

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2022/0070
<b>Site:</b>	73 Spon End, Coventry, CV1 3HE.
<b>Ward:</b>	Sherbourne
<b>Proposal:</b>	Demolition of the former Black Horse Public House
<b>Case Officer:</b>	Andrew Tew

## SUMMARY

The application is for the demolition of the locally listed former Black Horse Public House.

## BACKGROUND

The Black Horse Pub was designated as a grade II listed building by Historic England in September 2011 on the grounds of its rarity as an example of simple and modest urban Victorian pub, retention of its historic plan form, the quality and intactness of its interior decorative scheme. The listing was successfully appealed by the building owners in February 2012 and the building delisted as being not of special architectural or historic interest.

The Black Horse was added to the Local List (Locally Listed) in May 2012 on the grounds of its local significance due to its rarity and the archaeological remains which lie below it, its role in the setting of the Chapelfields and Spon End Conservation Areas, and its role as a local landmark. An Article 4 Direction was applied to the building in December 2012, requiring planning permission to be obtained for demolition.

The proposed demolition works are required to enable highway improvement works to the eastbound carriageway of Spon End. Coventry City Council is under a legally binding Direction to improve air quality in the city and has agreed upon a package of highways improvements to achieve compliance. One of those measures is '*capacity improvements on the B4106 through Spon End*' which are required to improve the capacity of the highway eastbound towards the city centre. For clarity the highway improvement works are outside the scope of this application and permission is only sought for the works outlined in the description above.

## KEY FACTS

<b>Reason for report to committee:</b>	Over 5 objections received.
<b>Current use of site:</b>	HMO
<b>Proposed use of site:</b>	Demolition

## RECOMMENDATION

Planning committee are recommended to grant planning permission subject to conditions.

## REASON FOR DECISION

- The proposal is acceptable in heritage terms as wider public benefits outweigh the cumulative harm to designated and non-designated heritage assets which would result from the total loss of the Locally Listed building.
- The proposal accords with Policies: DS1, GE3, HE1, HE2, AC1, AC2, AC3 and EM7 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## **APPLICATION PROPOSAL**

The proposal seeks the demolition of the former Black Horse Pub.

## **SITE DESCRIPTION**

The site is the former Black Horse Public House located at 73 Spon End. The building is a three-storey former public house with car park to the rear and western side. Originating in the mid-18th century but was substantially rebuilt at some point between 1820 and 1840. The site is fenced off from the surrounding commercial units.

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The Black Horse was added to the Local List in May 2012 on the grounds of its local significance due to its rarity and the archaeological remains which lie below it, its role in the setting of the Chapelfields and Spon End Conservation Areas, and its role as a local landmark. An Article 4 Direction was applied to the building in December 2012, requiring planning permission to be obtained for demolition.

This site is outside of a Conservation Area but in close proximity to both Spon End Conservation Area and Chapelfield's Conservation Area.

## **PLANNING HISTORY**

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

<b>Application Number</b>	<b>Description of Development</b>	<b>Decision and Date</b>
NOT/2012/2188	Prior approval for demolition of former public house	Withdrawn 18/12/2012
FUL/2013/0274	Demolition of all buildings and change of use of land in connection with the adjoining car dealership and extension of adjoining car park	Refused – 17/05/2013
FUL/2014/4035	Change of use from Public House to wholesalers (Use Class B8) on ground floor with single storey side extension and flat in multiple occupation on first and second floors. Change of use of part of the rear car park to car showroom in connection with the adjacent showroom	Approved – 10/02/2015

FUL/2015/3441	Change of use from public house to 12-bedroom house in multiple occupation (sui generis)	Approved – 07/12/2015
FUL/2016/0164	Submission of details to discharge conditions 4 -mechanical ventilation; and 5 - joinery details for windows; imposed upon planning permission reference FUL/2015/3441 granted on 07/12/2015 for change of use to house in multiple occupation.	Approved – 14/03/2016
CAAD/2021/1985	Certificate of Appropriate Alternative Development	Approved – 13/11/2021

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF sets out the Government’s planning policies for England and how these are expected to be applied. It sets out the Government’s requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF increases the focus on achieving high quality design and states that it is “fundamental to what the planning and development process should achieve”.

