

Birmingham City Council

Planning Committee

03 December 2020

I submit for your consideration the attached reports for the **City Centre** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|--|-------------------|---|
| Approve – Subject to 106 Legal Agreement | 6 | <p>2020/01796/PA</p> <p>Digbeth Central Bus Garage (land to the north and south of Adderley Street) Digbeth Birmingham B5</p> <p>Full Application for the phased demolition of existing buildings and structures and development of Plot 1, comprising 213 no. residential apartments (Class C3) within a single building up to 15 storeys in height (up to 158.7m AOD); flexible use of the ground floor for any combination of retail (Class A1 and A2), food and drink (Classes A3/A4/A5), office (Class B1), leisure (Class D2) and community and cultural (Class D1) totalling 1,375sqm GIA; amenity garden for residents at first floor level, together with parking and associated works; and</p> <p>Outline Application with all matters reserved for the phased development of Plots 2-6, comprising up to a maximum of 1,250 residential homes (Class C3) and up to 950 student accommodation apartments (Sui Generis), with retail (Class A1 and A2), food and drink (Classes A3/A4/A5), office (Class B1), leisure (Class D2) and community and cultural (Class D1) uses at ground floor level totalling up to a maximum of 19,340sqm, within buildings varying in height up to 190.0m AOD (illustratively shown between 6 storeys and 25 storeys); parking, public realm and ancillary facilitating works and associated works</p> |
| Approve – Subject to 106 Legal Agreement | 7 | <p>2020/00189/PA</p> <p>Radio House 15 Sutton Street City Centre Birmingham B1 1PG</p> <p>Demolition of existing building and construction of six storey residential building comprising 45 one and two bedroom apartments and ground floor office (Use Class B1a) unit with associated car parking</p> |

Approve – Conditions

8

2020/05576/PA

Site between 50-52 Newhall Street and 85-87
Cornwall Street
Birmingham
B3 3RJ

Erection of dwelling including a basement, with
proposed site clearance and all associated works.

Approve – Conditions

9

2020/05598/PA

Site between 50-52 Newhall Street and 85-87
Cornwall Street
Birmingham
B3 3RJ

Listed Building Consent for the erection of dwelling
including a basement, with proposed site clearance
and all associated works.

| | | | |
|-----------------|----------------------|---------------------|---------------|
| Committee Date: | 03/12/2020 | Application Number: | 2020/01796/PA |
| Accepted: | 04/03/2020 | Application Type: | Full Planning |
| Target Date: | 24/06/2020 | | |
| Ward: | Bordesley & Highgate | | |

Digbeth Central Bus Garage (land to the north and south of Adderley Street), Digbeth, Birmingham, B5

Full Application for the phased demolition of existing buildings and structures and development of Plot 1, comprising 213 no. residential apartments (Class C3) within a single building up to 15 storeys in height (up to 158.7m AOD); flexible use of the ground floor for any combination of retail (Class A1 and A2), food and drink (Classes A3/A4/A5), office (Class B1), leisure (Class D2) and community and cultural (Class D1) totalling 1,375sqm GIA; amenity garden for residents at first floor level, together with parking and associated works; and

Outline Application with all matters reserved for the phased development of Plots 2-6, comprising up to a maximum of 1,037 residential homes (Class C3) and up to 950 student accommodation apartments (Sui Generis), with retail (Class A1 and A2), food and drink (Classes A3/A4/A5), office (Class B1), leisure (Class D2) and community and cultural (Class D1) uses at ground floor level totalling up to a maximum of 19,340sqm, within buildings varying in height up to 190.0m AOD (illustratively shown between 6 storeys and 25 storeys); parking, public realm and ancillary facilitating works and associated works

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

1.1 The planning application is submitted as a hybrid application as follows:

- Full planning permission is sought for the:
 - Demolition of all existing buildings and structures (with the exception of the wall fronting Liverpool Street)
 - redevelopment Plot 1;
- Outline planning permission for the redevelopment of Plots 2 to 6. Whilst all matters are reserved for approval in the future consent is sought at this stage for the minimum and maximum amount of development proposed for each use class and the minimum and maximum footprint and scale of each plot.

1.2 The overall site area is 2.54 hectares comprising of two distinct land parcels; one to the north and the other to the south of Adderley Street.



Aerial Photograph showing the extent of the hybrid application (red) and the detailed application at Plot 1 (hatched blue)

1.3 In more detail the proposed development comprises the following,

Plot 1 (full) – single building of 1, 7 and 15 storeys

- a) phased demolition of existing buildings and structures on site, with the exception of the wall fronting Liverpool Street that is to be retained;
- b) 213 residential units - 49% 1 beds (104 no. units), 48% 2 beds (103 no. units) and 3% 3 beds (6 no. units);
- c) 1,375sqm non residential flexible floorspace at ground floor (retail, food and beverage uses, office, community/cultural and/or leisure);
- d) a communal amenity garden for residents at 1st and 7th floors; and
- e) 32 parking spaces and 222 cycle spaces.

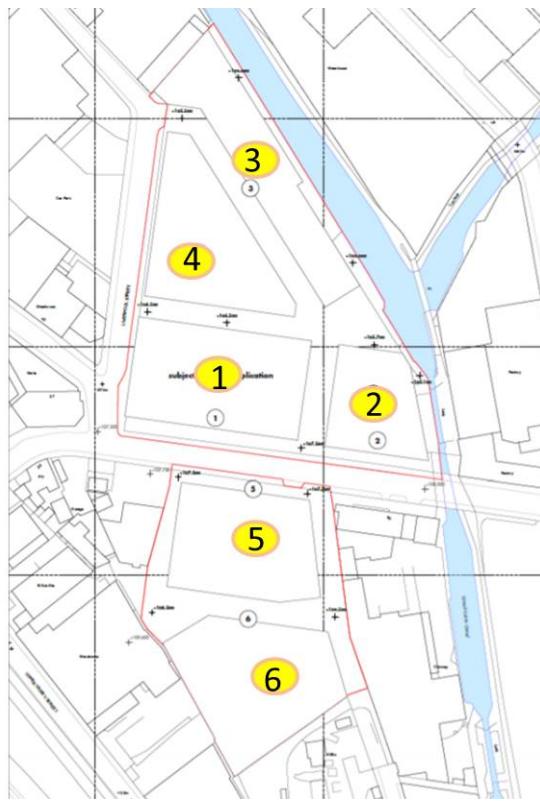


Plot 1 - South Elevation Facing Adderley Street

Plots 2 to 6 (outline) – (buildings between 6 and 25 storeys)

- a) Up to 950 units of student accommodation (sui generis);
- b) Up to 1,037 residential units (Use Class C3) - all plots would provide residential accommodation on the upper floors (although it could solely comprise of student accommodation on plots 5 and 6) and a possible mix of ground floor uses as follows:
 - c) Retail Floorspace (Use Classes A1, A2, A3, A4) – between 1,470sqm and 8,725sqm
 - d) Office Floorspace (Use Class B1) – up to 7,080sqm
 - e) Community and Cultural Floorspace (Use Class D1) – up to 1,010sqm
 - f) Leisure Floorspace (Use Class D2) – up to 2,525sqm.

1.4 The total non-residential commercial floorspace across Plots 2 to 6 is between 4,070sqm and 10,100sqm.



Location of Plots 1 to 6

1.5 Whilst the reserved matters of access, layout, landscaping, scale and appearance would be determined at a later stage approval is sought for a number of principles established by the following documents, and these would be approved for the later reserved matters applications to adhere to:

- a) Parameter Plans – these define the physical 3-dimensional envelopes of the plots in terms of their footprint and height, as well as the location of the main areas of open space, the access routes into and through the site, and the land uses being applied for;
- b) Development Specification - defines the minimum and maximum permissible floorspace for each use class;
- c) Design Code - provides a set of mandatory design requirements that will instruct the future physical development of individual buildings and areas of public realm when determined through reserved matters applications.

1.6 The maximum total floorspace proposed for the site is 118,502sqm (GEA), which comprises the maximum permissible floorspace at ground level plus the maximum floorspace for living accommodation at upper levels.

1.7 In addition to the floorspace the proposed development would include a minimum of 8,516sqm (0.85 ha) of accessible public realm plus a new public square of 787sqm.

1.8 An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the wider development during

the construction and operational phases of the development. It also identifies any mitigation measures that are required to address these environmental effects.

- 1.9 The topics covered in the ES are Townscape and Visual, Heritage, Wind Microclimate, Daylight, Sunlight and Overshadowing, Contamination, Socio-Economics and the Cumulative Effects of this development plus other developments that have been approved or are being brought forward in close proximity to the site.
- 1.10 The application has been accompanied by the following supporting documents:
 - Planning Statement (and Addendum);
 - Retail and Town Centre Uses Statement;
 - Residential Statement;
 - Sustainable Construction Statement;
 - Transport Assessment;
 - Draft Framework Travel Plan;
 - Statement of Community Involvement;
 - Energy Strategy;
 - Archaeological Assessment;
 - Drainage Strategy;
 - Financial Viability Assessment;
 - Flood Risk Assessment;
 - Noise Assessment;
 - Ecology Assessment; and
 - Air Quality Assessment.

1.11 [Link to Documents](#)

2. Site & Surroundings

- 2.1 The site is located between the Watery Lane Middleway (A4540) and the Bordesley Viaduct that carries the train lines leading out of Moor Street Station. The site is bisected into northern and southern parcels by Adderley Street. The northern part of the site is triangular in shape, measures approximately 1.63 hectares and is currently occupied by National Express as a bus depot. It is bordered by the Grand Union Canal to the east, Adderley Street to the south and by Liverpool Street to the west. With the exception of the façade to Liverpool Street the existing bus depot built in 1935 to 1936 would be demolished. National Express are joint applicants and are seeking to secure replacement depots in the West Midlands at locations that are more closely aligned to the current network, and would support its commitment towards full electrification of the fleet by 2030. The applicants have remarked that the bus depot was built to service a very different operation to that which National Express currently supports, and the building is oversized and inefficient.
- 2.2 The southern parcel measuring approximately 1.63 hectares is currently used a surface car park. It is bordered by Adderley Street to the north, a mixture of employment uses and warehousing to the west, east and south.

2.3 The site is not located within a Conservation Area however Digbeth, Deritend and Bordesley High Street Conservation Area is located approximately 125m to the north and west of the northern parcel and the Warwick Bar Conservation area lies approximately 160m to the north. There are no listed buildings on site however the following buildings and structures lie within 300m of the site:

- i. Roving Bridge (pedestrian) over entrance to Birmingham and Warwick Junction Canal at Bordesley Junction (Grade II);
- ii. Road bridge (no.95) that crosses the Warwick to Birmingham Canal (Grade II);
- iii. St Basil's Centre for Detached Youth Work, Heath Mill Lane (Grade II);
- iv. Public Toilets attached to Corner of 54 Liverpool Street/Great Barr Street (Grade II);
- v. Clements Arms Public House, Coventry Road (Grade II);
- vi. Former Church, (Part of Premises Occupied by Dolphin Showers), Digbeth High Street (Grade II); and
- vii. The Old Crown Public House, Digbeth High Street (Grade II*)

2.4 There are also a number of locally listed buildings within 100m of the site:

- i. Dead Wax pub on Adderley Street (formally the Waggon and Horses);
- ii. the MEB Substation on Upper Trinity Street;
- iii. the Canal Pumping Station accessed from Bowyer Street; and
- iv. Bordesley railway viaduct.

2.5 A new Metro stop is proposed on Adderley Street serving the proposed East Birmingham and Solihull Metro extension tram line between the north and south parts of the application site.

2.6 Beyond the application site boundaries, a number of significant development schemes are coming forward within Digbeth and the surrounding area, which are either under construction already, consented or awaiting determination. These include Connaught Square, the Stone Yard, the Irish Centre and Lunar Rise located on the other side of Digbeth/Deritend High Street and Upper Trinity Street and Oval Estates that are located closer to the current application site to the west of the High Street. These are all residential-led mixed-use schemes with Plots 5 and 6 of the current application site sharing a boundary to the proposals at Upper Trinity Street.

3. Planning History

3.1 North of Adderley Street - 1991/03745/PA – Certificate of Lawfulness: Weatherproof Envelope to Existing External Fire Escape Staircase. Approved 08/10/1991

3.2 South of Adderley Street 2006/00887/PA - 2011/05920/PA – Retention of Two Temporary Portacabins. Approved 17/10/2011

Sites Nearby Referred to in Report

3.3 Lunar Rise – 2017/07207/PA - Demolition of existing buildings and the development of 517 residential apartments (including a 25 storey tower) with commercial units (Class A1-A5 and Class D2) at ground floor level and parking. Approved 21/02/2018

3.4 Connaught Square - 2016/08273/PA - Clearance of site and the erection of new buildings ranging from 4 storeys to 28 storeys to provide 770 residential units and 3,529sqm of commercial/retail/leisure and community uses (Use Classes A1, A2, A3, A4, B1, D1 and D2) together with car parking, new public square and pedestrian bridges over the River Rea, landscaping, engineering operations and site clearance and associated works. Resolution 18 July 2019 to grant planning consent subject to a legal agreement.

