



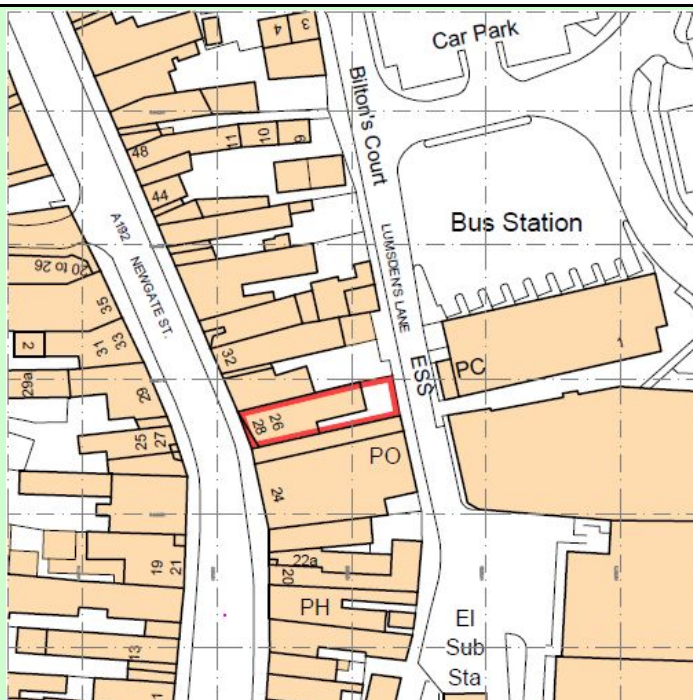
# Northumberland

## County Council

### Virtual Strategic Planning Committee 21<sup>st</sup> July 2020

<b>Application No:</b>	19/04654/FUL		
<b>Proposal:</b>	Part demolition of existing premises at rear of Lumsden's Lane and replaced with proposed mixed-use development for retail and residential units		
<b>Site Address</b>	26 - 28 Newgate Street, Morpeth, Northumberland, NE61 1BA		
<b>Applicant:</b>	Mr David Chambers Pipers Field, Longhirst, NE61 3LS,	<b>Agent:</b>	Mr Tony Carter 1st Floor Hepscott House, Coopies Lane, Morpeth, NE61 6JT
<b>Ward</b>	Morpeth North	<b>Parish</b>	Morpeth
<b>Valid Date:</b>	5 December 2019	<b>Expiry Date:</b>	31 July 2020
<b>Case Officer Details:</b>	Name: Mr Richard Laughton Job Title: Planning Officer Tel No: 01670 622628 Email: richard.laughton@northumberland.gov.uk		

**Recommendation:** That this application be REFUSED permission



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## 1. Introduction

1.1 The application has been subject to the Councils Covid-19 scheme of delegation whereby the Chief Planning Officer (Director of Planning), following written consultation with the Chair and Vice Chair of Strategic Planning Committee consider the application should be determined at Strategic Planning Committee as it raises issues of strategic, wider community or significant County Council Interest.

Prior to the temporary suspension of Planning Committees Terms of Reference this application would fall to be determined by Castle Morpeth Local Area Council Planning Committee.

## 2. Description of the Proposals

2.1 Planning permission is sought for the part demolition of the existing premises at rear of 26 - 28 Newgate Street, Morpeth facing Lumsden's Lane and replaced with proposed mixed-use development for retail and residential units.

2.2 The proposal is to demolish and extend the existing premises to the rear of Newgate Street and provide a new ground floor retail unit and three flats above. The plans also include works within the passageway of 'Old Nags Head Yard' through the adjacent building of 'T&G Allan' department store that acts as thoroughfare between Newgate Street and Morpeth Bus Station/rear of Sanderson Arcade.

2.3 The development site is located in Morpeth Town Centre. It is within the Morpeth Conservation Area with a portion of the rear yard straddling the boundary of the designated heritage asset. Adjoining the application site to the north is the Grade II listed building; 30-32 Newgate Street, an early to mid 18th century three story property with rear return and additions. The listed building, its additions and rear yard are all within the Conservation Area. .

2.4 The site is bounded by Morpeth Bus Station and Sanderson Arcade on Lumsden Lane to the east, the modern brick addition of 'T&G Allan' department store and a post office to south and the adjacent neighbouring property to the north is a traditional two storey stone offshoot comprising commercial units and a courtyard separating from the application site. The rear elevations north along the rear terraces of Newgate Street facing Lumsden Lane are all typical courtyards and gable extensions with commercial use.