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application is:

Policy DS1: Overall Development Needs

Policy GE3: Biodiversity, Geological, Landscape and Archaeological Conservation

Policy HE1: Conservation Areas

Policy HE2: Conservation and Heritage Assets

Policy AC1: Accessible Transport Network

Policy AC2: Road Network

Policy AC3: Demand Management

Policy EM1: Planning for Climate Change Adaptation

Policy EM7 Air Quality

### **Supplementary Planning Guidance/ Documents (SPG/ SPD):**

SPD Delivering a More Sustainable City

SPD Coventry Connected

## **CONSULTATION**

No Objections received from:

- CCC Environmental Protection

No Objections subject to conditions received from:

- CCC Highways
- CCC Drainage
- CCC Ecology
- CCC Archaeology

Objections have been received from:

- CCC Conservation

At the time of writing the report comments have not been received from:

- Canal and Rivers Trust
- Environment Agency

Immediate neighbours and local councillors have been notified; a site notice was posted on 17/02/2022. A press notice was displayed in the Coventry Telegraph on 04/02/2022.

32 letters of objection have been received, raising the following material planning considerations:

#### Heritage

- Loss of local landmark
- Reroute pavement around building and narrow opposite pavement to prevent demolition
- Residents don't want the building demolished
- Needs to be preserved as historic part of Coventry
- Coventry Society have been protesting the demolition for over 10 years
- Internal changes of Black Horse allowed so highway could be built
- Black Horse lost status and contents stripped
- Move building to new location
- Rich history of watch making in area
- Visible from Conservation Areas
- Stanley Terrace demolished in the 80s
- Contrary to 2003 SPG design guidelines
- Starting to look like Telford rather than a little Georgian town
- Building was starting point of first marathon in UK
- Building important in street scene and Conservation Areas nearby
- Archaeology and heritage statements make clear the loss will have adverse effects
- Coventry has suffered loss of old buildings and this should be retained
- Lots of stories from the pub and its demolition deletes this history
- King of Spon End used to reside at the Black Horse therefore it is a Royal residence and should be preserved for tourists and residents

#### Wider Air Quality Scheme

- Housing crises in Coventry

- Prefer cycling routes and congestion charge introduced
- Highway will increase NO2 emissions from HGVs
- This part of bypass has not been put to public consultation
- Development is risk to public health
- Failure to observe public opinion
- Do not support changes to Allesley Old Road
- Road widening scheme is inappropriate
- Increasing traffic in a climate catastrophe is unbelievable
- Moving air quality problem from Holyhead Road to Allesley Old Road
- Loss of trees
- The Butts is dangerous already
- Scheme will encourage more drivers, not spread the problem
- Cycle lanes are needed with better lighting and more police
- Scheme will cause more disease
- Risk to life, health, local business and community
- Council using out of date figures for nitrogen dioxide levels
- Information submitted to Secretary of State in Statement of Reasons for road widening scheme is incorrect as it states there are no listed buildings or scheduled monuments in order land, or within a conservation area.
- Effect on residents of Spon End overlooked
- Local residents not consulted on road widening scheme
- Implementation of Clean Air Zone (CAZ) used to threaten
- Release of embodied carbon dioxide from building
- Subsidised bus travel better option

#### Other

- Coventry Rugby Football Clubs plans

#### Non material

- Road widening scheme will affect house prices

Further Objections received from:

#### Historic Building and Places

Application does not accord with Paragraph 189 and 203 of the NPPF (2021).

Impact the road widening will have on the group of listed buildings at the intersection of Spon End, Upper Spon Street and Butts Road. The grade II listed buildings at 97-100, 107-110 and 111-116 Spon End are all C17 buildings with C19 shopfronts and the impact of additional traffic from this wider road scheme - particularly emissions and vibration – on the historic building fabric must be considered before granting consent for the demolition of the Black Horse.

#### Victorian Society

Application does not accord with Paragraph 189, 190 or 203 of the NPPF (2021).

Retention and retrofit of buildings needed for response to climate emergency and energy efficiency of replacement road scheme will result in higher carbon emissions than its continued use.

They do not consider that these proposals for demolition of the Black Horse are justified by this road widening scheme and urge your authority to seek alternative approaches to implementing which retain, preserve and maintain this locally listed building and non-designated heritage asset.

