

## Planning Committee

Tuesday, 17 November 2020

<b>Planning application no.</b>	20/00832/FUL	
<b>Site</b>	Warehouse Buildings Adjacent to S J Dixon And Son Limited	
<b>Proposal</b>	Demolition of existing warehouse buildings and construction of Costa Coffee Drive-Through (use class A1 / A3) and retail unit (use class A1) with associated parking, access and landscaping.	
<b>Ward</b>	Ettingshall	
<b>Applicant</b>	S J Dixon & Son Ltd (Mr T Dixon)	
<b>Cabinet member with lead responsibility</b>	Councillor Stephen Simpkins Cabinet Member for City Economy	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Planning	
<b>Accountable employee</b>	Vijay Kaul	Senior Planning Officer
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### 1.0 Summary recommendation:

1.1 Refuse.

### 2.0 Application site

- 2.1 The application site comprises approximately 0.25 ha of land which currently accommodates a group of linked warehouse buildings totalling 5,575 m<sup>2</sup>. The buildings were previously used in connection with the adjacent painting and decorating business, run by the applicant from the adjacent Dixons Building, currently on a wholesale basis.
- 2.2 The site is bounded by Bilston Road, Hospital Street and Cleveland Road. The western elevation is formed by the existing Dixon House. The site is located approximately 800 m to the south east of Wolverhampton city centre. The Royal metro stop and a number of bus routes are nearby.
- 2.3 The surrounding area comprises of the Grade II Listed Royal Hospital building, located to the south-west of the site, fronting Cleveland Road. A further heritage asset, the former Baker's Shoe Factory, which is also Grade II listed, is located to the west of the site. The

adjacent Dixon's Building is locally listed. The application site is located within Cleveland Road Conservation Area. Jessups are currently building on the Former Bus Garage site (planning permission 18/01240/REM), which is located west of the application site.

- 2.4 The former Royal Hospital is currently owned by Homes England, and they have secured Listed Building Consent and full planning permission to convert the former Hospital building into 53 apartments, demolish the nurses block to make way for a new apartment block comprising 24 flats and outline approval with all matters reserved to erect 115 dwellings (planning application ref. 17/01209/FUL and LBC application ref. 17/01210/LBC).

### **3.0 Application details**

- 3.1 Erection of a single storey mono pitch buildings for use as a Costa Coffee drive through facility and retail unit (Greggs), with a gross external area of 213 square metres and 122 square metres respectively (total of 335 square metres).
- 3.2 The development site will provide a total of 39 spaces which includes four disabled spaces and two electric charging bays. In addition, there are 12 undercover cycle parking spaces.
- 3.3 A new vehicular access would be created from Hospital Street leading to the central tarmac parking area and drive thru lane serving the Costa Coffee to the south of the site. Pedestrian accesses would be created from Bilston Road and Hospital Lane.
- 3.4 New site boundary, being a steel panel fence, oxidised to a deep red / brown hue with a feature design incorporating cart / cab wheels thus reflecting the site history as a former carriage and cab manufactory. A landscaping scheme has been incorporated to soften the site boundaries and enhance ecology.
- 3.5 29 full and part time (total of 16.5 full time equivalent) jobs would be created.

### **4.0 Relevant policy documents**

- 4.1 National Planning Policy Framework (NPPF)
- 4.2 Planning Practice Guidance (PPG)
- 4.3 The Development Plan:  
Wolverhampton Unitary Development Plan (UDP)  
Black Country Core Strategy (BCCS)  
City Centre Area Action Plan
- 4.4 Renewable and Low Carbon Energy SPD (September 2012)