2.5 The site area is approximately 220m<sup>2</sup> and the existing flat roofed building on the application site has a commercial/retail use. This would be demolished and replaced by the new mixed used 3 storey building and utilise the remaining courtyard space. A revised set of elevation drawings have been submitted illustrating that the historic wall on the northern boundary of the site would be retained as part of the proposed new building.

2.6 The planning statement with the application states that *"the existing 2 storey commercial building is proposed to be demolished and replaced by a 3-storey building, with retail units to the ground floor and residential units to the first and second floor."*

*The total floor area of the building is 328m<sup>2</sup>, comprising the following:*

- *Ground Floor Retail Space 1 (Access via Lumsden's Lane) - 65m<sup>2</sup>*
- *Ground Floor Retail Space 2 (Access via existing covered walkway) - 35m<sup>2</sup>*  
*TOTAL RETAIL FLOOR AREA - 100m<sup>2</sup>*
- *First Floor Single Storey Apartment - 65m<sup>2</sup>*
- *Second Floor Single Storey Apartment - 60m<sup>2</sup>*
- *First and Second Floor Duplex Apartment - 68m<sup>2</sup>*

2.7 The proposed building would be approximately 8.7m high to match the ridge height of the main adjoining building on Newgate Street. The design is traditional in appearance in terms of the shop windows and mansard roof. The main shop window would be facing Lumsden Lane with additional shop windows on the side elevation to enhance and utilise the existing brick wall within the walkway of 'Old Nags Head Yard'. The windows and shop fronts would be constructed timber and the external walls and roof would comprise of a red facing brick and slate and feature *"artstone tabling, heads, sills, mullions, quoins and string course detailing will provide a decorative element"*.

### 3. Planning History

**Reference Number:** CM/93/D/482

**Description:** Non illuminated projecting sign as amended by letter and plans received 17th January 1994

**Status:** Approved

**Reference Number:** CM/93/D/274

**Description:** Change of use from retail shop to estate agents

**Status:** Approved

**Reference Number:** CM/98/D/043

**Description:** Non-illuminated projecting signs

**Status:** Refused

**Reference Number:** CM/98/D/495

**Description:** Non-illuminated projecting sign

**Status:** Approved

**Reference Number:** CM/78/D/494

**Description:** Renewal of permission for continued use of illuminated showcase inside arcade

**Status:** Approved

**Reference Number:** CM/97/D/185

**Description:** Extension and improvements to provide hairdressing salon

**Status:** Approved

**Reference Number:** CM/97/D/287

**Description:** Provision of non illuminated shop signs

**Status:** Approved

### 4. Consultee Responses

County Ecologist	No objection subject to conditions
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County Archaeologist	No objection
Morpeth Town Council	Support
Building Conservation	Objection
Highways	No objection subject to conditions
Forestry Commission	No response received.
Northumbrian Water Ltd	No objections

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	17
Number of Objections	1
Number of Support	10
Number of General Comments	0

### Notices

Site Notice- Affecting Conservation Area - 18<sup>th</sup> December 2019 & 3<sup>rd</sup> July 2020

Morpeth Herald 12th December 2019

(Please note that a site notice was displayed on 18<sup>th</sup> December 2019 although there is no official evidence of this. As such, an additional site notice was displayed on 3<sup>rd</sup> July 2020 and members will be updated if any further representations are received)

### Summary of Responses:

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=Q1IMBPQSL1D00>

### ***Morpeth Town Council***

*“Morpeth Town Council support the application. In summary it would accord with Neighbourhood Plan in particular:*

- i) The proposed development would add to the economic vitality of the town and is in accordance with MNP Emp1*
- ii) That the current building incorporates elements of a medieval stone building which has real heritage value. If the developer is content to incorporate these existing elements into the proposed development without loss, alteration or damage, then we feel the development is in keeping with MNP Her1 and the Conservation Area”*

There are also 10 letters of support highlighting:

- Positive upgrade to passageway from bus station to Newgate Street
- Create additional retail space
- Improve business and residential infrastructure
- Improve unsightly rear yard
- Council should encourage investment in the area

There is 1 letter of objection from the owner of the neighbouring owner:

- Building is twice the footprint of original building and 3 storey would block sunlight into neighbouring property that comprises 5 businesses;
- Amenity issues with privacy and poor outlook - neighbouring property has extant permission for extension for a 2 storey extension. This would result in the applicants 1storey windows looking onto a plain brick wall in very close proximity.
- Concerns with intended method of construction as the application shows the building as extending up to and on the boundary line of the current building. This means the applicant has no means of access to carry out the works.