They therefore object to this application as is currently presented. In 2020 the High Court quashed a grant of planning permission where Birmingham Council had acted unlawfully by not reporting the Victorian Society's objection to a development to the Planning Committee.

Furthermore, they assert that their objection is made in accordance with the Arrangements for handling heritage applications – Notification to Historic England and National Amenities Societies and The Secretary of State (England) Direction 2015, and therefore should Coventry City Council approve the application for the Black Horse in its current form, it should be referred to the Secretary of State.

*Officer response – as the proposal does not involve demolition of a statutorily Listed Building (i.e. Grade II or above) there is no requirement to refer any approval to the Secretary of State.*

### The Georgian Group

This proposal would lead to the destruction of non-designated heritage assets and cause harm to the setting of two nearby conservation areas (which are designated assets). We would respectfully advise that at present the justification provided is insufficiently robust to meet the requirements of either paras 200 or 203 of the NPPF.

Whilst we recognise the urgent need to lower emissions, it is not entirely clear for how long this proposed act of destruction will achieve the desired public benefits, or what impact the increased traffic flow will have in the future on either the adjoining conservation areas, or on the listed buildings lining Spon End east of the railway viaduct.

### Save Britain's Heritage

Contrary to HE2 and paragraph 203 of the NPPF.

Diminish links to domestic and light industrial trades in mid to late 19<sup>th</sup> C past.

Harmful to Spon End and Chapelfields Conservation Areas contrary to LBCA Act (1990) and NPPF.

Contrary to para 152 of NPPF on environmental grounds

## Petitions

A petition, supported by Councillor Simpson to “Preserve The Black Horse Pub” garnered 175 signatures on completion on 25/04/2022.

The petition states that the Council abandons plans to demolish the Black Horse Pub as a listed, residential building. It states that the Council believes the status as a listed building no longer applies as it is now residential.

*Officer response – the Black Horse is not a statutorily Listed Building (i.e. Grade II or above) which is not made clear. A building’s use, in this case a HMO, has no bearing on listed status.*

A petition, supported by Councillor Bally Singh, to “Save the Black Horse Pub legacy for a future use in Coventry” garnered 54 signatures on competition on 28/04/2022.

The petition states that the Councils clean air proposals are supported but wish to preserve the legacy of the pub via alternate uses.

## **APPRAISAL**

The main issues in determining this application are the impact upon the character of the area and heritage assets, highway considerations and ecology.

### **Scope of consideration of application**

Whilst the application has been made in order to facilitate the widening of the Highway to alleviate air quality problems, the highways works themselves are permitted development under Part 9 of the General Permitted Development Order. Therefore, the highway widening is not a part of this application and as such, any comments relating to the wider scheme (such as the impact upon trees at Spon End) are not considered material to the consideration of this application.

### **Heritage considerations**

#### Impact on Locally Listed Buildings

As a locally listed building, statutory protection for the building is afforded through para. 203 of the NPPF, which states: *“In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

Policy HE2 states proposals to demolish a heritage asset will therefore need substantial justification. The greater the damage to the significance of the asset, the greater the justification required and the public benefit needed to outweigh such damage.

The level of harm to the Black Horse is total loss of significance, equating to substantial harm. Furthermore, the setting of the Spon End viaduct, a locally listed structure, would be altered as views from the west and east would be altered. From the west, the views of the viaduct would be widened. From the east the glimpsed views of the Black Horse would be impacted and the street scene more open. However, this level of harm to the viaduct would be less than substantial.

Conservation have been consulted and object to the proposal. The level of public benefit delivered by the scheme needs to be weighed against this harm to non-designated heritage assets. The proposed demolition works are required to enable highway improvement works to the eastbound carriageway of Spon End. Coventry City Council is under a legally binding Direction to improve air quality in the city and has agreed upon a package of highways improvements to achieve compliance. One of those measures is '*capacity improvements on the B4106 through Spon End*' which are required to improve the capacity of the highway eastbound towards the city centre. For clarity the highway improvement works are outside the scope of this application and permission is only sought for the works outlined in the description above.

The package of highway improvements has been agreed by Cabinet, to meet the 2021 Legal Direction, and reduce NO2 levels within Coventry. The stated benefits of the scheme are improved air quality for the city and the reduction of associated health problems such as asthma, heart disease, lung disease and strokes. There has been significant objection to this application with many querying how the proposed benefits will be delivered by a scheme to widen the road. However, the scientific basis and evidence for the highway improvements have already been presented and agreed upon by Cabinet. This scientific evidence has to be relied upon as part of this application.