3.5 Bull Ring Trading Estate / Stone Yard - 2019/07805/PA - Full planning application for the demolition of all building and the erection of 7no. 6 - 30 storey buildings comprising 995 residential apartments (Use Class C3) and associated internal amenity space, flexible amenity and retail / leisure floorspace (Amenity / Use Class E, Use Class F1, Use Class F2 and Sui Generis Pub or drinking establishment, hot food take away and cinema), car parking, cycle parking, landscaping and access. Approved -8/09/2020

3.6 Irish Club - Minstrel Music, 14-20 High Street, Digbeth - 2020/05247/PA - Full planning application for demolition of The Irish Centre at 14-20 High Street and the erection of 1no. 48 storey building providing 454 new residential apartments (Use Class C3), associated internal amenity space and ancillary cycle parking. Awaiting Determination

3.7 Upper Trinity Street - 2020/02906/PA - Demolition of existing buildings (except the Lock Keeper's Cottage and Pump House) and development of up to 1,100 homes (Use Class C3), a hotel (Use Class C1), flexible commercial units comprising Use Classes A1, A2, A3, A4, A5, B1, D1 and D2, car parking and vehicle access, landscaping and public realm, underground services, ground works including changes to land levels, boundary treatment and associated works and development. Awaiting Determination

3.8 Oval Estates – 2020/03634/PA - Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm floorspace (GIA) comprising up to 1,850 units of residential accommodation (Use Classes A1, A2, A3, A4, A5, B1,C1,C3, D1,D2); car parking (including multi-storey car park), student accommodation and nightclubs (Sui Generis) (up to 26,100sqm GIA) within buildings ranging from 1 to 15 storeys; associated public realm works, including new pedestrian bridges across the River Rea and the Grand Union Canal and two new bridges to form a linear sky park atop Duddeston Viaduct on land bounded by Montague Street, The Grand Union Canal, Barn Street, Milk Street, High Street Deritend, Adderley Street and Liverpool Street. Full planning application for part demolition part conversion and construction of a mixed use development ranging from 1 to 9 storeys (Use Classes B1, A1 to A3) and associated public realm on Wild Works site bounded by Floodgate Street, Moores Row, Milk Street and the Bordesley Viaduct (Plot CF1); Full planning application for demolition of existing buildings and erection of a residential development comprising 40 no. units within a building of 7 storeys (Use Class C3) with ground floor retail/food and drink uses (Use Classes A1 to A3) and associated public realm, including a new

pedestrian bridge over the River Rea on land bounded by the River Rea and Floodgate Street (Plot CF2); Full planning application for a three storey rooftop extension to the existing Custard Factory to form additional workspace (Use Class B1) and extension at ground floor (Use Classes A1, A3, A4 and B1a). Awaiting determination

4. Consultation/PP Responses

- 4.1 Environment Agency - Wish to make the following comments. Groundwater and Contaminated Land - The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. We generally agree with the outline remediation strategy for the northern section part of the application site but further site investigation work is required in the southern section to allow for risk assessment and option appraisal to take place.
- 4.2 Civic Society – (a) Submission as a hybrid application containing an informal masterplan. On one hand, this appears a laudable and constructive gesture by a landowner to consider future development within a wider context. However, while the plan will no doubt contain a number of mitigations for future development, where there is no formal measure to ensure these are carried out, or where these are not in the applicant's gift, it cannot be relied upon that these will be delivered (for example the 'High Line' use of the Viaduct). There is a risk that the output is treated as formal policy, and is used as reference when such developments are assessed, which must be resisted. Future applications must be considered entirely on their own merits, and in isolation from the Masterplan.
- 4.3 b) The scheme now submitted is generally well received, with the caveat of the historic significance of the Bus Garage itself.
- 4.4 c) The Garage is not statutorily listed, nor locally listed – however the Civic Society amongst other interested parties feel reassessment of the local list is overdue, particularly with respect to Twentieth Century buildings such as this. We request that further information be provided on this site.
- 4.5 d) Somewhat concerned that the site as proposed would not have sufficient amenities to act as an effective community, but generally note that it is deceptively close to the City Centre.
- 4.6 e) Overall no objections to the design of the scheme, which will have relatively little impact despite its scale on this otherwise disconnected and poorly utilised area of the city. The design team has an excellent track record both within and outside of the City, and the masterplan (despite reservations above) expresses a thorough understanding of the site and if its overarching aims can be delivered, will be beneficial.
- 4.7 In summary, feel there is potential to support this application but would encourage

the above point c) to be addressed.

4.8 Canals & Rivers Trust – Object. The southern boundary of Phase 6 of the development site adjoins the Bowyer Street pumping station, an important operational site for the Trust. Further, the Bowyer Street feeder runs below much of the site, running roughly north-south from pumping station to canal, and must be protected from any harmful effects from demolition, construction or future operation as it is critical to the maintenance of and water management in the canal network. Therefore, the significant impacts of the proposed development for the Trust relate to the need to ensure that the structural integrity of the canal and the feeder channel are protected and able to be maintained, and that the visual impacts on the canal corridor are such that it enhances the environment, increases activity and engages with it, and improves the attractiveness of the canal as a route for a variety of different benefits.

4.9 Heritage - Support the proposals to transform this area and contribute positively to the canal network and its environs. The scheme provides promise of a positive development in this location. We support the suggestion of archaeological and historic recording of assets at the beginning of the development process, and especially ask that this includes any remains of the former wharf on the site that might be found. We also seek the retention of any historic copings along the canalside, if any are identified. The canal itself also needs to be identified as a non-designated heritage asset in future assessments relating to this development. The proposed Construction Management Plan includes protection for the canal, and heritage induction for contractors should be a requirement of a condition if planning permission is granted.

4.10 Design - Its impact on the character, appearance and use of the canal corridor are difficult to satisfy based on the information available. It is important to ensure that the maximum parameters will not result in significant concerns in the future when reserved matters applications are made. We are keen to ensure that the height of the buildings along the canal side are not overly high, bulky in massing, dominant or overbearing on the canalside environment. Due to their location it is best that they are set back at least a little from the water's edge so that they do not result in an unacceptable degree of overshadowing of the canal. The parameter plans need to demonstrate clearly the minimum set back from the waterspace of the proposed buildings, the maximum height and the resultant shading that this would create, and thus the acceptability of the principle of the proposals. This would also assist in assessing the impact of the proposed development on the surrounding character of the Digbeth stretch of canal, especially its waterfront built form. The parameter plans provided do not appear to do this in a clear way that is easily understood and assessed, and the Trust therefore ask that this be clarified for certainty prior to the determination of the application. The Trust does consider that elements of the proposed design principles are positive the provision of a frontage onto the canal with engaged development and a focal point of canal side amenity space would provide a magnet to draw people to the waterside environment and enjoy it/benefit from it. The likely floor layouts also suggest that there would be active, engaged canalside uses at ground floor levels and this is also welcomed we ask that if planning permission is

to be granted, these principles be carried through and required of the reserved matters schemes as they are developed.

- 4.11 Structural integrity of feeder channel - A significant, large and regularly used feeder channel lies under this site, leading from the Bowyer Street pumping station to the canal network north east of the site. Its location and condition must be identified, protected/maintained and retained in operation throughout any demolition, construction and operation of new development on the site.
- 4.12 Drainage & canal water quality - It is important that all drainage outlets are identified and protected, so that during demolition and construction they do not provide pathways for litter and/or pollution to reach the canal. Similarly, any future drainage system needs to be designed and installed such that it does not result in harmful effects on the canal water quality either during construction or operation. A condition is requested to protect the canal. The Construction Environmental Management Plan (CEMP) will need to identify and address necessary protection and mitigation measures to protect the canal during the construction and the required drainage strategy and details will need to be specific and comprehensive.
- 4.13 Connectivity - The adjacent canal network provides an ideal off road sustainable travel route on foot and by bicycle for work and leisure. The non-residential elements of the proposal should include secure bicycle storage and shower provision to encourage sustainable travel for staff, as well as external cycle hoops for visitors. The proximity and benefits of the adjacent canal network and sustainable off-road routes should be included in the travel plans for residents, staff and visitors of its proximity, accessibility and the local employment, leisure, shopping, and transport hubs to which it leads. If a planning permission is granted, it should include a condition requiring this information to be identified and included in travel plans for each phase of the development. It is important that wayfinding and signage is provided within the public realm to identify a range of networks, routes and destinations for the whole development, that helps legibility, access and travel both within the development site and into/out of it to link to other routes and destinations. We ask that a condition is imposed. As part of the connectivity and wayfinding for the site, circular walks could also be devised and promoted, linking the site to its surroundings and celebrating the local biodiversity interests.
- 4.14 Planning obligation - There appears to be little within the supporting documentation of the application that explains how the development would create links to the canal. Available local greenspace is identified but includes no real assessment of how to get there or the benefit of the canal in between as a route to access it. These benefits of the canal network for the residents and occupiers of this development are hugely significant and it is important that access to the towpath network is provided. The development warrants a requirement to investigate and provide if possible, or at least contribute towards, a new access point onto the towpath at Adderley Street. This would need to include a safe route to the towpath from the pavement, and appropriate signage and wayfinding.

4.15 Boating - Opening up the offside of the canal would also allow for the potential to have boats moor up along this stretch. This would aid activation of the site and encourage other travel modes. It would be beneficial for the external space relating to plots 2 and 3 and we ask that the canal edge be futureproofed with the provision of power/water points and (lit) mooring bollards, or at least below ground utilities infrastructure to allow their future installation.

4.16 Biodiversity - The principles for biodiversity, including the importance of trees, are welcomed by the Trust and should be continued throughout all the phases of the development. These should maximise biodiversity net gain, and where they are alongside or close to the canal, should include trees of biodiversity value, pollinators and edible trees and shrubs. They should also seek to promote the conservation, restoration and enhancement of priority habitats and ecological networks. The potential for green/brown roofs shown on the indicative images should also be thoroughly explored and included in future proposals. External lighting adjacent to waterspace must be carefully controlled to prevent the illumination of the waterspace, so that reflection/glare is avoided, and the corridor remains available for use by nocturnal wildlife. We therefore ask that for plots 2 and 3, the external lighting scheme is controlled.

4.17 Other matters - Any demolition near the canal edge must be controlled to prevent any potential threat to the canal and the wider network. Air borne pollution or water seepage/spillage/run-off should all be avoided in order to protect the water environment and users of the canal and towpath. This could be controlled through the imposition of condition. Canalside reserved matters applications should include details of moorings proposed along the offside.

4.18 Access & connectivity - The application documentation suggests that there is an access point onto the towpath at Glover Street, but we are able to confirm that this is not the case. We therefore consider it both possible and likely that discussions around providing an appropriate access could and should be pursued.

4.19 Design & Shading - The design code, in the illustrative massing states that the overall form is designed to maximise sunlight to the Bordesley Wharf but there is no explanation or evidence of this, such as a sun study. Whilst the development design would be positive for the canal by providing visual security, canalside activity and public realm/amenity space, the design code and supporting information does not give the opportunity to understand the impacts of the proposed canalside heights on the character and sunlight levels. The design code does have some reference to sunlight in its architectural principles and lower roofscape but this is not a robust study that could inform the parameter plan heights. There is also no comparison of the impact on the canal of the existing mass on site relative to the proposed, which could inform the parameter plans impact on character, proximity and setting. We therefore continue to seek further clarification on this matter in order to preclude a detrimental level of shading on the canal resulting from excessive proposed building heights.

4.20 The clarifications provided by the applicant suggest that the development would be of a much greater height in contrast to the established built character in Digbeth. The suggested tall and long horizontal scale at canal level would result in overbearing impacts on users of the canal and a negative impact. Do not consider the parameter plans are clear to assess the height and bulk of the canalside form. The identified access point from Glover Street to the canal does not exist and a new access from Adderley Street would be more appropriate. Note the applicants consider that individually they not be able to provide this additional access point however contributions could be pooled from several developments. Lack of appreciation of existing canal infrastructure is disappointing.

4.21 Historic England - Concerns regarding the impact of this large scale development on the setting of the Digbeth, Deritend and Bordesley High Street Conservation Area and the Warwick Bar Conservation Area. The development exacerbates the cumulative impact of a growing number of out-of-scale buildings within the setting of the two conservation areas of a low-scale industrial character and appearance.

4.22 The application site lies adjacent to the Warwick and Birmingham Canal occupying a large area east of the Digbeth, Deritend and Bordesley High Street Conservation Area and the Warwick Bar Conservation Area. Digbeth is synonymous with the early development of Birmingham and the growth of its industry from the medieval period alongside the River Rea. The site in question lies within the setting of the conservation area and multiple listed buildings, in an area that developed substantially in the 19th century for industrial uses serving varying metal trades typical of the area, and the Birmingham Corporation Gas Works south of Adderley Street. The north of the site has operated as the City's bus depot since the mid-1930's, designed by Birmingham's noted architects Crouch, Butler & Savage for the Council's 'Tramways and Omnibus Department'. The significance and development of this area is captured in detail in Historic England's 'Digbeth and Deritend, Birmingham, West Midlands: Outline Historic Area Assessment' (2018), for which the Bus Depot is hailed as a notable distinctive feature of the Digbeth streetscape.

