditions to secure full details of protective fencing (during the construction phase), external lighting and surface water drainage to ensure that pollution of the waterway is minimised are also requested.

4.5 **Civic Trust** Objection.

The successful re-development of Gloucester Docks, going back to the 1980s, has been on the basis that no new buildings should be higher than the existing Georgian and Victorian buildings which provide a maritime conservation area of local, national and, arguably, international importance. We see no reason to change this principle.

The proposed tower block completely dominates its close listed building neighbours to an unacceptable extent and sets a precedent for further tower blocks of a similar size which would be obtrusive in the docks setting and block views of the Cathedral from the south.

A ten storey building is not needed because there is land available in this quarter of the redevelopment to site, for instance, two, five storey residential blocks which would comply with the approved policy.

4.6 **Developer Contributions Investment Team (Gloucestershire City Council)** Contributions are sought towards education and libraries.

Of the proposed new housing 55 are qualifying dwellings with potential to impact upon education facilities within the area. The Gloucester Secondary Planning Area is forecast to be full. Gloucestershire County Council is therefore requesting a secondary (11-16)

contribution of £ £222,296.25 towards the provision of these places.

The new development will generate a need for additional resources at local libraries, and this is costed on the basis of £196.00 per dwelling. A financial contribution of £22,770 is therefore required to make this application acceptable in planning terms.

4.7 Economic Development Manager (Gloucester City Council)
Support.

...the development will create 117 new homes, a small amount of commercial space, and physical improvement to the immediate environs of the property. These are important contributions to the economic wellbeing of the city, and the new homes in particular will result in more people living in a sustainable location with the potential consequence of greater local spending...

More importantly the scheme will enable the resolution of a difficult site, which has remained derelict and redundant for over 30 years. It will also enable the completion of the next phase of the development of the Gloucester Docks, continuing the economic uplift of the area through physical improvement.

4.8 Planning Policy (Gloucester City Council)
Objection.

The policy framework is set out with regards to the development plan (JCS and GCP). The opinion given is that the development conflicts with a number of policies with possible conflicts with other policies dependent on further consideration. The main policy conflicts centre on design, living conditions and heritage impacts. Comments are summarised below.

Legibility and landmark buildings – excessive scale is not a requirement for a landmark building. Besides which the principle of a landmark building within the Docks is unnecessary. The fundamental character of the Docks and Quays is not one of landmark buildings. The buildings are substantial warehouses viewed in groups. No one building competes with another. This approach to landmark buildings is incongruous to the character of the area.

Amenity and Space – The flats on the northern elevation, adjacent to the parking will have poor natural light and potential for noise and disturbance and air quality issues from the parking and ramp. Environmental Health to provide specialist comments. I am particularly concerned about the light, outlook and quality of the living environment to those single aspect flats that look out onto the parking area and have no potential for cross ventilation or altered outlooks. They also have no amenity space.

Concerns over the lack of sustainable transport being promoted and the design not sufficiently addressing accessibility were also put forward:

The disabled parking is located a significant distance from the level access entrance at the back of the building away from the main entrances. No ramp is provided on the Merchants Road side...Developments should have no disabling barriers and should be used without separation or special treatment.

No facilities for mobility scooter storage and flats too small to accommodate internally. No disabled parking internally near lifts.

Car is clearly prioritised over cycling and cycle storage. No cycle parking near entrances or public uses.

4.9 Contaminated Land (Worcestershire Regulatory Services)

No objection.

The reports submitted relate to the previously approved development with differing end uses. The LPA is advised to secure an up to date tiered ground investigation and scheme of remediation using a pre-commencement condition.

4.10 Noise (Worcestershire Regulatory Services)

No objection.

Subject to conditions to secure full details of plant, details of noise levels from commercial unit and compliance with the noise mitigation measures set out by the applicant.

4.11 Association for Industrial Archaeology

Objection

The Association considers the reuse/conversion of Malthouse No 2 and the Warehouse acceptable, the new build of the Maltings Tower is too dominant and harms the setting of the adjacent listed buildings as well as further afield views of the city, it objects to this application which should be refused.

4.12 Council for British Archaeology

Objection

We recommend that the applicants revise their plans to retain and conserve as much as possible of the surviving fabric of the listed Malthouse buildings, and to reduce the scale of the proposed tower to fit with the skyline of the existing Docks area.

4.13 Historic Buildings and Places (Ancient Monument Society)

Objection

For a number of reasons, the development fails to comply with the aims of Chapters 12 and 16 of the NPPF. Whilst there is no objection in principle to the restoration of the northern range of the listed building, there are concerns over the design and number of new openings/use of balconies etc.

The main content of the objection is to the New Build summarised below:

The tower element of this application is unacceptable due to:

- *the harm to the significance and setting of a number of adjacent and nearby heritage assets;*
- *the significant harm to the significance, appearance, and setting of the Docks Conservation area;*
- *the negative impact of a tall building on the city skyline and protected views of the cathedral.*

It is also advised that , should the LPA be minded to approve the scheme, a mechanism to ensure the listed building restoration works are secured should be put in place (in accordance with NPPF para. 204).

Queries in relation to the accuracy of some of the application documentation were also submitted.

4.14 **The Victorian Society** Objection

This proposal would not result in the conservation of the significance of the listed building, or the setting of the Docks Conservation Area and nearby listed buildings. Considering a less harmful proposal was approved previously there is no clear or convincing justification why this cannot be implemented.

5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 Neighbouring properties were notified and press and site notices were published.

5.2 Six third-party responses to the public consultation were received:

Objections have been summarised as follows:

- The nine-storey building is too tall within this area of mainly 4-5 storey buildings;
- Overly modern design not in keeping with the character of the listed building;
- Concern over lack of parking given the number of new dwellings to be created;
- Concern over conflict with access to neighbouring businesses.

Support has been summarised as follows:

- Downings Tower would be a striking and welcome addition to the city's skyline and appears to be the only realistic method of funding the regeneration of Maltings Warehouse - a building of unique character which deserves to be saved and put to good use;
- The development will benefit the city economy providing much needed new homes within the Docks area;
- The development will help to support further investment into the area.

5.3 The full content of all correspondence on this application can be viewed on:
<http://www.gloucester.gov.uk/resident/planning-and-building-control/Pages/public-access.aspx>

6.0 **OFFICER OPINION**

6.1 **Legislative background**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:

- a) the provisions of the development plan, so far as material to the application;
- b) any local finance considerations, so far as material to the application; and
- c) any other material considerations.

6.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core
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Strategy (JCS) and the partially saved 1983 City of Gloucester Local Plan. However, as outlined earlier, the 1983 Local Plan is considered to be out-of-date.

6.4 It is considered that the main issues with regards to this application are as follows:

- Principle;
- Historic environment;
- Urban design, layout and landscaping;
- Affordable Housing;
- Traffic and transport;
- Residential amenity;
- Drainage and flood risk;
- Open Space, Recreation, Education and Community Facilities;
- Economic considerations;
- Planning obligations.

6.5 **Principle**

The NPPF requires local planning authorities to demonstrate a 5 Year Housing Land Supply, with an appropriate buffer, against the relevant housing requirement. The JCS addresses housing supply and demand under Policies SP1 (The Need for New Development) and SP2 (Distribution of New Development) as well as within Part 7 (Monitoring and Review).

The NPPF sets out that there will be a presumption in favour of Sustainable Development. For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF (2021) clarifies that: 'out-of-date policies include, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (5yrHLS) (with the appropriate buffer..).'

At the time of writing, the Council is unable to demonstrate a 5 year housing land supply so the 'tilted balance' as set out by the NPPF is engaged. The site is also subject to an extant planning permission that has established that certain principles to the redevelopment of the site are acceptable.

6.6 **Fall-back Position as a Material Planning Consideration**

As outlined above, planning permission and listed building consent (LBC) for the regeneration of the wider Bakers Quay site (encompassing the application site) was granted in 2016. Although the permissions were granted subject to a number of conditions it is a material planning consideration that the permission can provide the developer with a lawful fall-back position. This is particularly pertinent with regards to the principle of the

works to construct new build elements in tandem with works to convert and restore the listed buildings.

- 6.7 However, there can be some cases where the situation within an application site changes between Phases of a development that can remove the ability for a developer to implement subsequent phases of an extant planning permission. No material changes to land around the site have occurred that could influence the ability of the developer to implement the extant consent. Vehicular/pedestrian access remains as it was in The obvious physical changes relate to the condition of the buildings on site.
- 6.8 Whilst the condition of the building within the Downing's site area of Bakers Quay has deteriorated since 2016, I accept that partial demolition of the buildings within the site was agreed (in principle) by the original planning permission and LBC. The full extent of demolition relating to the High Orchard St. Warehouse was subsequently formally agreed through a discharge of condition approval in 2020. Some conditions relating to certain design specifications remain in need of discharge, I am of the view that this would be a technical matter and not affect the fundamental ability of the developer to continue to implement the redevelopment of the Downing's site (following the demolition phase).
- 6.9 The changes to the viability of the scheme (since that as assessed in 2015/2016) have been assessed in greater detail above. Whilst it is accepted that the original scheme is no longer financially viable, I do not consider this presents a planning barrier to the implementation of the scheme (i.e. the planning permission remains lawfully able to be implemented). As such, I am of the view that the planning permission remains extant and could be implemented.
- 6.10 Policy SD10 of the JCS allows for infilling within the existing built up areas of the City Gloucester. In terms of the broad principles of development, the site is within the built up area of the City, is in a highly sustainable location characterised by a mixture of commercial and residential uses. The development would contribute to the city's housing supply at a time of demonstrable need.

6.11 **Principle of a residential-led redevelopment of Downings Malthouse**

As the site is located within the built up area of the city within the southern area of the Docks Regeneration Area and close to the city centre. Therefore, the principle of residential development is considered to be acceptable in accordance with strategic policies SP1 and SP2. JCS Policy SD10 sets out more specific requirements for residential development with the broad aim to ensure that new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2. As the city council is unable to demonstrate a 5yrHLS the policy can be considered to be out-of-date. However, there some elements that I consider require some consideration with regards to the general principle of the development. These are:

3. On sites that are not allocated, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City...except where otherwise restricted by policies within district plans...

There is currently no policy restricting the proposed development within any district plans (see GCP policy assessment below). So, I must accept that the broad principle of a residential-led development is acceptable in this

- 6.12 In terms of the general principle, GCP policy A1(4) sets out that new development should not prejudice the potential for the comprehensive development of adjacent land. The proposal in this case would secure the comprehensive redevelopment of the Bakers Quay

site, within a wider area that has seen a number of large-scale development schemes already built-out (including the Quays Outlet Centre, Docks Restaurant Quarter and a number of residential and leisure conversions of existing warehouse buildings). I consider the scheme would provide a viable long-term use for a site that has, for a substantial period of time, presented an unsightly feature of the local townscape.

- 6.13 The proposal would potentially involve the loss of employment land (since the last known use of the site would have been within B1, B2 and B8 use classes). However, taking into account the length of time the site has been vacant, that a comprehensive redevelopment of the site has been granted (into a mixed-use commercial, leisure and residential scheme) and considering the modern development and changes of use to surrounding land (also into mainly commercial, leisure and residential uses) the LPA are of the opinion however that the land currently has 'nil' use. The reasons being that the former storage and materials processing uses ceased several decades ago, with the Docks Area earmarked for a comprehensive scheme of modernisation, moving away from the historic reliance on maritime businesses to contribute to the city economy, provision of housing land and modern types of employment. There has been no current industrial operation on this area of land, which only forms a small part of the wider Docks, since the 1980s. The site also does not benefit from any commercial allocation within the development plan. I do not recognise any conflict with the employment protection policies of the NPPF, JCS or GCP.
- 6.14 GCP policy B4 sets out criteria specifically related to development within proposals within, or adjacent to the docks and canal. Predominantly the criteria relates to design matters and heritage impacts but, there are considerations relating to the use of the waterways and protection of existing businesses. The area of the site adjacent to the canal is proposed to be used as public realm with some additional car parking. This is broadly in line with the use of the land permitted by the 2016 permission and would not hinder use of the waterways (if anything would improve access to the canal adjacent to Bakers Quay).
- 6.15 There is also the requirement (under B4.5) to ensure the functions of existing businesses are protected. I do not consider the proposal would have the potential to give rise to any adverse impacts on the modern uses that have been established within surrounding land over recent years (if anything impacts on the viability of the leisure, restaurant and retail uses would be significantly positive). There is an existing industrial unit directly to the north-west of Downings Malthouse. Vehicular and pedestrian access to this site is currently restricted via Merchants Road (with only an approach from the north possible). The development would reopen the southern access along Merchants Road to St. Ann Way whilst also providing significantly better pedestrian and cycling links to this site. Some third-party concern has been raised that the residential vehicles could block access to the business yard. However, I see little reason why this would be the case (and access matters are civil disputes in any case). I am satisfied there would be no in principle conflict between the proposal and existing business uses.
- 6.17 The proposal would provide approximately 60 sq.m of use Class E¹ floor space with potential to be put into a number of uses (leisure, retail, café, restaurant, etc.). Consultees have raised some concern over the inclusion of this floorspace and the potential for Class E to allow a fluidity to uses that may (or may not) be acceptable in this location. Given the relatively small floor area of the proposed unit (particularly in comparison to the restaurant floor space permitted by the extant planning permission) I find it would be unreasonable to restrict the use of this unit to any particular type of use within Class E. Impacts on the viability of the city centre would be minimal and the wider Docks Area is characterised by buildings within mixture of uses, with mainly commercial uses at ground floor level (none of which I consider would be out-of-character with those permitted by Class E). Conditions have been requested to ensure that residential amenities are protected once an end-user is

¹ As defined within the 2020 changes to the Town and Country Planning Use Classes Order 1987 (as amended).

put in place (see residential amenity section below), but beyond those protective conditions I see no reason (in principle) to restrict the use of the commercial floor space.

6.18 **Affordable Housing**

The NPPF states that where local authorities have identified the need for affordable housing, polices should be set for meeting this need on site, unless off-site provision or a financial contribution can be robustly justified. Policy SD12 of the JCS provides that a minimum of 20% affordable housing will be sought on sites of 11 or more dwellings in the Gloucester City administrative area. The supporting text at paragraph 4.13.6 explains that the policy reflects the viability of differing value areas that exist across the JCS, hence the requirement for a 40% contribution within Cheltenham and Tewkesbury, but only a 20% contribution within Gloucester. However, bullet 10 of the Policy provides that the viability of the site may enable additional levels of affordable housing to be provided.

6.19 Bullet point 9 of the Policy states that ‘If a development cannot deliver the full affordable housing requirement, a viability assessment conforming to an agreed methodology, in accordance with Policy INF7 will be required ... ‘

6.20 In this case the applicant has submitted a viability appraisal, predominantly to demonstrate that the redesigned scheme for the redevelopment of Downings Malthouse is required to financially support the heritage restoration works granted to the Malthouse Ext. and Transit shed within the wider Bakers Quay site. This appraisal has been assessed by an independent party appointed by the Local Planning Authority to ensure the applicant’s redesigned scheme is justified as a viable development (within the context of delivering the Bakers Quay regen scheme in full). The LPA has also instructed the independent review to consider the potential for the site to deliver affordable housing or to pay a contribution towards off-site provision.

6.21 A similar independent review of the original scheme concluded that no on-site affordable housing provision was viable and that funds of around £65,000 should be available to be paid towards affordable housing provision within the city. The original permission was granted subject to a s.106 agreement requiring payment of the contribution at the point that the 70th residential unit was occupied (originally assumed to be a unit within the converted Malthouse Ext. due to the sub-phasing of the works agreed).

6.22 The updated viability assessment (and independent review) conclude that on-site provision of affordable housing remains unviable and, the level of profit now reasonably expected to be delivered by the development would not support payment of a contribution towards off-site affordable housing. In the event the redesigned scheme is approved I consider that a variation of the original s.106 agreement will be required. This would essentially link the new planning permission into the wider Bakers Quay regen scheme and remove the requirement for an affordable housing contribution to be paid. This is undesirable, but is not disputed and the benefits of securing the completion of the Bakers Quay site regeneration are considered to be substantial. The variation of the original s.106 also presents an opportunity to ensure that a final viability review can be undertaken to ensure the redesigned scheme was delivered in line with the low level of profit expected to be returned. Should a higher level of profit be generated the LPA would have the option to ‘clawback’ some of the planning contributions. Subject to the variation of the s.106 agreement I consider the current proposal does not conflict with the aims of JCS policies SD12 or INF7.

6.23 **Conclusion on the principle of the development**

Taking into account the above, I am satisfied the broad principle of the development is supported by the aims of the NPPF and relevant polices of the JCS and GCP. More detailed assessments of matters relating to the individual impacts/benefits and viability of the scheme follows below.

7.0 Listed buildings

7.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBC Act) states that:

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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.

As such, there is a statutory requirement for an LPA to consider both the preservation of a listed building and its setting. This consideration is undertaken alongside additional considerations required by national and local planning policy, as well as any relevant guidance.

7.2 At a national policy level, para. 199 of the NPPF states that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paras. 200-202 go on to state that 'substantial' harm to a grade II listed building should only be permitted where 'exceptional' circumstances are justified, with substantial harm only permitted if it is demonstrated that the loss of significance is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

'Less than substantial' harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

7.3 JCS policy SD8 and GCP policies D1-D5 set out the local policy considerations for development affecting a range of heritage assets with policy B4 also seeking to ensure that development within the Docks and/or adjacent to the canal responds to the significance of the historic docks conservation area and other individual heritage assets. Both JCS SD8 and GCP D1 require development proposals to conserve the character, appearance and significance of designated heritage assets and their settings. GCP D1 goes on to state that proposals should demonstrate:

- 1. The protection and enhancement of existing heritage assets and their settings in proportion with the significance of the asset; and*
- 2. The conservation of features that contribute to the significance of a heritage asset, including structures forming part of the curtilage; and*
- 3. The proposed use of the heritage asset is compatible with the preservation or enhancement of its significance; and*
- 4. The proposal conserves and enhances the character, appearance and*

architectural quality of the area and wider setting in terms of siting, scale, form, proportion, design and materials; and

5. The use of high quality and locally distinctive materials following traditional building methods and detailing, where appropriate; and

6. Retains important views into or out of the Conservation Area.

Development involving substantial harm to, or the loss of designated heritage assets will only be granted in very exceptional circumstances. The condition of an historic building resulting from deliberate damage and neglect will not be considered in any decision.

7.4 As detailed above, the site is located within a sensitive location in terms of potential impact upon the significance of various heritage assets. The application site includes a grade II listed building (Downings Warehouse.) that will experience direct impacts from the proposal and has already experienced significant demolition agreed as part of the extant 2016 permission. Part of the proposal (the link bridge) will connect into the grade II listed Malthouse Ext. so there will be some physical impact on that building as well as impacts to its immediate setting. The grade I listed Llanthony Priory is located approximately 220 metres to the west (approx. 120 metres to the boundary of its grounds). Part of the site is located within a conservation area (the Docks CA) with other conservation areas within and surrounding the city centre also with some potential to be affected (notably Southgate and Spa CAs).

7.5 With the potential for a number of heritage assets to be affected it is first pertinent to understand what the 'significance' of the various heritage assets may be, and how this could be impacted upon by the proposal. If harm is recognised it must be defined as either 'less than substantial' or 'substantial'. The NPPG advises that within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

The NPPF Glossary describes 'significance' as the value of a heritage asset to this and future generations because of its heritage interest, derived not only from a heritage asset's physical presence, but also from its setting.

Historic England's GPA2 guidance generally advises the following with regards to the assessment of significance within planning assessments:

Development proposals that affect the historic environment are much more likely to gain the necessary permissions and create successful places if they are designed with the knowledge and understanding of the significance of the heritage assets they may affect...The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest...

Considering the above, the greatest level of impact from the development would be to the significance of Downings Warehouse that would be directly impacted upon by the physical works. Secondly, the Malthouse Ext. would experience some physical impacts (the construction of the bridge link) as well as impact upon its immediate setting. Further to the west, the grade I listed Priory would not be physically impacted upon by the development but, its setting would be affected (predominantly by the new build element of the development that would project above the Malthouse Ext. (and be a visible addition to wider views from within and around the Priory site). The setting of the Docks CA would also be affected (the CA boundary runs along the western edge of the Downings Warehouse site).

7.6 **Impact on Llanthony Priory and its Setting**

The Llanthony Secunda Priory site includes a scheduled monument and range of grade I and grade II listed buildings. The dominant building within the site is the grade I listed Priory (and farmhouse). The impact of the proposal on the setting of the grade I listed Priory has

been considered by Historic England. Initially there was some concern that the new build element would be harmful to the setting. As such, the applicant was asked to provide further evidence to demonstrate the extent of the expected impacts. Subsequently, the applicant has submitted additional landscape visualisations (showing how the new build element may affect views of the Priory from various areas within and surrounding its site). Historic England have reviewed the additional visualisations and have offered no formal objection. However, they have noted that:

We conclude that there would be some harm to the significance of the Scheduled Priory, by virtue of another dominating structure adding to the already crowded open skies around the site. The open semi-rural nature of the site as a monastic complex on the edge of the city and then a farm contributes to its significance and any loss of the open nature of the surroundings will impact on its significance. The Canal, docks and recent developments have greatly compromised this setting, so any remaining openness is important and should be retained.

HE's comments have not been framed within the context of the NPPF (i.e. substantial or less than substantial) and no formal objection to the proposal has been set out. The LPA is therefore left (as the decision maker) to consider HE's comments before the level of harm can be reasonably be concluded.

- 7.7 Historically, the Priory would have been the dominant building within the rural landscape and would have been set within a much wider open setting with little competition from existing buildings. However, modern development has clearly eroded to the rural character and openness of the setting and as such has drastically diminished the contribution of the wider setting to the significance of the grade I listed building. Whilst smaller in scale than the proposed New Build at Downings Malthouse, the modern developments that sit on the northern and southern boundaries of the Priory site (retirement apartments, Gloucester College and a pub) are experienced as prominent features that have eroded the wider open setting that the Priory would at one time have sat within.
- 7.8 However, within east facing views (from Llanthony Rd. and the Listed Gatehouse), the area of sky above the Priory is currently free of visible development (the Priory building mostly screens the C19th and C20th development directly behind it). Along with the retention of open grounds surrounding the building, this helps to maintain some of the former prominence of the building that I consider is important to maintaining its significance. Introducing significantly taller development to the rear of the Priory has potential to erode the openness above the building that would be harmful to its prominence of the building and would detract from the experience of the building within east facing views.
- 7.9 The applicant has submitted a wireframe visualisation using an image taken from the listed Gatehouse. The visualisation illustrates that the ridge height of the new build would be seen as approximately level with that of the Priory. I am conscious that due to the foreshortening visual affect, the New Build would be more visible within the backdrop as the viewpoint moves further to the west. However, due to substantial modern development to the west of the Priory site there are very few public (or private) views that would frame the Priory within a line of sight of the New Build to the east. Also as the viewpoint moves (from the Gatehouse) towards the Priory the New Build would be screened out by the historic building.
- 7.10 It would appear that a section of the New Build would be visible above the Malthouse Ext. within the backdrop of the Priory. However, I find little argument that the openness of the Priory's setting would be substantially harmed as a result (over and above the existing situation). The open land between the Malthouse Ext, Transit Shed and rebuilt Provender Mill would be retained. The New Build element of the scheme would be a new addition to the

built form that comprises backdrop of the Priory (within east facing views), but within the most important east facing views (from the listed Gatehouse). The New Build would be screened by the existing historic building and in conclusion the level of harm would be to the lower end of 'less than substantial' with regards to paras. 199 and 202.

7.11 **Impact on Downings Warehouse (High Orchard Street Warehouse and Kiln No.2)**

Downings Malthouse is a grade II listed late C19th building constructed in the 1890s by Walter B Wood of Gloucester, for G and WE Downing (maltsters). It comprises part of a cluster of listed buildings in this area which also include the Malthouse Ext, Transit Shed and the Provender Mill (all listed in the 1970s). Downings Malthouse is in a poor condition and has been on the Gloucester Heritage at Risk Register for over 20 years. Works of demolition were agreed in principle under the 2016 planning permission. In 2020 demolition works were formally agreed as a discharge of condition, mainly in the interests of public safety. The extent of the demolition works included:

- The removal of the 1950s concrete silo to the south of the Orchard St. warehouse;
- Removal of a section of the warehouses southern wall to enable access into the historic building;
- Removal of roof including internal support;
- Erection of scaffolding to stabilise the remaining walls (some of which are now freestanding).

The demolition works (approved by the LPA) resulted in the loss of a significant amount of historic fabric from the grade II listed building and, it was agreed under the discharge of condition that as much of the historic fabric of the building should be retained (for reuse within the subsequent redevelopment). At the time of the works it proved difficult/unsafe for the applicant to be able to access the building to assess the extent of material that could be retained. However, it has since been confirmed that a number of iron pillars, timbers and bricks from the building have been able to be retained for reuse within any subsequent scheme.

Despite this, Downings Malthouse retains significance as an historic structure not just in its own right, but also for its role in the evolution and development of industrial Gloucester. Historic England's GPA2 guidance advises that:

...where the significance of a heritage asset has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies...

- 7.12 The current proposal seeks to retain the majority of the walls that have been left in-situ following the demolition but, due to the need for the new development to be served by natural light some loss of historic fabric is proposed predominantly to create new door and window openings. Initially, the alterations proposed to the north-west elevation of the Orchard St. building were unsympathetic to the existing architectural features of the building (failing to take advantage of the existing brick recesses to frame new openings). The original scheme also sought to remove original warehouse window openings (that face into High Orchard Street), inserting larger openings with recessed balcony areas. A revised scheme was submitted including improved design of the new window openings (north-west facing) as well as the retention of the High Orchard Street warehouse windows. In terms of the conversion of the High Orchard St. Warehouse and Kiln, the amended design is considered to offer improvement, but there remains an element of harm due to the additional loss of historic fabric required for new window openings.

7.13 The council's Conservation Officer (GCC-CO) has raised an objection to the development, considering that the New Build element (in combination with the loss of additional historic fabric) would result in substantial harm to the significance of the grade II listed building. The GCC-CO disagrees with the applicant's approach to the assessment of the significance of the listed building disputing the approach that, because Downings Malthouse has lost extensive fabric there is justification for further changes or loss with only minimal or no harm being caused. The GCC-CO notes Historic England's guidance² stating that:

Where the significance of a heritage asset has been compromised in the past... consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies.