### **5.0 Publicity**

- 5.1 The application was advertised by direct neighbour notification, newspaper advert and site notices. Four representations were received and can be summarised as follows:
- Best located development site in City, next to Metro - prime for residential.
  - Not suitable for drive-thru, single storey building or car park insensitively squats next to the stunning Dixons building that could be converted for beneficial uses.
  - Numerous empty sites on A41 to accommodate a drive thru.
  - Given context of climate change, proposal is insensitive, damaging, backwards, and car-centric - more traffic, more air pollution and waste.
  - Reject, and encourage applicants to bring forward a mixed use or residential development with ground floor commercial elements that will still create those jobs but provide a far more appropriate, car free development to match Wolverhampton's ambition for the future.
- 5.2 The architect for the neighbouring sites on Cleveland Road in consultation with their stakeholders and clients make the following comments:
- In principle the provision of retail on the site should be welcomed in an area of regeneration with brands which have proven track records in good quality elsewhere in UK.
  - Scale, massing, design detail and boundary treatments are of concern but more significantly the layout with cars close to pedestrian routes / paving, opposite new housing.
  - Would like to see details of security, operation. Noise and unchecked activity could be issue for future residents.
  - In terms of the Conservation and Heritage setting and potential forthcoming developments, there are many areas for potential improvement with the current proposals.

## **6.0 Consultees**

### **Internal**

- 6.1 Highways – No objection subject to conditions.
- 6.2 Environmental Protection (Land Contamination) – No objection.
- 6.3 Environmental Health (Noise) – The operating hours will need restricting, and an effective noise barrier to Cleveland Road is required to protect residents.

### **External**

- 6.4 Historic England - The proposed redevelopment results in harm to the Cleveland Road Conservation Area and to the Grade II listed Royal Hospital. Historic England is concerned that this harm is unjustified. Seek changes and take the opportunity presented by the site's reuse and redevelopment to negotiate an alternative scheme that avoids harm and contributes positively to local character and distinctiveness.

- 6.5 Ancient Monuments Society - Raise no objections to demolition of unexceptional designed building, however, concerned about proposal. A substantial urban presence in the street scene is to be replaced by two standard corporate huts set in a sea of car park.
- 6.6 The Victorian Society – Objects. Existing building still contributes to streetscape and setting of Royal Hospital in Conservation Area. Re-use should be considered. Drive-through facilities are totally unsuitable replacement, creating unwelcome open space with single storey structures that have no reference to the street frontage. Will have negative impact on very urban conservation area and setting of the adjacent locally listed building and the grade II listed hospital building across the street.
- 6.7 The Coal Authority – No objections subject to detailed remedial strategy for the on-site mine entries.
- 6.8 Severn Trent Water – No objections subject to conditions.
- 6.9 West Midlands Police – Supported with conditions to combat anti-social behaviour
- 6.10 All Saints Action Network (ASAN):
- Buildings should be retained, but if unviable, policy guidelines should determine the form and acceptability of any proposal.
  - Impact on setting of the Royal Hospital.
  - Principal elevation on Cleveland Road without windows and a drive through layby does not sit well opposite the Hospital front elevation.
  - Will leave locally listed building remote.
  - 5.00am to 11pm 7 days a week represents loss of quiet enjoyment which will affect residents.
  - Fast food outlets contrary to quality of life and health.
  - Traffic problems including rat runs and increase car use.
  - Length of inactive frontages creates risk of crime – fear of increased kerb-crawling, rubbish and nuisance.

## **7.0 Legal implications**

- 7.1 The legal implications arising from this report are detailed in the body of this report.  
KR/06112020/A

## **8.0 Covid Implications**

- 8.1 There are no Covid implications arising from the recommendation(s) of this report.

## **9.0 Appraisal**

- 9.1 The main issues for consideration are:
- Principle of development
  - Impact on Heritage Assets / Character and appearance