## **6. Planning Policy**

### 6.1 Development Plan Policy

Morpeth Neighbourhood Plan (2016)

Sus1 - Sustainable Development Principles

Set1 - Settlement Boundaries

Des1 - Design Principles

Emp1 - Morpeth Town Centre

Emp2 - Development within Morpeth Town Centre

Tra2 -Traffic Congestion

Tra3 - Transport Requirements for New Developments

Castle Morpeth District Local Plan 2003 (saved policies 2007)

C1 Settlement boundaries

MC1 Morpeth Settlement Boundary

C28 Demolition of buildings in conservation areas

C29 Design considerations within conservation areas

C38 Protection of listed buildings and buildings of architectural merit or historic interest

### 6.2 National Planning Policy

National Planning Policy Framework (2019)

National Planning Practice Guidance (2019)

### 6.3 Other documents/strategies

Northumberland Local Plan - Publication Draft Plan (Reg 19) and proposed minor modifications, as submitted 29th May 2019

STP 1 Spatial Strategy

STP 2 Presumption in favour of sustainable development

STP 3 Sustainable development

QOP 1 Design Principles

QOP 2 Good design and amenity

ENV 7 Historic environment and heritage assets

ENV 9 Conservation areas

TSC1 Hierarchy of Centres

TSC3 Maintaining and enhancing the role of centres

HOU 2 Provision of residential development

HOU 5 Housing Types and Mix

## 7. Appraisal

7.1 The main issues for consideration in the determination of this application are:

- Principle of the development
- Design and visual impact
- Impact on amenity
- Highways
- Ecology

### Principle of development

7.2 The site is located within the settlement boundary of Morpeth as defined by policies C1 and MC1 of the CMDLP and within the MNP (Policy Set1). The site is within the built up area of the settlement and would utilise previously developed land. The site is considered to be within a sustainable location, close to the town centre, services, facilities and with access to sustainable modes of transport. The location would also accord with the sustainability principles within the NPPF and the emerging policies STP1, STP2, TCS1 of the Northumberland Local Plan that support the growth of development and retail in main towns such as Morpeth.

7.3 The site is within both the '*Morpeth Town Centre*' and the '*Primary Shopping Area*' within the Proposals Map of the Morpeth Neighbourhood Plan. Policy EMP1 (Morpeth Town Centre) states development proposals within Morpeth Town Centre will be supported where it is demonstrated they:

*"1. contribute to the creation of a lively and vibrant centre with:*

*A. the Primary Shopping Frontage mainly in retail use;*

*B. an improved range of places to eat and drink within the Primary Shopping Area and associated with new and improved sports, leisure, hotel, cultural and community facilities within the Town Centre, but outside the Primary Shopping Area and on the riverside corridor;*

*C. other businesses, particularly those catering for visitors located in the Town Centre mainly outside the Primary Shopping Area;*

*D. new and improved residential properties that provide accommodation for small households, older people and those with special housing needs in the Town Centre, but outside the Primary Shopping Area and through the conversion of upper floors above shops and businesses;*

*E. the reuse or redevelopment of Key Development Opportunity Sites and vacant buildings and sites within the Town Centre as a town centre use or sports, leisure, hotel, cultural or community use appropriate to its location;*

***F. residential development, supported as part of mixed use schemes or where it is demonstrated that the reuse or redevelopment of the building or site for a retail, leisure or business use would not be viable; and***

*G. an adequate well managed supply of car parking in the town centre,*

*and/or*

*2. Enhance the character and attractiveness of the town centre by:*

***H. conserving and enhancing the historic character of the Morpeth Conservation Area, its setting and the historic assets, both designated and undesignated, in the town centre;***

*I. safeguarding and enhancing the landscape setting along the riverside corridor;*

***J. ensuring that new development is of a scale appropriate to the town centre, is well designed and is of a mass and materials appropriate to the character of the town centre;***