I agree with the GCC-CO's view that the applicant is incorrect to present the assumption that further interventions arising from additional loss of historic fabric are diminished due to previous works. However, I do not entirely agree with the extent of additional harm that has been identified by the GCC-CO. The lawful fall-back permission is a material planning consideration that balances against the level of additional harm expected to be caused to the remains of the Downings Malthouse listed building. Should the applicant continue to implement the previously approved development, further loss of historic fabric would occur. I am satisfied that losses would be comparable to that currently proposed.

7.14 The loss of historic fabric is not the only issue and the overall design of the scheme and impact of it on the significance of the listed building (as a whole) must be considered. The GCC-CO does not dispute that the reinstatement of the northern range of Downings Warehouse (the warehouse and former no.2 Kiln) would be achieved. A level of harm would arise from new fenestration openings and creation of areas of modern public realm and parking/servicing areas (within the setting – potentially mitigated by use of appropriate materials see Conservation Area section below). However, the historic form and some of the architectural detailing that identifies the building's former uses (such as the reinstatement of the kiln roof detailing and restored signage on the NW elevation) will begin to restore some of the significance of the northern range and ensure that it can be appreciated as a historic building with links to Gloucester's industrial past. HE's GPA2 guidance recognises that the significance of a previously compromised heritage asset can be enhanced. Taking into account the condition of the northern range and that the scheme proposed to reinstate much of its original scale, form and some of its detailing I consider it reasonable to conclude that the restoration of the northern range of the building is a broad heritage benefit of the scheme that would restore some of the lost significance of the building, that must be balanced against overall harm.

7.15 The GCC-CO considers the manner in which the applicant is seeking to achieve the redevelopment of the southern range/former silo site, by separating the site from the northern range (High Orchard St. Kiln) from the southern section of the site and constructing what is effectively a new, taller structure will give rise to substantial harm to Downings Malthouse and its setting. It is stated that the change to the context of the historic building and how it is experienced, would change the character from that of a predominantly linear built form, to a site which will be dominated by an alien and incongruous tower, whose verticality, height and domestic character are some of its most obvious features. There is some agreement that the historic listed elements, when rebuilt or restored, will retain a linear industrial form. However, the GCC-CO concludes that because of the size of the proposed tower, the listed building will be experienced as a subsidiary feature on the site, losing its stature, status and prominence to the detriment of its significance.

7.16 I accept that the elements of the listed building that would remain (including the restored

northern range) would be subsidiary features to the larger-scale New Build element and some of the linear form of the original building would not be reinstated. Along the north-western elevation, the New Build would be experienced as a clearly modern addition, separate to the historic building but, along the south-eastern elevation the linear footprint of the listed building would remain legible to some degree. This would particularly be the case within public views at ground level surrounding the site (as the majority of people would experience the building from the new public realm areas). Within longer range views, the historic elements of the building would be mostly screened from view. The buildings seen within the context of the site (particularly those modern buildings to the north and east) are taller than Downings Malthouse, not to the extent of the proposed New Build, but they are taller.

- 7.17 The concrete silo that was in place until 2020 was also a taller feature with a much larger massing than the northern section of the listed building. It essentially blocked any views of the historic Downings Malthouse from the south. The extant scheme, by restoring a smaller-scale modern southern range would have opened up views of the historic northern range improving its appreciation. This would have been an element of the scheme accepted as an enhancement. Clearly, the New Build now proposed would not achieve this and, by being taller than the former silo (albeit on a smaller footprint) and of a modern design and form, I must accept there would be some harm to the significance of the listed building and how it is appreciated. However, I consider this limited to a local level and would not affect how the building has been appreciated within the wider townscape (over and above the existing situation).
- 7.18 I accept that severing the physical links between the High Orchard Street Kiln wall and the other historic structures would be harmful to the significance of the remaining listed building. This is an undesirable aspect of the design and the retention of the historic walls as unbroken features would be preferred. However, the removal of this section of the wall serves other competing elements of the overall design (the need to ensure natural light can be accessed). It also opens up a better appreciation of the southern elevation of the former kiln, by separating the restored section of the historic building from the obviously modern addition of the New Build element.
- 7.19 There is also some historic justification to the proposal to sever part of the listed building as proposed. The Downings Malthouse was originally developed in two phases with the Malthouse and kiln No.1 built in the early 1890s and the addition of the northern range (malthouse and kiln no.2 – the more substantial section of the remaining listed building) constructed a few years later. The original southern range was mostly demolished in the 1950s and replaced by the concrete silo. Whilst the building had remained physically connected through the 1950s redevelopment, almost all of the historic architecture of the original range was lost, with only the High Orchard Street kiln wall remaining. That wall is to be retained but, with a different form of development replacing the concrete silo. The applicant has attempted to secure alternative designs reinstating the massing and form of the silo in a modern reinterpretation. Objections were made at pre-application stage (by both Historic England and the GCC-CO at the time) with general advice given that a separation of modern architecture from the historic architecture (rather than some form of pastiche incorporating both elements) was preferred. In my view, it is also reasonable to balance this harm against the enhancement that would arise from the reinstatement of the bridge link between the northern range and Malthouse Ext. Whilst the replacement bridge would be a modern design it would ensure the physical connection between these two buildings (and in terms of their future appreciation the historic, functional link) in reinstated.
- 7.20 Previous pre-application schemes that sought to remove the majority of the remaining southern elements of the historic building received objections and the applicant has reached the design in an attempt to balance the competing need to secure a viable development

against the need to retain as much of the remaining listed building as possible.

7.21 I disagree with the GCC-CO's opinion that the retained section of wall (from the original C19th southern range) would be read as an add-on, rather my view is that the clearly modern New Build will be seen as an obviously later addition to the site. Retaining the wall allows some appreciation of the building that formerly occupied the site (the original C19th building not the 1950s silo), including its detailing and linear form. The context of this wall may appear somewhat confusing following its separation from the northern range but, the applicant has agreed to commission a number of information boards to be placed within the new public realm. Whilst not a formal record of the previous building the information boards can be placed at points that will help to explain what has been lost and what has been retained (to members of the public). Whilst not justifying the loss to the significance of the building the information can draw public attention to the lost significance of the building can go some way towards providing some understanding of the significance of the heritage asset in line with NPPF para. 205.

7.22 **'Less than substantial' or 'substantial' harm to the listed building?**

The matter of 'substantial' harm versus 'less than substantial' harm is not clearly defined by planning policies or guidance, other than being a high-bar test. HE's GPA2 guidance states that substantial harm is a high test which may not arise in many cases. The NPPG goes on to provide more detail:

Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

7.23 As above I have recognised that the restoration of the northern range of the listed building is a broad heritage benefit of the scheme. The loss of additional historic fabric to permit the creation of additional window and door openings along with other modern alterations are, in my view, harmful but essential to ensure the optimum viable use of the northern range can be secured. Conditions can be used to ensure that all works of repair/replacement including materials and building methods are secured and agreed prior to commencement. I also note third-party concerns relating to the structure of the existing building and how this would be supported during the construction phase. My assumption is that the current scheme of scaffolding and support would remain in place until works had been completed to create the basement areas and provide support for the remaining structure. However, to ensure a precautionary approach to the protection of the remains of the building is taken I consider a suitably worded condition can secure full details of building protection measures to be adopted (to be agreed prior to commencement).

7.24 I accept that the height and form of the New Build contrast with the remains of the listed building and will result in some harm to the significance of the listed building. However, the design of the New Build element, set predominantly within the area of the site formerly occupied by the 1950s silo, would allow the retention of some of the remaining walls of the original southern range of the listed building, whilst enabling the more sympathetic restoration of the northern range. The relatively small, triangular footprint of the New Build has been designed to ensure the existing original walls can be retained and stabilised. As

such, the historic linear form of the listed building would remain partly legible and able to be appreciated and understood by the public into the future. I consider the appreciation of the remaining elements of the original building would not substantially change over and above that possible when the concrete silo was in place. I consider the public information boards proposed by the applicant would provide some better appreciation of the history of the southern range and why part of it has been retained.

- 7.25 The GCC-CO has stated that the New Build would change how the building was experienced, particularly within short-range views as it would be notably taller than the remains of the adjacent listed building noting that the distinctly modern architecture set against the historic architecture would be jarring. However, I do not consider the modern architecture would be jarring to the point that it would result in 'substantial' harm to the significance of the building. As noted above for a number of decades, the southern section of Downings Malthouse was dominated by a concrete silo, a very stark piece of utilitarian architecture, that was taller than the northern section of the building. The presence of the silo does not negate the harm from the taller development (the New Build is proposed to be taller than the silo, but smaller in footprint), however it demonstrates that the southern section of the building had lost significance, prior to its listing, due to the removal of the original kiln and replacement with an unsympathetic modern addition.
- 7.26 The extant planning permission recognised that the removal of the silo was a heritage benefit of the scheme and the design of the 2016 permission, a reinstatement of a smaller-scale southern range would have been a broad enhancement to the appreciation of the overall listed building. The taller New Build will result in some harm (over and above that of the extant consent) but, would not go as far as reinstating the larger footprint, mass, bulk and poor architecture of the 1950s silo (that was in place at the time of listing). The design of the New Build, utilising larger areas of glazing within a modern reinterpretation of the adjacent historic warehouses, would create a more open, lighter-weight built form than those of the surrounding historic warehouses. I do not consider this would be as harmful as reinstating the former concrete silo, but accept that it would result in some harm over and above the extant planning permission.
- 7.27 I must also consider that the listed building is now experienced within an area that has undergone substantial modernisation and includes very modern development within its immediate setting. As such, the experience of the listed building has changed and I consider the impact of the introduction of the clearly modern New Build element (on the site of the former silo) within the context of the listed building is lessened by the wider character of the area (a juxtaposition of historic and modern architecture). The major contrast between the proposed New Build and the surrounding built form is the height (and to some extent the departure from the more linear footprints of the traditional buildings) and I consider the height is the major design element of the scheme that is harmful to the listed building.
- 7.28 Taking into account the above considerations I am of the view that the overall impact of the proposal on the significance of the listed building is 'less than substantial' harm at the higher end of the spectrum. In line with NPPF para. 202 the harm must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I will weigh the heritage benefits and harms together below, following further assessment the impacts of the proposal on heritage assets.
- 7.29 **Malthouse Extension and its Setting**
As stated above, I consider the reinstatement of the bridge link between the Malthouse Ext. and restored northern range of Downings Malthouse would be a positive aspect of the development that would restore the physical link between the two buildings ensuring that the historic link between the buildings can be appreciated into the future. A condition to secure full details of how the bridge link will connect into the Malthouse Ext. is reasonable and necessary to ensure the works are acceptable.

7.30 Within mostly short-range views, the New Build would visually compete with the Malthouse Ext. within its immediate setting. This is predominantly due to its height. As with the setting of the Downing Malthouse, I do not consider the presence of modern architecture, introduced into the setting of the Malthouse Ext. to be harmful in principle. The context of the surrounding area has changed with the introduction of a number of modern buildings. However, the New Build would project above the height of the Malthouse Ext. in close proximity, reducing its stature as one of the most prominent buildings within Bakers Quay. The New Build would possess a smaller footprint than the substantial Malthouse Ext. with an overall lighter-weight design. The triangular footprint would help to preserve some of the openness of views (of the Malthouse Ext.) from St. Ann Way the south-east (currently predominantly open land). Although it would be approximately three-and-a-half storeys taller, it would not dominate the adjacent listed building. As such, the contribution of the setting to the significance of the building at Malthouse Ext. would be partly diminished. The proposal would result in a 'less than substantial' harm to the setting of the Malthouse Ext.

7.31 **Docks Conservation Area**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states the following:

...with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The NPPF goes on to state that:

Not all elements of a Conservation Area...will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 200 or less than substantial harm under paragraph 201, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

7.32 The Downings Malthouse site is not within the Docks CA, but sits within its immediate setting. From much of the CA, the New Build would be mostly screened by existing buildings the majority of which possess a larger massing than the New Build. However, a distinctive characteristic of the wider Docks CA is the broadly vertical character of the built form (particularly the Victorian warehouses), that would be maintained by the New Build development. The main departure being the height and a non-linear footprint (approx. 10-15 metres taller than existing warehouses) and the form resulting in it being experienced as an obviously modern addition to the townscape.

7.33 In a similar assessment to the setting of the Malthouse Ext. listed building undertaken above, I must conclude that the New Build element of the proposal will be a prominent addition to the setting of the CA, mainly within short-range views from St. Ann Way and from the grounds (and canal towpath) to the east of Llanthony Priory. There would also be some mid-range views from the north (i.e. North Warehouse and the dry dock) and the south from the canal towpath but, due to the heights and generally dense layout of the Docks and Quays areas to the north views of the New Build from within much of the CA would be limited (and in most cases glimpsed/transitional views). The New Build would compete with the prominence of the Malthouse Ext. and some of the other canal-side buildings mainly due to its height but, it would be set away from the canal in the context of a substantially modernised mixed-use environment. It would also possess less overall massing than the majority of both the modern and historic buildings (within the immediate surroundings) and the use of glazing and balcony

areas set within a traditional brick frame would result in the New Build being seen as a lighter-weight structure than the surrounding buildings with the use of traditional materials (in a modern frame) helping to tie the design into the established materials palette within the surroundings. So, impact within short-to-middle range views would be somewhat tempered and not substantial.

7.34 The area of the site that is located within the CA was identified within the 2006 CA Appraisal as being an area in need of enhancement. This has followed through to the *Public Realm Strategy* (PRS) that identifies Bakers Quay as a significant gateway into the Quays and wider historic city centre areas. Full details of the materials to be used and landscaping have not been submitted but, I consider there is some potential for a scheme to be agreed that result in overall enhancements to the public realm and as such the appreciation of a number of buildings within and surrounding the Bakers Quay area of the Docks CA. A suitable worded planning condition can ensure that a scheme of materials and landscaping (planting) is agreed and that the developer has regard to the council's PRS guidance to ensure the works are compatible with the character of the CA and wider improvements to the public realm sought across the city. Taking into account the above, the harm that would arise is considered to be at the lower end of 'less than substantial' harm, as this area of the Docks CA is now experienced within the context of a significant amount of modern development and the development would deliver enhancements to the public realm.

7.35 Overall, whilst there is some potential for the public realm within the CA to be enhanced I do not consider this would outweigh the harm to its setting arising from the proposed New Build. Therefore, I conclude that a 'less than substantial' harm, at the lower end would be caused to the character of the CA.

7.36 **City Centre Conservation Areas**

The GCC-CO has stated that a range of heritage assets would be harmed by the proposal with concerns raised over the impact of the New Build element for the scheme on city centre CAs (Southgate CA and Spa CA being mentioned). The applicant provided additional visualisations (as part of the LVIA submission) to first assess whether the New Build would be visible from certain areas within the wider city centre. The additional LVIA work confirmed the New Build would be partly visible within wider views of the townscape but, confirmed my assessment that the building would not present a dominant addition to the townscape. In most cases, the New Build would be set a significant distance away from the city centre conservation areas and would be screened by vegetation and existing buildings. Views of the New Build from the public realm within these CAs would also be transitional and glimpsed (as the majority of people would experience it) and overall it is considered that the character and appearance of these CAs or their settings would not be harmed.

7.37 **Archaeology**

The current application has been submitted with an initial archaeological Desk Based Assessment (DBA). The council's Archaeologist has reviewed the details and has concerns that the extensive groundworks proposed would cause harm to remains within the site. The potential remains have been set out as follows:

Roman – the site is situated about 110 metres west of the Roman road heading south from Gloucester. There is a generally high occurrence of Roman artefacts from the surrounding area – so Roman archaeological remains are a possibility.

Medieval – the site is located within the grounds of Llanthony Secunda Priory. We have very little information of the layout of this part of the Priory but medieval archaeological remains are a possibility.

Post-medieval – foundations of the malthouse and other below ground remains

from this period may survive.

It was initially advised that the applicant be requested to provide the results of an archaeological evaluation prior to the determination of this application. After some informal discussion it was agreed that the scope of the evaluation could be reduced due to the previous excavations that would have occurred when the original building and later concrete silo were constructed. However, the request for the evaluation to be undertaken prior to the determination of the application remained. The works would allow the LPA chance to review and to understand the significance of any archaeological remains that may be affected. This would reduce risk to the developer if no remains of interest were uncovered.

- 7.38 The applicant has not agreed to undertake the works prior to the determination of the development asking for a pre-commencement condition. The council's Archaeologist has since advised that the application should be refused due to lack of information. Given the high sensitivity of the site I would ordinarily seek to secure the results of the evaluation prior to determination. The NPPF advises that:

Where an initial assessment indicates that the site on which development is proposed includes or has potential to include heritage assets with archaeological interest, applicants should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

I consider the application is a situation where a field evaluation should be undertaken. However, the proposed development is likely to include subphases (i.e. works to commence the New Build could start at a different time to the conversion/restoration works or vice-versa) and the council's Archaeologist has accepted that certain areas within the site are unlikely to be archaeologically sensitive (based on the information submitted within the DBA). As such, I consider there is some justification for a specifically worded planning condition ensuring that works do not commence across sensitive areas of the site, whilst ensuring that a field evaluation is completed with results reported to the LPA prior to the commencement of works within any sensitive areas.

- 7.39 The 2016 planning permission (that remains extant) also provides a fall-back position. The 2016 permission was granted subject to archaeological conditions that only related to the hotel site area (of Bakers Quay). Significant demolition works and works to the basement areas of both Downings Malthouse and the Malthouse Ext. were proposed and it is unclear why a precautionary approach was not taken. Given that ground disturbing works are likely to be more significant in relation to the fall-back position I consider that a pre-commencement condition is acceptable. The applicant has agreed to this approach, accepting there is a degree of increased risk should remains of interest be discovered. Taking into account the individual circumstances I am satisfied that suitably worded planning conditions can provide sufficient ability for any archaeology to be identified and any required mitigation secured.

7.40 **Heritage and Public Benefits**

Taking into account the views of Historic England, the GCC-CO, national amenity societies, the lawful fall-back position and the significance of the site (and how this would be changed) I conclude that a 'less than substantial' harm would be caused to a range of designated heritage assets. With regards to the harm to the listed building within the site I weigh this at the higher end of the scale but, for the reasons set out above, do not consider the proposal would cause substantial harm. With regards to other heritage assets (depending on their status) I weigh this harm broadly at the moderate-to-lower level.

- 7.41 In line with the NPPF I have given great weight to the harm that would be caused to the various heritage assets, particularly to the harm to the setting of the grade I listed Llanthony Priory.

I have also considered the range of public benefits that would arise from the scheme. The NPPF recognises that examples of heritage benefits may include:

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

I am satisfied the proposal would secure the optimum viable use of the northern range of Downings Malthouse and the proposal would certainly result in the building being removed from the at risk register. Several heritage consultees including the GCC-CO,) do not dispute that some of the significance lost to the northern range would be restored (despite some design criticisms) and this element of the scheme is broadly noted as being much less controversial than the New Build. I consider that, when viewed in isolation from the wider Bakers Quay site, the proposed New Build development goes beyond what could be considered to be the 'optimum viable use' of the Downings listed building. However, the site is part of the wider Bakers Quay regeneration and I must place a high level of public benefit on the need for this development to support the completion of the wider regeneration scheme.

7.42 I consider the weight given to the need to ensure that the wider Bakers Quay regen can be delivered is significant. This is particularly important when considering that the scheme would secure the optimum viable use of the grade II listed Malthouse Ext. which is a substantial listed building occupying a prominent canal-side location. The applicant confirms it is still within a condition capable of being converted without significant rebuilding (unlike the Downings Malthouse). The Transit shed conversion/rebuild would also be supported by the current scheme ensuring the optimum viable use of that listed building was also secured. Some harm to the settings of the Transit Shed and Malthouse Ext. would occur from the New Build, but this is tempered by the heritage benefits that would be delivered through the restoration of these buildings (supported by the current scheme).

7.43 The Malthouse Ext. could (in theory) be converted without the current development taking place. The planning permission is extant. However, the applicant has been able to demonstrate that the Malthouse Ext. conversion is not viable without the current redesign of the Bakers Quay regen scheme. Phase 1 has been built-out with minimal profit being returned to feed into Phase 2. Of the Phase 2 developments permitted, the options to redesign the scheme are somewhat limited to the former silo site within the Downings Malthouse site area. Other options have been explored through various designs and pre-application discussions with the council and have been discounted with the current scheme presented as a balance between the heritage constraints of the site and the need to ensure the wider regen scheme can still be delivered.

7.44 In broad terms, the principle of the Bakers Quay regen scheme, as established in 2016, was a mixed-use scheme of heritage conversion/restoration works supported by profits to be secured by modern development. I am satisfied the applicant's viability assessment (and council's third-party review) has demonstrated that still remains the case and the quantum of development now proposed will enable the delivery of the site within the next few years. In the context of para. 204 of the NPPF that...

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

I consider the weight given to the support this development would provide to the completion of the Bakers Quay regeneration scheme is significant. A sub-phasing condition can ensure

that the works to restore the northern range are delivered and, a deed of variation to the Bakers Quay Section 106 legal agreement will also be required to ensure the new permission is referenced within the terms of the wider regen scheme agreement.

- 7.45 A major public benefit that would arise from the development is the provision of a significant number of new homes within a highly sustainable location. I give this benefit significant weight. Alongside the new homes (delivered by the development under consideration) the completion of the wider Bakers Quay regen scheme will ensure the homes and some of the additional commercial floorspace approved as part of Phase 2 of the 2016 planning permission will also be delivered (further contributing towards the city's housing supply). The scheme will also help to complete the regeneration of the southern edge of the Docks regeneration area (itself a long-term aim to improve the sustainability of the city economy and housing delivery).
- 7.46 Some limited positive weight can also be given to both the short-term and longer-term economic and employment benefits and support to the viability of the nearby commercial areas and the city centre associated with the construction and subsequent occupation of the new housing. As well as some limited positive weight to the improvements to the public realm and movement within and around the site.
- 7.47 Taking all of the considerations into account, I am of the opinion that the level of public benefits reasonably expected to arise from the development would outweigh the recognised harm to the heritage assets. As such, the development is considered to comply with the aims of Chapter 16 of the NPPF and the aims of policies A1, B4 and D1 of the GCP and SD8 of the JCS.

8.0 **Urban Design and Townscape**

The NPPF states that:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities...

The JCS and GCP jointly seek to ensure that new development comprises high-quality design that results in overall improvements to the built and natural environments, whilst ensuring that the city's heritage is respected. GCP policy A1 recognises that the *Gloucester Townscape Character Assessment* (2019) will be a particularly important consideration in determining appropriate densities and forms of development. GCP policy D4 seeks to protect key views of the Cathedral (and other historic places of worship).

- 8.1 The city council also has published supplementary design guidance (SPG) relating to Heights of Buildings. The SPG provides guidance on issues relating to the heights of buildings within Gloucester. Criteria are set out which developers are required to work through, leading to a justification for the need for a tall building. The SPG states that:

Although no official definition of a 'tall building' exists for the purposes of this Supplementary Planning Document, a 'tall building' will be defined as any structure that breaks the skyline and/or which is significantly or noticeably taller than its surrounding built fabric...

The SPG goes on to identify the various tall buildings (existing at the time of drafting) with a significant emphasis placed on protecting views of Gloucester Cathedral and St. Michael's Tower that form the major landscape buildings within important views of the cityscape. The SPG adopts a combined approach to assessing tall buildings, considering impacts through

both an area-based and 'view corridor' approach in order to ensure both the protection of the unique character of the city and the need to consider taller buildings, and their potential associated benefits of higher density development and greater land use efficiency.

8.2 The proposed new build that would replace the concrete silo, would be noticeably taller than the adjacent buildings (at approx. 15m taller than the Outlet Centre and grade II listed Malthouse Extension and approx. 12m taller than Britannia Warehouse - a typical 6 storey historic warehouse). As such, I consider it should be assessed against the SPG design advice and considered within the defined Docks Area and defined View Corridors along the canal. However, as the SPG pre-dates much of the modern development within the site surroundings, it is first pertinent to assess the existing character of the site and wider street scene.

8.3 **Existing site and street scene character and appearance**

The site is predominantly historic in character (when viewed in isolation), but is framed by a mixture of modern and historic buildings. Little remains of the original southern range of Downings Malthouse with the more substantially complete northern range being approx 4 storeys (approx 17.2m maximum height). A section of the former warehouse that fronts the public highway has already been redeveloped into residential use (known as the Maltsters Cottages).

8.4 The Gloucester Quays Outlet Centre is located directly to the east with its curved car park access presenting an explicitly modern feature in juxtaposition to the historic architecture of the Victorian warehouses that occupy the site and wider Docks CA to the north-west. The addition of overly modern architecture into the setting of the Docks CA and the listed buildings at Bakers Quay is not harmful in this context (this was a principle design approach that was supported by the 2016 Bakers Quay planning permission) and has been informed by an approach to preserve the scale and forms of the traditional buildings whilst permitting the use of modern architectural detailing and materials.

8.5 In terms of building layouts, the southern edge of the Downings Malthouse site (the boundary between Bakers Quay Phases 1 and 2) presents a noticeable edge to the more densely populated Docks Regeneration area. To the north of the Downings site, both modern and historic buildings occupy a denser built form surrounding the historic quays with the majority of buildings ranging between 5 and 7 storeys (6 full storeys with accommodation within roof spaces). The denser layouts reflect the historic origins of the buildings that were laid out to allow a team of horses or railway track to pick up and deliver goods and so are narrower than a normal street. The *Heights of Buildings* SPG goes on to state:

A characteristic of the Docks is the large scale and massing of the warehouse buildings, formed into defined clusters, with distinct gaps or spaces between. This pattern of development forms a rhythm along the canal frontage, which extends from the first Warehouses within Bakers Quay to the very terminus of the canal, adjacent to North Warehouse.

As such, it is accepted that buildings within the wider Docks area are generally large in scale occupying a dense layout.

8.6 To the south of the Downings site (including Phase 1 of Bakers Quay), the built form is more open, with modern retail and industrial buildings surrounded by level, open parking and servicing areas within the wider plots. The quality of the built form (in terms of landscaping and architecture) is also notably lower to the south.

8.7 Prior to 2020, the Downings site featured a concrete silo. The silo was approximately 20m tall (taller than the High Orchard St. listed building but, marginally lower than the ridge height

of the Malthouse Extension). It was of a utilitarian design and considered to be of a poor architectural quality. The silo was in place from the 1950s to 2020, when it was removed to allow access into Downings Malthouse to enable public safety works.