4.23 Matters within the outline application are to be controlled by a series of parameter plans and a design code. With the site's large area, its established industrial and civic history and relationship to neighbouring heritage assets in mind, we would draw your attention to the statutory duties of the local authority set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirements of sections 12 and 16 of the NPPF. What is more, section 16 of the NPPF calls for local authorities to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance (paragraph 200). Section 12 calls for achieving well designed places, ensuring that developments are sympathetic to local character and history (paragraph 127c). Unfortunately the present scheme appears far from achieving this.

4.24 Historic England has no objection to the principle of redevelopment here which offers a welcome opportunity to enhance the area's relationship to the canal and celebrate the area's heritage in the setting of the two conservation areas. However, the detailed application seeks buildings of up to 16 storeys (including roof plant), and the

outline application includes maximum height parameters for buildings of up to 25 storeys. We feel that this is likely to exacerbate the cumulative impact of a growing number of out of-scale buildings within the setting of the Digbeth, Deritend and Bordesley High Street Conservation Area and the Warwick Bar Conservation Area, dramatically changing what is a low-scale industrial area, towering over the conservation areas. It is likely the scheme will be most apparent in views from Lower Trinity Street, Bromley Street, Allcock Street, Liverpool Street/Fazeley Street, and even along High Street Deritend. Digbeth's unique character and appearance is well-regarded and celebrated. The area has received a great deal of attention in the past few years for its close proximity to the new HS2 Curzon Station and for fears of the potential loss of character as a result of high development pressures. These issues were examined by Historic England's Urban Panel (now Historic Places Panel) during their visit to Digbeth in 2016. The panel's recommendations highlighted the importance of safeguarding Digbeth's unique qualities in all future redevelopment, calling for a strategic approach to development through specific planning policies rather than by developer-led proposals. We fear that this current application may present a missed opportunity to achieve this in the wider Digbeth area and setting of the conservation area. We would advise that you study their findings when considering this application. We urge the City Council and the applicants to explore ways of developing this site without causing such irreparable harm to the area's heritage. We feel that the scheme would need to be significantly reduced in height and scale to address the impact on the historic environment.

- 4.25 BCC Employment Team – Request for the submission of a construction employment plan.
- 4.26 Local Lead Flood Authority (LLFA) – The proposed staged discharge is acceptable. The LLFA welcomes the commitment to incorporating green roofs and permeable paving within the drainage strategy and the resulting 97% post development betterment in surface water discharge rate. Additional maintenance information is required. No objections subject to conditions to require the prior submission of a sustainable drainage scheme and Sustainable Drainage Operation and Maintenance Plan.
- 4.27 Police - The site is policed by Ladywood Neighbourhood Team and calls to the service are high. There have been 35 recorded crimes on Liverpool Street and Adderley Street alone in the past 12 months, including 14 vehicle crimes, 4 burglaries and 7 assaults. There are also incidents of alcohol and drug abuse, disorders and road traffic accidents.
- 4.28 Full Application Plot 1: no objections but raise following concerns:
 - Can it be confirmed that the outdoor amenity space is for residents only?;
 - Is there a management plan in place for the upkeep of the communal areas? Who is responsible for the collection/replacement of bins waste and recycling bins on collection day?
 - Will both the vehicular and pedestrian entrance/egress be subject to access control? Will access control then be continued throughout the development, for

example will residents on the first floor require access to the upper storeys? Access control should be in place at lifts and stairwells;

- The two layers of security at the access door is supported and will help prevent tailgating but query raised regarding the height of the defensible space;
- What is the height of the balustrade to the 'accessible roof space' on levels one and seven? Attention is drawn to 'Preventing suicides in public places: A practice resource' (2015) by Public Health England;
- The mixed use units on the ground floor are self-contained with no access into the further development and this is supported;
- To reduce burglary each individual 'flat' and the communal entry doors should be treated as a separate;
- Doors to the bin store and cycle storage areas should also be of a suitable security standard.
- What measures have been put in place to ensure there will be sufficient 4G coverage for emergency radio contact to be upheld?;
- Request that a monitored CCTV scheme and a suitable alarm system for all entrance/egress, communal areas and cycle store and parking spaces; and
- recommend that this proposal is developed to enhanced security standards produced by Police Crime Reduction initiative 'Secured by Design';

4.29 Outline Application – Plots 2 to 6:

- The designs of any buildings, or public open spaces, be to the general principles of Secured by Design;
- Further guidance of the residential aspects of the site should be undertaken to the standards laid out in the Secured by Design 'Homes 2019' guide;
- Recommend that a new lighting scheme be produced;
- All lighting schemes should follow the guidelines and standards in 'Lighting Against Crime';
- Strongly recommend a condition requiring that a suitable site-wide CCTV scheme be installed;
- Need for Hostile Vehicle Mitigation measures to be installed; and
- Consideration be given to the application of anti-graffiti coating to all accessible surfaces.

4.33 Severn Trent Water - no objections subject conditions to require the submission and implementation of foul and surface water drainage plans.

4.31 BCC Transportation - This development is part of wider regeneration improvements in Digbeth. The additional information has confirmed details regarding servicing and footway provision as requested. Suggested conditions:

- a) Works required include reinstating redundant footway crossings, provision of new crossings, kerb alterations, footway and lighting improvements, layby and footway provision, and associated Traffic Regulation Order provision;
- b) Car parking be provided in each phase before that phase is occupied;
- c) Cycle parking be provided in each phase before that phase is occupied;

- d) A Construction Management Plan is provided that details any highway effects of demolition and construction before development is commenced;
- e) A car park management plan be provided that details the allocation of disabled car parking and electric vehicle parking provision.

4.32 BCC Leisure Services - No Objections. The residential parts of this development should be liable for an off-site Public Open Space (POS) and play area contribution. Do not accept that any of the other internal public realm spaces to be created as part of the scheme would be suitable for siting of any meaningful POS and play elements and therefore should not be taken into account in any off site contribution. The POS and play contribution for the whole development would be calculated at full application stage when a more definite residential mix has been identified. Plot 1 = £366,275 + £110,000 (cost of a junior play area). Total contribution of £476,275. This would be spent on the provision, improvement and/or biodiversity enhancement of public open space and Play, and the maintenance thereof at the adjacent Garrison Lane and Kingston Hill Parks within the Bordesley and Highgate Ward or other wider priorities identified within the Bordesley Open Space Strategy.

4.33 Fire Service - Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access, especially if road layouts will be altered subject to the approval of this application. The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan.

4.34 The Victorian Society - We defer to the Twentieth Century Society for comment on the impact on the Digbeth Bus Depot building. Whilst we would not object to the sensitive redevelopment of this site, we consider that the proposed development of buildings up to 16 storeys in the detailed application, and up to 25 storeys in the outline application, is of a large scale and massing that is inappropriate in this historic suburb, where currently most buildings are of less than 4 storeys in height. We believe that this proposed development will also have a negative impact on the setting, character and appearance of historic buildings in the immediate vicinity, particularly the locally listed former Wagon and Horses public house. We also believe that these proposals, together with other similarly large scale developments proposed in the area, will have a negative impact on the character and appearance of the two conservation areas, and views from it particularly from Fazeley Street, Lower Trinity Street, Bromley Street and Allcock Street. We consider that these proposals represent substantial and inappropriate over-development of this site, and therefore object to this application as it is currently presented.

4.35 Sport England -The occupiers of new development, especially residential, will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand. Therefore, Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site. The level and nature of any provision should be informed

by a robust evidence base such as an up to date Sports Facilities Strategy, Playing Pitch Strategy or other relevant needs assessment.

4.36 According to the ES, the proposed development would generate a proposed population of 3250 additional residents. This additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision.

4.37 The Sports Facilities Calculator (SFC) indicates that a population of 3250 in this local authority area will generate a demand for additional sports hall and swimming pool provision at a cost of £558,670 and £578,460 respectively. In respect of swimming pools, the City Council has recently undertaken a significant programme of investment in various public swimming pools within the city including a new pool at Icknield Port Loop (approximately 1.5 miles away from the application site) which has recently been constructed this summer. The closest other swimming pool to the proposed development is Aston University. Sport England's National Run data for 2019 models this pool to be operating at 100% capacity and turning away swimmers (approximately 1000 visits per week in the peak period) and so in practical terms this pool is unlikely to be able to absorb additional demand generated by this development. The City Council have recently engaged Sport England to undertake some further facility modelling work in respect of swimming pools relating to potential facility investment in Perry Barr.

4.38 In terms of sports halls, there is no strategy in place or strategic renewal programme underway across the City at the present time. However there have been a number of new sports halls that are being delivered through schools improvements with secured community access. The nearest sports hall is at Aston University, and is modelled to be operating at 100% capacity and turning away users and so this site is unlikely to be able to absorb the demand generated by the proposed development. However, as with swimming pools, the Council have recently engaged Sport England to provide further facility modelling work on the opportunities for securing sports hall investment within the catchment of the site. If a local priority were identified, it would then be appropriate to seek a contribution towards the delivery of sports hall investment to meet the needs of the proposed development.

4.39 The proposed development would potentially generate demand for 1.13 grass pitches at a capital cost of £158,490, together with an appropriate maintenance contribution (suggested to be £21,966 per annum for 15 years), and 1.55 changing rooms at a capital cost of £248,395 to provide a total playing pitch contribution of £736,375. Given that the Birmingham Playing Pitch Strategy (PPS) generally identifies shortfalls of provision across most sports, there is unlikely to be capacity in existing provision to absorb the demand generated by the development. Sport England would therefore support the Council in investing in a locally identified priority(s) in accordance with the PPS as this would help address such shortfalls of provision across the City along with identified issues of pitch quality and a need for better quality ancillary provision. Local priorities identified in the PPS for football, cricket, rugby union and hockey

could be considered alongside any other projects identified by the Local Authority for investment in playing field provision to meet the needs of the development.

4.40 Sport England considers that the site offers limited opportunities for the provision of outside space for physical activity, being a high density development in the City Centre, and so residents will need to access facilities off-site for such activities. Choice of materials, lighting, street furniture etc. will be important to accommodate as broad a range of activities as possible. The development should be provided with high quality cycle facilities including secure cycle storage and cycle parking in accordance with the City's parking guidelines to maximise the benefits of the City Centre location, and in particular connectivity to bus and rail services, including HS2. There may be opportunities to enhance accessibility to existing open space via improvements to wayfinding and other public realm enhancements. In particular, given the proximity to the canal the proposal could provide a significant opportunity to secure investment to improve the quality of this network for walking and cycling in the vicinity of the application site.

4.41 Sport England offers its support for this application, subject to securing a S106 contribution of £736,375 towards playing pitch investment in line the comments above.

4.42 BCC Education – request following contributions:
Plot 1 - Nursery provision: £10,811.20, Primary provision: £278,138.05, Secondary: £202,797.01. Total request: £491,746.26

Outline Plots 2 – 6 Nursery provision: £169,834.88, Primary provision: £4,369,314.08, Secondary: £3,806,922.63. Total request: £8,346,071.58 – Grand Total = £8,837,817.84

4.43 BCC Regulatory Services - The area is currently a mixed area with very little residential accommodation. The majority of residential development in Digbeth has been on the opposite side of Deritend High Street. The area directly surrounding the site contains a number of entertainment venues and contributes to Birmingham's night time economy. Introducing residential accommodation would change the nature of the area, and in the opinion of officers brings an incompatible land uses into close proximity. There are licensed venues within the area operating late at night and future operations may be consistent with this. The noise assessment has found the proposed development would be subject to excessive levels of low frequency noise associated with the Mill. They have suggested remediation that would be in the form of closed windows and mechanical ventilation. Officers are satisfied that they have shown Digbeth Arena would not cause any significant change to their previous assessment. Closed or sealed units with mechanical ventilation is not a solution that officers find acceptable. Residential occupiers have the right to ventilate through opening windows where they choose to do so. In the case of the proposed plot 1, without other mitigation opening windows would result in some residents being subjected to unacceptably high levels of noise. Officers in Regulatory Services would have a duty to investigate any complaints and may find a statutory nuisance has occurred due to the new residential use being incompatible with the existing

entertainment use. In particular the noise assessment has identified problems with low frequency noise from the Mill, an entertainment venue with internal and external areas. Serving a notice on the premises would be subject to questions as to why the incompatible uses were not addressed through the planning process.

- 4.44 The noise assessment has identified construction and current levels of noise insulation as a significant factor in the potential of the Mill to affect the proposed dwellings. It is suggested that as the application will change the nature of the area, further investigations are undertaken to determine strategies to control noise at source, and an Agent of Change agreement is considered.
- 4.45 Ventilation and extraction - The ground floor features a flexible commercial area and this may include food and drink uses. Any food premises would need ventilation appropriate to their use, to discharge above the roof level and therefore would need to be included within the building as it could not be retrospectively.
- 4.46 Air quality – The provision of parking would encourage some residents to continue to rely on cars rather than utilising public transport. The development is within the clean air zone. Measures to encourage responsible car use, including electric vehicle charging points at 1 per assigned residential unit space and at least 10% for unassigned spaces are expected.
- 4.47 Ground contamination - The developer has found contamination requiring remediation. Condition a remediation strategy to be submitted.
- 4.48 Construction site management – Demolition, site clearance, and construction must be appropriately managed.
- 4.49 On balance, considering all aspects of the application and of discussions, object to the application on the grounds that the use of closed windows to control entertainment noise is not an approach Regulatory Services find acceptable.
- 4.50 Twentieth Century Society - The Society strongly objects to the partial demolition of the Digbeth Central Bus Garage on the grounds that it will cause substantial harm to a valuable non-designated heritage asset. The Society considers the building to be of historical value as an inter-war municipal bus depot, built for the Birmingham Corporation Tramways and Omnibus Department. We believe the depot is of architectural significance as a design by the important architectural practice Crouch, Butler and Savage. This significance is strengthened by the fact that it is the only depot by the firm known to survive in Birmingham. The Society understands Historic England's comments that the building is "a fairly standard" and "typical" "example of an inter-war bus garage" to simply mean it is representative of depots of its period. We believe the Heritage Statement misinterprets these remarks to suggest that the bus depot is of limited architectural interest, which we do not believe to be true. While we commend the retention of the arched brick Liverpool Street elevation, the Society believes the architectural and historic significance of the rest of the southern part of the building has been overlooked. We believe the southern section is a key part of the building which helps to communicate its historic function as a bus depot.