- Highways
- Residential amenity
- Ecology

### **Principle of development**

- 9.2 The site is identified in the City Centre Area Action Plan as part of the Royal Hospital development area. The designation sets out housing as an acceptable primary use and allows for complimentary uses including retail, food and drink.
- 9.3 Although the site occupies an out-of-centre location, the Council are not aware of any sequentially preferable sites, even when including flexibility to site selection, that can realistically accommodate the proposal.
- 9.4 The proposal would serve passing trade and any existing and future local demand from businesses and residential development in close proximity to the site. Given the size of the City Centre and Bilston Town Centre, together with the scale and nature of the scheme, it is unlikely that the proposal would cause significant adverse impacts on any existing, committed and planned public and private investment in Wolverhampton City Centre or Bilston Town Centre, or town centre vitality and viability, including local consumer choice and trade.
- 9.5 The principle of retail is acceptable as it does not conflict with BCCS Policies CEN6 and CEN7, and UDP Policy SH15. The proposal falls within Development Opportunity site 11a and is consistent with the subsidiary uses cited in Table CA11A of City Centre AAP Policy CA11. Therefore, on balance, in this particular instance, the proposal is acceptable in retail planning policy terms.
- 9.6 Furthermore, proposal would result in an economic benefit that would create jobs and promote regeneration of the site.

### **Heritage / Character and Appearance**

- 9.7 The Royal Hospital development area is going through a period of comprehensive repair and regeneration. The scale of development approved for the adjacent sites (18/01240/REM – Former Bus Garage, 17/01902/FUL – Royal Hospital) have appropriately added to the defining characteristics, variety of architectural forms, giving the overall street scene a strong rhythm and coherence within the Conservation Area and continue the ongoing process of regeneration and change. It is in a period of exciting transition, and the Council has been at the forefront of advocating responsive uses and buildings. It is important that the setting of historic buildings is properly respected, and the consideration given to reinstating the best townscape form.
- 9.8 Paragraph 4.12.5 of the City Centre AAP in particular confirms that:

“There is a need to protect the character of the Cleveland Road conservation area by protecting and enhancing historic buildings, particularly buildings such as Royal Hospital,

Bakers Boot & Shoe Factory and the Dixons Building. Any new development should complement and integrate well with the character of the conservation area”

- 9.9 The key conclusion of the applicant’s Built Heritage Statement is that the very small amount of harm caused to the Conservation Area would be outweighed by the benefits of removing derelict and unattractive structures and improving views within and towards the conservation area thereby revitalising the same. This also suggests that the scale of the buildings will enable the heritage assets namely the Royal Hospital and Dixons building to be better appreciated, with views towards both buildings being enhanced by the demolition of the existing warehouses.
- 9.10 In an attempt to respond to the characteristics of the surrounding architecture, the buildings incorporate tall slender ‘chimney’ elements, with materials being predominantly red brick with the proposed vertical brick piers expressed in a contrasting ‘buff’ brick. Above the main glazed elevations there is the use of composite cladding panels, with similar material used on the roof. The applicant consider these are bespoke revisions which respond to the Conservation Area setting. The applicant’s Heritage Statement update tries to justify the ‘sensitive’ design parameters they have followed, however they also confirm the *‘scheme naturally responds to the parameters of viable development’*, the applicant also acknowledging that *‘end users have standardised designs in terms of footprints and positioning’*. By contrast, the Local Planning Authority (LPA) advise proposals should be led by design and place making development plan policies, and good urban design principles.
- 9.11 The warehouse buildings contribute to the significance of the conservation area and, as part of their setting, to the significance of the Grade II listed Royal Hospital and undesignated Dixon’s building. Historic England (HE) do not support the development and describe the harm to the historic and architectural interest of the conservation area, which derives from the loss of enclosure to streets, use for surface car-parking and the openness following from this, the small amount and scale of proposed buildings, there is also the loss of the characteristic saw-tooth roofscape, Bilston Road range and late C19 showroom building on Cleveland Road.
- 9.12 The Council consider the buildings proposed follow a very conventional single storey scale ‘drive-through’ layout, with corresponding scale and massing which fails to respond to the context of the area and dominated by tarmac car parking. It would be more apt on a retail park. The chimney features, vertical emphasis or use or predominant use of red brick do little to reference heritage and local context.
- 9.13 The current proposals replace a strong urban corner building with limited footprint weakening the plot’s urban grain. The Greggs unit occupies a prominent site and fronts a main arterial route into the City. The building is squat and elevationally there is little detailing with large expanses of blank facades, the scale of glazing is insufficient compared to the prominence of the site. In respect of the Costa unit, apart from a drive thru hatch, there is no activity onto Cleveland Road, the resultant design is very poor, and would undermine the regeneration improvements that are now being undertaken in the immediate vicinity. This outlook from recently approved dwellings would be of cars and a drive-through hatch. Furthermore, the use of plain timber to highly visible bin

stores is not in keeping with the character of a predominantly brick area and would be viewed in the foreground of the Royal Hospital and new dwellings. The erection of an acoustic noise barrier along Cleveland Road would need to be of a sufficient scale to provide effective mitigation, this is likely to add further harm in design terms.