*K. improving the public realm in the town centre;*

*L. improving the town centre environment for pedestrians and cyclists”*

7.4 Policy EMP2 (Development within Morpeth Town Centre) states that within Morpeth Primary Shopping Frontage, support will be given to retail developments (Class A1 uses) which improve the range of shops. Within the Town Centre and outside of the Primary Shopping Area, the following additional uses will be permitted: Business (B1), Hotels and Guesthouses (C1), Residential Care Homes (C2), Dwellinghouses (C3), Non Residential Institutions (D1), Assembly and Leisure (D2). It also stipulates that:

*“Development in the town centre should demonstrate that it: -*

*A. would not have an unacceptable impact on residential amenity;*

*B. would have appropriate access and car parking provision; and*

*C. would not harm the character of the historic environment”.*

7.5 Policy EMP2 generally supports dwellinghouses within the Town Centre, and policy EMP1 promotes the contribution to the creation of a lively and vibrant centre by retaining the Primary Shopping Frontage with commercial, retail and leisure. An exception is if residential development is part of a mixed use scheme or where the redevelopment of a building or site for retail, leisure or business use would not be viable. The proposal would accord with the primary aims of both policies as the development is for a mixed use scheme comprising both retail and residential. Whilst attached to the building on Newgate Street, the application site is positioned to the rear and not impacting the façade of the ‘Primary Shopping Area’. The proposal would also provide an overall gain in retail use.

7.6 In addition to Policy EMP1, Section 7 of the NPPF promotes the vitality and viability of town centres to grow and diversify retail and leisure industries. It also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites. As there would be an addition of retail and residential use the proposals would support the role in promoting the vitality of Morpeth Town Centre and sustainable development principles in the NPPF.

7.7 The second section of each policy in EMP1 and EMP2 lists an additional criteria in which to assess the impact of the development upon the surrounding historic environment and residential amenity etc. These issues will be appraised later in the report as material planning considerations rather than the principle of development.

7.8 The proposal is therefore, acceptable in principle as it would provide a mixed use of new retail facilities and residential units in Morpeth Town Centre and would not

conflict with policy EMP1 and EMP2 of the Neighbourhood Plan within the designated 'Morpeth Town Centre' and the 'Primary Shopping Area'. The proposal would also promote sustainable development and add to the vitality of the town centre in accordance with the principle of the NPPF.

7.9 The application is also in accordance with the provisions of the NPPF, Policies Set1, Sus1, EMP1 and EMP2 of the Morpeth Neighbourhood Plan and Local Plan Policies C1, MC1 of the Castle Morpeth District Local Plan. Whilst limited weight can be given to the Northumberland Local Plan (NLP) the proposal would also be in accordance to NLP Policy STP 1 as the site would not be within a settlement boundary as defined in the NLP.

### Design and Impact to Morpeth Conservation Area

7.10 Morpeth Neighbourhood Plan Policies Des1 and EMP1 wish to ensure that the design and layout achieves a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements. A development should also respect and enhance the character of the site in terms of its proportion, form, massing, density height, size, scale, materials and design features. Furthermore EMP1 also states that developments should conserve and enhance the historic character of the Morpeth Conservation Area. Emerging Policy QOP1 also requires design to make a positive contribution to local character and distinctiveness and respect the character of the built environment and Policy QOP2 highlights developments should relate to building heights and the form, scale and massing, prevailing around the site.

7.11 The National Planning Policy Framework 2019 (NPPF) is a material planning consideration in the assessment of the application. Paragraph 192 of the NPPF states that, in determining applications, Local Planning Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets. Paragraphs 193 to 196 of the NPPF discuss the impact of development upon designated heritage assets and their settings and sets out the degrees of harm: "total loss", "substantial harm" and "less than substantial harm". Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification, using a balance of any harm against the benefits of the development. Paragraph 200 states that local authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

7.12 Regard is had to Section 16 (2) and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which advise that In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

7.13 Regard is had to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires the local authority to have special regard to the desirability of preserving and enhancing the character and appearance of the conservation area.



7.14 The application site lies within and straddles the Morpeth conservation area, which was designated in 1970. Newgate Street and Bridge Street are the principal streets of the conservation area, with the key layout feature of narrow, long plots. Buildings tend to be two or three storeys with pitched roofs and within this there is various scale in height depending on the age and design approach of the building.