4.51 The application has been advertised in the press and by site notices have been posted. Neighbouring occupiers have also been notified. The following four responses have been received (in summary):

- We are operating vital community service in a long term lease (until 2036) directly adjacent to the current bus garage and have not been consulted on any plan;
- Object to kerb lines across the footway. Pedestrians are part of the traffic on the highway and vehicles crossing the footway must give way;
- Object to no street trees added to Liverpool Street;
- Generally welcome the provision of living accommodation. If the ground floor shop / workspace permission is broad, some may be work / living premises, which is to be welcomed. A ground floor presence will add to a feeling of security;
- A document not referenced is Birmingham's Nature Conservation Policy that requires biodiversity enhancement. This can be a requirement later in the planning process. Looking at the North Elevation, those taller blank walls would suit built-in provision for swifts;
- An aspect that detracts from the proposal is the insistence on retaining the existing solidly paved street scene with back of footway being formed by vertical wall. Likewise all public space is shown as hard paved. There is almost no space even for small trees. This is a harsh environment that if softened, for instance by incorporation of hedges and grass surface, could attract a degree of wildlife;
- Adderley Street that is marked for a future tram route could be permeable (blocks and grass as done at Snow Hill). Many people now work from home, and greenery will be good. We request nest boxes for Swifts in this site to ensure these migratory birds return; and
- This is likely to be home to more than 4000 people. There is no park here, yet there is a lot of cleared land (including the adjacent skip site). A park needs to be one of the outcomes of a transformed area;

5. Policy Context

5.1 Birmingham Unitary Development Plan (Saved Policies) 2005; Birmingham Development Plan 2017; Places for All SPG; Places for Living SPG; High Places SPG; Car Parking Guidelines SPD; Car Parking Guidelines – Supplementary Planning Document' (Consultant Draft, November 2019), Public Open Space in New Residential Development SPD; Lighting Places SPD; Affordable Housing SPG; Loss of Industrial Land to Alternative Uses SPD; Rea Valley Urban Quarter SPD, City Centre Retail Strategy (2015), Shopping and Local Centres Supplementary Planning Document (2012), Curzon HS2 Masterplan for Growth, Digbeth, Deritend and Bordesley High Streets Conservation Area – Character Appraisal and Supplementary Planning Policies (2009), Warwick Barr Conservation Area - Character Appraisal and Supplementary Planning Policies (2008), and the revised National Planning Policy Framework.

6. Planning Considerations

Principle of Proposed Uses

- 6.1 The proposed development comprises the following range of uses:
 - a) Residential apartments - Plot 1, no. 213 units; all Plots up to a total 1,250 units
 - b) Student Accommodation – Plots 2, 5 and 6 up to 950 units
 - c) Retail Use Classes - A1, A2, A3, (new Use Class E) A4 and A5 (new Use Class sui generis) – these use classes encompass shops, professional services, food and drink outlets - all Plots
 - d) Office Use Class B1 (new Use Class E) - all Plots
 - e) Leisure Use Class D2 – the use class encompasses cinemas, music and concert halls, bingo and dance halls (but not night clubs) (new Use Class sui generis), gyms, indoor or outdoor sports and recreation (new Use Class E) - all Plots
 - f) Community and Cultural Use Class D1 – the use class encompasses clinics, health centres, crèches, day nurseries, day centres (new Use Class E), schools, art galleries, museums, libraries, halls, places of worship, church halls, law courts, non-residential education and training centres (new Use Class F.1) - all Plots
- 6.2 In principle the proposed uses are acceptable in this location. Policy GA1 of the BDP promotes the City Centre as the focus for retail, office and leisure activity and supports residential uses where it provides well designed, flexible and adaptable high quality living environments.
- 6.3 The application site lies within the Digbeth Quarter under Policy GA1.3 where new development must support and strengthen the distinctive character of the Quarter to create a thriving creative and cultural hub within a high quality, exciting and easily accessible environment.
- 6.4 Policy TP24 promotes a diverse range of facilities and uses within centres to include leisure uses, offices, restaurants and takeaways, community uses, cultural facilities, tourist-related uses and residential on upper floors where it provides good quality, well designed living environments.
- 6.5 The Curzon HS2: Masterplan for Growth covers a large area to the east of the City Centre including the application site and the wider Digbeth area. It is intended to maximise the potential of HS2 by identifying a range of development opportunities to capture and promote the area's growth potential.
- 6.6 The Policies provide support at a strategic level for the growth of the wider City Centre by promoting the range of uses proposed. However it is considered necessary to appraise the individual uses in more detail acknowledging the scale of development proposed.

Proposed Residential and Student Units

- 6.7 A minimum of 80% of homes are expected to be on previously developed land. The current scheme could provide up to 1,250 residential units on the upper levels of each of the six plots. Policies TP27 and TP28 lend support to the development of

new residential properties advising where they should be located and how they should contribute to the creation of sustainable places. Whilst the site is considered to have a sustainable location there are further criteria relating to housing types and tenures, design quality, environmental sustainability, layout, the impact upon historic assets and employment land which are considered later in the report.

- 6.8 Part of the housing offer is the provision of up to 950 units of student accommodation. Policy TP33 states that proposals for off campus provision of purpose built student accommodation will be supported where a number of criteria are met including a demonstrated need for the development, a favourable location and an acceptable design and layout.
- 6.9 An initial student needs assessment was submitted and in response colleagues in Planning Policy raised queries regarding which institutions the proposed accommodation is intended to serve, how demand has been derived, the format of accommodation being proposed (i.e. cluster flats, studios), how the demand/bed space ratio in Birmingham compares with other cities, evidence of the universities future growth plans and rent levels in comparison to HMO accommodation.
- 6.10 The applicants have followed up the initial assessment with a further more detailed report to respond to the queries raised. It shows that collectively 37,810 full time students attend Aston University, Birmingham City University (BCU) and University College Birmingham (UCB), all of which are located within the City Centre. Of the 37,810 full time students 33.9% live at home with parents (15,367 students), 13.8% live within their 'own residence' (6,239) and 1.2% are currently not in attendance at their provider (540 students). If the sum of these students, not requiring accommodation, are subtracted from the total full time students at the City Centre universities, the net balance is 15,664 students requiring some form of accommodation.
- 6.11 The additional information submitted estimates current provision of Purpose Built Student Accommodation (PBSA) across the City Centre comprising 12,027 bed spaces (48% of the total 25,096 across Birmingham as a whole) and this therefore represents a shortfall of 3,637 bed spaces; assuming demand from universities located within the City Centre (Aston University, BCU and UCB). This does not include the committed pipeline supply of 2,000 bedspaces. Including this would still allow capacity for 950 units in the City Centre to meet existing demand from Aston, BCU and UCB.
- 6.12 The Assessment concludes that there is currently a shortfall of student accommodation in the City Centre and across Birmingham. The projection of student numbers over the next five years against both existing PBSA and potential future supply indicates that a shortfall is likely to remain.
- 6.13 Colleagues in Planning Policy are satisfied with the applicant's assessment of current demand for and supply of PBSA, but remain unconvinced that the growth assumptions in student numbers made in the applicants study can be relied upon. The applicant forecasts a 25% increase in student numbers over the 5 years based on past trends. The Policy Team has commented that we cannot solely use past

trends to forecast demand, particularly since the impact of Covid has not been assessed, and no further specific or robust information has been provided by the applicant on the universities' growth plans and student projections

6.14 Acknowledging the impact of Covid upon the future growth in student numbers a condition is attached to require an updated Student Needs Assessment at the reserved matters stage in order to provide the evidence for the number of units proposed at that time.

Proposed Retail Floorspace

6.15 The maximum quantum of new retail floorspace (Use Classes A1 to A4) proposed is 10,100sqm in total, should all the commercial floorspace be used for this purpose across the wider masterplan (i.e. Plots 1 – 6). Whilst the BDP and Curzon Masterplan support non-residential floorspace within the City Centre growth area the site lies beyond the City Centre Retail Core at an out of centre location, whilst retail uses are defined by the NPPF as main town centre uses. The proposed floorspace exceeds the NPPF threshold of 2,500sqm and therefore it is necessary to assess whether this amount of retail floorspace would have an impact upon the vitality and viability of the retail core or any local centre.

6.17 For the purpose of the impact assessment the submitted Main Town Centre Use Statement lists the following centres within a five-minute drive time / fifteen-minute walk time upon which the potential for impact has been considered:

- Birmingham city centre (retail core);
- Sparkbrook neighbourhood centre;
- Highgate neighbourhood centre;
- Coventry Road district centre;
- Bordesley Green neighbourhood centre; and,
- Green Lane neighbourhood centre.

6.18 The starting point of the retail impact assessment is that, according to the applicants, the primary function of the proposed mix of main town centre uses across the site, and particularly the retail uses, is to serve the significant proportion of residential development proposed both on the application site and within the wider Curzon Masterplan area. It is advised that Digbeth has a potential new residential population large enough to generate sufficient expenditure to support the entire turnover of the retail floorspace proposed. As such the Statement suggests that the impact on existing retail facilities would be largely neutral.

6.19 Importantly the applicants are seeking permission for a maximum of:

- i. Class A1 convenience (food) retail floorspace limited to 1,200sqm (GIA) maximum; and,
- ii. Class A1 comparison (non-food) retail floorspace limited to 4,000sqm (GIA) maximum.

6.20 It is considered that limiting the convenience retail floorspace to the suggested maximum quantum would ensure that it would not compete with larger 'main food shopping' destinations that might underpin the health of existing defined centres elsewhere in the City. The health of surrounding centres are shown to be vital and viable with the proposals resulting in very limited convenience and comparison goods trading impact upon all centres and facilities within the defined catchment area and beyond. Furthermore the Statement advises that the need arising from the development itself would not be a threat to investment decisions within the City Centre or indeed any surrounding district or local centres.

6.21 A condition to limit the amount of A1 convenience/comparison floorspace to ensure that it would not impact upon surrounding centres is attached.

6.22 As stated above the application site has an out of centre location. The NPPF advises that new retail floorspace uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

6.23 In this case a conventional search for sequentially preferable alternatives has not been undertaken as the applicants consider that there is a clear locational requirement for the proposals in support of the new residential development on the application site and coming forward within Digbeth. Therefore the commercial floorspace would be ancillary to the living accommodation proposed.

6.24 Notwithstanding this a search for sequentially preferable sites within or on the edge of any of the defined centres in the catchment area has been undertaken; none have been found that could realistically accommodate the scale and form of retail and leisure development for which planning permission is sought.

6.25 The submitted Main Town Centre Uses Statement demonstrates that the type and amount of retail floorspace proposed as part of this mixed-use development would be appropriate and it is considered to accord with Policies GA1 and TP21, TP22 and TP24, as well as national policy requirements set by the NPPF.

Proposed Office, Leisure and Community/Cultural Uses

6.26 There is the potential for all 6 plots to provide these uses within Use Classes B1, D1 and D2. In contrast to the BDP the NPPF allows more flexibility when considering the location of these other main town centre uses, with the NPPF Annex explaining that edge-of-centre for the purpose of these uses involves all locations within 300 metres of a 'town centre boundary'. It is considered that for the purposes of these uses the town centre is defined as the City Centre Growth Area, and as such the application site is located within the most sequentially preferable location.

6.27 Furthermore it is considered that the introduction of these uses would support the establishment of a thriving community within this site and wider Digbeth, where residents' day-to-day potential retail, leisure and employment needs are met on a localised basis, resulting in social, environmental and economic benefits. Therefore greater weight is given to the flexibility that the NPPF gives to the location of these particular main town centre uses.

6.28 The site is currently occupied by National Express and in use as a bus depot and associated surface car park. Whilst the current operation at the site does support a limited number of employment opportunities, it is considered that it is currently not operating as a B1, B2 or B8 employment use, nor is the land protected in the BDP for employment purposes. Therefore the proposed redevelopment of the site would not conflict with Policy TP20 which seeks to protect employment land.

6.29 These employment uses would be retained within the region once National Express relocates to its new site. Plus the applicants estimate that the development has the potential to generate 3,076 direct and indirect construction jobs during the 9 year build period, 398 new direct and indirect jobs resulting from the proposed commercial floorspace and the new households created are estimated to spend £18.6m per year locally, enough to support 160 local jobs. It is therefore considered that the proposed redevelopment of the site would accord with Paragraph 121 of the NPPF that advises local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.