8.8 In terms of use, the wider Docks area, land uses are predominantly now within residential, leisure and retail uses. The site immediately to the north remains in an industrial use (Numold UK - manufacturing moulds for concrete) but, buildings to the south, south-west and various historic warehouses to the north are a mixture of residential and leisure with leisure and retail forming the predominant land-uses to the north-east and east. In a similar consideration to the character of the site and surroundings the use of the site is considered to be within a transitional area so can support a mixture of uses.

8.9 Given the location, transitional nature of the uses, character and quality of buildings within and surrounding the site, it is reasonable to consider the site as the southern entrance into the wider Docks Regeneration area (particularly the Outlet Village and Restaurant Quarter). This is reflected within the city council's *Public Realm Strategy (2017)* (PRS) that includes Bakers Quay as a primary space acting as a key gateway into the wider Docks and city centre areas. In terms of the area regeneration and place-making, the site is considered to be uniquely capable of supporting a landmark development to define the southern entrance to the wider Docks Regeneration area.

8.10 **Landmark building and the city skyline**

A dictionary definition of a landmark is "*an object or feature of a landscape or town/city that is easily seen and recognized from a distance, especially one that enables someone to establish their location*". Gloucester has several defining landmarks with the Cathedral Tower representing a significant landmark that identifies the city centre. The Hospital Tower is also a notable landmark when approaching the city centre from the east (visible from Metz Way and A38 and set approx. 1km to the east of the Cathedral). Robinswood Hill is the predominant landscape feature, defining the south-eastern edge of the city and being visible from the majority of the city neighbourhoods, including the city centre.

8.11 The Bakers Quay site is located approximately 1km to south of the Cathedral and lies at a ground level of approximately 10-15m lower than the Cathedral. Due to the height of the new build and lower ground level I am satisfied that it would not substantially conflict with wider views of the Cathedral (particularly those centring around the canal, defined within the *Heights of Buildings SPD*). The New Build would not be clearly visible within any of the 'Local View Corridors' that were identified as being key to preserving existing cityscape views of the Cathedral. The New Build would be partly visible within 'Strategic View Corridors' 6 (from Hempstead Village), 7 (Netheridge), and 10 (Robinswood Hill) but, I am satisfied that the lower ground level and design of the building would result in it not being seen as a dominant addition to the cityscape and would not compete with the dominance of the Cathedral Tower within these important long-distance views of the city.

8.12 Strategic View Corridor no.8 (canalside) may experience some affects as there are likely to be some mid-range views of the New Build that would be possible at various points to the south of the site. However, I am satisfied the New Build element would not directly block views of the Cathedral tower with a direct line-of-sight between the Cathedral Tower, the application site and the canal towpath converge at a point along the towpath where dense vegetation (Monks Meadow) blocks any views north towards the site and city centre. Further to the north and south of Monks Meadow views of the Cathedral would not be hindered. The Cathedral is also sat at a higher ground level to the application site so in all probabilities would sit above the New Build of the proposal within most views of the city skyline.

8.13 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA). It confirms that the New Build would be most impactful within short-to-mid range views, mainly from the

more open land to the south of the site. Overall, the LVIA has concluded that the proposed development would have minor adverse and minor beneficial effects on the townscape. The effects would be adverse, because the New Build would be noticeably taller in comparison to the surrounding building heights, but maintains the generally vertical character of buildings within the wider Docks area. Due to the lightweight design (small footprint in comparison to the historic buildings and use of large glazed areas within elevations) and use of traditional materials it is considered that it presents a balance between the traditional and the modern, sympathetic to the varied surroundings and overall adverse visual impacts are therefore minor. Additionally, the proposed development will change the use of the site to align with the adjacent residential properties to the south and south-west, thus reinforcing this aspect of the townscape.

- 8.14 The SPG also provides general advice on the recommended approaches to the design of a tall building:

...One would be to incorporate locally distinctive design features and materials sympathetic to the existing character, while another would be to design a scheme, which stood out or contrasted with the surrounding built form.

In this case, the modern design incorporating traditional materials reasonably achieves a balance of the design approaches suggested by the SPG and I consider the site is uniquely placed to support the height and design of the New Build. No substantial conflict with the aims of the SPG or policy D4 is identified.

8.15 **Public realm and placemaking**

The site is currently experienced as both a visual detractor and barrier to movement at a significant arrival point into the major land-use area of the Quays, Docks and wider city centre to the north. The council's *Public Realm Strategy* (2017) (PRS) sets out that Bakers Quay (along with the wider Gloucester Quays Outlet Village and northern area of the Docks) are primary spaces with the Quays (including Bakers Quay) highlighted as a key arrival point and land-use activity hotspot. A major aim of the PRS is to enhance the connections between major land uses and areas of activity through the development of a coherent and high quality approach to the public realm, based on reducing clutter and providing high quality materials to create spaces where people want to live and work.

- 8.16 The development would deliver new public realm both through and around the buildings, including the reinstatement of the canal towpath that is a key aim of GCP policy B4. Phase 1 of Bakers Quay has already delivered a partly reinstated canal towpath, with elements of uncovered railway/tram tracks incorporated into the surface design. The current proposal would provide further reinstatement of the towpath (with the scheme also sought to support the completion of the Malthouse Ext. conversion that would deliver the final towpath links to the north of the site). There has been some concern from consultees with regards to the prevalence of surface car parking but, subject to agreeing appropriate materials and a scheme of site planting I do not consider these semi-private areas of the site would detract from the publicly accessible areas.

- 8.17 As stated above (within the heritage section of the report), full details of hard-surfacing materials, site planting and final layouts have not yet been agreed, but I am satisfied that suitably worded conditions can ensure that full details are submitted and agreed in line with the aims of the PRS design guidance to ensure a balance between public realm enhancements and the heritage value of the site is reached. In terms of public realm, I consider the site would positively contribute towards the delivery of the PRS and result in a much needed uplift of this significant gateway into Gloucester's primary land-use areas.

8.18 **Conclusions on Urban Design, Townscape and Public Realm**

Overall, I am satisfied the site is uniquely placed to support the proposed development of a taller building without causing harm to the established skyline. It would provide Gloucester with a high-quality and unique, landmark building that would identify the gateway into the Quays and Docks regeneration area, without being of such a large-scale that important features of the wider city skyline are interfered with. The design approach would also respond to the mixture traditional and modern architecture that now comprises the wider Docks area and the scheme will delivery much needed enhancements to the public realm and permeability of the site. I find no substantial conflict with the aims of the NPPF, policies A1, B4 and D4 of the GCP or SD4, SD5 and INF1 of the JCS.

9.0 **Economic Development**

Para. 81 of the NPPF advises that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Para. 86(f) goes on to advise that LPAs should recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites. GCP Policies B1 and B4 set out the aims for new development to identify opportunities for the employment and skills development of local people as well as ensuring that no adverse impacts on access to or the use(s) of the water-space and canals occurs.

9.1 The Bakers Quay site not within the defined city centre boundary but, is considered to be a key gateway site into the wider Gloucester Quays and Docks regeneration area. The Docks area is a major cultural and historic asset for the city, and already represents a major tourist attraction with the National Waterways Museum, Soldiers of Gloucestershire Museum and various festivals and events. The docks also remain the home of various water-focussed activities and businesses, including both commercial and leisure moorings as well as a successful working boatyard.

9.2 Gloucester Docks were historically a centre of economic activity within the city for a substantial period of time. However, the relocation of much of the historic industry and maritime businesses away from the area (during the mid-to-late C20th) had drastically reduced the economic benefits that the area afforded to the city. Subsequently, the Docks area was identified as major investment area in the early 2000s with a great potential to deliver various developments to meet the city's changing housing and economic needs. Various schemes (notably the creation of the Gloucester Quays Outlet village, Restaurant Quarter, Museums & Gloucester College developments) have completed, alongside the conversion of several historic warehouses into residential use. A new road bridge was also constructed at St. Ann Way (completed in Nov 2008) running to the south of Bakers Quay and providing direct access to the A430 to the west.

9.3 Bakers Quay remains one of few sites within the wider Docks area that has not fully undergone redevelopment to establish a viable use. The 2016 planning permission established the principle of a predominantly commercial redevelopment of the Downing's site, within a wider mixed-use redevelopment of Bakers Quay as a whole. However, as has been demonstrated by the applicant (and assessed in greater detail within the viability section of this report), the scheme no longer remains financially viable due to the collapse of restaurant market values. The loss of the ability to implement the extant planning permission has also placed the completion of the Bakers Quay regeneration (as a while) at risk. The residential redevelopment now under consideration is considered to be a viable solution to the redevelopment of both the Downing's site and to enable the conversion of Malthouse Ext. to be able to be commenced.

9.4 Completion of the Bakers Quay regeneration would result in significant benefits to the city economy. The construction phase would directly generate employment opportunities, (albeit

for a limited period during construction). The applicant has submitted a draft 'Employment and Skills Plan' (ESP) in line with the aims of GCP policy B1. The plan identifies opportunities for the employment and skills development of local people through the implementation of the proposal. Whilst full details cannot be confirmed until planning permission is granted (and formal contracts agreed) I am satisfied the draft ESP highlights that a number of opportunities will be created and can be delivered by the development. Full details of the ESP, along with details of its implementation and monitoring can be secured by a suitably worded condition.

- 9.5 The creation of a significant number of new dwellings in this highly sustainable location would ensure that the viability of businesses and tourist attractions located within Gloucester Quays and the nearby city centre were better supported (over and above the existing situation). It would be reasonably expected that future occupiers of the development would use the nearby shops, restaurants, leisure premises and tourist attractions (the Priory and Museums) lending support to their ongoing viability. An increased local population also has the potential to act as an employment 'reservoir' allowing businesses to benefit from increased spending as well as potentially being able to ensure any employment vacancies would be more likely to be filled.
- 9.6 The NPPF encourages LPAs to recognise that residential development plays an important role in ensuring the vitality of commercial centres and it encourages residential development on appropriate sites. I consider this to be an appropriate site in terms of location and the scale of residential redevelopment proposed and I am satisfied that the long-term economic benefits that would arise due to the occupation of the site would be significant ensuring the viability of the adjacent commercial centres is supported.
- 9.7 It is also reasonable to expect that long-term positive benefits to local businesses would arise from the physical regeneration of the derelict buildings currently occupying the site including the opening up of the spaces between the buildings. Downing's Malthouse and the Downing's Tower site are all currently unsightly features within the locality. Bringing the derelict site back into a viable use and delivering new public realm around the buildings would offer a substantial improvement to the local environment as well as providing better access to the waterside of Bakers Quay and increased permeability into the wider Quays and Docks area. This has been reflected in public comments that have identified the site as a major eyesore that blocks access to the businesses that span Merchants Road and is potentially a public safety hazard due to the poor condition of the site.

The city council's Head of Economic Development has offered broad support for the scheme as completing the regeneration of Baker's Quay would offer a significant improvement to the local environment and economic uplifting of the Docks area, as well as contributing to the economic wellbeing of the wider city.

- 9.8 Overall, I consider that subject to the use of a condition to secure full details (and implementation of) an Employment and Skills Plan, the proposal would deliver both short and long-term economic benefits in a suitable location. Considerations relating to design and heritage impacts aside, the development would provide significant support to the viability of the businesses within the Docks and City Centre areas leading to a long-term contribution to the economic well-being of the city. As such, the development is supported under the aims of the NPPF and GCP policies B1 and B4.

10.0 **Flood Risk and Drainage**

The current application site covers an area encompassing Flood Zones 1, 2 and 3. However, the areas within FZ2 and FZ3 would be used for public realm/car parking and have already been granted for use as such under the 2016 permission. The High Orchard St. redevelopment, that forms the main area of the proposed development, is located within FZ1, the area at lowest risk of river flooding. Vehicular access from the High Orchard St.

Warehouse crosses an area of FZ2 and FZ3 to the south, where it meets the public highway at St. Ann Way. To the north, the land is predominantly within FZ1.

10.1 Summary of 2015 Flood Risk Assessment

Due to the site location and nature of the proposed development, the wider Baker's Quay site was subject to both Sequential and Exception Tests during the 2015 application assessment. In terms of the Sequential Test it was accepted the development could only take place in the proposed location, since it involved the conversion/redevelopment of a number of listed buildings in a wider area specifically identified for a mixed-use regeneration. As such, the development was only considered to be acceptable subject to passing an Exception Test. Para. 164 of the NPPF states that, to pass the exception test it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

10.2 It was considered the wider sustainability benefits that would be delivered through the Baker's Quay Regeneration were substantial, so part a) was passed. It was also accepted the scheme would be safe for its lifetime, by locating the more vulnerable use (being the hotel) within FZ2 with the residential and leisure uses accepted as either being within FZ1 (the Downings Warehouse) or of a design that would be safe for its lifetime.

10.3 Basement levels of both Downings Warehouse and Malthouse Ext. would be below expected flood levels so a condition was imposed to ensure these areas were not used for accommodation (only for storage/parking etc.). A separate condition sought to ensure that ground floor levels were constructed above 11.8 metres AOD, to ensure they would be flood free for the lifetime of the development. Subject to the specific design of the development and the conditions it was the LPA's view that the Exception Test was passed.

10.4 Current proposal

The current proposal essentially seeks a redesign of the Downings Warehouse redevelopment, the area of the site that remains within FZ1. It is confirmed that ground floor levels would be at approximately 13.9 metres AOD or above so would be flood free. Whilst part of the application site area is within FZ2 and FZ3, I do not consider the development proposed within this area would give rise to increased risk of flooding on or off site (likely resulting in overall improvements due to the implementation of an improved scheme of surface water management and creation of basement areas that would increase the floodwater storage capacity of the site, should a river flooding event occur).

10.5 I consider it is not appropriate for the LPA to reapply the Exception Test to the current development proposal. Nonetheless, should an Exception Test be required I see little evidence to suggest that it would be failed as significant public benefits remain and the design of the development would ensure it would be flood free (for the site areas that would support vulnerable development).

10.6 The NPPF advises that in areas at higher risk of flooding, new development should have safe access and escape routes. The High Orchard St. Warehouse currently only has vehicular access from St. Ann Way, through an area of FZ2 and FZ3. However, the development would open a vehicular route through to Merchants Road that could provide access to emergency services (from the north) should a major flood event occur. Future occupiers would also have safe escape away from the site to the north, through land within FZ1.

- 10.7 Whilst I accept the development would have safe access and escape routes, given the number of residential units now proposed (over and above that of the extant permission) I consider that a condition requiring submission of a flood warning and evaluation plan should be submitted. This would ensure a precautionary approach was taken and future residents have advance warning(s) and understand where safe escape routes are. Due to the location of the site and low risk flood across the site and land to the north, I see no compelling reason why a scheme could not be agreed.
- 10.8 Drainage Strategy
The NPPF recognises that how water is managed by new development can contribute to reduced flood risk (either within an application site or elsewhere), as well as improved water quality, biodiversity net gains and meeting the challenges of climate change.
- 10.9 Para. 169 advises that major development should incorporate sustainable drainage systems (SuDS) unless there is clear evidence that this would be inappropriate. GCP policy E4 is consistent with the NPPF stating that all development should incorporate SuDS to reduce surface water discharge rates and address water quality, unless it can be shown, to the satisfaction of the City Council, that this is not feasible. The policy goes on to state:
- Applicants shall demonstrate that all surface water discharge points have been selected in accordance with the principles laid out in within the SuDS/drainage hierarchy. That is, where possible, connections to the public sewerage systems, and in particular the combined sewer network, are to be avoided. Wherever possible, foul drainage from development shall connect to the mains public sewer.*
- 10.10 In this case, larger Baker's Quay regeneration scheme was granted planning permission subject to a condition requiring agreement of proposals for the disposal of surface water in accordance with the principles of SuDS. Given the previously developed nature of the site, the use of a number of natural SuDS features (such as above ground natural infiltration and certain storage/filtration features) were discounted as an unviable drainage strategy. As such, a scheme discharging into the adjacent canal was designed and details relating to Phase 1 were subsequently agreed.
- 10.11 The application includes details of the Phase 2 strategy that adopts a similar approach to Phase 1, directing surface water into the canal through a series of new filtration drains, permeable paving, below ground attenuation storage units with restricted outflow into the canal. The system has been designed to retrofit modern water filtration and storage systems into the existing site in order to provide management of a 1 in 100 year flood event whilst also providing for water quality improvements. It is accepted the system design would be a significant betterment over and above the existing situation in terms of reducing flood risk and water quality. However, the system would require agreement with the Canal and Rivers Trust, who are the responsible authority in relation to water levels and quality of the canal.
- 10.12 The Canal and Rivers Trust (CRT) have reviewed the current proposal and asked for a similar condition (to the 2016 permission) to be included. In this case, I consider it is reasonable to expect that a scheme utilising above ground natural SuDS features is unlikely to be able to be agreed and accept that discharge into the canal is the likely most-viable strategy. The drainage strategy details an overview of the approach, but full details of the system design have not yet been submitted. CRT confirm they have not yet entered into any discharge agreements with the applicant so ask for the submission of full technical details to ensure they are able to fully assess the potential impacts on the water levels and quality of the canal.
- 10.13 It is of note that surface water drainage details agreed and implemented for Phase 1 included a higher rate of discharge into the canal (at the request of CRT) than was first designed into the scheme. This was to ensure that water levels within the canal and associated docks

basins are able to be maintained at appropriate levels. A design criteria of GCP policy B4 seeks to ensure that:

The development will not infill or reduce the depth of water of docks/canal waterspaces to the extent where it would limit the range of boats and other craft that could safely navigate and/or operate within the waterspaces...

Whilst full details of the system management and final discharge rates have not yet been agreed, the developer has been able to design a scheme for PH1 that satisfied CRT's requirements and their ability to control the water levels of the canal to ensure the depth remains navigable to a range of marine vessels. I see no compelling reason why technical details could not be agreed and accept that a suitably worded condition is appropriate.

- 10.14 The applicant confirms that foul drainage would connect into the existing public sewer (as was the proposal for the extant planning permission for the Downings site rebuild). Severn Trent Water have been consulted on the current application and offered no objection (in principle). However, the developer would be required to agree a scheme of design and adoption of the connection with STW in any case (this would be agreed outside of planning controls). Given that no objections or concerns were previously raised to the original planning permission in terms of foul sewer capacity, I consider there is very little evidence to conclude that a foul sewerage connection into the public sewer would be unacceptable in this location. A suitably worded condition can ensure that details of the foul drainage connection are agreed but, in my view, there would be a technical solution that would be agreed outside of planning controls.
- 10.15 Overall, I consider the development would not place future occupiers of the scheme at risk of flooding nor would flood risk be increased elsewhere. Subject to the use of conditions to secure agreement of full technical details of the scheme of surface water drainage and details of a flood warning and evacuation strategy I consider the development complies with the aims of the NPPF and relevant development plan policies.

11.0 **Ecology**

The site is located in an urban area but, due to the poor structural condition of the existing buildings and proximity to a significant waterbody (the canal and docks basins) there is some potential for the site to support biodiversity. The applicant has submitted an ecological survey that has highlighted that the High Orchard St. building has moderate potential to support bats. The new build section of the site (formerly occupied by the concrete silo) is identified as having a low potential to provide habitat for protected species.

- 11.1 Para. 180 of the NPPF states that, when determining planning applications, LPAs should refuse planning permission if significant harm to biodiversity would arise from a development that cannot be adequately mitigated or (as a last resort) compensated for or if it would result in the loss of irreplaceable habitats (ancient woodland, ancient or veteran trees). All development should seek to secure measurable net gains for biodiversity or enhance public access to nature (where this is appropriate). GCP policy E2 states that:

Development proposals must demonstrate the conservation of biodiversity, in addition to providing net gains appropriate to the ecological network. Potential adverse impacts on natural environment assets...must be avoided or satisfactorily mitigated in line with the objectives of the Gloucestershire Local Nature Partnership or a future equivalent body.

In terms of Biodiversity Net Gains (BNGs), I am satisfied that a suitably worded condition can be applied to the planning permission to ensure that a scheme of BNGs is agreed and implemented prior to the first occupation of the development.

11.2 Further to the above there is a statutory requirement under the provisions of the Conservation of Habitats and Species Regulations 2017 (Hab Regs)³ for LPAs to consider whether a European Protected Species (EPS) License would be likely to be granted in the event a development could impact upon EPS or its habitat. Natural England are the 'relevant licensing body' (for the purposes of the Hab Regs) so determine the final decision on the issue of an EPS license. However, Natural England's guidance advises that LPAs can determine planning applications providing they are satisfied that any required EPS license would be likely to be granted. With specific reference to bats, Natural England advise that before LPAs grant a planning permission they:

- *make sure any mitigation or compensation conditions imposed do not conflict with the requirements of a bat mitigation licence;*
- *be confident that Natural England will issue a licence.*

11.3 In this case, there is an identified potential for part of the site to support bat habitat. The city council's Ecological Consultant has reviewed the applicant's submitted survey and agrees with the broad approach to mitigation that has been put forward (subject to ensuring the mitigation measures are secured by condition). However, the Ecologist has advised that the further survey work recommended within the survey should be undertaken prior to the LPAs determination of the application (bat emergence surveys are recommended to confirm whether bats may be roosting within the building or not).

11.4 Whilst this work must be undertaken prior to the commencement of the conversion works of the High Orchard St. building, the new build element could proceed without harm to any bats potentially using the more substantial northern half of the site (the Kiln and part of the former warehouse). If evidence of roosting bats is identified there is a high likelihood that an EPS license would be required. When considering whether to issue a license Natural England must consider whether the following three legal tests are passed:

- the activity must be for a certain purpose - for example, for scientific research or in the public interest;
- there must be no satisfactory alternative that will cause less harm to the species;
- the activity must not harm the long-term conservation status of the species - you may need to create new habitats to offset any damage.

As the LPA must be confident that an EPS license would be granted it is pertinent to consider these tests within this report.

11.5 The LPA considers the development is in the public interest. The site is located in a very sensitive location as a gateway into the wider Gloucester Quays and Docks regeneration area. ay, as well as providing a significant number of new homes in a highly sustainable location. The Downing's redevelopment would also support the conversion of the Malthouse Extension that would result in a significant improvement to the public realm in and around Bakers Quay as well as improving connectivity between Phase 1 of the Bakers Quay redevelopment and the wider Quays and Docks regeneration area. The LPA is satisfied that test no.1 is passed.

11.6 The works with potential to impact upon bats are works of conversion relating to a grade II listed building. A benefit of the works would be that an historic building is converted into a viable use ensuring it is conserved for future generations to appreciate. Whilst the housing to be provided could be secured at an alternative site, the benefits of conserving the listed building would only be able to be delivered by the proposed development (see viability section of the report for consideration of alternative schemes for the building). As such, it is

³ Article 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) states that the LPA (the competent authority in relation to this planning application assessment) must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.

accepted that no viable alternative for the redevelopment of the site exists. Test no.2 is passed.

- 11.7 If evidence of roosting bats is discovered the LPA is satisfied that sufficient time and technical solutions would exist to secure a scheme of mitigation and/or compensation (along with the overall BNGs that would be secured by condition). The LPA is confident that sufficient technical solutions exist to provide mitigation against any harm to or loss of identified habitat within this type of building. A number of development sites within the city (and surrounding area) have been able to be undertaken alongside schemes of mitigation to ensure that no adverse impact to the long-term conservation status of the EPS occurs. There are a number of design solutions available to be employed by the applicant to ensure the converted building remains friendly to foraging and roosting bats.
- 11.8 When applying for an EPS license a developer must submit a method statement and works schedule to Natural England. A pre-commencement condition can require that the additional surveys are undertaken and (if evidence of bats is identified) that a method statement and works schedule for the implementation of a scheme of mitigation and/or compensation can be agreed. A condition is considered to be necessary to ensure the further survey work and mitigation details are agreed prior to the commencement of the High Orchard St. conversion works. This is reasonable in this specific case. This would ensure that further surveys are undertaken and mitigation details (if needed) are agreed and secured prior to the commencement High Orchard St. conversion works⁴. Subject to the pre-commencement condition the LPA is satisfied that test no.3 would be passed.
- 11.9 The Ecology advisor also asks for the submission of details of external lighting, bat and bird boxes to be secured by suitably worded planning conditions. In line with the aims of GCP policy E1 (consistent with NPPF para. 174) I consider that a scheme of biodiversity net gains should be secured. This could incorporate bat and bird boxes along with any other enhancement measures relevant to the ecological network surrounding the site. I consider these conditions to be reasonable and necessary.
- 11.10 In terms of wider ecological impacts, it is unlikely that significant effects upon the nearby Alney Island Nature Reserve or canal (and its open space areas) would occur. Further afield, the Cotswolds Beechwoods Special Area of Conservation (SAC), Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Nature Reserve, and Severn Estuary Special Protection Area (SPA) would occur as a result of the proposed development or in combination with other developments. However, to adopt a precautionary approach, a Home Owners Pack identifying alternative public open spaces, to take pressure off the SAC and SPA, can be secured by condition.
- 11.11 Taking into account the above, I am satisfied that subject to the recommended conditions, the development would be able to comply with the aims of GCP policy E2, the policy advice of the NPPF (and relevant Natural England guidance) and should it be identified that an EPS license is required the LPA is confident there is a reasonably high likelihood that it would be able to be granted.

12.0 **Residential Amenity – Neighbouring Occupiers**

The majority of neighbouring premises are commercial with the exception of the 'Maltster's Cottages' that were converted as part of Phase 1 of the scheme. They project directly from the northern elevation of the form kiln section of Downings Malthouse and are, for the most part, in shadow of the existing building for the majority of the day (as the sun tracks broadly south-east to north-west). The New Build would clearly increase the height of built form in proximity to the cottages (by approx.. 15 metres) but any increase to overshadowing would

⁴ Natural England advise that LPAs do not need to consult Natural England on the wording or discharge of any conditions imposed on a planning proposal. Natural England is unable to provide advice on this.

be marginal and predominantly affect the roof of the adjacent Outlet Village.

12.1 The land to the rear of the cottages (to the north of the kiln wall) would be kept open and used for parking to ensure that day light (later in the day) was kept available to the rear facing windows of the cottages. Overall, I am satisfied that no unacceptable harm to neighbouring residential amenities would occur.

12.2 **Residential Amenity – Future Occupiers**

The scheme has been designed to ensure that all units have access to natural light. The plans appear to demonstrate this would be the case, but the quality and availability of natural light/heat and outlook would range quite considerably. For the most part, occupiers of the new build and upper levels of the restored Downings Malthouse have good access to daylight and unrestricted outlook. North-facing windows within upper floors would receive less daylight but, not to an unacceptably harmful degree.