7.15 Adjoining the application site to the north is 30-32 Newgate Street, an early to mid 18th century three storey, 4-bay property having shopfronts to ground floor with offices above. It is Grade II listed under the Planning (Listed Buildings and Conservation Areas) Act. It is constructed in brick and sandstone under pitched slate roof with gabled stacks; having 6-over-6 timber sashes. The special significance of the listed building derives from its evidential, historic and aesthetic values. It is a fine surviving example pertaining to the Georgian era. Its quality building fabric, solid to void ratio and refined architectural detailing are illustrative of the period. Its significance is further demonstrated in the contrast between its restrained symmetrical brick frontage and masonry return and additions to the rear. The height, scale and proportion of which illustrate the historic form of development within the plot and the town. The scale, undulating rooflines and material palette complement the principal building and serve to make a positive contribution to the streetscape and the special character of the Morpeth Conservation Area.

7.16 The application site is a two and a half storey property fronting Newgate Street in Morpeth. The age of the property is unknown but it is likely to date from at least the late 19th century with potential for older elements within. It has a shop front at ground floor level, with two half dormers within the pitched roof. The Newgate Street elevation has been rendered and is painted. The proposed development relates to the rear of the property, fronting Lumsden's Lane. On this elevation is a two storey modern extension that extends out from the property's pitched roof offshoot and a rear yard.

7.17 Lumsden's Lane faces a car park, bus station and part of the Sanderson Arcade development. The appearance is typical of an 18th/19th century back lane, with a range of ancillary and back-of-plot buildings of differing age and appearance. A large, flat roofed, pale brick building adjoins the application site to the south and is an incongruous feature within the lane.

7.18 The proposed development is to demolish the modern flat roofed rear extension and replace it with a three storey property that would have a larger footprint, taking in the extent of the property's rear yard area. The proposed property would have a traditional-style shop front at ground floor level with flats above. Brick, stone, slate and timber are the proposed materials. The property would be flat roofed in the main, save for a small area of Mansard roof slope fronting Lumsden's Lane.

7.19 The application proposes a large, flat roofed infill of the property's rear yard. Such an approach is not considered appropriate in this location. The typical grain of this area as demonstrated by the neighbouring listed building is principal buildings fronting the street, with offshoots and ancillary buildings within a rear yard. To infill the yard area would introduce a grain and density that would be harmful to the traditional layout. Buildings within the rear yard would typically be smaller in scale and in status to the principal buildings. The proposed development would be larger in scale than the principal building on Newgate Street and would erode the historic

relationship between principal and ancillary buildings that is a characteristic of terraces of this age.

7.20 The proposed property would mirror the bulk and flat roofed design of the neighbouring modern infill development to the south; indeed it proposes to be taller. The neighbouring property of T&G Allan inappropriately altered the density and traditional character of this rear lane and should not be seen as an approach to emulate. Equally, the appearance of the proposed property takes design cues from the nearby Sanderson Arcade, taking a formal and fairly grand approach. Such a motif is not considered appropriate for a back of yard/rear lane development, which should respect the primacy of its principal building.

7.21 Building Conservation has been consulted and object to the scheme as the development fails to respond to its context in terms of scale and design; thereby negatively impacting the character of the Conservation Area and the setting of the listed building. It is considered that the proposal should show subservience to its principal building on Newgate Street and retain the character of the ancillary offshoots to the rear of the terrace.

7.22 It should be noted that the proposed demolition of the modern flat roofed extension is supported, as is the intention to use high quality natural materials in a new development. However, the scale and design approach of the proposed development cannot be supported. It fails to respect the established, traditional layout and relationship of scale and space with the terrace.

7.23 For these reasons, the proposal would be harmful to the significance of the conservation area; and the setting of the Grade II listed building. The harm would be less than substantial. In considering paragraphs 193 and 194 of the NPPF, great weight should be given to the conservation of heritage assets and any harm, regardless of scale, should require clear and convincing justification.

7.24 Building conservation identified there would be "less than substantial harm" and there are no public benefits identified that outweigh the harm. The proposed economic and "significant" public benefits for Morpeth Town Centre and increased mixed use development identified in the application, can still be achieved if the scale of the design is amended and reduced in scale to be more befitting to the neighbouring rear terrace and surrounding area.

7.25 In considering optimum viable use, the National Planning Policy Guidance (NPPG) sets out that if there is a range of alternative economically viable uses, the optimum viable use for the heritage asset is the one consistent with its conservation and likely to cause the least harm or no harm to the significance of the heritage asset. It has not been demonstrated that the proposed development is the only economically viable approach.