Proposed Design

6.30 The application is in two parts; Plot 1 in full and Plots 2 to 6 in outline with all matters reserved for future consideration. However the scope of the outline application is controlled via:

- Parameter plans;
- A Development Specification; and
- A Design Code.



Proposed Illustrative Masterplan at Ground Floor Showing Plots 1 to 6

6.31 The proposed design is considered in terms of:

- Layout: The framework of routes and spaces that connect locally and more widely;
- Density and mix: The amount of development and the range of uses influencing the intensity of development, and in combination with the mix of uses can affect a place's vitality and viability;
- Scale; The size of a building in relation to its surroundings determining the impact of development on views, vistas and skylines;
- Massing; The combined effect of the arrangement, volume and shape of a building or group of buildings in relation to other buildings and spaces; and
- Appearance: The materials, decoration, style and lighting of a building or structure.

Plot 1 – Full Application

- 6.32 Plot 1, also called the Metalworks, seeks consent for 213 apartments and 1,375sqm commercial floorspace in a part 1, 7, 15 storey rectangular building located at the junction of Adderley Street and Liverpool Street. This the most prominent corner and directly addressing the anticipated metro stop in front of the site.
- 6.33 The site boundary extends beyond the footprint of the building to include new access routes to the north (Liverpool Gully 9m wide) and east (Upper Bowyer Street 12m wide) of the building. These two routes would give all round access for public activity, services and maintenance. Liverpool Gully would initially provide an internal service yard with temporary car parking spaces during the construction of future plots in the Masterplan.
- 6.34 The main vehicular access would be from Liverpool Street at the western edge of the building that would serve Plot 1 only, and would lead to the internal ground floor car park serving the building providing 32 car parking spaces. A secondary access approximately 30m north of the car park access, again from Liverpool Road on the western boundary would accommodate service vehicles internally.
- 6.35 Externally a comprehensive landscape scheme is proposed to Adderley Street including new tree planting, generous pedestrian routes and cycle storage for visitors of the development and non-residential uses. The public realm here has also been designed to accommodate the future delivery of the tram.
- 6.36 Internally the proposed ground floor layout would provide flexible commercial floorspace to all four elevations providing an active frontage and a variety of uses along Adderley Street and Liverpool Street, and also along the new links through the site.
- 6.37 At the upper floors, the proposed first and seventh floors would accommodate indoor and outdoor communal gathering spaces for the residential occupiers measuring 700sqm and 400sqm respectively. All units would meet national space standards in terms of floorspace.
- 6.38 The submitted sunlight report advises that of the 154 rooms assessed for Average Daylight Factor (ADF) daylight, 132 (86%) would meet their respective targets, 70 (45%) of the rooms would meet their respective targets for No Sky Line (NSL) daylight and 100% of the rooms would meet their respective targets for Annual Probable Sunlight Hours (APSH). Upon completion of the plot a major adverse impact is anticipated on the roof terrace as a result of a wind corridor. Mitigation to alleviate this impact includes the erection of screening above the current balustrade level (1.1m high), to extend to at least 1.6m high to span the north-eastern half of the terrace perimeter and/or the incorporation of suitable landscaping. However the adverse effects are expected to be eradicated upon the completion of the wider masterplan development, so the screening may potentially be temporary.
- 6.39 The proposed mix of apartments is 49% 1 beds (104 no. units), 48% 2 beds (103 no. units) and 3% 3 beds (6 no. units). Five percent of the residential units would be offered as affordable housing units and 350sqm of affordable workspace would be provided at a rent of 70% of market value, secured via a Section 106 Agreement.



Junction of Adderley Street and Liverpool Street with Plot 1 in the foreground

6.40 In terms of scale the tallest part of the building would be to the south-east corner of the plot rising to 15 storeys. The central area of the building on Adderley Street would drop to 7 storeys, before the building rises again to 12 storeys at the junction with Liverpool Street. The proposed scale would form a marker at a prominent corner of the site and the applicants have advised that the taller elements draw inspiration from the existing landscape that consists of volume at the lower storeys marked by tall chimneys projecting vertically from rooftops.

6.41 The rear elevation below shows the location of the two communal terraces at first and seventh floor overlooking the proposed Liverpool Gully and the active frontage to this thoroughfare.



Plot 1 North Elevation facing Liverpool Gully

6.42 The massing of Plot 1 proposes smaller intervening blocks to the three main frontages to intentionally break away from the formation of long continuous frontages facing the highway. It is acknowledged that the Plot that would accommodate a part 15 storey and 12 storey building and these elements would be a marked change in the scale and massing of the buildings to the east of the Bordesley Viaduct.

6.43 The applicants vision for Plot 1 is to provide a benchmark new building that sets the tone for future development; featuring quality materials, providing large windows, sharp details and careful integration of existing heritage fabric. The appearance of Plot 1 would combine the existing and the new, by virtue of retaining and incorporating the arched façade that forms the bus depot elevation to Liverpool Street. The proposed material palette has evolved from the idea of a modern piece of architecture in a rich historical ‘Digbethian’ context, utilising a series of brick and metal components that vary depending on the elevation and internal layout. Beyond the red brick arched frontage to Liverpool Street would lie a combination of dark brick, metal cladding, metal panel and dark back painted glass. The building would be articulated via the use of protruding metal sleeves, protruding brick sleeves and punched recessed brick windows.

6.44 The proposed internal and external layout of Plot 1 would present an attractive building to Adderley Street and Liverpool Street, providing active frontages and comfortable links in terms of their width and siting to the wider masterplan site, creating a sense of place in accordance with Policies PG3 and TP27. It is acknowledged that the scale and massing of the plot is greater than its surroundings but in principle it is considered acceptable recognising that Adderley Street will form a significant thoroughfare into the City by virtue of the route of the Midland Metro, whilst the location and accessibility is in accordance with Policies TP27 and TP28. It is

considered that the density and mix of units is acceptable at this City Centre location and the floorplans, that would provide indoor and outdoor communal areas, would provide sufficient amenity subject to conditions regarding wind mitigation in accordance with Policies PG3, GA1.1 and TP27. In terms of appearance the City Design Manager considers that the proposed materials propel the design into a league quite different from anything experienced in the City to date and that the building would respond in a bold and exciting way to the 20th Century industrial character of South Digbeth. The detailed architectural response is considered to be truly bespoke and is fully supported

Wider Masterplan

Plots 2 to 6 – Outline Application (Masterplan Area)

6.45 The applicants the vision for the wider mastplan area is to:

- make Bordesley junction a new destination for the city;
- acknowledge the arrival of the midland metro;
- create a new eastern gateway to Digbeth;
- engage at street level;
- provide opportunities for the economy and support a future creative neighbourhood;
- provide open space for recreation; and
- be distinctive.

6.46 This is to be achieved by three different layers of control. Firstly a series of Parameter Plans that quantify:

- a) the amount of demolition (everything but the façade wall to Liverpool Street);
- b) the thoroughfares and public spaces (defining the width of the routes);
- c) the minimum and maximum footprint of the buildings at ground floor/mezzanine level;
- d) the minimum and maximum footprint of the buildings at the upper levels;
- e) the uses classes permitted at ground/mezzanine and the upper levels;
- f) the minimum and maximum height within each plot; and
- g) the points of vehicular access.

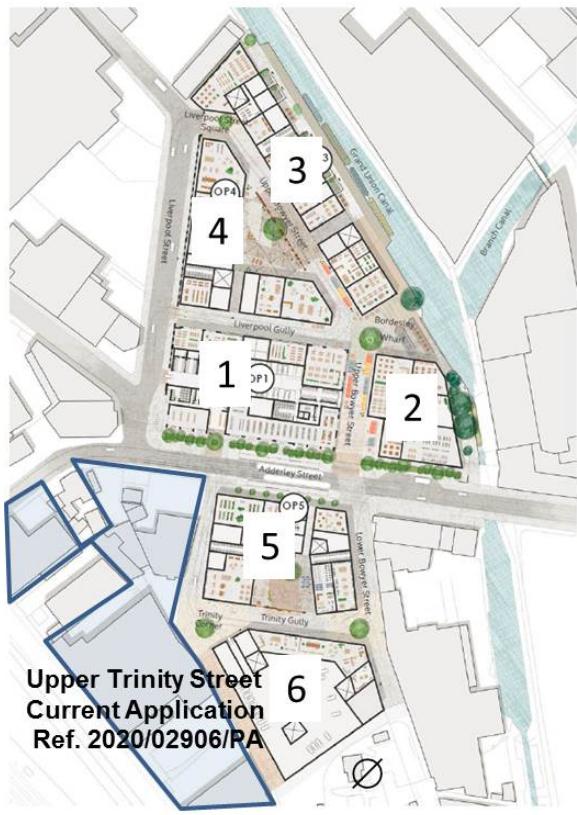
6.47 The next layer is the development specification that sets out the amount of floorspace within each use class that is allowed.

6.48 The final and third layer is the Design Code. This encompasses site-wide and plot-specific design matters that culminate in a set of Checklists, one for each of the outline plots, listing the mandatory design requirements that all future reserved matters applications would need to comply with. The Design Code ensures that the key parameters and principles of the illustrative masterplan are enshrined without

unnecessarily constraining architectural flair and interpretation at the detailed design stage. It provides guidance on architecture and materiality, identifying particular architectural features or material requirements that future development should or must (depending on whether they are mandatory requirements) adhere to, in order to secure a high quality design that is in keeping with the rest of the Masterplan and its context.

Wider Masterplan – Layout

6.49 To reiterate, the masterplan or the outline plots are numbered 2 to 6 and are located to the north and south of Adderley Street.



Plot 1 - This part of the application is in full. The Plot proposes a 7 to 15 storey building known as The Metalwork's.

Plot 2 is the eastern gateway building to the masterplan located at the junction of Adderley Street and the Grand Union Canal

Plot 3 is located in parallel position adjacent to the canal side.

Plot 4 occupies a prominent location on Liverpool Street behind the existing bus garage heritage wall

Plot 5 creates the southern 'arrival' frontage to Adderley Street and faces Lower Bowyer Street to the east and Trinity Gully between plots 5 & 6. At the eastern and western extents it will create Trinity Corner and Trinity Square.

Plot 6 will provide the south facing backdrop to Pump House Park Ø and will define the edge to Pump House Passage to the west. It will define the eastern edge to Lower Bowyer Street to complete a new east west route which, in the future, will offer the opportunity to pass from Upper Trinity Street to Lower Bowyer Street.

The Wider Masterplan or Outline Plots Numbered 2 to 6

6.50 In terms of the proposed layout the parameter plans would establish the maximum plot extents and define the key areas of public realm within the site. The layout has been derived acknowledging the opportunities that the potential reuse of Duddeston Viaduct as a sky park and the canal provide, and the following links or connections are proposed:

- North – South: Upper Bowyer Street to Lower Bowyer Street across Adderley Street ranging from a 8.5m to 12m in width. This is the main north south route connecting Adderley Street and Liverpool Street and thereafter leads towards the HS2 Curzon station;

- West - East: Liverpool Street through Liverpool Gully (9m in width) to Bordesley Wharf adjacent to the to Canal;
- North - South: Adderley Street through Pumphouse Passage to Pumphouse Park increasing from 5m to 7m in width. Pumphouse Passage would part be delivered by this development part by the adjacent development at Upper Trinity Street and as such agreement has been reached with the adjoining applicants that this route would have an overall width of 14m. Pumphouse Park would be delivered by Upper Trinity Street scheme. The applicants have held workshops with Upper Trinity Street applicants to ensure that an integrated approach to the new north-south and east-west routes can be delivered as part of a holistic place making strategy. Discussions have taken place regarding the interface between the two sites.
- West – East: Pumphouse Passage through Trinity Gully between plots 5 and 6 to Lower Bowyer Street, measuring a minimum width of 10m.

6.51 The application seeks to deliver a minimum of 8,516sqm of new accessible public realm, including a new canal-side public square of 787sqm, named Bordesley Wharf that would outlook over the canal junction between plots 2 and 3. This would be large enough to cater for a medium sized market or performance space and has been sited at the heart of the masterplan. It is conditioned to be delivered alongside Plot 2.