An alternative to the highways improvement scheme to improve air quality would be the introduction of a Clean Air Zone (CAZ). The implementation of a charging zone could be required by Central Government if the City Council fails to deliver the local plan scheme in compliance with the 2021 Direction, or if the scheme is delivered but the reduction in NO2 levels is insufficient to achieve compliance with legal limits.

The substantial wider public benefits, particularly with reference to improved health from improved air quality, and the legal obligation to deliver them will outweigh the harm that will arise from the demolition of the former Black Horse Pub and the harm to the setting of the Spon End viaduct.

#### Impact on adjacent Conservation Areas

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 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. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states "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". Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal.



When considering the balancing exercise, the desirability of preserving the settings of Conservation Areas should not simply be given careful consideration but “considerable importance and weight”. This gives rise to a strong statutory presumption against granting planning permission for development which would cause harm to the settings of Conservation Areas. Even where the harm would be “less than substantial” in NPPF terms the balancing exercise cannot ignore the overarching statutory duty imposed by section 72.

Whilst the Black Horse is not in a Conservation Area, impacts on the setting of the Spon End Conservation Area need to be considered as would result from the removal of the Black Horse, with slight erosion of its historic character within the channelled views to the west of Spon End Viaduct.

The removal of the building would impact the setting of the Spon End Conservation Area by removing an historic element of the streetscape that is noticeable on the approach to the conservation area from the west and creates wide views of the Spon End Viaduct, resulting in the loss of part of the channelled views which were historically characteristic of this approach.

Similarly, the setting of Chapelfields Conservation Area would be affected by eroding the historic streetscape when viewed from the West. The loss of the Black Horse would open views of the more recent commercial development in this area, between the two Conservation Areas.

Conservation are of the opinion that the level of harm to the conservation areas, because of the proposed works, is minor less than substantial.

Set out above is the strong statutory presumption against granting planning permission that causes harm to the setting of a Conservation Area even where, as in this case, the harm is considered to be “less than substantial”. This approach should be the starting point. In this case, there are significant public benefits deriving from the proposal, which would allow for essential air quality mitigation measures to take place. It is concluded that the public benefits of the scheme are sufficient to overcome the statutory presumption against the grant of planning permission and clearly outweigh the limited harm to the significance of the heritage assets identified above.

The proposal is therefore considered to accord with the NPPF and Policies HE1 and HE2.

### Archaeology

The site is designated as an Archaeological Constraint Area, identified for the potential locale of the medieval manor of Sponna. The assessment has determined that it is likely of moderate/regional significance although until archaeological investigations have been conducted, this level of significance is unconfirmed. Higher quality preservation may lead to a higher degree of significance. Equally, lesser survival would equate to a lower level of significance. Consequently, the assessed magnitude of impact from the demolition and removal of nearly 1m of subsurface deposits may be greater or lesser than that expressed in the report.

Archaeology have been consulted and note this significance will only become clear once works have started. Whilst it has been previously discussed with the applicant's archaeological consultant and a potentially acceptable methodology indicated, it is considered that the subsurface grubbing out and removal of the 900mm to 1m of deposits should be done under archaeological control rather than simply archaeological monitoring. If well-preserved remains are located within this top 900mm, then it may be that the archaeological remains will require preservation, either in situ or by record via a full excavation. Should the deposits be of recent formation, excavation of sondages (and if identified, auguring of the moat deposits) through this modern material to assess the potential for archaeological remains is worthwhile given the opportunity to identify the presence or absence of the medieval moated site. A Written Scheme of Investigation will be required prior to commencement of any works, with all works undertaken in accordance with Chartered Institute for Archaeologists standards and guidance.

Subject to a condition requiring mitigation measures, the proposal is considered to comply with Policy HE2.

## **Highways**

Highways have been consulted and have no objection, subject to condition for the submission of a Demolition Management Plan. The DMP will need to contain details of site parking, loading of plant and materials, storage, wheel washing and dirt and dust control.

On discharge of a suitable DMP, the proposal will be considered to comply with Policies EM7, AC1 and AC2.