- 9.14 Historic England confirm that the current proposal will not make a positive contribution to local character, enhance or better reveal significance. Historically, a tighter urban grain meant views of the Royal Hospital were acute and limited to Cleveland Rd. The same approach is deemed acceptable and should not limit the development potential of the site or affect sound urban design principles in re-establishing a more the urban block should demolition be supported. The proposed Jessup building fronting Bilston Road is a 3-4 storey form, and when viewed in the context of the application site, there will continue to be a framed view of the Royal Hospital. Providing views through the application site to the Royal Hospital is not a decisive factor in developing this site and does not amount to a heritage benefit.
- 9.15 The Council has been working with Homes England and their developers Jessops on the Cleveland Boulevard scheme, which aims to improve the pedestrian and cycling links from the residential area into the City centre by reducing traffic movement, improving the public realm and upgrading the placemaking around the Grade II Listed Royal Hospital. The development could compromise the Council's ability to enhance the conservation area, given the harm identified above.
- 9.16 Collectively the total loss of the existing building and replacement with inappropriate development causes material harm to the character and appearance of the Conservation Area and setting of a Listed Building, so failing to preserve it, contrary to the expectations of sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the desirability of which the LPA is required to pay special attention to. It would also harm the setting of the adjacent locally listed building.
- 9.17 The development would therefore conflict with Saved UDP Policies HE1, HE4, HE5, HE6, HE17, HE19, D4, D5, D6, D7, D8, D9, BCCS Policies CSP4, ENV2, ENV3, City Centre AAP Policies CC8 and CC9, and the NPPF, which amongst other things, seek to ensure that development respects its context, encourages the creation of high quality buildings and places, add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate, are sympathetic to local character and history, including the surrounding built environment and establish or maintain a strong sense of place by ensuring that proposals are of an appropriate height, density, mass and footprint, and do not detract from important views and landmarks. In accordance with paragraph 196 of the NPPF, the LPA is required to consider this harm against any public benefits the development may bring. This is done below.

## Highways

- 9.18 The Highway Authority raises no objection to the position of the new access on Hospital Street, it would not harm the operation of the junction with Bilston Road. The fencing would need to be lowered to 600mm within the visibility splay of the site access.

- 9.19 All servicing and deliveries are shown to access site via the adjacent S J Dixon service yard for loading and unloading, the Highways Authority has confirmed this is acceptable, and there are already existing Traffic Regulation Orders (TRO) in place to prevent parking outside of the site.
- 9.20 There is adequate circulation space within the site to deal with customers, and ample off-street parking is made to ensure that no unacceptable impact upon highway safety would result on Hospital Lane/Cleveland Road.
- 9.21 Should the planning application be granted, conditions will be required for the TRO improvements, provision of motorcycle parking and electric charging points, and construction management plans.
- 9.22 The proposal is unlikely to cause increased rat running along Vicarage Road, given the convenient link onto Bilston Road. No concern is raised by the Highway Authority.