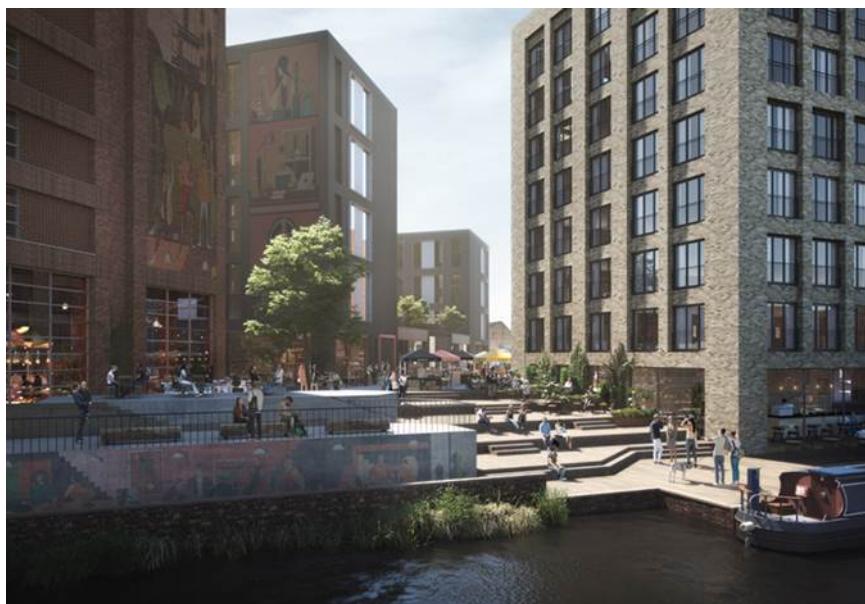


Image of the proposed Canal Side Square named Bordesley Wharf between Plots 2 and 3

6.52 The proposed arrangement of the plots within the site would provide good links in accordance with Policies PG3 and TP27 between the plots and through the site to the existing and new developments beyond. Moreover with a parameter plan to secure their minimum widths and a condition to secure the area of Bordesley Wharf it is considered that there is sufficient control to ensure that these links and canalside

square would be retained in the future at the reserved matters stage. The impact of the proposed scale of the buildings upon these connections and open space is considered below.

6.53 The plots in outline propose the following uses:

- up to a maximum of 1,037 residential homes;
- up to 950 units of student accommodation;
- retail, food and drink, office, leisure and community and cultural uses at ground floor level

6.54 As Plots 2 to 6 are in outline their mix of residential units and their design would be considered at the reserved matters stage.

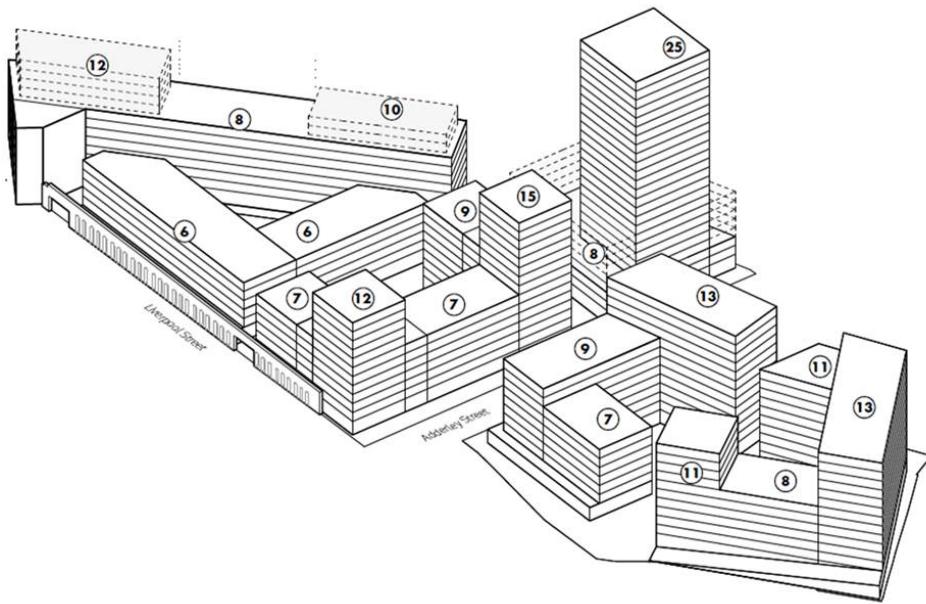
6.55 It is important to note that by securing the non-residential uses at ground floor, via the parameter plans, it would ensure that the connections through the site and facing those areas of public realm are active, varied and enticing to those residential occupiers on site and those just passing through. One exception is the possibility of residential units at ground floor to Plot 3.

6.56 The applicants do however want to ensure that there is a mechanism that could allow for the delivery of multiple plots at the same time and the grouping of the affordable units. Affordable commercial workspace would be delivered at a minimum of 50% of all delivered Ground Floor Commercial Areas spread between plots 3, 4, 5 and 6. This would equate to a minimum of 1,596sqm GEA and a maximum of 5,050sqm GEA. The affordable workspace would be available for rent at 70% of market rent, which would be secured by way of the Section 106 Agreement.

Wider Masterplan – Scale

6.57 Turning to scale, within the outline elements of the masterplan there would be a predominance of 6 to 8 storey buildings, with taller buildings in specific locations. The scale of the individual plots is considered first followed by the massing of the development, or the impact of the proposed group of buildings upon the wider townscape and upon the enjoyment of the public spaces and the amenity of future occupiers. The maximum heights for the individual plots sought in outline are set out below, with indicative storey heights provided in brackets to give an indication of what would be permitted within the parameters:

- Plot 2 – up to 185m AOD (25 storeys)
- Plot 3 - up to 146m AOD (12 storeys)
- Plot 4 – up to 127m AOD (6 storeys)
- Plot 5 – up to 149m AOD (13 storeys)
- Plot 6 - up to 150m AOD (13 storeys)



**Isometric Drawing of Maximum Height Parameters
(with Illustrative Number of Storeys)**

6.58 The Design and Access statement identifies that the existing area comprises development of between 1 and 2 storeys with some 3 to 5 storey development. The existing railway viaducts are the most significant structures in terms of height and scale in the area with their height ranging from 10m to 21m. Therefore the height of all of the proposed plots would contrast with the existing surroundings and the proposed heights nod to the future aspirations of the City, not what is currently present.

6.59 Plot 2 in particular would be permitted to accommodate a building of between 18 and 25 storeys; a tall building in the policy context of the High Places SPG. Acknowledging its significant height a design charrette was undertaken by a separate architect to test its scale during pre-application discussions. Plot 2 is outside any of the locations identified within the SPG as appropriate for a tall building and therefore it requires justification. In this case it is justified as it would reflect its strategic location as an eastern gateway to the site and to South Digbeth; it would also act as a marker for the new tram stop on Adderley Street, the public square at Bordesley Wharf, and the intersection of the two canal branches. The City Design Manager agrees that it would deliver a sound urban design move although it is recognised that the proposed lower shoulder blocks of between 3 and 8 storeys will require careful attention as will the frontage towards Plot 1 facing the new link named Upper Bowyer Street.

6.60 The building on Plot 3 would be split into three to provide some variation in the height of the frontage to the canal. Again a charrette was undertaken by a separate architect to test this part of the masterplan. The Plot is earmarked within the Curzon Masterplan to accommodate a landmark building, hence it would rise to a potential

height of 12 storeys at its northern end with the building terminating the view when looking south east down Fazeley Street from the nHS2 station area.

- 6.61 Plot 4 is known as the Makers Arches due to the incorporation of the bus depot wall aligning Liverpool Street. The building would be at a more modest scale at 6 storeys.
- 6.62 The building permitted on Plot 5 would be more visible rising from 7 to 9 to 13 storeys. The scale would help to define the prominence of Adderley Street and the new metro alignment and stop.
- 6.63 Finally Plot 6 would have one role of framing the south side of Trinity Gully, a proposed west east connection, and a second defining one of the frontages to the proposed Pumphouse Park. To reiterate, this park would be provided by the applications of the adjoining site: Upper Trinity Street (2020/02906/PA). Hence it would overlook the proposed park providing activity and surveillance.
- 6.64 It is considered that the scale of the different plots is appropriate.

Wider Masterplan – Massing

- 6.65 In order to assess the massing of the wider proposed development a Townscape and Visual Impact Assessment (TVIA) has been submitted that identifies the site and its surroundings. The TVIA, based on 23 individual viewpoints within a 500m study area concludes that the effect upon these views would be limited by the surrounding built form, although the taller buildings would be partially visible. The proposed development would not block or obscure any existing views of value and the character of the views would be unaffected. The TVIA advises that the proposed development would add interest to existing views and the skyline which includes a range of different building styles and some vacant sites, and overall the effects on visual amenity would be neutral or beneficial from within the surrounding townscape towards the proposed development. Notably the development would open up views from within the site to the canal and key features around it.
- 6.66 In terms of townscape there is no adopted guidance in terms of scale and massing for development in this part of Digbeth, however the Rea Valley Urban Quarter SPD seeks to increase scale towards Digbeth High Street, and it is possible to anticipate this height continuing into this southern end of Digbeth towards the ring road. Therefore considering the proposed scale in the Rea Valley Urban Quarter SPD, the impact upon the surrounding townscape and the justification for the tall building on Plot 2 it is considered that the principle of the proposed massing is acceptable, although there is the impact upon heritage assets which is considered in more detail later.
- 6.67 Policy PG3 seeks to establish good place making principles, and with this in mind the impact of the massing of the buildings is considered with respect to the wind micro climate around the site, the overshadowing of public areas and the amenity of existing and future residential occupiers.

6.68 A wind micro climate simulation study included buildings within 600m of the centre of the site and combined the results of 18 wind angles with 30 years of local weather data to grade local conditions against the industry standard Lawson comfort and safety criteria. A moderate adverse impact is predicted on Adderley Street at the proposed tram stop. However it is considered not to be significant, and only an issue upon completion of the wider development. As such, it is proposed that at the detailed design stage of Plots 2 to 6, a wind assessment could be undertaken to ensure that appropriate mitigation measures are embedded into the schemes. The requirement for a wind microclimate report at reserved matters stage is attached.

6.69 The massing of the proposed development would also have an impact upon the potential enjoyment of the proposed areas of public realm, and a Daylight and Sunlight Assessment has been submitted using the maximum parameters to which the scheme could be built. BRE Guidelines recommends that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March. In this case if built out to the maximum parameters, disappointingly only minor parts of the public realm along Upper Bowyer Street, Bordesley Wharf, Pump House Passage, Trinity Corner and Lower Bowyer Street would reach this threshold. There is a better prospect for the meeting the BRE guidelines at the proposed Pumphouse Park (beyond the application site) and all areas of the Grand Union Canal would receive at least 2 hours of sunlight to 50% of their area on March 21st.

6.70 As the applicants advise, the Daylight and Sunlight Assessment has been undertaken using maximum parameters and therefore represents a worst case scenario. The outline plots are unlikely to ever be constructed to these extents and, as such, it is expected that there would be increased sunlight to the amenity areas. A further sunlight and daylight report has been submitted showing that on the Summer Solstice (21 June) all but one of the amenity areas to the proposed development would receive at least 2 hours of sunlight to 50% of their area. Bordesley Wharf would still not meet the BRE guideline, but at 46% would only be marginally short of the 50% target. Furthermore the canal would receive at least 2 hours of direct sunlight to in excess of 90% of all areas, and therefore would exceed BRE recommendations. Giving more precedence to the summer data when it is considered that more people would be sitting out in those areas of public realm the proposed massing is considered acceptable. Plus the applicants are willing to undertake further daylight sunlight assessments at the reserved matters stage for each plot, thereby allowing further consideration of this issue at a later more detailed stage.

6.71 The originally submitted Daylight and Sunlight Assessment also demonstrates the impact of the massing of the proposed development upon buildings outside of the site. Twelve residential properties in Glover Street have been identified as having the potential to be impacted upon by the proposed development. All properties would be fully compliant with the BRE criteria for the annual amount of sunlight (defined as APSH), and all would be compliant with winter sunlight, with the exception of 10-11 and 12 Glover Street. One room to each of 10-11 and 12 would not meet the BRE criteria for Winter PSH. All surrounding amenity areas would be fully compliant with the BRE criteria for Sun Hours on Ground with the exception of 12 Glover Street.

6.72 A total of 1063 windows serving 399 rooms were also assessed for daylight within the proposed development on the adjacent site at Upper Trinity Street. Thresholds of 79% and 89% of the proposed windows were assessed as meeting the BRE Criteria according to two specific tests undertaken.

6.73 Finally the Daylight and Sunlight Assessment extends to the impact of the amenity to be enjoyed by the future residential occupiers of this site, within Plots 2, 3, 4, 5 and 6. As no detailed design information is available for these Plots the assessment is only indicative, and will be subject to further assessment as each plot comes forward in detail. However the quantitative assessment shows that in respect of Plots 5 and 6 over 60% of the windows to both plots would be comply with the three daylight and sunlight tests. No technical analysis has been undertaken to the remaining outline elements at Plots 2, 3 and 4, as the surrounding massing is typically lower than adjacent to Plots 5 and 6. Plus Plots 2 and 3 are located on the canal and would therefore have a largely open aspect. As such, it is not envisaged that there would be any significant issues. Again the location of the habitable windows on these plots is unknown and the assessment this far has been undertaken on the basis of the maximum parameters representing a worst case scenario.

6.74 Acknowledging that the detail of the design of the plots will be determined at a later stage the impact of the proposed massing upon the amenity enjoyed by residential occupiers both inside and outside the site is considered acceptable.

Wider Masterplan – Appearance

6.75 Finally in terms of design is the appearance of the buildings. Again the design is reserved for future consideration, however there would be certain controls via the Design Code that would be accompanied by a site wide checklist and an individual checklist for each plot.

6.76 To give a flavour of the design codes, the site wide checklist includes the following:

- Balconies must not create an overbearing presence;
- Residential entrances must be clearly visible and legible;
- Service frontage must be integrated and must not result in a blank frontage of 7.5m or more;
- Window apertures must be arranged in a consistent rhythm with legible deep window reveals; and
- Fenestration must provide an appropriate solid to glass ratio to emphasise a punched solid appearance.