## **Ecology**

The applicant has submitted a bat survey report with the application which included emergence surveys across 4 days in May and June 2021. The report was limited in so much as inspection of the loft space could not be undertaken due to asbestos issues. It did consider that the brown long-eared bat was unlikely to be present as it was not observed during surveys. Additionally, artificial lighting in the area, to which the bat is particularly sensitive, is present in the area. Pre demolition inspections of the roof space by endoscope or torchlight are recommended and will be secured by condition.

Subject to conditioning the above, the application is deemed to comply with Policy GE3.

## **Equality Implications**

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

## **CONCLUSION**

The proposed development is considered to be acceptable as the wider public benefits outweigh the cumulative harm to designated and non-designated heritage assets which would result from the total loss of the Locally Listed building. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies DS1, GE3, HE1, HE2, AC1, AC2, AC3 and EM7 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## **CONDITIONS:/REASON**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

**Reason:** *To conform with Section 91 of the Town and Country Planning Act 1990 (as amended)*

2. The development hereby permitted shall be carried out in accordance with the following approved plans:SEA/0056

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

3. No demolition/development shall take place/commence until a archaeological written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. This will be a phased approach, with subsequent requirements depending on what is encountered during the initial phase of investigations and if necessary, an archaeological management strategy may be required. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:
  - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
  - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

**Reason:** *The submission of these details prior to the commencement of development is fundamental to mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record for this and future generations in accordance with Policy HE2 of the Coventry Local Plan 2016*

4. Prior to the commencement of any demolition works, a Demolition Management Plan (DMP) shall be submitted to and approved in writing by the Local Planning Authority. The DMP shall include details of:

i) the parking of vehicles of site operatives and visitors;

ii) loading and unloading of plant and materials;

iii) storage of plant and materials used in the demolition;

iv) wheel washing facilities;

v) measures to control the emission of dust and dirt during demolition;

vi) a scheme for recycling/disposing of waste resulting from demolition;

vii) the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate. Thereafter, the approved details within the DMP shall be strictly adhered to throughout the respective demolition periods and shall not be amended in any way.

viii) The Demolition Management Plan should identify the risks to underground drainage and other buried services and should provide a management strategy to reduce damage and prevent blockage.

"" Upon completion of demolition works, the buried drainage in the vicinity of the site should be inspected by CCTV to ensure that the services have not been damaged and that the drains are not blocked.

"" Any remaining drainage should be marked on a plan and at the ground surface, and should be capped to prevent the ingress of surface materials remaining in the vicinity.

"" All demolition works should be protected and screened from the adjacent watercourse to prevent demolition materials from being deposited in the watercourse channel.

"" To ensure that all risks relating to buried services have been assessed and minimised as far as possible.

"" To ensure that existing drainage services are not compromised by the demolition works.

"" To ensure that any remaining services can be traced for future use.

"" To protect the watercourse from the deposition of contaminants and other materials likely to detrimentally affect water quality.

**Reason:** *In the interests of highway safety and the free flow of traffic and to minimise disturbance to local residents during the demolition process in accordance with Policies DS3, EM7, AC1 and AC2 of the Coventry Local Plan 2016*

5. No development or any other works shall commence unless and until a written scheme of investigation which shall detail a programme of historic building recording and analysis to Level 3 has been submitted to and approved in writing by the Local Planning Authority. The development shall only proceed in full accordance with the approved details.

**Reason:** *The submission of these details prior to the commencement of development is fundamental to ensure that an Appropriate record is made of the historic building fabric that may be affected by the development and to ensure that information regarding these heritage assets is preserved by record for this and future generations in accordance with Policy HE2 of the Coventry Local Plan 2016.*

6. No development (including any demolition or preparatory works) shall commence unless and until a survey for the presence of bats has been carried out by a qualified surveyor, and has been submitted to and approved in writing by the Local Planning Authority. Should the presence of bats be found then no demolition or preparatory works shall take place until full details of measures for bat mitigation and conservation in accordance with good practice guidelines have been submitted to and approved in writing by the Local Planning Authority. All works shall be implemented in strict accordance with the approved timings and details and once undertaken any mitigation works shall not be removed or altered in any way

**Reason:** *To ensure that protected species are not harmed by the development in accordance with Policy GE3 of the Coventry Local Plan 2016 and the advice contained within the NPPF 2018.*