### **Residential Amenity**

- 9.23 The proposal would be positioned only 25m away from proposed residential dwellings immediately opposite at the Royal Hospital site, and some 50m from the Jessups (Bus Garage) development site. The applicant has stated opening times of 5.00am to 11.00pm, with unrestricted delivery times sought between 5.00am and 10.00pm.
- 9.24 A noise impact assessment (NIA) has been submitted. This considers noise generated by the plant and machinery and does confirm attenuation would be required for the plant serving the Greggs unit.
- 9.25 The NIA also considers the effect of noise generated by other sources of noise including deliveries, customer activity, vehicle movements and the drive through speakers, this against the backdrop of existing noise climate characterised by traffic noise from the Bilston Road. Environmental Health have advised that the drive through wall will act as a reflective surface, directing noise from the drive through towards residential premises opposite. As any associated signage will not be sufficient to provide effective mitigation, an acoustic barrier is likely to be required along the boundary with Cleveland Road to protect residents. Whilst the exact specification and location of the barrier will need to be agreed, it will have to be of sufficient height to protect upper floors. This has the potential to cause further harm to the streetscene in design terms.
- 9.26 This NIA predicts that the development could result in night-time noise impacts associated with unrestricted deliveries. Despite the applicant's intention that delivery should remain unrestricted, activities relating to refuse disposal and collection, servicing and deliveries to the development need to be controlled. Furthermore, the drive through tannoy/speakers even with a level of mitigation screening could be harmful to residential amenity when considering the early start of 5.00am and closing at 11.00pm.
- 9.27 Environmental Health have confirmed that the period 5.00am to 7.00am is classed as night-time and any activities associated with the drive through during this period are likely to impact on the amenity of residents. A recommendation to reduce the hours of opening

to 7.00am to 10.00pm would protect future residents during sleep hours and when the background noise is lower.

- 9.28 To prevent the site being accessible by vehicles during unsociable hours, the car park can be secured via bollards. This mitigation measure ensures that residential amenity of neighbours would not be materially harmed.
- 9.29 Given the separation distances across a public highway, between the development and future neighbours, there would no loss of privacy. When granting the outline consent 17/01209/FUL for the dwellings adjacent the Royal Hospital site, the view of the application site was not considered to constitute a harmful immediate outlook. For the reasons stated above, the view of the Cleveland Road elevation of the drive through building and a use dominated by car movements at the nearest point to these dwellings opposite, would offer a compromised residential outlook and environment for future occupiers. However, on balance, it would be difficult to sustain this as a reason for refusal.
- 9.30 Suitable provision of bins to be provided within the car park for customers can be secured by condition.

## **Ecology**

- 9.31 A preliminary ecological assessment of the existing buildings has been undertaken and confirms there is negligible potential for the presence of bats and no further survey is therefore needed. The same assessment confirms that the site also has low potential for protected bird species and no further surveys are recommended.

## **Public Benefits**

- 9.32 Paragraph's 193 and 194 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 any harm should require clear and convincing justification. This is irrespective of whether any potential harm amounts to less than substantial harm to its significance. The identified harm carries substantial weight against the proposal.
- 9.33 In this case, the proposal would result in less than substantial harm under Paragraph 196 of the NPPF to the significance of the designated heritage assets. Paragraph 196 goes on to explain that where this occurs, it needs to be weighed against the public benefits including securing the optimum viable use.
- 9.34 The Planning Practice Guidance states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in paragraph 8 of the Framework. Public benefits should flow from the proposed development and should be of a nature or scale to benefit the public at large and should not just be a private benefit.
- 9.35 The applicant has set out their consideration of public benefits, which include:
- Reuse of site which has been vacant for over 12 years and beyond economic repair.