6.77 The standout elements of the design code for the individual plots are as follows:

6.78 Plot 2 - must be a bold masonry building which grounds on Adderley Street / It must not feature a pitched roof geometry / Southern elevation must activate the Adderley

Street building edge to provide a strong back of pavement presence / The building positioning and layout must take account of an existing Canal and River Trust culvert understood to be in close proximity to the outline footprint of Plot 2;

- 6.79 Plot 3 - The Plot must create active frontages to Upper Bowyer Street, Liverpool Street Square and Bordesley Wharf / The building must provide a 'landmark' to the northern most extent of the Plot to provide a visual link from the City Centre and create a desire line through to the site / The central roof zone, if not used as an articulated roofscape, must provide a communal roof garden;
- 6.80 Plot 4 - First floor level must be carefully co-ordinated with Liverpool Street Wall openings / Existing arched openings must not be in-filled with brickwork / New interventions such as internal sub-division walls must not be visible within existing arched openings;
- 6.81 Plot 5 - North-east and north-west corners must positively activate Adderley Street and wrap around into new access roads to the south site / The form must include either a ground floor yard or first floor podium garden / A minimum 2.5m clear pedestrian zone and street trees must be provided between the future tram platform and Plot 5 building line / The south elevation facing the courtyard must provide large apertures with the addition of balconies or juliettes;
- 6.82 Plot 6 - The building must mitigate the level change between the south of the site and the proposed levels of Trinity Gully / The Plot must create active frontages along Trinity Corner, Trinity Gully and Trinity Square / The south elevation and internal courtyard elevations must have projecting balconies to positively engage with the open space / A minimum offset of 7m from the site boundary line must be defined to the west of Plot 6 to allow a gradient route of 14m between Plot 6 and Upper Trinity Street future residential dwellings.
- 6.83 Note that all of the criteria above use the word 'must' as they are mandatory requirements, and the reserved matters application will be required via a planning condition to submit the relevant checklist to demonstrate that they have considered the overarching principles for that Plot.
- 6.84 It is considered that this third and final layer of control would provide sufficient comfort in terms of securing a high quality design in accordance with Policies PG3, GA1.1, TP27 and TP28.

Heritage

- 6.85 The site is not within a Conservation Area, however Digbeth, Deritend and Bordesley High Street Conservation Area is located approximately 125m to the north and west of the site and the Warwick Bar Conservation area lies approximately 160m to the north. There are no listed buildings on site however there six listed buildings within 300m of the site and locally listed buildings within 100m of the site. In closest proximity to the site is the canal bridge known as the Roving Bridge (Grade II) that lies opposite the site, Dead Wax pub on Adderley Street (formally the Waggon and

Horses, locally listed) and the Canal Pumping Station (locally listed) accessed from Bowyer Street.

6.86 To the north of Adderley Street where Plots 1, 2, 3 and 4 are proposed is the Central Bus Garage; built on the site of the 19th century Bordesley Mill in 1935-36. The bus garage has a 112m long brick arched façade to Liverpool Street and a rear boundary to the Grand Union Canal, with a flank wall to Adderley Street itself. Based on a degree of historic interest and the architectural merit of the arched façade the building is considered to be a non-designated heritage asset as is the canal.

6.87 Policy TP12: Historic Environment identifies that the historic will be valued, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability. Furthermore it also acknowledges the historic importance of canals and states that, where appropriate, development proposals should seek to enhance canals and their settings.

6.88 As part of the ES a Heritage Impact Assessment (HIA) has been submitted that considers the proposed changes to the setting of the identified heritage assets within the context of the site, surrounding townscape and wider city scape; and the Council's Conservation Officer considers this to be an acceptable approach. This is also supplemented by the Townscape and Visual chapter of the ES that has tested the mass, height and scale of the development against the susceptibility of a number of identified townscape receptors to change, including the historic core of Digbeth. The ES acknowledges that the site lies outside the Conservation Area but that the proposed buildings within the site would potentially be visible from within it. Notably the Digbeth, Deritend and Bordesley High Streets Conservation Area Character Appraisal states that, *"New development in the setting of the conservation area should respect and preserve characteristic views within, from and into the area. The Council will not permit new buildings or additions to existing buildings beyond the conservation area boundary to intrude on or block key views or important sightlines."*

6.89 Concern is raised by HE and the Victorian Society at the cumulative impact of a growing number of out-of-scale buildings within the setting of two conservation areas that are currently of a low-scale industrial character and appearance, and that there is a lack of sympathy for the local character and its history contrary to the NPPF.

6.90 Turning first to the setting of those heritage assets located outside of the site the ES states there are no close range views from the historic core, whilst the existing density and height of the built form in the immediate vicinity limits mid-range visibility. It is reported that the proposed development would be largely screened by intervening built form, including the viaduct. From the grid pattern of streets within the historic core to the west of the site, there are a small number of channelled views where a small part of the site is visible. The proposed development would not block or obscure any existing views of value, although there may be a few locations from which the proposed taller building located within Plot 2 (up to 25 storeys), would be seen as a visual marker on the skyline.

6.91 Specifically referring to the listed canal bridge opposite the site the Conservation Officer has remarked that it is currently experienced within the context of large

industrial units with limited activity to the canal and a surrounding townscape of limited quality. Furthermore the proposed opening up of routes and providing active frontages to the canal, as a non designated heritage asset, is considered would offer an enhancement opportunity that would reconnect the bridge to its surroundings.

6.92 With respect to the non designated heritage bus garage building located on site the applicants consider that it presents a conundrum as it is a good piece of early 20th Century architecture, but forms a hostile large block that prevents access to the canal and it is not typical to the wider development of this area. There is no objection from the Conservation Officer to the demolition of the building, as the most interesting façade, facing Liverpool Street, is to be retained and integrated into the development.



CGI Showing the Retention of Existing Wall to Liverpool Street within Plot 1

6.93 The Planning (listed Building and Conservation Areas) Act 1990 places a duty on local planning authority's to have special regard to listed buildings or their setting, and that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The NPPF seeks to ensure that any harm to the significance of a heritage asset is considered.

6.94 The applicants contend that the proposed development is of a scale that would be read as a contribution to the emerging growth and expansion of the City and that there would be no demonstrable harm to the significance of heritage values within the immediate site, its neighbourhood, or the wider City Centre.

6.95 The site is not located within a designated conservation area, nor does it accommodate any listed buildings, plus the development would maintain the external facade of the bus garage, and reactivate the canal side, both of which are considered to be non-designated heritage assets. Therefore with regard to the assertion that the development would not cause harm to the existing heritage assets the Council's Conservation Officer agrees. It is therefore considered to accord with Policies TP12 and TP12 and the NPPF.

6.96 Separately the archaeological assessment has established that there are no designated archaeological heritage assets within the study site or within the

immediate landscape. Any archaeological remains relating to early industrial development within the northern land parcel are likely to have been significantly truncated. Within the southern land parcel, site investigation has recorded the infill of 19th century gas holders within 0.20m of the present ground surface.

6.97 In line with national and local policy, the report concludes that no further requirement for archaeological investigation is anticipated to determine the application. A site investigation may be required to confirm the absence of significant archaeology from the northern land parcel, however this can be secured by way of a planning condition required. Accordingly, the development accords with BCC Policy TP12.

Transportation

6.98 The application has been accompanied by a Transport Assessment (TA) and Framework Travel Plan. The former considers the accessibility of the proposed development by sustainable modes of travel, the likely change in trip movements and the overall impact on the surrounding highway and public transport networks.

6.99 The site has a highly sustainable and accessible location. The TA demonstrates that the development is well served by existing bus and rail routes and opportunities to travel by non car modes will significantly improve in the near future with the tram extension, particularly as a tram stop is proposed in Adderley Street between the northern and southern parts of the site. Plus there will be the new HS2 Curzon Station located within a 15 minute walk from site.

6.100 The development proposes a total of 32 permanent and 22 temporary spaces as part of Plot 1, and a maximum of 178 spaces for the outline plots serving all of the proposed uses including residential, commercial, retail, community, leisure and visitors. A quantum of car parking spaces equivalent to 10% of the residential units (C3 Use) would be designed to disabled standards. The submitted Development Specification states that there would be a minimum of 1 cycle parking space per residential unit and 1 per unit of student accommodation, and different ratios of cycle parking provision are listed depending on the Use Class.

6.101 The Council's emerging 'Car Parking Guidelines – Supplementary Planning Document' (Consultation Draft, 2019) identifies that residential developments within the City Centre should be predominately car-free, with on-site disabled parking as a minimum. Based on the number proposed it is considered that the proposed amount of residential on-site parking would represent an appropriate middle-ground between the adopted and emerging policy requirements and would be suitable to serve the proposed residential aspect of the development.

6.102 Having calculated the net change in peak hour movements by all modes of transport, including walking and cycling the TA concludes that the development would not have any adverse impacts on the immediate highway network, including the surrounding cycling and pedestrian infrastructure or upon public transport capacity, and that no mitigating highway improvements are therefore required. It also confirms that the site is in a suitability sustainable location where there are no highway safety concerns.

6.103 The applicants have provided swept path diagrams to demonstrate that refuse vehicles would be able to serve the development alongside the proposed metro.

Air Quality

6.104 The site is located within the city wide Air Quality Management Area (AQMA) that is designated for the potential exceedance of the annual mean nitrogen dioxide (NO₂) and daily mean particulate matter (PM10) air quality objectives. The submitted Air Quality Assessment (AQA) concludes that the proposed development is not predicted to result in any new exceedances of the relevant air quality objectives, and that the impact of the development on local air quality is predicted to be 'negligible' in accordance with guidance.

Flood Risk & Drainage

6.105 The FRA confirms the proposed development site is entirely within Flood Zone 1 where there is the lowest low risk of flooding. It therefore meets the flood risk sequential test. Furthermore no increased flood risk is posed to the site itself or adjacent developments.

6.106 The use of sustainable drainage systems (SuDS) has been considered and can be incorporated within the design. The applicants have suggested the provision of green roofs and attenuation tanks as part of a sustainable drainage system, and notably a swale is proposed to the northern side of Adderley Street as part of Plot 1.

Ecology & Biodiversity

6.107 The site contains no statutory or non-statutory nature conservation sites although it has a common boundary to the Digbeth Branch Canal Wildlife Corridor and the Grand Union Canal SLINC Area.

6.108 The submitted ecological report identifies that current anticipated impacts of the demolition and development proposals are considered to be localised to the site, the immediate hardstanding and built environment. Therefore no protected ecological sites would be impacted upon by the proposed development.

6.109 In terms of protected species, the ecological report acknowledges that two buildings on the site are identified as having some suitability for bat roosting and need to be subject to further survey prior to demolition. The assessment also recommends further targeted surveys for black restarts as the existing habitat has the potential to support foraging. A condition to require this additional survey work and any necessary works of mitigation is attached.

6.110 It is considered that the landscape proposals for Plot 1 and the landscape strategy for the remaining plots would provide biodiversity enhancement over and above the existing site in accordance with Policy TP8 of the BDP.

Sustainable Construction & Energy

6.111 BDP Policy TP3 states that that all new non-residential built developments in excess of 1,000sqm gross floorspace or a site area of 0.5ha or more should aim to meet BREEAM standard excellent unless it can be demonstrated that the cost of achieving this would make the scheme unviable.

6.112 To comply with this policy a detailed energy assessment has been undertaken on Plot 1 and the wider masterplan to demonstrate that they are capable of achieving energy and carbon emissions reductions, based on enhanced fabric performance combined with efficient systems and technologies. It also includes a BREEAM Shell and Core assessment demonstrating that BREEAM Very Good could be achievable for the development as a whole, facilitating the ability to aspire to BREEAM Excellent for commercial units of over 500sqm only. This approach is inconsistent with Policy TP3 as the BREEAM Excellent target should apply to the whole development as the site is greater than 0.5ha in area. However the submitted 500sqm compromise is considered to be acceptable in this instance as it would achieve the policy aim in respect of the relevant non-residential floorspace.

6.113 The Energy Statement has considered the use of Gas Fired Combined Heat and Power, solar thermal energy, wind turbines, a ground source heat pump, bio-renewable energy sources, air source heat pumps and solar photovoltaics with the scheme incorporating the latter to provide approximately 41,600kWh of power on the four flat roofs to Plot 1. In addition air source heat pumps are to be used for heating and cooling within the commercial and amenity spaces. However as the site is located approximately 1 mile from the nearest known district heating node connection has been discounted on the grounds of major cost, time and disruption.

6.114 Following a fabric first approach the dwellings will therefore be designed with thermally efficient building fabric specification, providing levels of insulation in the walls, floors and roof exceeding the minimum requirements of Building Regulations. Therefore it is feasible to achieve a 12.6% fabric improvement over the notional requirements based on the current regulations. Plus the development is currently designed to reduce carbon dioxide emissions by 19% over Building Regulations 2013 notional values.

6.115 It is considered that proposals meet the low carbon energy generation and low emission policies.

Noise

6.116 The matter of noise has received much deliberation due to the proposed introduction of a significant residential presence into a part of the City known for its entertainment premises. During the progress of the application the applicants have submitted the following supporting documents:

- Noise Assessment March 2020
- Addendum (Entertainment Noise) Aug 2020
- Revised Noise Assessment
- Acoustics & Noise Control
- Addendum (Entertainment Noise – Digbeth Arena18-19 Hack Street)

6.117 Emerging Policy DM2 refers to the compatibility of adjacent uses with the reasoned justification echoing the guidance of the NPPF, insofar as planning decisions should ensure that new development is appropriate for its location taking into account the potential sensitivity of the site or the wider area to impacts that could arise from the development.