12.3 However, several of the units occupying the lower levels of the scheme would face towards existing buildings and/or parking areas so, would not benefit from entirely unrestricted natural outlooks. The units within the restored Downings Malthouse would also have restricted window sizes, with several of those facing to the north-west and south-east retained as the historic warehouse window openings. However, separation distances between the proposed units and neighbouring buildings would generally allow an acceptable level of daylight to be afforded to the units with some level of outlook from internal livings areas.

12.4 There could also be some mutual overlooking created between units facing north (within the new build) and those facing south (within the restored listed building). However, am satisfied this would not be direct and in the majority of cases would not be between private habitable rooms. At ground floor level there may also be some mutual overlooking from the public realm but, most units would have some form of outdoor amenity space where screening could be secured if desired.

12.5 The council's Noise Consultant has reviewed the proposal and is satisfied the design of the scheme would not give rise to any harm to neighbouring occupiers or future occupiers of the scheme due to noise providing details of the submission Noise Survey and Construction Management Plan are secured by condition. Particular attention was paid to lower floor units adjacent to the parking areas and commercial units and it was confirmed that the design specification for these units was acceptable providing that final details of the commercial end user and all external plant are submitted in line with the Noise Survey recommendations. It was also identified that noise to outside balcony areas could exceed the recommended levels, but a scheme of extra noise mitigation could be secured by condition to ensure that levels are reduced and internal areas are better protected. I consider the requested conditions are reasonable and necessary.

12.6 Overall, in terms of access to daylight, outlook, privacy and noise I do not consider the level of residential amenity expected to be experienced by the lower level units (mainly those facing north-west and south-east) would be out-of-character with a range of new residential units within the wider modernised Docks area. Subject to the recommended noise conditions I consider residential amenities would be acceptable.

12.7 **Nationally Described Space Standards**

The NPPF states that new residential development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Further advising that policies may also make use of the nationally described space standard (NDSS), where the need for an internal space standard can be justified. Policy F6 of the GCP has adopted the NDSS stating:

Development proposals for new residential development (including change of use or conversions) must meet Nationally Described Space Standards (or any future successor).

The supporting text of F6 sets out that a transition period of 3 months will apply from the adoption date of the Gloucester City Plan.

- 12.8 Whilst the policy wording is relatively strict, it is reasonable to expect there may be scenarios where NDSS cannot be met and other material planning considerations⁵ may justify lesser provision. An example could be where a conversion of a listed building is proposed and existing room sizes/layouts may dictate whether a scheme of conversion could comply with the NDSS (or not without causing significant harm to a heritage asset). However, developers would be expected to provide reasonable justification if any under provision would be considered acceptable.
- 12.9 The residential development proposed in this case is a mixture of new build and conversion/rebuilding of a historic building. Some concerns have been put forwards by the city council's Planning Policy and Housing Strategy Teams that a number of the units (predominantly within the restored northern section of the listed building) would be sub-standard. The applicant has revised floor space figures proposed for the new build and confirmed they would be broadly compliant (if not exceeding the NDSS). Where units would underperform they have been revised in terms of expected resident numbers to more closely comply with the NDSS.
- 12.10 Of the 49 units proposed within the restored section of the listed building, six would exceed the NDSS with the remainder not able to comply. Shortfalls against the NDSS floor space would range between 7 and 25% deficit. The two worst performing one bedroom units would be approximately 35% below the NDSS. I accept there are some heritage-based constraints to the restoration of the northern section of Downings Malthouse but, cannot entirely rely on these for the sole justification for the lack of compliance with the GCP policy (as much of the building has been removed and is to be restored only the locations of external walls, existing and proposed window openings can be considered to be reasonable justification). However, the applicant has demonstrated that they have attempted to provide some mitigation by including shared community space within the development. This space would be for the private use of the residents and would be equipped with free Wi-Fi to enable working from home or use as additional breakout areas.
- 12.11 **Access to outdoor amenity space**
A number of units would have access to areas of private outdoor amenity space. However, due to the constrained footprint of the building, these areas range in size and quality. GCP policy A1(5) states that:

Provide outdoor amenity space and garden space at a level that reflects the character of the area and the scale of the development...

The development involves the part restoration of a listed building within a mixed-use urban environment. The wider docks area has areas of open space within the public realm between buildings, but few residential developments (modern or historic conversions) provide high levels of outdoor amenity space to residents. The majority of residential uses within the wider area have access to small balcony areas, with many units having no dedicated access to any outdoor amenity space. Very few units have private garden access. As such, although a large-scale development, I cannot accept that provision of large areas of private outdoor space would be in keeping with the modernised character of the wider Docks area. I therefore accept the provision designed into the current scheme is sufficient in this case.

⁵ Quoted in the context of s.70(2)(c) of the Town and Country Planning Act 1990 and s.38(6) of the Planning and Compulsory Purchase Act. 2004.

12.12 **Conclusion on residential amenities**

The assessment above has identified that there are areas where the level of residential amenities expected to be enjoyed by future occupiers of the scheme could fall below those sought by the development plan. This is mostly a concern in relation to internal living spaces and failure of a number of units to comply with the NDSS and failure of some units to have access to an entirely open outlook. The former is mitigated somewhat by the provision of communal areas within the development and, whilst outlook from a handful of ground floor units would be undesirable, all units would benefit from natural light. In terms of the NPPF, the specific design requirements are less strict and given the council is within a tilted balance situation⁶ the policy aims of the GCP with regards to specific design requirements are somewhat tempered (in favour of overall compliance with the NPPF).

12.13 In this case, I also consider the location of the site is a material planning consideration. The highly sustainable location with good access to a range of leisure uses, tourism sites and areas of public open space, within a short distance, is considered to be a positive contributor to the quality-of-life expected to be enjoyed by future residents of the scheme. I must also recognise that the NDSS policy is within a transitional phase and there are other material planning considerations that temper the overall harm that could arise from the lack of policy compliance of certain areas of the development. As such, I cannot find a compelling reason to refuse the planning application on grounds that the scheme does not entirely comply with the aims of GCP policies A1 and F6 or JCS policies SD4, SD11 and SD14.

13.0 **Transport and Highways**

Chapter 9 of the NPPF sets out the broad aim that all new development promotes sustainable transport without causing . This should be achieved by ensuring that significant development is focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Para. 111 advises that development should only be prevented or refused (on highways grounds) if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

13.1 The JCS and GCP set out the local aims that support the need for significant development to be located within sustainable locations, whilst also strengthening links to and promoting the use of sustainable modes of transport.

13.2 The application site location, very close to the city centre and within the Docks Regeneration Area, is highly sustainable and future occupiers of the development would have good access to nearby services, employment and public transport hubs through various modes of transport. Private car parking for the development would be provided within both surface and basement level parking areas with access from St. Ann Way via a reopened Merchant Road. Parking spaces would not be provided to every unit but, in this location I consider under-provision is necessary (to ensure that other opportunities for low-carbon modes of transport are promoted to future occupiers of the scheme).

13.3 Secure cycle parking is proposed to be provided within the basement. I consider the amount of dedicated secure cycle parking currently proposed is too low. Guidance seeks provision of one cycle parking space per bedroom. However, there is a reasonable expectation that residents would store cycles within the units, where space permits it. I also consider the site is capable of accommodating additional areas of both public and private cycle parking/storage. As such, a suitably worded condition can ensure that a scheme of additional cycle parking is agreed and implemented prior to the occupation of the development (this could involve provision of cycle 'hangers' within larger units as well as shared cycle storage/parking areas).

⁶ NPPF paragraph 11(d) is engaged due to the local planning authority being unable to demonstrate a 5 year housing land supply.

- 13.4 Some internal consultees have raised concerns over the amount of private car parking that has been designed into the scheme. It has been considered to be too high a number, given the very sustainable location. I accept there is potentially a sustainability argument for less car parking provision in this location. However, public concerns over the lack of proposed car parking have also been received (concerns over the potential conflicts that could arise with existing nearby businesses and residential properties). On street parking in the locality is strictly limited and indiscriminate parking along the roadside would cause obstructions to nearby residential and business premises. As such, I consider the scheme must provide a level of private car parking that is balanced against the opportunities provided by the sustainability of the location. The applicant also has concerns over the viability of the scheme if a number of car parking spaces were removed (value of units would decrease which could be significant over a number of units). As stated above, I consider that additional cycle parking can be secured (along with a scheme of site planting detailed within the urban design section of the report).
- 13.5 Taking into account the location, scale, design and potential needs of the development I consider the scheme proposes a number of private car parking spaces that provides a good balance between the need for certain units to have access to private car parking alongside the ability of the development to be able to promote use of public transport, walking and cycling to provide access local services. I also consider the number of car parking spaces proposed would reduce potential for conflict to arise from indiscriminate parking in the locality (should insufficient private parking be accessible to future occupiers of the scheme).
- 13.6 Overall, the development is not considered to have the potential to give rise to significant impacts on the safety or operation of the public highway in the vicinity of the site. Future occupiers would be encouraged to use modes of transport other than private motor vehicles and movement and access through the site (into and out of the Docks Regeneration Area) would be vastly improved through the delivery of new public realm. Subject to the recommended conditions I am satisfied the development would comply with the relevant policies of the development plan and broad aims of the NPPF.
- 14.0 **Planning contributions and viability**
As explained throughout the report, the original 2016 planning permission was granted as a mixed-use regeneration scheme that required elements of modern development to deliver financial surplus to support the higher costs of the heritage restoration and conversion works. Ultimately, the scheme was led by the heritage restoration works, that generated a significant budget deficit due to the more complex nature of the conversion and restoration works. The original scheme predominantly relied on the delivery of commercial floor-space (mainly restaurant, but with some leisure provision within Phase 1. The approach was reviewed independently in 2015-2016 and it was considered to be financially viable (at that time) with a significant amount of budget surplus considered to be delivered through the Phase 2 Downings Malthouse redevelopment. The independent viability review also accepted that the original scheme would not generate sufficient overall profit to enable payments of developer contributions, with around £65,000 available to be secured towards off-site affordable housing provision. As such, planning and listed building consents were approved and works to deliver Phase 1 were commenced.
- 14.1 A clause of the original s.106 agreement sought to ensure that a review of the viability of the scheme would take place after Phase 1 had completed. A recent independent review of the Phase 1 costs and profit returns has confirmed that Phase 1 underperformed (benchmarked against the 2016 viability assessment) failing to deliver the budget surplus required to enable commencement of Phase 2. This was compounded by the need for the applicant to undertake public safety works to the Downings Malthouse in 2019-2020. The result being that, the heritage budget deficit has increased with no ability for the surplus delivered by the modern development to plug the gap.

- 14.2 The applicant independently worked through a number of redesign options (with their advisors) that were discounted for heritage or viability reasons. Once a design approach had been agreed, the applicant entered into pre-application discussions with the LPA in 2019 (around the time that Phase 1 was completed) presenting a redesigned scheme that sought to provide approximately 2,300 sq.m of residential floor space to maintain the financial viability of the regeneration scheme. Initial designs incurred heritage objections (due to proposals to demolish a significant amount of the Downings Malthouse - over and above that previously agreed - and due to proposals adopting a pastiche design approach). However, whilst some concerns over the alternative designs were raised, the principle of a predominantly residential led-scheme, contained within the area of the site now under consideration, was not disputed.
- 14.3 The current application presents the detailed redesign of the Downings Malthouse site that was first presented to the LPA in 2021 for pre-application discussion. Through pre-app discussion, the area of the Downings Malthouse site formerly occupied by a 1950s concrete silo was chosen as the only practical option for a redesigned scheme capable of delivering the additional floor space required (the Malthouse Ext. and Transit shed works are essentially conversions with very little option to provide any additional floor space). The application was submitted with a financial viability assessment that has enabled the LPA to seek independent review of both the Phase 1 delivery (it underperformed - see above) and the expected returns of the redesigned Phase 2. Firstly, the independent review has confirmed that the extant scheme (reliant on restaurant floor space) is no longer considered to be a financially viable option.
- 14.4 COMPLETE ONCE RCA RESPONSE IS AVAILABLE.
- 15.0 **Other matters**
- 15.1 Contaminated Land
In terms of potential land contamination, the applicant has resubmitted ground investigations that date back to the original planning consent. The current proposal has been reviewed against the submitted risk assessments and, whilst there is no objection to the principle of a residential led redevelopment, the council's Contaminated Land consultant has advised that an up-to-date risk assessment must be completed (prior to commencement) to ensure that any identified contaminants can be remediated in a manner that renders the site safe for its intended use (now with a greater level of residential accommodation). Such a condition is considered to be reasonable and necessary and is an approach that has been agreed by the applicant.
- 15.2 Climate change and sustainable construction
The applicant has submitted an Energy Strategy confirmed that the heritage conversion units can be assessed as new dwellings (under Building Control requirements) with a material change of use under Approved Document Part L1B. It is recommended that the existing retained thermal elements should be thermally upgraded as part of the restoration work to the northern range of the building. The new build presents a greater opportunity to incorporate Low and Zero Carbon (LZC) technology to provide a methodology for achieving a sustainable low energy use development. For example, the building would incorporate EV charging points for every car parking space and would use air source heat pumps (installed at roof level) to deliver heated water to the new residential units (as well as other measures).
- 15.3 The Energy Strategy confirms the design of the New Build has been assessed against the Greater London Authority's *London Plan* method, *Be Lean, Be Clean, Be Green* energy hierarchy to qualify the carbon emissions reduction targets have been met. Following this method, the applicant confirms that the overall development's carbon emissions will be

reduced 21% below the Part L 2021 Building Regulations baseline. The design proposes an all-electric building services strategy, supported by LZC technology to protect local air quality and to ensure lower carbon emissions at present and in addition, increasingly reduced carbon emissions as the electricity grid decarbonises into the future. I consider the design of the thermal elements of the building, combined with the use of LZC technology will deliver a significant number of new homes that contribute to the city's ability to combat climate change into the future. I consider the design of the New Build complies with the aims of JCS policy SD3.

15.4 Fall prevention

GCP policy C7 states the following:

On buildings or structures above 12 metres in height, planning permission will be granted where mitigation measures have been taken to help prevent suicide and accidental falls.

Where mitigation measures are used, such as anti-climb methods, fences, barriers and rails, these will be well designed and integrated into the overall design of the building.

The supporting text states that retrofitting schemes can be expensive, cumbersome and poorly designed, as such it is considered appropriate to deal with this issue from the outset to ensure safe and well-designed buildings. The supporting text advises that where buildings or structures are proposed above 12 metres developers will be required to provide a statement within the Design and Access Statement outlining how they have considered this policy.

15.5 As the application was submitted prior to the adoption of the GCP it did not include specific assessment regarding fall prevention for the New Build. The applicant has subsequently confirmed that the roof of the building would not be publicly accessible and the balcony spaces would be private spaces. Balcony areas would be a mixture of areas recessed into the brick frame of the building and cantilevered platforms. The balcony areas would be enclosed by 1.1 metres high balustrades (glazed panels within a metal frame). I have some concerns that the balustrade heights may be too low and slightly raising the height would provide better protection against possible accidents or misadventure. A height of approximately 1.6 metres would provide better fall prevention and, if using clear glazing above the obscure glazed lower section I see no reason why residential amenities would be compromised.

15.6 I consider that details of the balcony design can be secured by an appropriately worded condition to ensure a balance between safety, residential amenities and visual impact can be achieved and the development would comply with the aims of policy C7 of the GCP.

15.7 Gulls

Policy F4 of the GCP states that:

Development proposals are expected to implement all viable non-lethal humane steps to prevent gull roosting, nesting and damage should be taken. Gull mitigations measures shall be well designed and sympathetic to the building and its setting.

The New Build would feature external areas up to the ninth floor (excluding the roof space which is considered below). These would be private areas that would be managed by future occupiers of the development. As such, I do not consider that specific gull prevention measure for these areas would be appropriate. The roof space

would be set above the height of neighbouring buildings and would not be a publicly accessible area.

- 15.8 No specific gull prevention measures have been set out for the roof space of the New Build, but I do not necessarily consider this would result in any nuisance to residents or visitors. Maintenance crews may need to access the roof space but, this would be infrequent and unlikely to be hindered by any nesting gulls (subject to any specific training requirements that I do not consider can be influenced by planning controls).
- 15.9 The lower height of the restored northern range of Downings Malthouse poses a slightly different consideration. The roof of the restored northern range will have flat roof elements set within the valleys of the pitched roofs and the reinstated dormers. These areas provide potential for gull nesting. Gulls using the roof of this building have a greater potential to cause nuisance to the users of the commercial unit (most likely to be occupied by some form of café/restaurant use). I also have concerns that nesting birds would deposit a significant amount of droppings that would appear unsightly (and possibly damaging to the building fabric) over time.
- 15.10 The guidance within the council's *Gulls - How to stop them nesting on your roof* (2016) document sets out a number of measures that can help to prevent gulls from nesting and roosting on a range of building types. There is some concern that certain measures (i.e. poorly placed spikes) can be visually harmful, particularly within the context of conservation areas and use on listed buildings. However, given the height of the restored listed building I consider that options are available to the applicant to implement a scheme of gull prevention measures without detracting from the significance of the building. A suitably worded condition can ensure that a scheme of gull prevention measures is implemented prior to the first use of the building.

16.0 **Overall conclusions and the planning balance**

The proposal has been considered against the policies of the NPPF and relevant policies of the development plan. As the city council cannot currently demonstrate a 5yrHLS consideration must be given to the application of the 'tilted balance', applied under NPPF para. 11(d) as follows:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

11(d)i is applied subject to the following footnote:

7. The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 180) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest); and areas at risk of flooding or coastal

change.

What this means in practice is, that for the 'tilted balance' to be applied, any impacts of a development relating to the policies listed within footnote 7 must be considered to be acceptable (under the provisions of those policies of the NPPF) or para. 11(d) is not engaged and the application should be refused. In this case, the impact of the development upon designated heritage assets is the key consideration.

- 16.1 The heritage assessment above identified that elements of the proposal (mainly centred on the New Build) would cause some harm to the significance of a range of heritage assets. However, taking into account the elements of the scheme that would deliver heritage benefits and other public benefits expected to arise from the development (due to the design, scale and nature of proposed uses and use of reasonable and necessary planning conditions) it has been concluded that the harm to heritage assets is outweighed in line with the provisions of NPPF paras. 199 and 202. The development is therefore considered to comply with the aims of Chapter 16 of the NPPF. No other conflicts with the policies listed within footnote 7 have been identified. The 'tilted balance' is therefore applied to the proposal.
- 16.2 The above report has identified that, along with the provision of a number of new homes (contributing towards the 5yeHLS) there would also be linked economic benefits due to the increase to the city population in a highly sustainable, intensive land-use area. As the viability review has confirmed, the restaurant market has suffered a significant downturn in recent years (compounded by wider commercial market impacts arising from the global pandemic). Given that the site is located in very close proximity to the Docks Restaurant Quarter I consider the population increase (and reasonable level of linked local spending that would arise) lends a greater weight to this benefit, that may not be justified in a more suburban location.
- 16.3 The construction phase also presents some opportunities for economic and employment benefits that would be strengthened through the implementation of an employment and skills plan. I consider the economic support that would be given to the viability of the commercial land-uses within the Docks and city centre is an overall benefit that can be given significant weight (in line with the advice of NPPF para. 81) contributing to the economic objectives of the NPPF.
- 16.4 I consider the scheme would have a broadly neutral social impact. The scheme would only deliver open-market housing with the scheme unable to deliver any affordable housing on viability grounds. However, this would be within a location with very good accessibility to services and would enable the completion of the regeneration of a problematic site, so the impact is balanced and is neutral.
- 16.5 The New Build will deliver a number of new homes within a sustainably design building that will help to reduce the city's overall carbon footprint (increasingly so into the future as the electricity grid is decarbonised). There would also be significant improvements to the public realm within and surrounding the site that would result in a significant uplift to the area. This is a benefit that is given moderate positive weight in line with the environmental objectives of the NPPF.
- 16.6 Overall, the planning balance is considered to weigh in favour of the development as it would positively contribute towards the economic and environmental aims of the NPPF without giving rise to any adverse impacts that would significantly and demonstrably outweigh the benefits.

17.0 RECOMMENDATION

17.1 That planning permission is resolved to be **GRANTED** (subject to the following conditions), pending completion of the required Section 106 deed of variation agreement.

17.2 Conditions Schedule

1 The development hereby permitted shall be begun before the expiration of one year from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to reflect the viability assessment being undertaken at a point in time.

2. Except where these may be modified by any other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following approved drawing numbers/documents:

- 9959-PL01 – Site Location Plan;
- 9959-PL02 – Proposed Site Layout;
- 9959-PL03 – Existing Site Plan;
- 9959-PL04 – Existing Block Plan;
- 9959-PL05 – Proposed Block Plan;
- 9959-PL10 – Proposed Lower Ground Floor Plan;
- 9959-PL11 – Proposed Ground Floor Plan;
- 9959-PL12 – Proposed First Floor Plan;
- 9959-PL13 – Proposed Second Floor Plan;
- 9959-PL14 – Proposed Third Floor Plan;
- 9959-PL15 – Proposed Fourth Floor Plan;
- 9959-PL16 – Proposed Fifth Floor Plan;
- 9959-PL17 – Proposed Sixth Floor Plan;
- 9959-PL18-Rev.F – Proposed Seventh Floor Plan;
- 9959-PL19 – Proposed Eighth Floor Plan;
- 9959-PL20 – Proposed Ninth Floor Plan;
- 9959-PL21 – Proposed Roof Plan;
- 9959-PL22-Rev.A – Proposed Elevations Downings Malthouse;
- 9959-PL23 – Downings Tower Elevations D & B;
- 9959-PL24 – Proposed Street Sections Sheet 01;
- 9959-PL25 – Proposed Street Sections Sheet 02;
- 9959-PL26 – Proposed Substation Plans and Elevations;
- 9959-PL27 – Downings Tower Proposed Elevations C & A;
- 9959-PL28 – Feature Bridge, Plans, Elevations and Section;
- 9959-PL30 – Proposed Longitudinal Section Plan;
- 9959-PL36 – Hard and Soft Landscape Plan;
- 4301-Rev.C02 – The Downings Private Drainage Details;
- 4106-Rev.C01 – The Downings Existing & Proposed Catchment Plans;
- 4100-Rev.C02 – The Downings Levels & Drainage Layout;
- 4106-Rev.C02 – Proposed Levels & Drainage Layout to Car Park;
- 4731-Rev.C02 – Car Parking Strategy.

Reason: For the avoidance of doubt and in the interests of proper planning.

Pre-commencement

3. **Archaeology**

No development other than demolition down to ground floor slab level shall take place within

the application site until a report outlining the results of a programme of archaeological evaluation has been submitted to and approved in writing by the Local Planning Authority.

Reason: To make provision for a programme of archaeological evaluation, so as to describe the significance of heritage assets of archaeological interest within the site. This is to allow the scheme to be designed in a manner that minimises the impact on archaeological remains in accordance with the aims of policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1 and D1 of the Gloucester City Plan and the planning policy advice within Chapter 16 of the NPPF.

4. No development other than demolition down to ground floor slab level shall commence within the application site until a detailed scheme showing the complete scope and arrangement of the foundation design and ground works of the proposed development (including pile type and methodology, ground contamination remediation, drains and services) has been submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with the approved scheme.

Reason: The site may contain significant heritage assets of archaeological interest. These details are required to ensure that disturbance or damage by foundations and related works are minimised, archaeological remains are, where possible, preserved in situ in accordance with the aims of policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1 and D1 of the Gloucester City Plan and the planning policy advice within Chapter 16 of the NPPF.

5. No demolition or development shall start within the application site until a written scheme of investigation of archaeological remains, including a timetable for the investigation, has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:

- a) The programme and methodology of site investigation and recording.
- b) The programme for post investigation assessment.
- c) Provision to be made for analysis of the site investigation and recording.
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e) Provision to be made for archive deposition of the analysis and records of the site investigation
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason: To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost in accordance with the aims of policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1 and D1 of the Gloucester City Plan and the planning policy advice within Chapter 16 of the NPPF.

6. All demolition and development shall take place in accordance with the Written Scheme of Investigation of archaeological remains. This condition shall not be discharged until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation (approved under condition number 5 of this permission), provision has been made for the analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost in accordance with the aims of policy SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy,

policies A1 and D1 of the Gloucester City Plan and the planning policy advice within Chapter 16 of the NPPF.

7. Unless otherwise agreed by the Local Planning Authority no ground disturbing works shall commence, other than works of archaeological investigation to be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition number 5 of this permission, until requirements 1 to 6 (below) have been complied with:
 1. A preliminary risk assessment must be carried out. This study shall take the form of a Phase I desk study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors to determine whether a site investigation is required and this should be detailed in a report supplied to the Local Planning Authority. The risk assessment must be approved in writing before any development takes place.
 2. Where an unacceptable risk is identified a scheme for detailed site investigation must be submitted to and approved in writing by the Local Planning Authority prior to being undertaken. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
 3. Detailed site investigation and risk assessment must be undertaken and a written report of the findings produced. This report must be approved by the Local Planning Authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
 4. Where identified as necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 5. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.
 6. Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any

buildings.

Reason: To ensure that possible contamination can be identified and remediated to ensure the site is made safe for its intended end use in accordance with the aims of policy SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policy A1 of the Gloucester City Plan and the planning policy advice of the NPPF.

8. Prior to the commencement of any development within the car parking and canal-side public realm area, details of the proposed protective fencing to be erected to safeguard the waterway during construction of the development shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details.

Reason: To comply with paragraph 174 of the National Planning Policy Framework, policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and policy E1 of the Gloucester City Plan as the ecological environment in this location is sensitive and should be protected from disturbance and pollution.

9. Notwithstanding the submitted details, the development hereby permitted shall not commence until details for the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. As a minimum, the details submitted shall include:

- proposals for the disposal of surface water in accordance with the principles of Sustainable Urban Drainage Systems (SuDS);
- modelling/simulation of the scheme to demonstrate it is technically feasible and can withstand a 1 in 100 year flooding event (plus climate change);
- methods to control pollution and improve water quality;
- a SuDS maintenance plan for all SuDS/attenuation/filtration features and associated pipework;
- where surface water requires disposal off site (i.e. not infiltrated) evidence of consent to discharge/connect through 3rd party land or to their network/system/watercourse.

Thereafter, the surface water drainage system shall be implemented prior to the first occupation of buildings within that phase for the uses hereby permitted and maintained thereafter for the life of the development.

Reason: To comply with paragraph 174 of the National Planning Policy Framework, to determine the potential for pollution of the waterway and likely volume of water and to ensure that flood risk is not increased on or off-site in accordance with the aims of policies SD9 and INF2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and policies E1 and E4 of the Gloucester City Plan.