- New jobs (16.5 full time equivalents).
  - Source of income to support existing long-established business, providing opportunities and new jobs, and facilitate repairs to locally listed building.
  - Introduction of two well-respected brands, providing amenities to residents
  - Left in its current condition, the building will be left to deteriorate, resulting in harm to the Conservation Area, risk of vandalism and arson.
  - Open up views of the Royal Hospital.
- 9.36. The LPA has reviewed the Marketing Assessment which was commissioned in May 2018, and conducted for a 12 month period. Wright Silverwood specialise in the retail and leisure market. The document confirms the approach taken was to engage with personal contacts, on an informal basis, they also engaged with local industry experts. This acknowledges that to keep intentions confidential, it was not appropriate to erect an advertising board on site or to indulge in any other form of overt advertising and marketing, and as such no formal particulars were produced. The formal log of any enquiries received through marketing campaign are only stated to be between May 2018 to October 2018.
- 9.37 The existing building survey undertaken outlines the very poor state of the existing buildings located on the site. The buildings have been empty for over 12 years and the applicant conclude are not capable of economic repair and the on-going derelict condition of the warehouse buildings remains a threat to the locally listed Dixons Building. The warehouse buildings have been removed from the rating list as a result of their condition.
- 9.38 The Planning Practice Guidance advises that when requiring a developer to evidence that there is no viable use in respect of a heritage asset, the aim of such marketing is to reach potential buyers who may be willing to find a viable use for the site that still provides for its conservation to some degree. Saved UDP Policy HE6, requires that demolition of buildings in a conservation area is not permitted unless all other alternatives have been pursued and it can be demonstrated that the building or structure is dangerous or incapable of repair, and detailed plans for redevelopment are approved, which will preserve and enhance the conservation area in accordance with UDP policy HE5.
- 9.39 In terms of exposure to a potential residential or mixed used development, which could achieve the scale and massing required for this sensitive location, the evidence is far from persuasive. The Council is not convinced that the marketing carried out has taken place for a sufficient period or that it has reached all potential developers/investors so that potential interest for a viable use and/or better designed scheme which responds to the heritage setting, has been fully exhausted. Furthermore, the application does not indicate that potential streams of external funding (e.g. West Midlands Combined Authority) have been explored to support a more contextually appropriate form of development.
- 9.40 Given the limitations of marketing and exploration of other routes of funding, there is no evidence to show that, in the event that the application were refused, another scheme for

the site could not or would not come forward that might strike a better balance between its effects on the historic environment and its public benefits compared to the proposed development. There is also no doubt that the extensive development currently taking place in this area could act as a catalyst and make this site more attractive on the market.

- 9.41 Despite the run-down appearance of warehouse buildings, the buildings do contribute to the significance of the Conservation Area. In contrast, as described above, the proposal will harm the conservation area and the setting of the Royal Hospital and Dixons building. Providing views through the application site to the Royal Hospital is not a decisive factor in developing this site, such that there would be no visual or design based public benefit.
- 9.42 The contribution that the proposal would make to boosting the economy, job creation and providing amenities to residents would be of public benefit and attracts weight, however some of the possible benefits of the proposal that have been cited are limited and would be tempered by associated disbenefits.
- 9.43 The public benefits are not sufficient to outweigh the less than substantial harm to the setting of to Cleveland Road Conservation Area, the Grade II Listed Royal Hospital and adjacent locally listed building that has been identified above, bearing in mind the statutory duties, that the NPPF states that great weight should be given to the conservation of designated heritage assets and that considerable importance and weight should be given to the desirability of preserving the setting of listed buildings and conservation areas in planning decisions.