7.26 On this basis, the proposal would fail to comply with local planning policy on development affecting heritage assets. The proposed development would be contrary to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the local authority to have special regard to the desirability of preserving the listed building and its setting; and preserving and enhancing the character and appearance of the conservation area.

7.27 The design of the building incorporates a traditional shop front, windows, and palette of materials. The improvement of the internal walkway in particular would enhance and provide a more welcoming feature set near the Primary Shopping Area. However the design of a new building, particularly in a Conservation Area should go beyond its individual merits and also consider the context of its surroundings. The proposed scale does not correspond with the neighbouring buildings and would become the most prominent building amongst a row of subservient rear offshoots and courtyards, within a highly visible area. The proposal would therefore, not respect and enhance the character of the site in terms of its height, size, massing and scale and not be in accordance with Policy Des1 of the Morpeth Neighbourhood Plan. It would also conflict with Policy EMP1 and EMP2 as it fails to conserve and enhance the historic character of the Morpeth Conservation Area, its setting and the setting of the neighbouring listed building.

### Residential Amenity

7.28 Policy Des1 and EMP2 of the Morpeth Neighbourhood Plan and the NPPF promote development to respect the amenity of existing and future occupants. Emerging Northumberland Local Plan Policy QOP2 states that appropriate levels of privacy should be incorporated into the design and outlook from habitable rooms is not oppressive.

7.29 The proposed scale and height of the building would have an overbearing impact to the smaller neighbouring properties which would also restrict natural daylight to the existing commercial premises which is only under 7m away from the application site boundary. This separation distance and compact nature of the site would also cause privacy issues to future occupants within the residential units. The existing and proposed windows on the northern boundary would be overlooked in close proximity to the adjacent commercial units. The first floor flat in particular has no other option to provide natural light to the bedrooms other than windows to the northern boundary. If the scale of the proposal was to be reduced, the internal reconfiguration could resolve these issues as well as appearing less overbearing to neighbouring occupants.

7.30 In addition, it is worthy to note that the owner of the adjacent property highlighted that extant permission exists for a two storey extension within the courtyard. If built, this would project along the northern boundary of the application site and block any view and natural light to the ground and first floor windows of the proposed scheme.

7.31 In any event, the future residential occupants would either have lack of privacy in close proximity to the commercial windows or no outlook or natural light if the extant permission is constructed on the neighbouring site.

7.32 On this basis, the proposed scheme does not provide good amenity for future and existing occupants and is not in accordance with Policy Des1, EMP2 of the Morpeth Neighbourhood Plan and the NPPF.

## Ecology

7.33 The application has been supported by an ecology report that states that the building comprises a mixture of stone, brick and timber boarded elevations, with both tiled and flat roofs. A number of Potential Roost Features were identified and a single emergence survey undertaken. This showed low numbers of bats in the vicinity of the building, however no bats were found to be roosting. The report has been appraised by the County Ecologist and although the likelihood of bats using the building is low, it is not possible to entirely rule out their presence and as such there are no objections subject to a condition being imposed to secure the avoidance, mitigation and enhancement measures for protected species. This would maintain the favourable conservation status of protected species and to conserve and enhance the biodiversity of the site in accordance with paragraphs 8, 118 and 170 of the NPPF.

## Archaeology

7.34 In determining an application on this site the LPA should have regard to Section 16: *Conserving and enhancing the historic environment* and specifically paragraphs 8, 10, 184, 185, 187, 189, 190, 192, 194, 195, 197, 198 and 199 (including footnotes 63 and 64) of the NPPF and relevant supporting guidance, where applicable.

7.35 The site is located to the rear of properties fronting multiple former burgage plots along Newgate Street. The present application relates to development of the rear of the site only, away from the Newgate Street frontage. Excavation of comparable sites in medieval towns has shown that significant archaeological deposits associated with the use of the site during the later and medieval periods can survive towards the rear of former burgage plots. Such remains may include evidence of waste pits or middens, industrial activity, animal husbandry and butchery or kitchen garden / allotments. Such remains, if present, can inform an understanding of the use of individual or groups of burgage plots, contemporary diets and the relative prosperity of the settlement over time.