10. Notwithstanding that indicated on the submitted plans, no development shall take place other than site investigation/remediation or archaeological investigation work until details/design specifications of street and open space furniture, external lighting, screen walls, fences/railings and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority.

As a minimum, the details shall include:

- scaled elevation drawings,
- site plans identifying the location(s);
- details of the materials/finishes;

- details to support the external lighting choices (to be informed by the project Ecologist); and
- how/why the materials and design specifications have been selected with regards to the guidance within the city council's *Public Realm Strategy* (2017).

Thereafter, the development shall be carried out only in accordance with the approved details.

Reason: In the interests of privacy and security, protecting the structure, appearance and use and biodiversity of the canal, and protecting the character and appearance of the Conservation Areas and the setting of listed buildings, in accordance with policies SD5, SD8 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1, B4, C1 and D1 of the Gloucester City Plan and the planning policy advice of the NPPF.

11. Notwithstanding that indicated on the submitted plans, no development shall take place other than site investigation/remediation or archaeological investigation work, until details/design specifications of the hard-surfaced areas (the roads, footpaths, cycle ways, parking areas, public realm and all other hard-surfaces) have been submitted to and approved in writing by the Local Planning Authority.

As a minimum, the details shall include:

- a scaled layout plan denoting the finishes and features;
- photographic samples of new materials (with physical samples to be provided at the local planning authority's request) and
- details setting out investigations into the presence and incorporation into the design of buried rail tracks within the site
- explanation of how the materials and design specifications have been selected with regards to the guidance within the city council's *Public Realm Strategy* (2017).

Thereafter, the development shall be completed and maintained in accordance with the approved details.

Reason: To ensure that the design and materials are appropriate to their context, to investigate the presence and potential to retain historic railway tracks within the design, and in the interests of protecting the character and appearance of the Conservation Areas and the setting of listed buildings, in accordance with the aims of SD5, SD8 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1, B4, C1 and D1 of the Gloucester City Plan and the planning policy advice of the NPPF.

12. Notwithstanding that indicated on the submitted plans, no development shall take place other than site investigation/remediation or archaeological investigation work until full details of a scheme of site planting have been submitted to and approved in writing by the local planning authority. As a minimum the details shall include:

- Plans/details illustrating the species, locations and numbers of all trees, shrubs and hedges to be planted;
- written planting and maintenance specifications;
- Plan showing all trees/hedges to be retained;
- Plan showing all trees/hedges to be removed;
- explanation of how the planting scheme design specifications have been selected with regards to the guidance within the city council's *Public Realm Strategy* (2017).

Thereafter, the agreed planting scheme for each area of the site shall be carried out concurrently with the construction of the development and shall be completed no later than

the first planting season following the completion of the development.

The planting shall be maintained for a period of 5 years. During this time any trees, shrubs or other plants which are removed, die, or are seriously damaged shall be replaced during the next planting season with others of similar size and species unless the local planning authority gives prior written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.

Reason: To ensure a satisfactory and well-planned development and to preserve and enhance the quality of the environment, public realm and green infrastructure in accordance with the aims of policies SD5, SD8 and SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policies A1, B4 and D1 of the Gloucester City Plan and the planning policy advice of the NPPF.

13. The conversion/restoration works to the northern range of Downings Malthouse (the warehouse and kiln no.2) shall not commence until the requirements below have been met to the satisfaction of the local planning authority:
1. the Bat Emergence Surveys (nocturnal surveys) have been undertaken and the results have been submitted to and approved in writing by the local planning authority. The surveys shall be undertaken in accordance with the recommendations of the submitted Bat Roost Assessment (Tetra Tech – dated 12th April 2022);
 2. Where evidence of bats roosting within the building is identified, details of further investigations/surveys to establish the character of the roosts and to inform a scheme of mitigation/compensation measures shall be agreed and implemented and no further works shall take place until the results have been submitted to and approved in writing by the local planning authority;
 3. Where identified as necessary, a scheme of mitigation/compensation shall be submitted along with evidence to demonstrate that any relevant European Protected Species (EPS) license has been applied for and will be (or has been) issued by the competent authority (Natural England).

Thereafter, the development shall be completed in accordance with the approved details with any mitigation/compensation works completed prior to the first occupation/use of the building.

Reason: To ensure that any protected species using the building are unharmed and compensation measures are delivered, in a timely manner, to offset any adverse impacts on the habitat value of the building in accordance with the aims of policy SD , policy E1 of the Gloucester City Plan, the planning policy advice of the NPPF and to ensure the local planning authority meets the duties of the Conservation of Habitats and Species Regulations 2017 (as amended).

14. The development hereby approved shall not commence until full details of an Employment and Skills Plan (ESP) have been submitted to and approved in writing by the local planning authority.

As a minimum, the ESP shall set out how the opportunities for the employment and skills development of local people have been identified, will be delivered and monitored during the construction and operational stages of the proposal. As well as setting out the ESP would support the priorities identified by relevant local industry groups, such as the Construction Industry Training Board (CITB).

Thereafter, the development shall be completed in accordance with the approved details.

Reason: To ensure the development contributes positively to the economic growth of the city and development of a skilled local workforce in accordance with the aims of policy B1 of the Gloucester City Plan and the planning policy advice of the NPPF.

Pre-occupation conditions

15. Notwithstanding the submitted details, the new dwellings hereby approved shall not be occupied or brought into use until a revised car parking strategy has been implemented in accordance with written details that shall first be submitted to and approved in writing by the local planning authority. As a minimum, the revised scheme shall address the following:

- Details of the disabled/accessible car parking spaces, positioned in proximity to the residential building entrances to enable level access;
- Locations and specifications of electric vehicle charging points (EVCPs);
- Details of the management of the private parking areas (i.e. spaces to be allocated to individual units or shared, entrance to be barrier controlled, use of number plate recognition etc.).

Reason: To ensure the development is served by a well-planned and managed car parking area, providing safe and secure access for all users of the development and to ensure that any adverse impacts on the safety and/or operation of the public highway are minimised in accordance with the aims of policy INF1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policy G1 of the Gloucester City Plan and the relevant policy advice of the NPPF.

16. Notwithstanding the submitted details, the new dwellings hereby approved shall not be occupied or brought into use until a scheme of secure cycle storage/parking measures (to a minimum of one cycle parking/storage space per dwelling) has been implemented in accordance with written details/design specifications that shall first be submitted to and approved in writing by the local planning authority.

The details may include measures to store cycles within residential units, designated areas within the buildings or areas within the wider plot.

Thereafter, the cycle parking shall be maintained in accordance with the approved details and kept available for use in association with the development.

Reason: To ensure the development benefits from a sufficient number of accessible and secure cycle parking areas in the interests of promoting sustainable modes of transport in accordance with the sustainable transport aims of the NPPF, policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and policy G1 of the Gloucester City Plan.

17. The new dwellings hereby approved shall not be occupied or brought into use until details of the location, appearance and timetable for implementation of facilities for the public display of interpretation material regarding the historic interest of the site, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in accordance with the submitted timetable. Once provided the public display material shall be retained thereafter.

Reason: The site includes significant heritage assets and further assets of archaeological interest that will/may experience harm from the development. Provision of material to convey information on these assets historic development and use to the public relates to the preservation and recording aspirations of policy D3 of the Gloucester City Plan and the aims of Chapter 16 of the NPPF.

18. The new dwellings hereby approved shall not be occupied or brought into use until a scheme

of acoustic treatments for all balcony/external terrace areas has been implemented in accordance with written details that shall first be submitted to and approved in writing by the local planning authority. Thereafter, the acoustic treatments shall be maintained in accordance with the approved details.

Reason: To ensure that appropriate mitigation is secured against noise levels expected to be experienced within the external amenity areas of the development in the interests of securing a good quality of residential amenity for future occupiers of the scheme in accordance with the aims of policy A1 of the Gloucester City Plan, policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the planning policy advice of the NPPF.

19. The commercial unit hereby approved shall not be occupied or brought into use until an assessment of noise break-out and transfer to the first floor of the building (relevant to the agreed end-user of the unit) has been undertaken in line with Section 12.2 of the submitted Noise Assessment (Han Tucker Associates – April 2022) and any identified mitigation measures have been implemented. Thereafter, the development shall be maintained in accordance with the approved details.

Reason: To ensure that appropriate mitigation is secured against noise that could be generated by the use of the commercial unit in the interests of securing a good quality of residential amenity for future occupiers of the development in accordance with the aims of policy A1 of the Gloucester City Plan, policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the planning policy advice of the NPPF.

20. The preparation/sale of hot food shall not take place within the commercial unit hereby approved until a kitchen fume extraction and filtration system has been implemented in accordance with written details that shall first be submitted to and approved in writing by the local planning authority. Thereafter, the kitchen fume extraction system shall be maintained in accordance with the approved details until such a time that hot food is no longer prepared within the unit.

Reason: To ensure that appropriate mitigation is secured against noise and odours that could be generated by the use of the commercial unit in the interests of securing a good quality of residential amenity for future occupiers of the development in accordance with the aims of policy A1 of the Gloucester City Plan, policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the planning policy advice of the NPPF.

21. Notwithstanding the submitted details, unless otherwise required by other conditions of this permission, details of the locations, design and expected noise levels of all external plant or machinery shall be submitted to and approved by the local planning authority prior to the first occupation or beneficial use of the dwellings hereby approved. Thereafter, the development shall be maintained in accordance with the approved details.

Reason: To ensure that appropriate mitigation is secured against noise and odours that could be generated by the use of the commercial unit in the interests of securing a good quality of residential amenity for future occupiers of the development in accordance with the aims of policy A1 of the Gloucester City Plan, policies SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the planning policy advice of the NPPF.

22. The new dwellings hereby approved shall not be occupied or brought into use until a scheme of biodiversity net gains has been implemented in accordance with written details that shall first be submitted to and approved in writing by the local planning authority. As a minimum, the details shall;

- Set out the measures to ensure a biodiversity net gain of at least 10% can be delivered (over and above any compensation measures also required);
- how the scheme would contribute to the ecological networks within and surrounding the site (to be informed by the project Ecologist); and
- maintenance details to ensure the biodiversity net gains are retained for the lifetime of the development.

Thereafter, the development shall be maintained in accordance with the approved details.

Reason: To ensure the development delivers net gains to biodiversity suitable to the ecological network within the site and surrounding area in accordance with the aims of paragraph 174 of the NPPF, policy E1 of the Gloucester City Plan and policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy.

Compliance conditions

23. Unless varied under the requirements of other conditions of this planning permission, the development hereby approved shall be constructed strictly in accordance with the details of the submitted Construction Method Statement (CMS) dated 18th March 2022.

Reason: To ensure that suitable controls over pollution and impact upon the public highway network are minimised during the construction phase of the development in accordance with the aims of policies INF1 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the planning policy advice of the NPPF.

24. Unless varied under the requirements of other conditions of this planning permission, the development hereby approved shall be constructed and maintained strictly in accordance with the details of the submitted Energy Strategy (Prepared by Thornley & Lumb Partnership Ltd - Issue 01 – 26.04.2022).

Reason: To ensure the sustainable design benefits of the development are delivered and the development contributes to a lowering of the city's carbon footprint in accordance with the aims of policy SD3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the relevant policy advice of the NPPF.

Person to Contact: David Millinship



Planning Application: | 22/00563/FUL

Address: | Downings Malthouse
Merchants Road
Bakers Quay
Gloucester

Committee Date: |

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Agenda Item 6

GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Address/Location: | Downings Malthouse, Merchants Road, Bakers Quay, Gloucester

Application No: | 22/00563/LBC

Ward: | Westgate

Expiry Date: |

Proposal: |
 Listed building consent for the alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor.
 The development of a new building comprising basement ground and nine upper floors on the site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.

Report by: | David Millinship

1.0	SITE DESCRIPTION AND PROPOSAL
1.1	<p><u>Site description</u></p> <p>The application site forms part of “Phase 2” of the wider Bakers Quay Regeneration site. It comprises two areas within Bakers Quay, the first being the grade II listed building known as Downing’s Malthouse that sits between the public highways at High Orchard Street and Merchants Road. Downings Malthouse shares its western boundary with the Docks Conservation Area (CA), but is not within the CA itself. The second area of the application site comprises an area of land that is currently vacant land with part occupied by parking in association with Phase 1. This area is sited to the south-west of Downings Malthouse, to the south of the substantial grade II listed building at Downings Malthouse Extension and grade II listed former Transit Shed sited marginally to the north. This section of the site is within the Docks CA.</p>
1.2	<p>To the east and north are the modern buildings housing the Gloucester Quays Outlet Village and part of the Docks Restaurant Quarter. Located to the south is the completed Phase 1 of the Bakers Quay Regeneration site (comprising a modern coffee shop unit, hotel building and rebuilt Llanthony Provender Mill building in a mixed-use featuring residential and restaurant units).</p>
1.3	<p>Downings Malthouse has been vacant for a number of decades and is currently required to be supported by a substantial amount of scaffolding since public safety works were undertaken to stabilise the buildings in 2020. The remains of the building include a four-storey section to the north of the</p>

	<p>site comprising the High Orchard St. Malthouse and High Orchard St. Kiln (subsequently referred to as “Downing’s Malthouse”) and three four storey walls that were previously part of the former warehouse and an earlier kiln building.</p>
1.4	<p>A 1950s concrete silo previously occupied the southern area of Downings Malthouse. It was a square concrete structure with metal framing that extended to approximately 6-7 storeys in height. Although the silo was part of the listed building, it was not considered to possess any notable significance and was permitted to be removed in its entirety to enable access into the former kiln and warehouse sections to permit the previously mentioned stabilisation works to be undertaken (the silo site is subsequently referred to in the report as the “New Build” site).</p>
1.5	<p><u>Planning History and background to current applications</u> The Bakers Quay regeneration (comprising the Phase 1 site, Downing’s Malthouse redevelopment and Malthouse Extension conversion) was granted planning permission and listed building consent in 2016 (ref: 15/01144/FUL & 15/01152/LBC). The scheme was supported as a phased development including a substantial element of new build to support the redevelopment and conversion of the heritage assets within the site. Phase 1 included the construction of a purpose built hotel, a stand-alone coffee shop unit and mixed-use building (comprising the rebuilding of the fire damaged grade II listed Llanthony Provender Mill) to provide a number of residential units with restaurant and leisure floor space at ground floor level. An element of Phase 1 that shares part of the northern boundary of Downing’s Malthouse was the completion of a part conversion of a section of the High Orchard St. Warehouse into 4 residential units now known as “The Maltster’s Cottages”. Phase 1 was completed in 2018-2019.</p>
1.6	<p>The original permission sought to deliver Phase 2 of the Bakers Quay Regeneration scheme as a conversion of the grade II listed Downings Malthouse Extension (subsequently referred to as “Malthouse Ext.”), rebuilding of the adjacent grade II listed Transit Shed (and its conversion into restaurant use) and redevelopment of the grade II listed Downings Malthouse into a mixed-use site of predominantly restaurant floor-space on lower levels with some provision of residential units on upper floors. The more substantial Malthouse Extension, occupying the canal-side within the northern half of Bakers Quay, was granted permission as a residential conversion. The majority of details relating to the Phase 2 works were secured by conditions. Some details have been agreed, of note the demolition works to the Downings Malthouse (removal of the concrete silo and stabilising works) that were formally agreed in 2020.</p>
1.7	<p>Whilst the 2015 planning permission remains extant, a subsequent downturn to the restaurant market (compounded by the global pandemic) as well as significantly increased building costs, has stalled delivery of Phase 2 with the applicant forced to review the viability of the extant permission going forwards . Attempts to secure grants (historic building, regeneration enabling grants) or other financial support to enable implementation of the extant planning permission have been unsuccessful and the application has subsequently concluded that a redesign of the redevelopment scheme for the Downings Malthouse phase of the wider Bakers Quay development is the only option to ensure that Phase 2 can be secured.</p>

1.8	<p>The scheme as it had originally been planned, had a significantly high budget relating to the heritage works, mainly those relating to the Malthouse Ext. conversion, but also the other historic buildings within the wider site. The heritage budget would have been balanced by the financial surplus that would have been delivered by the new build restaurant floorspace within the Downings Malthouse and Transit Shed redevelopments. As the restaurant market can no longer be relied upon to generate a surplus, redevelopment of the site into a predominantly residential use has been considered the most viable. The Malthouse Ext. was already approved as a residential conversion and options to amend that sub-phase of the scheme are limited due to the heritage constraints. As such, the applicant's primary option to redesign a viable scheme for Phase 2 site predominantly within the Downings Malthouse site.</p>
1.9	<p>A number of redesigned schemes for the Downings Malthouse have been considered by the applicant with two schemes submitted to the Local Planning Authority (LPA) for pre-application advice (in 2020 and 2021). Several schemes were discounted on viability grounds with both pre-application schemes also rejected due to significant concerns raised by heritage consultees (mainly Historic England and the LPA's Conservation Officer). The current design has been reached as a balance between the ability to deliver completion of the Bakers Quay Regeneration and the aim to preserve as much of the remaining fabric of the listed building that spans the Downings Malthouse sites.</p>
1.10	<p><u>Development Proposal</u> The proposal seeks the rebuilding/conversion of the northern section of Downings Malthouse to provide 49 residential units (one bedroom to three bedroom in size) across four storeys. A further 68 units would be provided within the New Build occupying broadly the area of the former concrete silo. The New Build would be a nine-and-a-half storey building (nine storeys with duplex apartments at the highest level). Approximately 60 sq/m of new restaurant (use Class E) floorspace would be provided at ground floor level. Communal areas (with access only to residents of the development) would also be provided at lower levels, to be used as breakout home working/shared social areas.</p>
1.11	<p>The New Build would occupy a broadly triangular footprint, designed to enable the retention and support of the remaining walls of the listed building that face onto High Orchard St. and Merchants Rd. The New Build is proposed to be separated from the remainder of the northern section of the Downings Malthouse building that would be partially rebuilt and converted. A publicly accessible cut through between the two separate structures would be created to provide a plaza with sitting-out areas (a mixture of private and public) at ground level. The proposal also includes the reinstatement of a 2nd and 3rd storey bridge link between Downings Malthouse and the Malthouse Ext. (the former bridge link was removed in 2019/2020).</p>
1.12	<p>Car and cycle parking would be provided at basement level and within the open land located to the north of Downing's Malthouse and the southern elevation of the modern Gloucester Quays/Restaurant Qtr building. Additional public realm and car parking would be provided within the application site area to the south of the Transit Shed/Malthouse Ext. The main public highway access into the development site would follow the Gloucester Quays and Bakers Quay Phase 1 access from St. Ann's Way with Merchants Road</p>

reopened at the southern point of Downings Malthouse.

Application Number	Proposal	Decision	Decision Date
22/00563/FUL	<p>Alteration, including partial demolition, restoration, development and extension of Downings Malthouse and the High Orchard Street Warehouse, plus the creation of a new basement level in Downings Malthouse accessed from Merchants Road to provide car parking, together with an extension and bridge link to Downings Malthouse Extension to provide 49 residential units on the ground and upper floors and 60 sq.m of commercial floorspace for use for Class E purposes on the ground floor.</p> <p>The development of a new building comprising basement ground and nine upper floors on the site of the former Silo and the retention of the remaining portion of the High Orchard Street Kiln containing basement car parking, a ground floor plaza, reception and ancillary accommodation linking the building to Downings Malthouse, and 68 residential units on the ground and upper floors together with additional ancillary parking to the south of Downings Malthouse Extension, access, turning and landscaping all at Bakers Quay Merchants Road/High Orchard Street Gloucester.</p>	Pending	
15/01144/FUL	<p>Alteration, including partial demolition, refurbishment and restoration of Downings Malthouse and Downings Malthouse Extension, the demolition and redevelopment of Provender Mill and the restoration and extension of the Transit Shed to provide commercial floorspace for A3/A4 purposes at ground floor level in Downings Malthouse, Provender Mill and the Transit Shed, conversion of basement and ground floors of the Downings Malthouse extension for ancillary car parking, and the upper floors of Downings Malthouse, Downings Malthouse extension and new-build Provender Mill to provide 162 new residential units, and the restoration of 4 no. three-storey cottages. The development of a 105 bed hotel and freestanding unit for use for A3/A4 purposes on the site together with ancillary parking, turning, access and landscaping all at Bakers Quay Gloucester</p>	Granted with Conditions	12 th August 2016
15/01152/LBC	Demolition, internal works and external works to Grade 2 listed buildings associated with redevelopment at Bakers Quay: Alteration,	Granted with Conditions	12 th August 2016

	<p>including partial demolition, refurbishment and restoration of Downings Malthouse and Downings Malthouse extension, demolition and redevelopment of Provender Mill, and the restoration and extension of the Transit Shed to provide commercial floorspace for A3/A4 purposes at ground floor level in Downings Malthouse, newbuild Provender Mill and the Transit Shed, conversion of basement and ground floors of the Downings Malthouse extension for ancillary car parking, and the upper floors of Downings Malthouse, Downings Malthouse extension and new-build Provender Mill to provide 162 new residential units and the restoration of 4 no. three-storey cottages. Ancillary parking, turning, access and landscaping all at Bakers Quay Gloucester</p>		
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3.0 RELEVANT PLANNING POLICY

3.1 The following planning guidance and policies are relevant to the consideration of this application:

3.2 National guidance

National Planning Policy Framework (NPPF), Planning Practice Guidance (NPPG) and National Design Guide (NDG)

3.3 Development Plan

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 11 December 2017) (JCS)

Relevant policies from the JCS include:

SD8 – Historic Environment.

3.4 Gloucester City Plan (Adopted January 2023) (GCP)

Relevant policies from the GCP are:

A1 – Effective and efficient use of housing, land and buildings;
 B4 – Development within and adjacent to Gloucester Docks and Canal;
 D1 – Historic environment;
 D3 – Recording and advancing understanding of heritage assets.

3.5 City of Gloucester Local Plan (Adopted 14 September 1983)

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 215 of the NPPF states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.*' The majority of the policies in the 1983 Local Plan are out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy. None of the saved policies are considered relevant to the consideration of this application.

3.6 Other Planning Policy Documents

Gloucester Local Plan, Second Stage Deposit 2002

Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. None of the local plan policies are considered relevant to the consideration of this application.

3.7 Supplementary Planning Guidance/Third-party Guidance

- Historic England – *GPA2: Managing Significance in Decision-Taking in the Historic Environment*.

3.8 All policies can be viewed at the relevant website address:- national policies:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Gloucester City policies:

<http://www.gloucester.gov.uk/resident/planning-and-building-control/planning-policy/Pages/current-planning-policy.aspx>

4.0 CONSULTATIONS

Responses received to the application consultations have been summarised by the case officer as follows (the full responses are available by request from the case officer).

4.1 Conservation Officer (Gloucester City Council)

Objection.

The original recommendation to the proposal was for officers to refuse planning permission and listed building consent. Subject to a more detailed assessment the following conclusion was presented:

The poor condition of the Downings Malthouse complex, and its ongoing deterioration, make the need for an appropriate scheme of development vital. In addition, it is acknowledged that a number of schemes for the site have been explored, and that a more residential than mixed scheme is required. However, whilst this is the case, what is currently proposed gives rise to significant concerns, in particular with regard to the harm that this scheme, by virtue of its inclusion of a 9+ storey tower block will cause to the significance and setting of a wide range of designated heritage assets across the centre of Gloucester. This harm varies, from the lower end of less than substantial harm (in terms of the NPPF) to substantial harm, in the case of the Malthouse complex itself.

Whilst it is not disputed that the current proposals will provide some level of public benefit for Gloucester, there is no evidence provided to show that it is substantial, which is required to outweigh the harm that will occur. Indeed, it appears that the main benefit in this scheme is the principle of regenerating this site, rather than the current scheme itself. This is of considerable concern as it appears that for this benefit to be achieved the price will be very high and permanent, in terms of the impact that it will have on a number of Gloucester's designated heritage assets and the character of Gloucester's historic centre...

...The Downings Tower, because of its scale, massing and form will

completely change the context of this historic site and how it is experienced, taking it from one characterised by substantial linear forms, parts of which are still evident on site today, to something completely different; a site which will be dominated by an alien and incongruous tower, whose verticality, height and domestic character are some of its most obvious features.

- This change in the character of the Downings site is considered to be harmful. According to the submitted drawings, the historic listed elements when rebuilt or restored will retain a linear industrial form, however, because of the size of the proposed tower, the listed building will be a subsidiary feature on the site, losing its stature, status and prominence, and much of its context; all of which are features that are relevant to its character and significance. These losses will fundamentally alter the way in which the heritage asset is experienced, and what is appreciated and perceived.*
- The overshadowing of the historic elements of the site by the new tower will undoubtedly be harmful to the setting of these listed structures, however the impact of the proposals in this scheme on the High Orchard Street Kiln wall is also considerable and includes the separation of this element from the other historic structures on the site.*
- Severing the link between the High Orchard Street Kiln wall and the other historic structures will lead to the further fragmentation of the site and reduce its legibility; in addition, in terms of the wall itself, what was once a part of this important historic site becomes an isolated feature, without meeting or context. Part of the significance of this site will be derived from the relationship between its connecting parts; as such the severance of this link, and fracturing this relationship, will lead to the loss of some of this significance.*
- It is proposed that the High Orchard Street kiln wall is attached to the new Downings Tower, covering part of the first two floors of this new structure. Already isolated and without context, this fragment will appear as an out of place 'add-on' one that bears no relationship to its new host. Indeed, whilst new openings to this kiln wall (which will lead to a loss of historic fabric and character) are proposed, they are minimal compared to the heavily glazed elevations of the tower itself, emphasising the jarring relationship between old and new on this site.*
- Alterations to historic openings and the creation of new openings which will lead to a loss of historic fabric and erosion of the building's character are also considered to be harmful to the significance of the Downings Malthouse.*

Following the submission of amended elevations, a Heritage Addendum and Heritage Policy Overview the following comments were made:

...whilst the revised drawings that have been submitted are welcome, they are, in reality, a minor change on a major scheme, with no other changes to the application proposed. In addition, further concerns have been raised regarding the additional information submitted, as well as in the planning agent's comments, elements of which are unclear.

Bearing in mind these factors, and the requirement of the NPPF that 'great weight should be given to the asset's conservation' and that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification', the comments made in the initial conservation officer response remain unchanged.

Regarding the material impacts and proposed further loss of fabric to Downings Malthouse, further to our recent meeting at your offices, we believe that there are options for the same or a similar quantum of development, which could retain more historic fabric and utilise more of the site (particularly the carpark site to the north, where the previous consent included single storey buildings). We have also indicated that modifying existing and blocked openings may be acceptable in terms of further modest fabric loss, if this would result in a more contextual scheme.