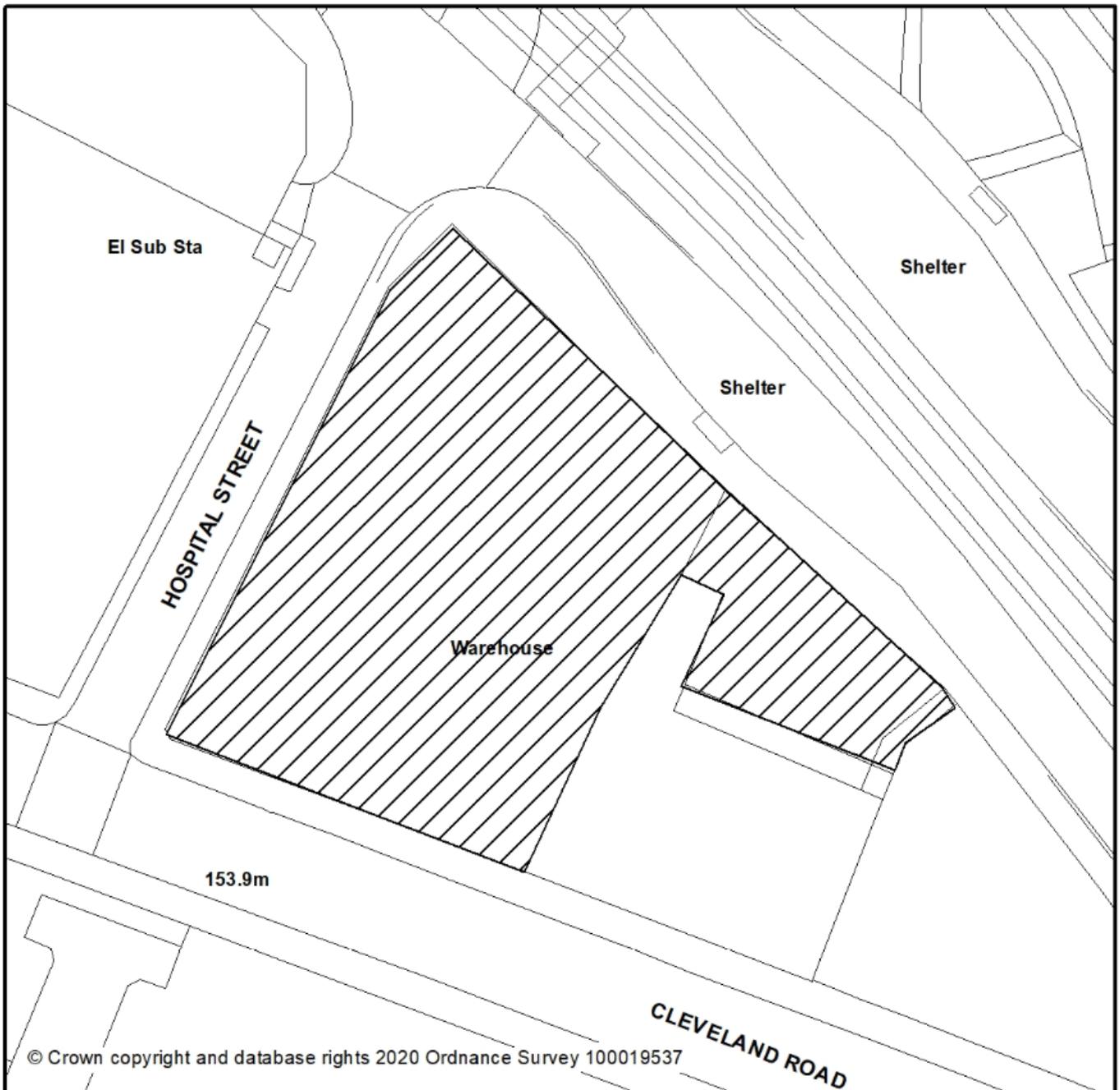
## **10.0 Conclusion**

- 10.1 The overall planning balance is against the proposed demolition of the building and replacement with a drive-through and retail unit. It would be contrary to the Development Plan as a whole, and there are no material considerations or collective weight of benefits which would outweigh the harm to local character and distinctiveness and setting of heritage assets.

## **11.0 Detail recommendation**

- 11.1 Refuse planning permission on following ground;
1. The proposal involves the demolition of warehouse buildings which contribute to the significance, character and appearance of Cleveland Road Conservation Area through their layout, scale, form and materials. The proposed scheme fails to make a positive contribution to local character and distinctiveness, as it involves a typical drive through, single storey built form within an area of surface car parking which does not reflect the pattern of built form, design quality or scale of development that would be required to complement the existing context, or the emerging regeneration of the Royal Hospital development area. The proposal would result in harm to the character and appearance of the Cleveland Road Conservation Area, and harm to the setting of the Grade II Listed Royal Hospital and Locally Listed Dixons Building. The proposal conflicts with saved

Unitary Development Plan Policies HE1, HE4, HE5, HE6, HE17, HE19, D4, D5, D6, D7, D8, D9, Black Country Core Strategy Policies CSP4, ENV2 and ENV3, City Centre Area Action Plan Policies CC8 and CC9, and relevant policies contained within the National Planning Policy Framework. The public benefits are insufficient to outweigh the less than substantial harm to the setting of to Cleveland Road Conservation Area, the Grade II Listed Royal Hospital and adjacent locally listed building.



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