7.36 No archaeological work has been undertaken within the present application site however, a phased programme of archaeological assessment was undertaken during the redevelopment of the Sanderson Arcade Shopping Centre during 2006. Trenches 3 and 4 were located closest to the present application site. Whilst Trench 3 recorded evidence of truncation to natural geology (meaning any archaeological features formerly present has been removed), archaeological horizons associated with medieval pottery were recorded in Trench 4. Overall, the exercise identified differential survival of archaeological remains across the Sanderson Arcade site, reflecting the differing development histories of the individual land parcels within the Sanderson Arcade site. The area to the east of the present application site was identified as an area of 'high archaeological potential' by the 2006 archaeological assessment. (The present application site was not included within the scope of the 2006 assessment)

7.37 Having regard to the assessment provided by the Morpeth Extensive Urban Survey (EUS) and the results of the 2006 archaeological investigations at Sanderson Arcade east of the site, it is considered that the site has potential to retain unrecorded archaeological remains associated with the medieval and later settlement of Morpeth. Any archaeological remains within the site are likely to be of

local interest and would be considered 'undesigned heritage assets' in the context of NPPF policy.

7.38 The proposal has potential to impact or destroy any archaeological remains within the proposed development site. In this instance, given the relatively small area of the site and the results of the archaeological assessment undertaken east of the site in 2006, it will not be necessary to undertake an additional archaeological assessment in support of the present application. In this instance, the potential impact of the proposed development could be mitigated by a programme of archaeological monitoring during groundworks (watching brief), secured by condition in line with paragraph 199 of the NPPF. It will therefore be necessary for the developer to commission a professional archaeologist to observe the excavations necessary for the development. This work should be undertaken in line with NCC Conservation Team (NCCCT) Standards for Archaeological Mitigation and Site Specific Requirements documents.

7.39 The application has been appraised by the County Archaeologist and there are no objections to the proposed development on archaeological grounds subject to a programme of archaeological monitoring being undertaken during groundworks. This work can be secured by condition. The application is therefore in accordance with the NPPF.

### Highways

7.40 The Local Highways Authority has no objections to the application as although the proposed development would see the development of 4 no. self-contained units, it is not anticipated that this proposal will have a significant negative impact upon road safety. Given the urban location and the intended use of the proposed development, there is no requirement for car parking facilities.

7.41 It is advised that, in the interests of highway safety and the amenity of the surrounding area, that no building materials or equipment shall be stored on the highway and no mud, debris or rubbish shall not be deposited on the highway as outlined in the conditions. In order to minimise potential road safety issues during the construction phase, including contractor parking on the highway, a Construction Method Statement is recommended to be secured by condition.

7.42 Overall, the application is in accordance with the NPPF as there would be no significant impact to highway safety.

### ***Equality Duty***

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

## ***Crime and Disorder Act Implications***

These proposals have no implications in relation to crime and disorder.

## ***Human Rights Act Implications***

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **8. Conclusion**

8.1 On balance, it is considered that the scheme promotes the vitality and viability of Morpeth town centre by providing retail and residential use. As well as the economic benefits, the scheme would also seek to improve the shopping experience and pedestrian access via the existing walkway. These positive factors however, do not outweigh the identified harm caused to the Morpeth Conservation Area, neighbouring listed building and character of the rear terrace as well as the amenity concerns to existing and future occupants.

8.2 An amended scheme could be introduced that provides economic and public benefits whilst also respecting the built environment and residential amenity. At present, it has not been demonstrated that the proposed development is the only economically viable approach.

## **9. Recommendation**

That this application be REFUSED permission subject to the following:

01. By virtue of the proposed design, scale, massing, size and height, the development would fail to respect or enhance the character or quality of the site and the surrounding built environment and therefore, does not accord with Policy EMP1 and Des1 of the Morpeth Neighbourhood Plan, Policy H15 of the Castle Morpeth District Local Plan and the National Planning Policy Framework.

02. The proposed development fails to preserve and enhance the historic character of the Morpeth Conservation Area, its setting and the setting of the identified listed building and surrounding area by virtue of its design, height, size, massing and scale, for which the necessary 'clear and convincing justification' has not been demonstrated. The degree of harm is 'less than substantial'. The harm identified would not be outweighed by the public benefits arising. The application would therefore not be in accordance with Policy Des1, Policy EMP1, Policy EMP2 of the Morpeth Neighbourhood Plan, the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

03. The proposal would cause an unacceptable adverse impact on the amenity of existing and future occupants by virtue of its scale, design and proximity to neighbouring buildings and conflict with Policy Des1, EMP2 of the Morpeth Neighbourhood Plan and the NPPF.

**Date of Report: 03.07.2020**

**Background Papers:** Planning application file(s) 19/04654/FUL