4.3 Civic Trust
Objection.

The successful re-development of Gloucester Docks, going back to the 1980s, has been on the basis that no new buildings should be higher than the existing Georgian and Victorian buildings which provide a maritime conservation area of local, national and, arguably, international importance. We see no reason to change this principle.

The proposed tower block completely dominates its close listed building neighbours to an unacceptable extent and sets a precedent for further tower blocks of a similar size which would be obtrusive in the docks setting and block views of the Cathedral from the south.

A ten storey building is not needed because there is land available in this quarter of the redevelopment to site, for instance, two, five storey residential blocks which would comply with the approved policy.

4.4 Association for Industrial Archaeology
Objection

The Association considers the reuse/conversion of Malthouse No 2 and the Warehouse acceptable, the new build of the Maltings Tower is too dominant and harms the setting of the adjacent listed buildings as well as further afield views of the city, it objects to this application which should be refused.

4.5 Council for British Archaeology
Objection

We recommend that the applicants revise their plans to retain and conserve as much as possible of the surviving fabric of the listed Malthouse buildings, and to reduce the scale of the proposed tower to fit with the skyline of the existing Docks area.

4.6 Historic Buildings and Places (Ancient Monument Society)
Objection

For a number of reasons, the development fails to comply with the aims of Chapters 12 and 16 of the NPPF. Whilst there is no objection in principle to the restoration of the northern range of the listed building, there are concerns over the design and number of new openings/use of balconies etc.

The main content of the objection is to the New Build summarised below:

The tower element of this application is unacceptable due to:

- *the harm to the significance and setting of a number of adjacent and nearby heritage assets.*

It is also advised that , should the LPA be minded to approve the scheme, a mechanism to ensure the listed building restoration works are secured should be put in place (in accordance with NPPF para. 204).

Queries in relation to the accuracy of some of the application documentation were also submitted.

4.7 **The Victorian Society** Objection

This proposal would not result in the conservation of the significance of the listed building, or the setting of the Docks Conservation Area and nearby listed buildings. Considering a less harmful proposal was approved previously there is no clear or convincing justification why this cannot be implemented.

5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 Press and site notices were published.

5.2 Four third-party responses to the public consultation were received:

Objections have been summarised as follows:

- The nine-storey building is too tall within this area of mainly 4-5 storey buildings;
- Overly modern design not in keeping with the character of the listed building.

Support has been summarised as follows:

- Downings Tower would be a striking and welcome addition to the city's skyline and appears to be the only realistic method of funding the regeneration of Maltings Warehouse - a building of unique character which deserves to be saved and put to good use.

5.3 The full content of all correspondence on this application can be viewed on:
<http://www.gloucester.gov.uk/resident/planning-and-building-control/Pages/public-access.aspx>

6.0 **OFFICER OPINION**

6.1 **Legislative background**

Section 16(2) of the Planning, Listed Buildings and Conservation Areas Act. 1990 (as amended) states that:

In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State 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.

6.2 There is no statutory requirement for a local planning authority to consider applications for

listed building consent against the relevant policies of the development plan. However, the planning objectives for an area (including national planning objectives) may well be material to the considerations of such consents.

6.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), The Gloucester City Plan (GCP) and the partially saved 1983 City of Gloucester Local Plan. However, as detailed above, the 1983 Local Plan is considered to be out-of-date. Both the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations.

6.4 The main issue to consider is:

- **The impact of the development on the special architectural or historic interest of the listed building.**

7.0 Impact on the special architectural or historic interest of the listed building

7.1 At a national policy level, para. 199 of the NPPF states that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paras. 200-202 go on to state that 'substantial' harm to a grade II listed building should only be permitted where 'exceptional' circumstances are justified, with substantial harm only permitted if it is demonstrated that the loss of significance is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

'Less than substantial' harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

7.2 JCS policy SD8 and GCP policies D1-D5 set out the local policy considerations for development affecting a range of heritage assets with policy B4 also seeking to ensure that development within the Docks and/or adjacent to the canal responds to the significance of the historic docks conservation area and other individual heritage assets. Both JCS SD8 and GCP D1 require development proposals to conserve the character, appearance and significance of designated heritage assets and their settings. GCP D1 goes on to state that proposals should demonstrate:

- 1. The protection and enhancement of existing heritage assets and their settings in proportion with the significance of the asset; and*
- 2. The conservation of features that contribute to the significance of a heritage asset, including structures forming part of the curtilage; and*
- 3. The proposed use of the heritage asset is compatible with the preservation or enhancement of its significance; and*
- 4. The proposal conserves and enhances the character, appearance and architectural quality of the area and wider setting in terms of siting, scale, form,*

proportion, design and materials; and

5. The use of high quality and locally distinctive materials following traditional building methods and detailing, where appropriate; and

6. Retains important views into or out of the Conservation Area.

Development involving substantial harm to, or the loss of designated heritage assets will only be granted in very exceptional circumstances. The condition of an historic building resulting from deliberate damage and neglect will not be considered in any decision.

- 7.3 The application site includes a grade II listed building (Downings Warehouse.) that will experience direct impacts from the proposal and has already experienced significant demolition agreed as part of the extant 2016 listed building consent. Part of the proposal (the link bridge) will also connect into the grade II listed Malthouse Ext. so there will be some physical impact on that building.
- 7.4 With the potential for a number of listed buildings to be physically affected, it is first pertinent to understand what the 'significance' of the various heritage assets may be, and how this could be impacted upon by the proposal. If harm is recognised it must be defined as either 'less than substantial' or 'substantial'. The NPPG advises that within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.
- 7.5 The NPPF Glossary describes 'significance' as the value of a heritage asset to this and future generations because of its heritage interest, derived not only from a heritage asset's physical presence, but also from its setting.

Historic England's GPA2 guidance generally advises the following with regards to the assessment of significance within planning assessments:

Development proposals that affect the historic environment are much more likely to gain the necessary permissions and create successful places if they are designed with the knowledge and understanding of the significance of the heritage assets they may affect...The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest...

Considering the above, the greatest level of impact from the development would be to the significance of Downings Warehouse that would be directly impacted upon by the physical works. Secondly, the Malthouse Ext. would experience some physical impacts (the construction of the bridge link).

7.6 **Significance of Downings Malthouse**

Downings Malthouse is a grade II listed late C19th building constructed in the 1890s by Walter B Wood of Gloucester, for G and WE Downing (maltsters). It comprises part of a cluster of listed buildings in this area which also include the Malthouse Ext, Transit Shed and the Provender Mill (all listed in the 1970s). Downings Malthouse is in a poor condition and has been on the Gloucester Heritage at Risk Register for over 20 years. Works of demolition were agreed in principle under the 2016 planning permission. In 2020 demolition works were formally agreed as a discharge of condition, mainly in the interests of public safety. The extent of the demolition works included:

- The removal of the 1950s concrete silo to the south of the Orchard St. warehouse;
- Removal of a section of the warehouses southern wall to enable access into the historic building;
- Removal of roof including internal support;
- Erection of scaffolding to stabilise the remaining walls (some of which are now

freestanding).

The demolition works (approved by the LPA) resulted in the loss of a significant amount of historic fabric from the grade II listed building and, it was agreed under the discharge of condition that as much of the historic fabric of the building should be retained (for reuse within the subsequent redevelopment). At the time of the works it proved difficult/unsafe for the applicant to be able to access the building to assess the extent of material that could be retained. However, it has since been confirmed that a number of iron pillars, timbers and bricks from the building have been able to be retained for reuse within any subsequent scheme.

- 7.7 Whilst much of the interior of the Downings Malthouse complex has been lost, the majority of its facades, with their distinctive features, form and detailing, remain. It is within these façades that much of the significance of this historic building now lies, with these elements retaining historic, architectural and evidential value.
- 7.8 The current proposal seeks to retain the majority of the walls that have been left in-situ following the demolition but, due to the need for the new development to be served by natural light some loss of historic fabric is proposed predominantly to create new door and window openings. Initially, the alterations proposed to the north-west elevation of the Orchard St. building were unsympathetic to the existing architectural features of the building (failing to take advantage of the existing brick recesses to frame new openings). The original scheme also sought to remove original warehouse window openings (that face into High Orchard Street), inserting larger openings with recessed balcony areas. A revised scheme was submitted including improved design of the new window openings (north-west facing) as well as the retention of the High Orchard Street warehouse windows. In terms of the conversion of the High Orchard St. Warehouse and Kiln, the amended design is considered to offer improvement, but there remains an element of harm due to the additional loss of historic fabric required for new window openings.
- 7.9 The council's Conservation Officer (GCC-CO) has raised an objection to the development, considering that the New Build element (in combination with the loss of additional historic fabric) would result in substantial harm to the significance of the grade II listed building. The GCC-CO disagrees with the applicant's approach to the assessment of the significance of the listed building disputing the approach that, because Downings Malthouse has lost extensive fabric there is justification for further changes or loss with only minimal or no harm being caused. The GCC-CO notes Historic England's guidance¹ stating that:

Where the significance of a heritage asset has been compromised in the past... consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies.

I agree with the GCC-CO's view that the applicant is incorrect to present the assumption that further interventions arising from additional loss of historic fabric are diminished due to previous works. However, I do not entirely agree with the extent of additional harm that has been identified by the GCC-CO. The lawful fall-back permission is a material planning consideration that balances against the level of additional harm expected to be caused to the remains of the Downings Malthouse listed building. Should the applicant continue to implement the previously approved development, further loss of historic fabric would occur. I am satisfied that losses would be comparable to that currently proposed.

- 7.10 The loss of historic fabric is not the only issue and the overall design of the scheme and impact of it on the significance of the listed building (as a whole) must be considered. The

GCC-CO does not dispute that the reinstatement of the northern range of Downings Warehouse (the warehouse and former no.2 Kiln) would be achieved. A level of harm would arise from new fenestration openings and creation of areas of modern public realm and parking/servicing areas (within the setting – potentially mitigated by use of appropriate materials see Conservation Area section below). However, the historic form and some of the architectural detailing that identifies the building's former uses (such as the reinstatement of the kiln roof detailing and restored signage on the NW elevation) will begin to restore some of the significance of the northern range and ensure that it can be appreciated as a historic building with links to Gloucester's industrial past. HE's GPA2 guidance recognises that the significance of a previously compromised heritage asset can be restored and in some cases enhanced. Taking into account the condition of the northern range and that the scheme proposed to reinstate much of its original scale, form and some of its architectural interest, I consider it reasonable to conclude that the restoration of the northern range of the building is a broad heritage benefit of the scheme that would restore some of the lost significance of the building, that must be balanced against overall harm.

- 7.11 The GCC-CO considers the manner in which the applicant is seeking to achieve the redevelopment of the southern range/former silo site, by separating the site from the northern range (High Orchard St. Kiln) from the southern section of the site and constructing what is effectively a new, taller structure will give rise to substantial harm to Downings Malthouse and its setting. It is stated that the change to the context of the historic building and how it is experienced, would change the character from that of a predominantly linear built form, to a site which will be dominated by an alien and incongruous tower, whose verticality, height and domestic character are some of its most obvious features. There is some agreement that the historic listed elements, when rebuilt or restored, will retain a linear industrial form. However, the GCC-CO concludes that because of the size of the proposed tower, the listed building will be experienced as a subsidiary feature on the site, losing its stature, status and prominence to the detriment of its significance.
- 7.12 I accept that the elements of the listed building that would remain (including the restored northern range) would be subsidiary features to the larger-scale New Build element and some of the linear form of the original building would not be reinstated. Along the north-western elevation, the New Build would be experienced as a clearly modern addition, separate to the historic building but, along the south-eastern elevation the linear footprint of the listed building would remain legible to some degree. This would particularly be the case within public views at ground level surrounding the site (as the majority of people would experience the building from the new public realm areas). Within longer range views, the historic elements of the building would be mostly screened from view. The buildings seen within the context of the site (particularly those modern buildings to the north and east) are taller than Downings Malthouse, not to the extent of the proposed New Build, but they are taller.
- 7.13 The concrete silo that was in place until 2020 was also a taller feature with a much larger massing than the northern section of the listed building. It essentially blocked any views of the historic Downings Malthouse from the south. The extant scheme, by restoring a smaller-scale modern southern range would have opened up views of the historic northern range improving its appreciation. This would have been an element of the scheme accepted as an enhancement. Clearly, the New Build now proposed would not achieve this and, by being taller than the former silo (albeit on a smaller footprint) and of a modern design and form, I must accept there would be some harm to the significance of the listed building and how it is appreciated. However, I consider this limited to a local level and would not affect how the building has been appreciated within the wider townscape (over and above the existing situation).

- 7.14 I accept that severing the physical links between the High Orchard Street Kiln wall and the other historic structures would be harmful to the significance of the remaining listed building. This is an undesirable aspect of the design and the retention of the historic walls as unbroken features would be preferred. However, the removal of this section of the wall serves other competing elements of the overall design (the need to ensure natural light can be accessed). It also opens up a better appreciation of the southern elevation of the former kiln, by separating the restored section of the historic building from the obviously modern addition of the New Build element.
- 7.15 There is also some historic justification to the proposal to sever part of the listed building as proposed. The Downings Malthouse was originally developed in two phases with the Malthouse and kiln No.1 built in the early 1890s and the addition of the northern range (malthouse and kiln no.2 – the more substantial section of the remaining listed building) constructed a few years later. The original southern range was mostly demolished in the 1950s and replaced by the concrete silo. Whilst the building had remained physically connected through the 1950s redevelopment, almost all of the historic architecture of the original range was lost, with only the High Orchard Street kiln wall remaining. That wall is to be retained but, with a different form of development replacing the concrete silo. The applicant has attempted to secure alternative designs reinstating the massing and form of the silo in a modern reinterpretation. Objections were made at pre-application stage (by both Historic England and the GCC-CO at the time) with general advice given that a separation of modern architecture from the historic architecture (rather than some form of pastiche incorporating both elements) was preferred. In my view, it is also reasonable to balance this harm against the enhancement that would arise from the reinstatement of the bridge link between the northern range and Malthouse Ext. Whilst the replacement bridge would be a modern design it would ensure the physical connection between these two buildings (and in terms of their future appreciation the historic, functional link) is reinstated.
- 7.16 Previous pre-application schemes that sought to remove the majority of the remaining southern elements of the historic building received objections and the applicant has reached the design in an attempt to balance the competing need to secure a viable development against the need to retain as much of the remaining listed building as possible.
- 7.17 I disagree with the GCC-CO's opinion that the retained section of wall (from the original C19th southern range) would be read as an add-on, rather my view is that the clearly modern New Build will be seen as an obviously later addition to the site. Retaining the wall allows some appreciation of the building that formerly occupied the site (the original C19th building not the 1950s silo), including its detailing and linear form. The context of this wall may appear somewhat confusing following its separation from the northern range but, the applicant has agreed to commission a number of information boards to be placed within the new public realm. Whilst not a formal record of the previous building the information boards can be placed at points that will help to explain what has been lost and what has been retained (to members of the public). Whilst not justifying the loss to the significance of the building the information can draw public attention to the lost significance of the building can go some way towards providing some understanding of the significance of the heritage asset in line with NPPF para. 205.
- 7.18 **'Less than substantial' or 'substantial' harm to the listed building?**
The matter of 'substantial' harm versus 'less than substantial' harm is not clearly defined by planning policies or guidance, other than being a high-bar test. HE's GPA2 guidance states that substantial harm is a high test which may not arise in many cases. The NPPG goes on to provide more detail:

Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

- 7.19 As above I have recognised that the restoration of the northern range of the listed building is a broad heritage benefit of the scheme. The loss of additional historic fabric to permit the creation of additional window and door openings along with other modern alterations are, in my view harmful, but essential to ensure the optimum viable use of the northern range can be secured. Conditions can be used to ensure that all works of repair/replacement including materials and building methods are secured and agreed prior to commencement. Specific conditions can also ensure that details relating to the restoration of specific architectural elements of the building (i.e. the ghost signage). I also note third-party concerns relating to the structure of the existing building and how this would be supported during the construction phase. My assumption is that the current scheme of scaffolding and support would remain in place until works had been completed to create the basement areas and provide support for the remaining structure. However, to ensure a precautionary approach to the protection of the remains of the building is taken I consider a suitably worded condition can secure full details of building protection measures to be adopted (to be agreed prior to commencement).
- 7.20 I accept that the height and form of the New Build contrast with the remains of the listed building and will result in some harm to its significance. However, the design of the New Build element, set predominantly within the area of the site formerly occupied by the 1950s silo, would allow the retention of some of the remaining walls of the original southern range of the listed building, whilst enabling the more sympathetic restoration of the northern range. The relatively small, triangular footprint of the New Build has been designed to ensure the existing original walls can be retained and stabilised. As such, the historic linear form of the listed building would remain partly legible and able to be appreciated and understood by the public into the future. I consider the appreciation of the remaining elements of the original building would not substantially change over and above that possible when the concrete silo was in place. I consider the public information boards proposed by the applicant would provide some better appreciation of the history of the southern range and why part of it has been retained.
- 7.21 The GCC-CO has stated that the New Build would change how the building was experienced, particularly within short-range views as it would be notably taller than the remains of the listed building, noting that the distinctly modern architecture set against the historic architecture would be jarring. However, I do not consider the modern architecture would be jarring to the point that it would result in 'substantial' harm to the significance of the building. As noted above, for a number of decades the southern section of Downings Malthouse was dominated by a concrete silo, a very stark piece of utilitarian architecture, that was taller than the northern section of the building. The former presence of the silo does not negate the harm from the taller development (the New Build is proposed to be taller than the silo, but smaller in footprint) but, I consider the New Build is of a much higher-quality of design that would temper the additional harm caused by the taller built form.
- 7.22 The extant planning permission recognised that the removal of the silo was a heritage

benefit of the scheme and the design of the 2016 permission, a reinstatement of a smaller-scale southern range would have been a broad enhancement to the appreciation of the overall listed building. The taller New Build will result in some harm (over and above that of the extant consent) but, would not go as far as reinstating the larger footprint, mass, bulk and poor architecture of the 1950s silo (that was in place at the time of listing). The design of the New Build, utilising larger areas of glazing within a modern reinterpretation of the adjacent historic warehouses, would create a more open, lighter-weight built form than those of the surrounding historic warehouses. I do not consider this would be as harmful as reinstating the former concrete silo, but accept that it would result in some harm over and above the extant planning permission.

7.23 Taking into account the above considerations I am of the view that the overall impact of the proposal on the significance of the listed building is 'less than substantial' harm at the higher end of the spectrum. In line with NPPF para. 202 the harm must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I will weigh the heritage benefits and harms together below, following further assessment the impacts of the proposal on heritage assets.

7.29 **Malthouse Extension**

As stated above, I consider the reinstatement of the bridge link between the Malthouse Ext. and restored northern range of Downings Malthouse would be a positive aspect of the development that would restore the physical link between the two buildings ensuring that the historic link between the buildings can be appreciated into the future. A condition to secure full details of how the bridge link will connect into the Malthouse Ext. is reasonable and necessary to ensure the works are acceptable.

7.30 **Conclusions**

Taking into account the views of Historic England, the GCC-CO, national amenity societies, the lawful fall-back position and the significance of the site (and how this would be changed) I conclude that a 'less than substantial' harm would be caused to the significance of the listed building at Downings Malthouse with a neutral impact on the Malthouse Ext. (subject to a condition to secure further details of the feature bridge). With regards to the harm to the listed building within the site I weigh this at the higher end of the scale but, for the reasons set out above, do not consider the proposal would cause substantial harm. With regards to other heritage assets (depending on their status) I weight this harm broadly at the moderate-to-lower level.

7.31 In line with the NPPF I have given great weight to the harm that would be caused to the listed building at Downings Malthouse, particularly to the harm that would arise from the New Build of the development.

I have also considered the range of public benefits that would arise from the scheme. The NPPF recognises that examples of heritage benefits may include:

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

I am satisfied the proposal would secure the optimum viable use of the northern range of Downings Malthouse and the proposal would certainly result in the building being removed from the at risk register. Several heritage consultees including the GCC-CO, do not dispute that some of the significance lost to the northern range would be broadly restored (despite some design criticisms) and this element of the scheme is noted as being much less controversial than the New Build. Subject to the use of conditions to secure full details

of the restoration works, repairs and replacement works I am of the conclusion that the works to restore the northern range are justified and would continue to allow appreciation of the special historic and architectural interest of the building into the future.

- 7.32 When viewed in isolation from the wider Bakers Quay site, the proposed New Build development goes beyond what could be considered to be the 'optimum viable use' of the Downings listed building. However, the site is part of the wider Bakers Quay regeneration and I consider it is reasonable to view the current proposal alongside its impacts on the listed buildings within Bakers Quay. This is particularly important when considering that the redesigned scheme would secure the optimum viable use of the grade II listed Malthouse Ext. which is a substantial listed building occupying an prominent canal-side location and the Transit Shed. The applicant confirms the Malthouse Ext. is still within a condition capable of being converted without significant rebuilding (unlike the Downings Malthouse). Completing the Bakers Quay regen scheme would ensure the optimum viable use of a group of listed buildings was also secured.
- 7.43 The Malthouse Ext. could (in theory) be converted without the current development taking place. The listed building consent is extant. However, the applicant has been able to demonstrate that the Malthouse Ext. conversion is not viable without the current redesign of the Downings Malthouse redevelopment. Phase 1 of Bakers Quay has been built-out with minimal profit being returned to feed into Phase 2. Of the Phase 2 developments permitted, the options to redesign the scheme are somewhat limited to the former silo site within the Downings Malthouse site area. Other options have been explored through various designs and pre-application discussions with the council and have been discounted with the current scheme presented as a balance between the heritage constraints of the site and the need to ensure the wider regen scheme can still be delivered.
- 7.44 In broad terms, the principle of the Bakers Quay regen scheme, as established in 2016, was a mixed-use scheme of heritage conversion/restoration works supported by profits to be secured by modern development. I am satisfied the applicant's viability assessment (and council's third-party review) has demonstrated that still remains the case and the quantum of development now proposed will enable the delivery of the site within the next few years. In the context of para. 204 of the NPPF that...

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

I consider the weight that should be given to the support this development would provide to the completion of the Bakers Quay regeneration scheme is significant. It would ensure the special architectural and historic interest of a range of listed buildings are preserved for future generations to appreciate. Subject to the recommended conditions I consider that, on balance, the scheme will comply with the aims of the NPPF, GCP policies A1, B4, D1 and D3 and JCS policy SD8.

Overall, taking into account all material considerations, I do not find the proposal conflicts with the requirements of Section 16 of the LBC Act. and listed building consent should be approved.

8.0 RECOMMENDATION

That listed building consent is **GRANTED** subject to the conditions laid out in the schedule below.

8.1 Conditions Schedule

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

Reason: Required to be imposed by Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2
- Except where these may be modified by any other conditions attached to this permission, 9959-PL01 – Site Location Plan;
 - 9959-PL02 – Proposed Site Layout;
 - 9959-PL03 – Existing Site Plan;
 - 9959-PL04 – Existing Block Plan;
 - 9959-PL05 – Proposed Block Plan;
 - 9959-PL10 – Proposed Lower Ground Floor Plan;
 - 9959-PL11 – Proposed Ground Floor Plan;
 - 9959-PL12 – Proposed First Floor Plan;
 - 9959-PL13 – Proposed Second Floor Plan;
 - 9959-PL14 – Proposed Third Floor Plan;
 - 9959-PL15 – Proposed Fourth Floor Plan;
 - 9959-PL16 – Proposed Fifth Floor Plan;
 - 9959-PL17 – Proposed Sixth Floor Plan;
 - 9959-PL18-Rev.F – Proposed Seventh Floor Plan;
 - 9959-PL19 – Proposed Eighth Floor Plan;
 - 9959-PL20 – Proposed Ninth Floor Plan;
 - 9959-PL21 – Proposed Roof Plan;
 - 9959-PL22-Rev.A – Proposed Elevations Downings Malthouse;
 - 9959-PL23 – Downings Tower Elevations D & B;
 - 9959-PL24 – Proposed Street Sections Sheet 01;
 - 9959-PL25 – Proposed Street Sections Sheet 02;
 - 9959-PL26 – Proposed Substation Plans and Elevations;
 - 9959-PL27 – Downings Tower Proposed Elevations C & A;
 - 9959-PL28 – Feature Bridge, Plans, Elevations and Section;
 - 9959-PL30 – Proposed Longitudinal Section Plan;
 - 9959-PL36 – Hard and Soft Landscape Plan;
 - 4301-Rev.C02 – The Downings Private Drainage Details;
 - 4106-Rev.C01 – The Downings Existing & Proposed Catchment Plans;
 - 4100-Rev.C02 – The Downings Levels & Drainage Layout;
 - 4106-Rev.C02 – Proposed Levels & Drainage Layout to Car Park;
 - 4731-Rev.C02 – Car Parking Strategy.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Prior to the commencement of any works to any building/structure details of structural stabilisation work to the building or works in the interests of public safety shall be submitted to and approved in writing by the Local Planning Authority. Works shall proceed only in accordance with the approved details.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

4 No works shall commence on any existing building/structure other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until a structural and condition survey for the building has

been submitted to and approved in writing by the Local Planning Authority. This shall include information on structural alterations proposed and alternative options.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 5 Notwithstanding the submitted information, no works shall commence on any existing building/structure other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until the applicant, or their agents or successors in title, has secured the implementation of a programme of historic environment work for that building in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme will provide for archaeological recording of significant elements of the historic built environment that are likely to face an impact from the proposed development and any proposed demolition, with the provision for appropriate archiving and public dissemination of the findings. A full recording schedule will be required itemising these features together with a photographic record and location reference by plan.

Reason: The proposed development site includes significant elements of the historic built environment. The Council requires that these elements will be recorded in advance of any redevelopment or demolition and their record be made publicly available. This accords with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policies D1 and D3 of the Gloucester City Plan (adopted January 2023).

- 6 Notwithstanding the submitted information, no works shall commence on any existing building/structure other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until plans and a schedule identifying architectural and or/historical features within that building (to include but not be limited to windows, doors, door shutters, hatches, storage bins, water storage tanks and chutes), and assessment of the significance of retained machinery or other operational equipment, and the identification of those proposed for retention or reuse elsewhere in the scheme (with details of the method of storage as applicable) have been submitted to and approved in writing by the Local Planning Authority. Works shall proceed only in accordance with the approved details.

Reason: The proposed development site includes significant elements of the historic built environment. The Council requires that these elements will be recorded in advance of any redevelopment or demolition and their record be made publicly available. This accords with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policies D1 and D3 of the Gloucester City Plan (adopted January 2023).

- 7 No works shall commence on the Downings Malthouse site other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until a contract for the carrying out of the works of redevelopment of this building has been let and proof of such has been provided to, and written confirmation of its acceptability has been given by, the Local Planning Authority.

Reason: Pursuant to the provisions of Section 17(3) of the Planning (Listed Buildings and

Conservation Areas) Act 1990.

- 8 No works shall commence to any building other than structural stabilisation or noninvasive works to make it weathertight and secure or works in the interests of public safety until a Demolition/Dismantling and Excavation Statement for that building has been submitted to and approved in writing by the Local Planning Authority. The Demolition/Dismantling and Excavation Statement shall identify the method of demolition or dismantling or excavation together with the necessary protection for the upstanding structures, detailed drawings identifying the specific areas to be demolished/dismantled/excavated both internally and externally and clarification of any building materials to be reused and storage details for them. Works shall proceed for each building only in accordance with the approved statement.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 9 No works shall commence to a building other than structural stabilisation or noninvasive works to make it weathertight and secure or works in the interests of public safety until a mechanical and electrical survey report has been submitted to and approved in writing by the Local Planning Authority. This report shall determine the most appropriate method for the introduction of modern services into the building. Works to that building shall proceed only in accordance with the approved details.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 10 No works shall commence to any building other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until the following have been submitted to and approved in writing by the Local Planning Authority:
- details and samples of all new external materials
 - details and samples of any new roofing materials
 - method statement for the refurbishment of any external historic signage to the building
 - method statement for works to the High Orchard Street Kiln Wall
 - method statement for repair of retained timber hoist structure
 - scaled drawings and method statements for all new interventions within the building including structural works, floors, partitions, ceilings, flooring, staircases, and vehicular access openings
 - details of internal finishes and fire/acoustic insulation measures
 - scaled drawings and sections of new or altered rooflights, windows and doors
 - scaled drawings and details of materials for any balconies
 - scaled drawings of routes for all new mechanical and electrical services including media provision, and scaled elevation drawings and product details identifying external flues, vents, extracts, meter boxes, media receiving equipment or other external plant or equipment
 - scaled drawings of any bat boxes
 - specification of guttering and downpipes
 - scaled drawings and sections of new/reconstructed eaves detail
 - details of materials, scaled drawings and sections for new dormers
 - details of materials, scaled drawings and sections for new hoist structure

- details including materials, scaled drawings and sections of louvred vent
- details of materials, scaled drawings and sections for bridge, including feature details

Works to that building shall proceed only in accordance with the approved details.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 11 Any new or (reconstructed) walling shall be constructed in strict accordance with details of bonding, pointing and materials which have first been submitted to and approved in writing by the Local Planning Authority and such details shall be demonstrated by the prior construction of a sample panel. The panel shall be retained on site until the completion of the walling.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 12 No works shall commence to the Downings Malthouse site other than structural stabilisation or non-invasive works to make it weathertight and secure or works in the interests of public safety until a Repair and Restoration Method Statement for the refurbishment works for that building has been submitted to and approved in writing by the Local Planning Authority. This shall include a schedule and the identification of areas for repair and restoration and address rainwater goods, brick cleaning, stone and brick repair methodologies and materials. Works to that building shall proceed only in accordance with the approved Method Statement.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 13 Prior to the commencement of any works to the kiln arches at basement/ground floor within Downings Malthouse, details of their retention, exposing of the lower remains and interpretation in the finish of the building shall be submitted to and approved in writing by the Local Planning Authority. Works shall proceed only in accordance with the approved details.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

- 14 Prior to the commencement of any works to Downing Malthouse other than structural stabilisation or non-invasive works to make the buildings weathertight and secure or works in the interests of public safety, an assessment of options for the structural proposals for the retained building elements along with scaled plans and sections of the proposed structural solution, shall be submitted to and approved in writing by the Local Planning Authority. The works shall proceed only in accordance with the approved details.

Reason: To preserve the special interest of the listed building in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and

Policy D1 of the Gloucester City Plan (adopted January 2023).

15 **Downings Tower**

Any new walling shall be constructed in strict accordance with details of bonding, pointing and materials which have first been submitted to and approved in writing by the Local Planning Authority and such details shall be demonstrated by the prior construction of a sample panel. The panel shall be retained on site until the completion of the walling.

Reason: To preserve the special interest of the listed building and setting of a number of designated heritage assets (listed buildings and conservation area) in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

16 Notwithstanding the submitted information the following elements of the scheme shall not be installed unless in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

- Rooflights;
- Windows;
- Balconies;
- External doors;
- Signage;
- Steps;
- Rainwater goods;
- Clock.

The details of the above shall include the following:

- Materials, finishes and colour;
- Elevations and section drawings to include moulding cross sections, where mouldings are used.

Reason: To preserve the special interest of the listed building and setting of a number of designated heritage assets (listed buildings and conservation area) in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

17 No work to the Downings Tower shall commence until samples of the salmon brick, white brick, sage metal cladding, bronze metal cladding, standing seam metal roof and surface paving proposed to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To preserve the special interest of the listed building and setting of a number of designated heritage assets (listed buildings and conservation area) in accordance with Policy SD8 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (adopted December 2017), Section 16 of the National Planning Policy Framework and Policy D1 of the Gloucester City Plan (adopted January 2023).

Notes

- 1 This permission is for listed building consent and should be read in conjunction with the planning permission issued by the local planning authority (Gloucester City Council) under

application ref: 22/00563/FUL.

2. Your attention is drawn to the requirements of the Building Regulations, which must be obtained as a separate consent to this planning decision. You are advised to contact the Gloucestershire Building Control Partnership on 01453 754871 for further information.

Any alterations to the submitted and approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the local planning authority and, if necessary may require a new application for listed building consent.

3. Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:
 - Work on an existing wall or structure shared with another property.
 - Building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property.
 - Excavating near a neighbouring building.

The legal requirements of this Act lies with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act 1996. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DCLG publication Preventing and resolving disputes in relation to party walls – explanatory booklet.

4. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

David Millinship

24th March 2023

DECISION: GRANT

Signed:

Dated:

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GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Committee:	Planning
Date:	04.04.2023
Address/Location:	63- 65 Denmark Road
Application No:	22/00807/FUL
Ward:	Kingsholm
Expiry Date:	N/A
Applicant:	BTS Trading Ltd
Proposal:	Change of use from 28 bed HMO (sui generis) to 10 x self contained one bed flats (C3). Two storey rear extension and associated landscaping.
Report by:	Rhiannon Murphy
Appendices:	Site Location Plan Proposed Site Plan

1.0 **SITE DESCRIPTION AND PROPOSAL**

- 1.1 The site is located within the Kingsholm ward of Gloucester at a corner plot with the front elevation of the building facing north onto Denmark Road and the west side elevation of the building facing towards Oxford Road. The application site is located within the Denmark Road Conservation Area
- 1.2 The site comprises of a traditional three storey red brick Edwardian building identified as a neutral contributor to the Conservation Area. The building is set back from the road by an area of harstanding to the front. The front and side boundaries are enclosed by a low level red brick wall with railings above. The site benefits from existing access and car parking to the rear for up to 5 cars. There is a landscaped area to the rear and two mature trees border the site. The most recent use of the building was a 28 bed HMO. However, the building has remained vacant for some time.
- 1.3 The application seeks full planning permission for the proposed change of use of the building from a 28 bed HMO (sui generis) to 10 x self contained one bed flats (C3). The proposal would include the construction of a part three and part two storey rear extension to infill the rear of the building. Minor alterations to the existing elevation of the building are proposed mostly comprising alterations to fenestration. The application includes tree planting along the north and west boundaries of the site, garden area and parking to the rear which would include space for 5 cars, 10 cycles and an area for bin storage.
- 1.4 A number of alterations have been made to the proposal since the submission of the original plans to seek to overcome issues surrounding design, amenity, space standards and accessibility.

2.0 RELEVANT PLANNING HISTORY

06/01277/COU – Erection of a two storey building comprising 4 no. flats. Refused 15th January 2007.

07/00445/FUL – Erection of a two storey building comprising 4 no. flats (revised scheme). Refused 31st May 2007.

08/01456/FUL – Proposed construction of a pair of semi detached houses to the rear of the building. Refused and dismissed at appeal on 28th May 2009.

3.0 Policies and Guidance

3.1 The following planning guidance and policies are relevant to the consideration of this application:

3.2 National guidance

National Planning Policy Framework (NPPF) and Planning Practice Guidance

3.3 Development Plan

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 11 December 2017)

Relevant policies from the JCS include:

SP1 - The need for new development
SP2 – Distribution of new development
SD3 – Sustainable design and construction
SD4 – Design requirements
SD6 – Landscape
SD8 – Historic environment
SD9 – Biodiversity and Geodiversity
SD10 – Residential development
SD11 – Housing mix and standards
SD12 – Affordable housing
SD14 – Health and environmental quality
INF1 –Transport network
INF2 – Flood risk management
INF3 – Green Infrastructure

3.4 City of Gloucester Local Plan (Adopted 14 September 1983)

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 215 of the NPPF states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.*' The majority of the policies in the 1983 Local Plan are out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy. None of the saved policies are relevant to the consideration of this application.

3.5 **Development Plan**

Gloucester City Plan

The Gloucester City Plan (“City Plan”) delivers the JCS at the local level and provides policies addressing local issues and opportunities in the City. The City Plan was adopted 26th January 2023 and forms the development plan alongside the JCS.

A1 – Effective and efficient use of land and buildings

A6 – Accessible and adaptable homes

B1 – Employment and skills plan.

D1 – Historic environment

D3 – Recording and advancing understanding of heritage assets

E1 – Biodiversity and geodiversity

E3 – Green/ Blue Infrastructure

E4 – Flooding, sustainable drainage, and wastewater

E7 – Trees, woodlands and hedgerows

F1 – Materials and finishes

F2 – Landscape and planting

F3 – Community safety

F6 – Nationally described space standards

G1 – Sustainable transport and parking

G6 – Water Efficiency

3.6 **Other Planning Policy Documents**

Gloucester Local Plan, Second Stage Deposit 2002

Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. None of the development management policies are relevant to the consideration of this application.

3.7 **Supplementary Planning Guidance/ Documents**

Denmark Road Conservation Area Appraisal

4.0 **CONSULTATIONS**

4.1 **Archaeology**

The garden to the rear of this property was subject to archaeological evaluation in 2005. That investigation found evidence of insitu Roman period archaeological remains surviving at about one metre below ground level. The site is located just to the south of the route of the Ermin Street Roman Road (which roughly follows today's Denmark Road in this location).

The site is also in the general area of a known Roman cemetery. I am therefore concerned that any groundworks could impact (this is damage or destroy) any archaeological remain that may be present.

In light of the above I would ask that a condition is attached to any permission should the application be granted

4.2 **WRS (Noise)**

No objection to the application in terms of road traffic noise.

4.3 **Conservation**

63-65 Denmark Road comprises of two large Edwardian dwelling houses that have been converted and used historically as a boarding house and HMO. The building has been vacant for some time resulting in a negative impact on the Conservation Area.

The application proposes a conversion to 10 x 1 bedroom apartments with an infill extension between the two rear projecting wings. The front elevation remains unaltered. With regards the overall design of the proposed infill extension this is acceptable in principle subject to the change from uPVC windows to powder coated aluminium.

Conservation comments were relayed back to the agent who confirmed it would not be financially viable to replace all of the windows on the building but confirmed the windows to the rear of the building and the windows on the Oxford Road side elevation would be changed to powder coated aluminium, ensuring consistency across each elevation. Conservation confirmed they were content in accepting this approach as a compromise.

Amended plans were also received to which conservation provided the following comments:

No objection, however request that the proposed rooflights on the rear slope be conditioned as flush fitting conservation roof lights. The ground floor windows on the rear projecting wings have been designed with modern proportions to match the infill extension rather than the proportions of the windows above and would look better the same size as those above and with an arched brick header, but this does not alter my decision. My position is unaltered and the application can be supported.

4.4 **Landscaping**

There are two mature trees within the site which will be retained and protected during the construction phase, an arboricultural assessment was submitted with the application. There is a small area of lawn to the rear of the property, a bike store, bin store and parking for 5 cars. Six additional trees have been proposed in the front gardens and side bordering Gloucester Road.

Three of the trees are proposed to be located in a hard surface, two within new planters, and careful consideration will need to be given to the provision of adequate root zones. It may be preferable to locate the trees at ground level as they are more likely to receive adequate amounts of water. However, their root zones would need to be sufficient regarding both area and depth, and underground services could be a restraint. Three of the trees proposed along Oxford Road are within ground cover planting. All the trees are located in front of windows so species with lighter density canopies should be specified.

The proposed trees will reduce the visual impact of the hardstanding and provide a softer look to the area and there is no landscape objection to the proposals. A condition should be attached requesting a detailed landscape plan, to include species and densities of planting. It should also be demonstrated that the trees located within the hardstanding would have adequate root runs.

4.5 **Tree Officer**

There are 2 mature trees that will be within influencing distance of the construction process. Both will need to be considered and protected.

No objections raised to the proposal subject to condition requiring:

- Approval and implementation of Trees/ Hedgerow protection measures
- Implementation of approved trees/ hedgerow protection measures
- Excavation or surfacing within the root protection area of trees
- Protection of habitats

4.6 **Highways**

The site is in a very sustainable location with good access to public transport and all required amenities accessible within an acceptable walk or cycle distance. The existing walking, cycle and public transport infrastructure would therefore entirely support a 'car free' development in this location.

Existing on street parking restrictions would protect the sensitive parts of the network and prevent unsuitable parking. GCC have no concerns regarding impact on the highway network. It is considered there would be no material change in terms of vehicular movements from the existing land use to that what is proposed under this application.

No incidents have been reported in the vicinity in the past 5 full years regarding incidents caused by vehicles on street parking. The immediate area is controlled by way of a Traffic Regulation Order, double yellow lines thus preventing inappropriate parking and protecting the sensitive parts of the highway network. Furthermore, areas of parking on street is at a first come, first serve basis.

Site access: Existing access points are established within the site and these will be utilised in the new layout.

Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

4.7 **Civic Trust**

Acceptable. A welcome upgrade for this prominent corner site in the Conservation Area.

4.8 **Housing**

- Affordable housing is expected on 10 or more units
- Concern over whether Vacant Building Credit should apply for this development.
- Significant amount of HMO single accommodation within the Kingsholm and Wotton ward of Gloucester, creating a transient community. Whilst self-contained accommodation is less likely to be transient, singles are still more likely to move on and so the applications focus on 1 bed homes is not helping deliver a mixed and balanced development/ community. In line with SD11 we expect to see a more

varied mix of accommodation. There is limited need for 1 beds and a varied range of needs for homes above this size. To comply with policy SD11 and make an application acceptable we need to see a more varied approach to the size of homes provided.

- M4(2) provision has not been addressed. 25% would require 3 homes of this standard.
- Only two of the flats have their own functional outdoor amenity space, to make an application acceptable all homes should include private amenity space

Further to amended plans being received which show compliance for 2 x M4(2) units, the housing officer confirmed that 2 m4(2) units would be acceptable. However maintained their other concerns that they had previously outlined.

4.9 **Severn Trent Water**

Email received confirming they will not be commenting on the planning application.

4.10 **Local Lead Flood Authority**

The LLFA have no objection to the proposal. The impermeable area resulting from this development will be reduced while the existing building can use existing surface water drainage arrangements, the LLFA can see no benefit in applying any drainage conditions to any planning consent granted against this application.

4.11 **Drainage**

The site is Flood Zone 1 and is indicated as low flood risk from both pluvial and fluvial sources. The works consist mainly of internal works to an existing property with a small infill extension and landscaping.

From the plans the proposed soft landscaping appears to compensate for the small infill extension which is acceptable in this unique case.

There is proposed works for a block paviour parking area. While a full drainage strategy is not required, the design and suitable sections of the proposed SUDS compliant block paviour area needs to be presented for assessment and approval. This can be done under condition if required.

Overall, I have no objection to the works subject to confirmation of the SUDS parking area and/ or suitably designed drainage for the parking area as necessary. The overall area of soft landscaping as presented needs to be maintained to compensate for the increase in building footprint.

5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 Neighbouring properties were notified of the proposal, a site notice was placed on site and the development was placed in the papers. 8 letters of objection were received raising the following concerns in respect to the proposal:

- Not enough parking is being proposed for the site – will worsen parking problems and congestion in the area
- Parking assessment does not include the fact that people cannot park outside 59 and 60 Denmark Road – Whilst the kerb is not dropped there are driveways used for private parking for the residents of the flats within the properties and cannot be blocked
- Proposal would result in an over development of the site
- The density of the application is too high (10 x 1 bedroom flats)
- The flats are very small

- The site has a history of refused applications
- The proposal does not address democratic needs within the neighbourhood
- Tenants are likely to be students or those who will not stay in the area long term which would have an impact on community
- Submitted parking survey was undertaken during late July when both schools and universities were closed. There were no sporting events at the Kingsholm Stadium – parking should be re considered
- Lack of parking increases safety risk at school pick up times – it may be advisable to conduct an Equality Impact Assessment to more fully understand the risks which will be exacerbated if the current proposals are accepted
- Flooding concerns caused by increase in surface footprint of the building combined with planning tarmacked area
- Design concerns – Front elevation of proposal poorly designed. Particular objection to the use of UPVC windows check whether need to update

6.0 OFFICER OPINION

6.1 *Legislative background*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

- 6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:
- a) the provisions of the development plan, so far as material to the application;
 - b) any local finance considerations, so far as material to the application; and
 - c) any other material considerations.

- 6.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the partially saved 1983 City of Gloucester Local Plan. However, as outlined earlier, the 1983 Local Plan is considered to be out-of-date.

- 6.4 It is considered that the main issues with regards to this application are as follows:

- Principle
- Vacant building credit
- Affordable housing
- Housing mix
- Design and layout
- Landscaping
- Impact on historic environment
- Residential amenity
- Accessible and adaptable homes
- Highways Considerations
- Drainage and flood risk
- Employment and skills plan
- Sustainability
- Water efficiency
- Economic considerations

6.5 Principle

The NPPF requires local planning authorities to demonstrate a 5 Year Housing Land Supply, with an appropriate buffer, against the relevant housing requirement. The JCS addresses housing supply and demand under Policies SP1 (The Need for New Development and SP2 (Distribution of New Development) as well as within Part 7 (Monitoring and Review).

- 6.6 The NPPF sets out that there will be a presumption in favour of Sustainable Development. For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

At the time of writing, the Council is not able to demonstrate a 5 year housing land supply. For the purpose of this application and in the context of paragraph 11 of the NPPF, including footnote 8, the 'tilted balance' is engaged. For decision making this means approving development proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The assessment of this and the wider balancing exercise is set out in the conclusion of the report.

- 6.7 Policy SD10 of the JCS allows for infilling within the existing built up areas of the City Gloucester and encourages the sensitive, adaptive re-use of vacant or redundant buildings, subject to requirements of other policies. In terms of the broad principles of development, the site is within the built up area of the City, is in a sustainable location for residential use and would contribute to housing supply. The proposal would bring a vacant building back into residential use. The principle of development is considered acceptable in accordance with JCS Policy SD10, subject to assessment against other planning considerations in the remaining sections of this report.

6.8 Vacant building credit

Vacant building credit is an incentive for brownfield development on sites containing vacant buildings which provides a financial credit when a building is brought back into lawful use.

The National Planning Practice Guidance details that vacant building credit applies where the building has not been abandoned and specifies that in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as

- The condition of the property
- The period of non -use
- Whether there is an intervening use, and

- Any evidence regarding the owner's intention

The NPPG also specifies that it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re- development
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

6.9 The agents have confirmed that the building has been vacant since May 2021 due to viability issues for the ongoing operation of the previous use. The manager of the previous use was struggling to deal with the volume of serious incidents that were taking place at the property and as such had to close the premises. The agents confirm within their supporting statement that whilst the condition of the property has deteriorated and the building has been vacant for some time, the building is not considered to have been abandoned.

At the time of writing, the building has been vacant for a substantial period, since May 2021 and the agents have set out the reasons as to why the building was vacated. It is concluded that sufficient justification has been provided to demonstrate that;

- The building has not been made vacant for the sole purposes of re- development
- The building is not covered by an extant or recently expired planning permission for the same or substantially the same development.
- The building is not considered to have been abandoned

6.10 It is therefore considered that Vacant Building Credit would apply to this scheme.

6.11 **Affordable housing**

The NPPF states that where local authorities have identified the need for affordable housing, policies should be set for meeting this need on site, unless off site provision or a financial contribution can be robustly justified. Paragraph 64 of the NPPF states affordable housing should not be sought for residential developments that are not major development, other than in designated rural areas. Within the NPPF Glossary major development for housing is defined as where 10 or more homes are provided. As the proposal is for 10 homes, the application falls into the definition of major development and therefore triggers a requirement for affordable housing.

6.12 Policy SD12 of the JCS states that on sites of 11 dwellings or more... a minimum of 20% affordable housing will be sought on developments within the Gloucester City administrative area. Whilst noted that the Council's JCS refers to a requirement of affordable housing at 11 dwellings or more, the thresholds of the JCS are meant to follow and be in conformity with national policy and the Council have concluded it would be appropriate to follow national policy as set out in the NPPF, the national policy has progressed and been revised and therefore the requirement for affordable housing provision is triggered for developments of 10 dwellings or more.

6.13 The proposal is for the change of use of the building to 10 residential units and as such, affordable housing provision would be requirement as part of this planning application. As it has been concluded that Vacant Building Credit does qualify for this scheme, there will be a reduction to the amount of affordable housing contribution required. The affordable housing contribution will be dealt with through the completion of a S106.

6.14 **Housing Mix**

Paragraph 69 of the NPPF states that 'small and medium sized sites can make an important contribution to meeting the housing requirement of an area'. Policy SD11 of the JCS refers to Housing Mix and Standards and states; 'Housing development will be required to provide an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market'. Improvements to the quality of the existing housing stock involving remodelling or replacing residential accommodation will be encouraged where this would contribute to better meeting the needs of the local community.

- 6.15 This application seeks a change of use of the existing building from a 28 bed House in Multiple Occupation (HMOs) to 10 no. 1 bed residential flats. 4 of the flats are proposed to be 1 bed, 1 person flats and 6 of the flats are proposed to be 1 bed, 2 person flats.
- 6.16 The Council's housing officer has been notified of the proposal and raised concern over the lack of mix of dwellings proposed. The housing officer has highlighted that within Kingsholm and Wotton, there is a significant amount of HMO single accommodation, creating a transient community. Housing have raised that whilst self-contained units are likely to be less transient, singles are still more likely to move on and so the proposal is not helping to deliver a better mix and balanced community and they have raised objection to this application on this basis.
- 6.17 Whilst the proposed development comprises solely 1 bedroom units and does not provide a mix of accommodation the lawful use of the property as a 28 bed HMO is a material consideration which needs to be taken into account when making a decision. The local area has a high concentration of HMO accommodation so it is considered that the change of use to self contained accommodation is a benefit and will improve the mix of accommodation available in the local area. On balance it is considered that the change of use of the building from a 28 bed HMO to 10 residential flats would result in an improvement to the extant use of the building which is a benefit.
- 6.18 In summary although the proposal does not provide a mix of unit sizes it is considered that the proposed change of use provides an improved quality of accommodation over and above the current situation and the benefits of this outweigh any harm that would arise from the provision of solely 1 bedroom units.
- 6.19 **Design and layout**
The NPPF states that new residential developments should be of high quality design, create attractive places to live, and respond to local character integrating into the local environment. Policy SD4 sets out requirements for high quality design, while Policy SD10 requires housing of an appropriate density, compatible with good design, the protection of heritage assets, local character and compatible with the road network.
- 6.20 Policy A1 of the adopted Gloucester City Plan requires development to make effective and efficient use of land and buildings, policy F1 requires developments to achieve high quality architectural detailing, with external materials and finishes that are locally distinctive
- 6.21 The proposed development does not include any alterations to the front elevation of the building. The side elevations of the building will see only minor alterations. A door will be infilled on the elevation facing towards Oxford Road and a door will be infilled on the other side elevation as well as the removal of another door and its replacement with a window.

UPVC Windows on the rear elevation and side elevation facing towards Oxford Road will be replaced with grey aluminium windows in line with a request from the Council's Conservation Officer.

- 6.22 The proposal seeks the introduction of an infill extension to the rear of the building which would be part two storey and part three storey and have a flat roof. Further to discussions with the agent over overlooking concerns, the proposed balcony to the rear has been removed. The proposed extension would be constructed from off white render mid grey standing seam walls and roof.
- 6.23 The proposed alterations to the side elevation of the existing building are considered to be acceptable and wouldn't result in harm to the character and appearance of the existing building or the surrounding area. The Proposed infill extension to the rear would be a modern addition to a traditional Edwardian Dwelling House and would create visual interest for the building. The proposal is considered to be acceptable in design and would not harm the character of the existing building or the surrounding street scene.
- 6.24 The proposed development would utilise the existing access from Oxford Road to provide parking to the rear of the site which would consist of 5 car parking spaces and 10 cycle parking spaces. The pedestrian access from Oxford Road would be retained whilst a new pedestrian access would be created from Denmark Road. Bin storage would be located to the rear of the site. The proposed layout of the site is considered to be acceptable and would utilise the existing access at the site. Details of the appearance of the proposed gate will be conditioned as part of any permission to ensure its appearance is acceptable and would not detract from the character of the area.

6.25 **Landscaping**

Policy INF3 of the JCS states that '*development proposals should consider and contribute positively towards green infrastructure*' and '*existing green infrastructure will be protected in a manner that reflects its contribution to ecosystem services... and the connectivity of the green infrastructure network*'.

- 6.26 policy E3 states that development must contribute towards the provision, protection and enhancement of Gloucester's Green/ Blue Infrastructure Network. policy E7 states that '*development proposals should seek to ensure there are no significant adverse impacts on existing trees, woodlands or hedgerows and that every opportunity is taken for appropriate new planting on site, including trees and hedgerows*'.
- 6.27 The proposal includes plans for landscaping. 2 existing trees on site would be retained and 6 new trees would be planted. The site plan shows areas of both hard and soft landscaping including grassed areas and planters.
- 6.28 The proposed trees would assist in reducing the visual impact of the hardstanding and provide a softer look to the area. The Landscape Officer has been notified of this application and has raised no objection to the proposal subject to the inclusion of a condition to any planning permission for the submission of a detailed landscape plan.
- 6.29 The Councils tree officer has been notified of this proposal and raised that there are 2 trees adjacent to the site that will need to be protected. Conditions have been requested to ensure this takes place should planning permission be granted.

6.30 The layout and landscaping proposed as part of this development is therefore considered to be acceptable in accordance with the NPPF and previously outlined JCS and GCP policies and can therefore be considered acceptable in this respect subject to the inclusion of conditions attached to any planning permission.

6.31 **Impact on historic environment**

Chapter 16 of the National Planning Policy Framework (2018) sets out the importance of protecting and enhancing the historic environment, and conserving heritage assets in a manner appropriate to their significance. In particular, paragraph 192 states that in determining planning applications, local authorities should take account of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is reflected in policy SD8 the Joint Core Strategy.

6.32 Policy D1 of the Gloucester City Plan requires development to conserve the character, appearance and significance of designated and non- designated heritage assets and their settings, Policy D3 required developers to record and advance understanding of the significance of heritage assets prior to and/ or during development.

Impact on the Denmark Road Conservation Area

6.33 63-65 Denmark Road comprises of two large Edwardian dwelling houses used most recently as a HMO. The building has been vacant for some time resulting in a negative impact on the Conservation Area.

6.34 The proposed conversion of the building and infill extension was found by the Conservation Officer to be acceptable further to amendments altering the windows on the rear and side elevation facing towards Oxford Road being altered from UPVC to powder coated aluminium. Conservation have requested that the proposed rooflights on the rear slope be conditioned as flush fitting conservation roof lights and commented that the ground floor windows on the rear projecting wings be designed to match the proportion and design of the windows above with an arched header. Both the flush fitting rooflights and the design of the rear ground floor windows will be conditioned as part of any permission.

6.35 The proposal is considered acceptable in design and materials and would bring a vacant building within the Conservation Area back into use. It is considered that the proposal would preserve and enhance the character and appearance of the Denmark Road Conservation Area and would sustain its significance as a designated heritage asset.

6.36 Archaeology

The Council's Archaeologist has been notified of this proposal and raised that the garden to the rear of the site was subject to archaeological evaluation in 2005. The investigation at the time found evidence of insitu Roman period archaeological remains surviving about one metre below ground level. The site is located south of the route of the Ermin Street Roman Road (which roughly follows today's Denmark Road in this location). The site is also in the general area of a known Roman cemetery.

6.37 The Archaeologist therefore raised concern that any groundworks may impact (damage or destroy) any archaeological remains that may be present and recommended a condition to be added to any permission should permission be granted.

6.38 Taking all the above into consideration, it is judged that the proposal can be considered acceptable in accordance with Section 16 of the NPPF and policy SD8 of the JCS, subject to the inclusion of conditions.

6.39 **Residential amenity**

Paragraph 17 of the NPPF sets out that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Policy SD4 of the JCS relates to Design Requirements and, in terms of amenity and space, specifies that new development should enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space, and the avoidance or mitigation of potential disturbances, including visual intrusion, noise, smell and pollution. Policy SD14 of the JCS requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants

6.40 The main dwellings likely to be affected by the proposal are:

- 134 Oxford Road to the south
- 61 Oxford Road to the east
- Properties to the west (across Oxford Road)

6.41 134 Oxford Road

134 Oxford Road is located to the south of the site. The property is orientated so that the side elevation of 134 Oxford Road stands adjacent to the rear of the site. The proposed rear extension would face towards the side elevation of 134. The rear elevation of the proposal would be situated some 23 metres from the side elevation of number 34 which is considered sufficient to prevent any unacceptable levels of overlooking from arising from rear facing windows. Additionally, due to the distance at which the building is set from no. 134 the proposed extension would not result in harm in terms of overshadowing/ overbearing for this property.

6.42 61 Oxford Road

Further to discussions with the agent, amended plans have been provided making alterations to the proposal which seek to prevent harm to the living conditions of occupants at 61 Oxford Road. Amended plans include the removal of a roof terrace on the rear extension, removal of a rooflight on the side elevation along with internal changes, and the use of obscure glazed windows on the side elevation facing towards no. 61.

Overshadowing/ overbearing

6.43 The proposal seeks the construction of a part two storey, part three storey infill rear extension between the existing two storey pitched roof rear projections. There is an existing single storey rear infill extension which will be removed as part of the proposal. At a two storey level, the proposal will extend almost to the same point as the two existing rear projections (but set back by some 0.6m).

6.44 The second storey element would not project as far and would be set back some 3.9m from the rearmost projection of the building. Given the siting of the proposed extension, it would

not have a harmful overbearing/ overshadowing impact on the rear facing windows or rear garden of 61 Oxford Road.

- 6.45 The side elevation of no. 61 includes windows at a ground floor, first floor and second floor level and it has been necessary to consider the impact of the proposal on these windows. The two storey element of the proposal would not extend beyond the height of the existing two storey rear projection and so would not have a harmful impact on no. 61.
- 6.46 The second storey element of the proposal would project 4.6m in depth from the rear elevation of the main part of the building and would measure approximately 9.2m in height. (just above eaves height of the roof of the main building. The proposal would be set away from the neighbouring property boundary by 4.6m and set away from the dwelling itself by 6m.
- 6.47 The ground floor side facing windows at no. 61 are located on the side elevation of the main part of the building. These windows are already compromised in terms of outlook/ light due to their positioning in relation to the existing building at 63-65 Denmark Road and it not judged that the proposal would result in an unacceptable amount of additional harm.
- 6.48 On the upper floors the side elevation of no. 61 includes three windows on the first floor; two within the side elevation of the main part of the building and one on the side elevation of the rear two storey projection and two on the second floor – both of which are on the side elevation of the main part of the building. The first and second floor windows on the side elevation of the main part of the building look directly towards the side wall of 63-65 Denmark Road which is three storeys in height and so the existing building already compromises the outlook/ light for these windows. Considering this existing relationship and that the proposed new extension would be set in from the side elevation of no. 61 by 6m and would not be located directly opposite these windows, it is not judged that the proposal would result in significant additional harm to the extent that would warrant refusal of this application.
- 6.49 In terms of the impact on the side facing window within the rear projection of no. 61, the proposed three storey element of the extension would not extend southwards to the point of this window and is set away from the side elevation by some 6m. Therefore the impact on this window is not considered to be unacceptably harmful.

Overlooking

- 6.50 The proposal would include 4 ground floor windows and two doors on the side elevation facing towards no. 61. The windows serve a small secondary window to the bedroom and a kitchen/ dining window at flat 1 and a secondary window for the bedroom and a kitchen/ dining window at flat 2. All of these windows are proposed to be obscure glazed to prevent any harmful overlooking from occurring.
- 6.51 The first floor would include three side facing windows. One window would be a secondary window to a living/ dining area at flat 5 as well as their kitchen window and a landing window. The secondary living/ dining window is proposed to be obscure glazed. The kitchen window is an existing window which does not directly overlook any windows at no. 61 but could however result in overlooking at an angle to a nearby first floor side facing window at no. 61. It is therefore deemed necessary that this window is obscure glazed to prevent overlooking and a condition will be added as such to any planning permission . The landing window is also an existing window which served a landing when in use as a HMO – The proposed use of this window as a landing does not alter the existing arrangement. A landing window is a non habitable room and so overlooking from this window is not considered unacceptable.

6.52 The proposed second floor would have two side facing windows, one to a bathroom and one to a hallway. Both windows are existing windows. The hallway window will remain as a hallway window, is a non habitable room and would not increase overlooking between the two properties. The proposed bathroom window will be conditioned as obscure glazed and top opening to prevent overlooking from occurring.

6.53 Properties to the west of the site across Oxford Road

The proposed side facing windows facing towards Oxford Road would look towards the front of properties along Oxford Road at a distance of 22.5m this is considered a normal relationship between dwellings and I have no immediate concerns in regards to this.

6.54 It is not considered that the proposed infill extension to the rear of the building would have an unacceptably harmful impact on the living conditions of occupants at Oxford Road in terms of overbearing/ overshadowing.

6.55 Impact on the living conditions of future residents of the proposed dwelling

Consideration also needs to be given to the living environment which would be provided for any future occupiers of the proposed residential unit. Paragraph 17 of the NPPF and policies SD4 and SD14 of the JCS, as referred to above, are relevant in this regard, as is Policy SD11 of the JCS which relates to "Housing Mix and Standards". In terms of housing standards, Policy SD11 specifies that:

1. New housing should meet and where possible exceed appropriate minimum space standards.

2. Housing should be designed to be accessible and adaptable as far as is compatible with the local context and other policies, including Policy SD8

The "Delivery" section of Policy SD11 advises that the Government's Housing Standards Review was completed in 2015, which presents a single set of national space standards. The National Space Standards have been taken forward within the Gloucester City Plan. Policy F6 of the emerging plan provides that development proposals for new residential development (including change of use or conversions) must meet Nationally Described Space Standards. On the basis of the stage of preparation the plan has reached, and the consistency of policy with the NPPF, and its reference to national standards, Policy F6 can be afforded moderate weight in accordance with paragraph 48 of the NPPF.

Furthermore, the City Plan pre- submission Housing Background Paper (September 2019), indicates the need for National space standards within the city. The data shows that the conversions sampled often fall below the NDSS. 66% of conversions were below the standard for internal floor area.

Please see the following link which will provide details of National Space Standards. All new residential units should comply with these national space standards:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/

160519_Nationally_Described_Space_Standard____Final_Web_version.pdf

6.56 This application proposes the creation of 10 no. 1 bed flats. National space standards require the following in regards to 1 bedroom flats:

1 bedroom, 1 person flat must be at least 39 square metres (37 if shower room rather than bathroom) and must include 1 square metre of built in storage.

1 bedroom, 2 person flat should be 50 square metres, with 1.5 square metres of built in storage

6.57 The proposed flats would be the followings sizes:

- Unit 1 (1 bed, 1 person flat) – 39 square metres
- Unit 2 (1 bed, 2 person flat) – 52 square metres
- Unit 3 (1 bed, 2 person flat) – 52 square metres
- Unit 4 (1 bed, 2 person flat) – 48 square metres
- Unit 5 (1 bed, 1 person flat) – 38 square metres
- Unit 6 (1 bed, 2 person flat) 52.5 square metres
- Unit 7 (1 bed, 1 person flat) 38 square metres
- Unit 8 (1 bed, 1 person flat) 38 square metres
- Unit 9 (1 bed, 2 person flat) 50 square metres
- Unit 10 (1 bed, 2 person flat) 51 square metres

6.58 The units have been amended so they all (but one – unit 4) meet national space standards for either one or two persons. Unit 4 was proposed as a 2 person unit however to achieve M4(2) standards – discussed later in this report – some of the floor area of flat 4 had to be compromised. Whilst this flat falls below space standards for a 2 person unit, the proposal would still be large enough to accommodate 1 person.

6.60 Amendments have been made to the proposal as the application has progressed to seek to achieve space standards, this has been mostly achieved, with exception of unit 4 now reaching the standard of just a 1 bed 1 person dwelling and the lack of storage space for units 7,8 and 9. Whilst there is not full compliance, the proposal is largely in accordance with space standards and will in all provide adequate living conditions for future occupants.

6.61 Habitable rooms within the development largely benefit from an acceptable level of light/outlook. There are some examples of kitchens benefitting from a relatively poor level of light and outlook and the windows to the kitchen/ dining area of flats 1 and 3 would be obscure glazed to prevent harmful levels of overlooking from occurring. However, as a kitchen is considered to be non habitable this is not considered to be detrimental and prime amenity space such as bedrooms and living rooms benefit from sufficient outlook and light.

6.62 The proposal does not include allocated private amenity garden area for each residential units. A grassed area is however proposed to the rear of the site that could be used by future occupants. Whilst the lack of private amenity garden space is noted, the proposal is for the conversion and extension of an existing building for flats and so the constraints of the site prevent any achievable allocated outdoor amenity space for each unit. The small areas of outdoor amenity space within the space, whilst shared areas, would provide a small amount of outdoor space. The level and amount of open space available is considered to be acceptable given the nature of the proposal and the context of the site.

6.63 Taking all of the above into consideration, it is judged that the proposal would achieve an acceptable level of amenity for future occupants in accordance with the NPPF and policy SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017).

6.64 **Accessible and adaptable homes**

Policy A6 of the Gloucester City Plan states:

'In order to create accessible homes that meet the needs of an aging population, frail and disabled persons, and to meet the City Council's duty under the Equalities Act, the following accessible and adaptable homes standards will be met:

- 1. 25% of housing developments should be of a size, configuration and internal layout to enable Building Regulations requirement M4(2) 'accessible and adaptable dwellings' to be met'.*

6.65 Alterations have been made to the proposal as the application has progressed and the amended plans have demonstrated that the proposal is able to achieve 2 no. M4(2) compliant dwellings (flats 2 and 4) thereby providing 20% accessible and adaptable homes as part of the application.

6.66 Whilst 3 units would have been required to be completely policy compliant, 2 units is considered in this instance acceptable and various discussions and meetings with the agents, housing team and specialist housing advisors confirmed that no further units could be achieved due to the constraints off the building in context with the proposal. Given the constraints of the site and nature of the proposal (Being a conversion) it is considered that 2 units is sufficient level of provision in this instance.

6.70 **Highways Considerations**

Paragraph 109 of the NPPF provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual impacts upon the road network would be severe. Policy INF1 of the JCS requires safe and accessible connections to the transport network.

6.71 Policy G1 of the Gloucester City Plan refers to sustainable transport and parking and states *'for residential development a minimum of 1 cycle space per 1 bedroom dwelling... shall be provided'* and states *'cycle parking must be sheltered, secure and easily accessible'*. The policy goes onto state *'all new development will provide car parking to a level and design that is appropriate for the local context'*.

6.72 The proposed development would utilise the existing site access and provide parking for 5 cars and 10 bikes. In support of the planning application the agents have provided a supporting document assessing both access and parking and including a parking survey.

6.73 The Highways Authority have been notified of the proposal and raised no objection to the application. Highways consider the site to be situated in a very sustainable location with good access to public infrastructure and all required amenities accessible within an acceptable walk or cycle distance. The existing walking, cycle and public transport network would therefore support a car free development.

6.74 Existing on street parking restrictions would prevent the sensitive parts of the network and prevent unsuitable parking and it is judged that there would be no material change in terms of vehicular movements from the existing land use to that what is proposed under this application.

6.75 The Highways Authority conclude that the proposal would not result in an unacceptable impact on highway safety or a severe impact on congestion. It is therefore judged that the

proposal can be considered acceptable from a highways perspective in accordance with the NPPF and policy INF1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017).

6.76 **Drainage and flood risk**

The NPPF requires that development is directed to the areas at lowest risk of flooding, that new development should take the opportunities to reduce the causes or impacts of flooding, should not increase flood risk elsewhere and take account of climate change. Policy INF2 of the JCS reflects the NPPF, applying a risk based sequential approach, requiring new development to contribute to a reduction in flood risk and requiring the use of sustainable drainage systems.

6.77 Policy E4 of the emerging Gloucester City Plan refers to flooding, sustainable drainage, and wastewater and states development shall be safe from flooding and shall not lead to an increase in flood risk elsewhere. In accordance with the National Planning Policy Framework, flood risk betterment shall be sought through the development process.

6.78 The application site is located in Floodzone 1 and in an area of low flood risk. The Council's drainage officer has been consulted on the application and raised that the proposed soft landscaping appears to compensate for the small infill extension which is acceptable in this case. The drainage officer raised that the design of the proposed SUDS compliant block paviour needs to be presented for assessment and approval but confirmed that this could be dealt with under condition.

6.79 The proposal is therefore considered to be acceptable in terms of drainage subject to the inclusion of an appropriately worded condition in accordance with the NPPF, policy INF2 of the Gloucester, Cheltenham and Tewkesbury joint Core Strategy (2017) and policy E6 of the emerging Gloucester City Plan.

6.80 **Employment and Skills Plan**

Policy B1 of the Gloucester City Plan refers to Employment and Skills Plans and states '*for housing development of 10 or more units and major commercial development of 1,000 sqm or more of new internal floorspace, applicants will be required to submit an Employment and Skills Plan (ESP). The ESP will be proportionate to the scale of the proposal and identify opportunities for the employment and skills development of local people during the construction and operational stages of the proposal*'.

The requirement for the submission of an Employment and Skills Plan will be picked up by condition should permission be granted.

6.81 **Sustainability**

Chapter 14 of the NPPF outlines its energy and climate policies. Policy SD3 of the JCS refers to Sustainable Development and Construction and states '*development proposals will demonstrate how they contribute to the aims of sustainability by increasing energy efficiency, minimising waste and avoiding unnecessary pollution of air, harm to the water environment, and contamination of land or interfere in other natural systems*'.

6.82 In support of the planning application, the agents have included a section in regards to sustainability within their Design and Access statement. The sustainability statement within the Design and Access Statement makes reference to meeting building regulation standards in regards to sustainability through the following techniques:

- New energy efficient window and door fittings

- Natural fibre insulations and vapour control layers added to roof and intermediate floors
- New insulated partitions and linings throughout to improve on thermal efficiency and air tightness
- Re- wire of electrics to current British Standards
- Over- haul of existing heating system with consideration given to the use of small domestic energy efficient electric boilers
- Well- considered low energy ventilation strategy

The proposal is considered to be acceptable in terms of sustainability in accordance with the NPPF and policy SD3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017).

6.83 **Water Efficiency**

Policy G6 of the Gloucester City Plan refers to water efficiency and requires development proposals to demonstrate that the estimated consumption of wholesome water per dwellings should not exceed 100 litres of water per person per day.

6.84 Details have not been provided up front in terms of water efficiency. The requirement for the submission of details shall be dealt with through the inclusion of a condition attached to any planning permission.

6.85 **Economic Considerations**

The construction phase would support employment opportunities and therefore the proposal would have some economic benefit. In the context of the NPPF advice that 'significant weight should be placed on the need to support economic growth through the planning system', this adds some limited weight to the case for granting permission.

6.86 **Planning balance and conclusion**

The application has been evaluated against the JCS, Gloucester City Plan and against the core planning principles of the NPPF and whether the proposals deliver 'sustainable development'. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.87 It is accepted that the development would make a contribution to the housing land supply which is a significant benefit to be attributed significant positive weight in the planning balance. There would also be economic benefits in terms of the construction of the development itself and those associated with the resultant increase in population on the site to which limited positive weight should be attached.

6.88 Compliance with some of the other principles of the NPPF have been demonstrated in terms of impacts on healthy and safe communities, sustainable transport, making effective use of land, well designed places, meeting the challenge of climate change, flooding and coastal change, conserving and enhancing the natural environment, conserving and enhancing the historic environment. However, these matters do not represent benefits to the wider area, but demonstrate an absence of harm to which weight should be attributed neutrally.

6.89 The proposed development comprises solely 1 bedroom units and does not provide a mix of accommodation, the proposal does not achieve complete compliance with National Space Standards as unit 4 does not achieve space standards for a 1 bed, 2 person dwelling and units 7, 8 and 9 do not include internal storage space contrary to policy SD11 of the Joint Core Strategy and policy F6 of the Gloucester City Plan. These issues are afforded negative weight in the planning balance.

Weighing all the relevant factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the JCS, the Gloucester City Plan and supplementary planning documents and guidance, in applying paragraph 11 of the NPPF, it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. It is therefore recommended that the application is approved

7.0 **RECOMMENDATION OF THE CITY GROWTH AND DELIVERY MANAGER**

That APPROVAL is granted subject to conditions:

Full list of conditions to be provided as late material.

Person to Contact: Rhiannon Murphy (01452 396361)



Planning Application: | 22/00807/FUL

Address: | 63-65 Denmark Road
Kingsholm
Gloucester

Committee Date: | 04.04.2023

Appendix 1 Site Location Plan



Appendix 2 Proposed Site Layout



Abbeydale

22/01197/LAW
 LAW THOME 17/02/2023
 Proposed new rear dormer.
 6 Walnut Close Gloucester GL4 5EU

22/01190/FUL
 G3Y THOME 17/02/2023
 Single storey side extension & front porch.
 6 Walnut Close Gloucester GL4 5EU

Abbeymead

22/00926/FUL
 REF THOME 10/02/2023
 Outbuilding to garden (retrospective)
 14 Farmington Close Gloucester GL4 4XA

22/01174/FUL
 G3Y THOME 06/02/2023
 Proposed single storey rear extension
 58 Kingsmead Gloucester GL4 5DY

Barnwood

22/01107/FUL
 G3Y THOME 10/02/2023
 Single storey rear extension
 30 Hucclecote Road Gloucester GL3 3RS

22/01094/ADV
 G3Y PARKH 01/02/2023
 Non-illuminated sponsorship signs x 4
 Walls Roundabout Gloucester

22/01093/FUL
 G3Y THOME 23/02/2023
 Single storey rear extension with suspended floor
 Remount 12 Carne Place Gloucester GL4 3BE

22/01012/FUL
G3Y THOME 10/02/2023
First-floor extension to existing garage.
6 Kimberland Way Gloucester GL4 5TW

22/01077/CONDIT
ALDIS ADAMS 16/02/2023
Discharge of Condition 34 (highways works) of permission ref. 22/00014/FUL
Former Interbrew Eastern Avenue Gloucester GL4 6SW

22/01110/CONDIT
PADIS ADAMS 16/02/2023
Discharge of Condition 31 (Construction Management Plan - Highways) of
permission ref. 22/00014/FUL
Former Interbrew Eastern Avenue Gloucester GL4 6SW

Barton & Tredworth

22/01034/FUL
G3Y STOCC 27/02/2023
Single storey side and rear extension
47 Adelaide Street Gloucester GL1 4NW

Coney Hill

23/00132/TCM
CLOSED PARKH 20/02/2023
Installation of 1x 11m wooden pole (9.2m above ground)
FLN614SS TCM Old Painswick Road Gloucester

Grange

22/01155/PDE
ENOBJ STOCC 01/02/2023
Single storey rear extension (4.73 x 3.24 x 2.21)
25 Holmwood Drive Gloucester GL4 0PS

Hucclecote

22/01071/FUL
G3Y THOME 27/02/2023
Single storey rear and side extension and erection of outbuilding
29 Kingscroft Road Gloucester GL3 3RG

22/01252/TCM
PRIRE PARKH 02/02/2023
Proposed 5G telecoms installation: H3G 16m street pole and additional
equipment cabinets.
GLO26367 Kingscroft Road Gloucester

22/01213/FUL
G3Y THOME 27/02/2023
Front ground floor extension
31 Ellesmere Close Gloucester GL3 3DH

22/01121/FUL
G3Y THOME 16/02/2023
Two storey side extension, single storey rear extension and rear dormer
16 Gatton Way Gloucester GL3 3DG

Kingsholm & Wotton

22/01175/FUL
G3Y FEH 16/02/2023
Demolition of car wash and associated building and the creation of charging
zone, erection of EV chargers, erection of canopy, three jet wash bays, sub-
station enclosure and associated forecourt works.
Hand Car Wash London Road Gloucester

22/01171/PREAPP
CLOSED PARKH 10/02/2023
Change of use
6 Union Street Gloucester GL1 3DB

22/01099/FUL
G3Y ROBBA 17/02/2023
Single storey rear extension and single storey side extension
134 Estcourt Road Gloucester GL1 3LJ

Matson, Robinswood & White City

22/01054/FUL

G3Y

PARKH

15/02/2023

Demolition and reconstruction of existing semi-detached garage on new piled foundation

13 Foxtail Close Gloucester GL4 6DW

22/01046/FUL

G3Y

PARKH

15/02/2023

Demolition and reconstruction of existing semi-detached garage on new piled foundation

14 Foxtail Close Gloucester GL4 6DW

Moreland

23/00010/DEM

AAPRZ

FEH

13/02/2023

Prior approval for demolition of former Boiler House

Permal Gloucester Ltd 170 Bristol Road Gloucester GL1 5TT

22/01212/PRIOR

AAPRZ

STOCC

08/02/2023

Change of use from children's nursery to school for children with special education needs.

281 Stroud Road Gloucester GL1 5LB

Podsmead

22/01238/PREAPP

CLOSED

PARKH

01/02/2023

To position an accessible toilet and changing room within the curtilage of the athletics track.

Blackbridge Jubilee Athletics Track. Poplar Close Gloucester

22/01116/CONDIT

ALDIS

THOME

07/02/2023

Discharge of Condition 18. Design, implementation, maintenance and management of foul water drainage works.

Land Adjacent To Site B Former Contract Chemicals Site Bristol Road Gloucester

22/01138/CONDIT

ALDIS

THOME

14/02/2023

Discharge of Condition 8. External materials proposed.

Land Adjacent To Site B Former Contract Chemicals Site Bristol Road
Gloucester

22/01119/CONDIT

ALDIS

THOME

20/02/2023

Discharge of Condition 5, 11 and 12. Comprehensive scheme of hard and soft landscaping, a landscape management plan, schedule of landscape maintenance for a period of five years.

Land Adjacent To Site B Former Contract Chemicals Site Bristol Road
Gloucester

Quedgeley Fieldcourt

22/01080/FUL

G3Y

PARKH

20/02/2023

Single storey rear extension

9 Chapel Gardens Quedgeley Gloucester GL2 4XJ

Quedgeley Severn Vale

22/01201/JPA

AAPRZ

FEH

08/02/2023

Prior approval for a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of schedule 1 to that Order

Ampney House Falcon Close Quedgeley Gloucester GL2 4LS

22/01115/FUL

G3Y

PARKH

01/02/2023

Single storey rear extension

16 Weavers Road Quedgeley Gloucester GL2 4WX

Westgate

22/01088/ADV

GFY

PARKH

07/02/2023

Facia sign to be installed on building

Unit 8 Severn Road Gloucester GL1 2LE

22/01222/LAW

LAW

PARKH

13/02/2023

Change of use of No 12 St Michael's Square from a dwellinghouse (Use Class C3) to 6 person House in Multiple Occupation (Use Class C4).

12 St Michaels Square Gloucester GL1 1HX

22/00788/LBC

G3Y

PARKH

13/02/2023

Repairs & restoration of facades to building, replacement of roof covering, replacement of sashes, new shop front. Internal alteration including repairs to historic plasterwork, removal of and renewal of part of basement new staircase, damp proofing basement, internal partitioning and creation of entrances to facilitate the provision of a one bed flat on the first floor and a two bed flat on the second floor.

14 Westgate Street Gloucester GL1 2NL

23/00045/CONDIT

ALDIS

ADAMS

13/02/2023

Discharge of Condition 11 (archaeological written scheme of investigation) of permission ref. 22/00556/FUL

Former Debenhams Building 30 - 44 Northgate Street Gloucester GL1 1SQ