6.118 The Curzon HS2 Masterplan seeks to identify a range of development and regeneration opportunities to promote the area's growth potential including the provision of 4,000 homes. The site is located within the creative zone where the key principles include:

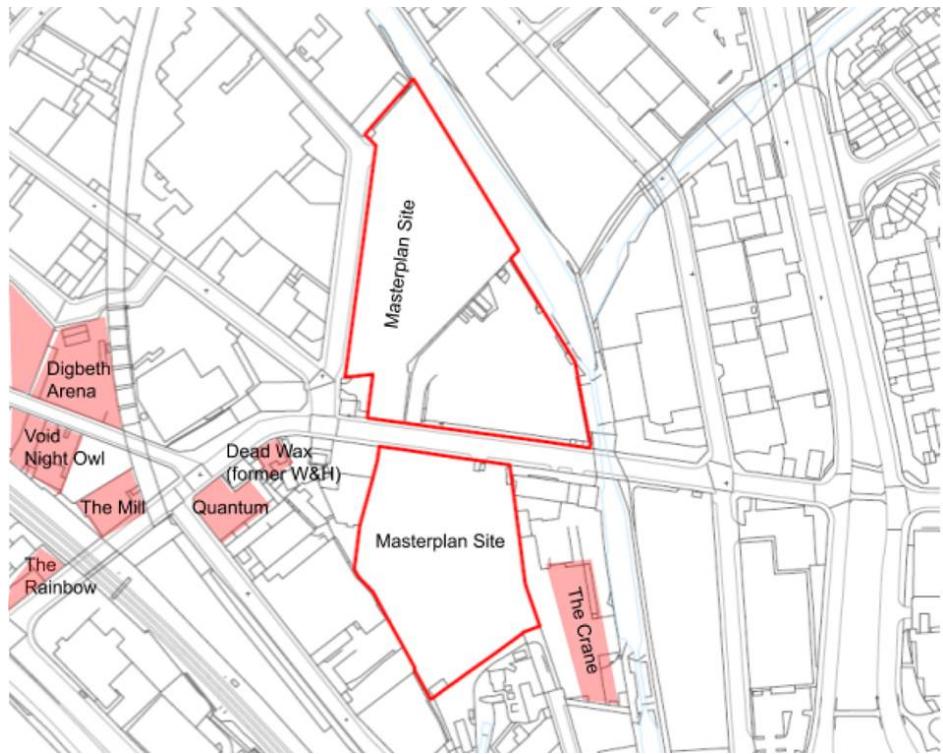
- A focus for cultural activities - growing the arts and live music scenes.
- A vibrant mixed-use neighbourhood that enlivens the area 24/7 with a range of distinctive retail and leisure uses reflecting the arts and creative industries as a tourist and visitor destination; and the
- Creation of a high quality sustainable residential neighbourhood focused around the canals.

6.119 The Noise Assessments consider road traffic, the train lines into Moor Street Station, existing industrial and commercial uses and the CRT pumping station off Bowyer Street. Attended and unattended noise monitoring has been undertaken.

6.120 The Assessment makes it clear that there has been no detailed appraisal of the noise impact of the proposed tram stop, as such an assessment would be undertaken during the planning, design and approval process for that project, when there would be consideration given to the preceding residential use at this site. However there is a 3-D computer model included in the Assessment and a desk top study has been used to determine the minimum requirements for the sound insulation performance of the facade elements to the habitable rooms. The predicted level of vibration corresponds to the low probability of adverse comment.

6.121 After the submission of the original Noise Assessment further noise data was requested by Regulatory Services with respect to the existing late night entertainment premises in the area. In response additional noise data has been submitted relating to the following premises, the closest of which are on the map below:

- The Mil;
- Dead Wax;
- Digbeth Arena (and adjacent car park);
- The Rainbow;
- The Night Owl;
- Mama Roux's (Unit 3 Lower Trinity Street);
- Spotlight (Unit 2 Lower Trinity Street);
- The Monastery;
- The Crane; and
- Quantum Events Centre.



Existing late night uses located closest to the site

6.122 Unfortunately due to Covid 19 it has not been possible to collate live data as the venues have not been open, however additional noise data has been drawn from Assessments regarding approved developments at Lunar Rise and the Stone Yard, and from the current application at Upper Trinity Street. Such data is considered, by the Assessment, to be reliable as the propagation of low frequency sound is uniformly omni-directional and both Lunar Rise and Stone Yard are located at an equivalent distance from the Mill as Plot 1. Furthermore the noise data is consistent across the applications and clearly identifies The Mill as the defining source of entertainment noise.

6.123 Based upon the findings of the additional data the revised Noise Assessment has recommended minimum requirements for the sound insulation performance of windows and the facades, together with ventilation systems in order to provide adequate control of entertainment noise to the habitable rooms in Plot 1. A mechanical ventilation system would prevent overheating with occupiers not having to rely on opening windows. Therefore the windows could be closed when required, and this provision is considered, by the applicants, sufficient to protect against noise. A sealed façade is considered not to be necessary by the applicants.

6.124 Additional sound insulation would be provided between the commercial uses at the ground floor of Plot 1 and the residential uses at the upper floors.

6.125 Moving onto the Plots in outline the Assessments conclude that requirements for the control of noise to their habitable rooms will largely depend on the entertainment noise sources open in the future, at the time of the reserved matters submission. It is

suggested that an additional assessment of entertainment noise be required for each Plot at the reserved matters stage to account for the following:

- Complexity of noise propagation at distance from the source(s);
- Future changes to the number and operation of the entertainment premises; and
- Specific proposals for the design of the buildings including facade elements to their habitable rooms

6.126 It is at the reserved matters stage that the building line of the individual plots will be known, as well as the floor plans, positions of windows, and building facades. The appropriate noise mitigation, therefore, needs to be considered for Plots 2 to 6 at that stage. It is however acknowledged that, based on the available noise monitoring data, Plots 4, 5 and 6 are likely to be exposed to similar levels of low frequency entertainment noise, similar to the levels calculated at Plot 1.

6.127 The Noise Assessments conclude that it is anticipated that adequate control of noise ingress to dwellings and habitable rooms across all plots can be readily achieved to meet the Council's recommended limits as outlined in the Planning Consultation Guidance Note (PCGN) Noise and Vibration, and BS 8233 subject to specific design proposals.

6.128 Regulatory Services do not agree. The necessity to close windows or provide sealed units with mechanical ventilation is not a solution the Regulatory Services finds acceptable. The comments state that residential occupiers have the right to open their windows to provide ventilation and this, should they choose to do so, has the potential to lead to complaints by residents due to noise and disturbance from existing late night premises. Regulatory Services would have a duty to investigate and may find a statutory nuisance has occurred leading to undue restriction(s) on the existing entertainment premises. There remains an outstanding objection with the comments suggesting further investigations to determine a strategy to control noise at source with consideration of an Agent of Change agreement.

6.129 An Agent of Change agreement is not considered to be practicable as The Mill is only one of a number of late night uses in the area and, even if the owners of the premises were agreeable to physical or managerial alterations it cannot be guaranteed that other existing venues would not, in the future, create additional disturbance. Furthermore there is an existing consent for residential development at the Stone Yard, an equivalent distance from The Mill, with no such agreement.

6.130 There is therefore a particular conflict to be considered here between the amenity of future residential occupiers and the existing nearby entertainment uses. First it is acknowledged that part of the very essence of Digbeth relies upon a diverse late night economy that brings significant financial and cultural benefits to the area that is recognised in the local policy. Plus the advice of the NPPF cannot be ignored which states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. However, at the same time there is also the need for housing

acknowledged in the BDP alongside the provision of an identified 4000 houses as outlined in the HS2 Curzon Masterplan.

6.131 The Noise Assessment indicates that the high levels of entertainment noise would require the use of closed/sealed facades for residential schemes beyond a radius distance of approximately 130m from The Mill. This measurement would encompass part of the west elevation of Plot 1 facing Liverpool Street and part of the south elevation facing Adderley Street. Based on plans submitted it would equate to 39 of the 213 units. In addition, if the outline plots were to be constructed to their furthest parameter the 130m measurement would encompass the west elevation of Plot 5 where residential uses are proposed on the upper floors within blocks of up to 7 and 9 storeys. Unfortunately as the floor plan is not known for this Plot the number of potential units affected cannot be confirmed, however it is estimated to be 18 units. The reserved matters application however provides the applicants with the option of moving the footprint of the Plot farther away and/or orientating the habitable windows away from the noise source.

6.132 The Planning Practice Guidance accepts keeping windows closed and using alternative ventilation systems when noise or other effects are occurring. However in order to mitigate against complaints by future occupiers as far as possible conditions are proposed to require sealed windows where necessary to Plot 1, to secure the specification of the glazing and external walls to all of Plot 1, and to require an overheating assessment to provide as high quality living conditions as possible. The provision of sealed units is not an ideal situation and they are not promoted by PCGN, the Noise Policy Statement for England or Planning Practice Guidance. However it is considered necessary in order to redevelop this site for housing. The wider masterplan would also have a condition to require the submission of a subsequent noise assessment at the time of the reserved matters, which would take into account the possible change in noise climate at that time together with the detailed design of the building(s).

Environmental Statement (ES)

6.133 Due to the potential for cumulative effects with other developments in close proximity to the site the proposed development constitutes 'EIA development' under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017.

6.134 The applicants have scoped in and therefore consider that the main effects of the development are likely relate to the following topics:

- Townscape and Visual;
- Heritage
- Wind Climate;
- Daylight, Sunlight and Overshadowing;
- Contamination;
- Socio-Economics; and
- Cumulative Effects.

6.135 The ES has identified and assessed the significance of potential environmental effects relating to the topics listed above. The assessment of 'significance' has been undertaken for all potential effects to determine their relative importance.

6.136 The type of effect can be adverse, negligible (neutral) or beneficial and the degree of significance can be minor, moderate or major. When a significant adverse impact is identified then measures to mitigate the effects are proposed. The 'Do Nothing' Alternative and developing an 'Alternative Site' have also been considered and discounted.

6.137 Socio-economic impacts – during the operational phase these are assessed as either Minor or Moderate Beneficial. The development is regarded as having a positive and lasting impact in the area. No additional mitigation of negative impacts is required.

6.138 Townscape and Visual – the receptors which could potentially be impacted upon by the proposed development include:

- Digbeth – Historic Core;
- Digbeth – South of the High Street and west of Middleway; and
- Bordesley – Western Small Heath.

6.139 The likely visual effects associated with the development proposals have been ascertained through the consideration of 13 representative viewpoints. The majority of the potential impacts at the construction phase of the development are anticipated to range from negligible to moderate-minor adverse which is not significant. Two moderate adverse impacts have been identified regarding the views from Liverpool Street and Adderley Street that are significant. These impacts are at the local level and are reversible in the medium term.

6.140 Impacts at the completed development phase are anticipated to primarily range from negligible to moderate-minor beneficial which are not significant. However, there are four significant impacts anticipated at the following receptors:

- Digbeth - South of the High Street and west of Middleway (moderate beneficial);
- Views from the Canal (major-moderate beneficial);
- Views from Adderley Street (moderate beneficial); and
- Views from Kingston Park (moderate neutral).

6.141 As these significant impacts are beneficial no mitigation is required.

6.142 Heritage - Seven designated heritage assets and seven non-designated assets have been identified as having the potential to be impacted upon by the development. In addition, Digbeth, Deritend and Bordesley High Streets Conservation Area and Warwick Bar Conservation Area are located 125m and 160m north of the site respectively. Residual impacts at the construction phase are reported a negligible and not significant. At the completed development phase, impacts range from neutral which is not significant to major beneficial which is significant.

6.143 The overall heritage impact is determined within the ES as having an overall moderately beneficial heritage impact as the physical and visual changes would be

appropriately balanced and would result in a considerable improvement to the overall character and appreciation of the canal-side. Plus the development would retain the Liverpool Street façade of the Bus station. The development would result in negligible perceptible change to the fabric, character and setting of the identified designated heritage assets, and would enhance the values of the heritage assets in the identified views as well as the townscape as a whole. Acknowledging that the Council's Conservation Officer considers that there is no harm to the existing heritage assets the overall contention is not disputed and no mitigation of impacts is required.

6.144 **Ground Conditions** – An assessment has been undertaken to assess the potential direct and indirect impacts of the proposed development arising in relation to environmental contamination on geology, groundwater and soils. Chemical testing of groundwater samples from the site have recorded elevated metals/metalloids in several samples exceeding the relevant screening criteria. Some on site remediation will be required prior to construction. Impacts following the implementation of mitigation measures at the construction stage range from negligible to minor adverse which is not significant. The remediation and validation of identified contaminated soils during the construction phase as well as the validation of imported soils used for soft landscaping will ensure a negligible impact, which is not significant, on human health receptors at the completed development phase. The completed development drainage design will include measures such as interceptors and prevent direct discharge of potential contaminants to the canal. This, along with the remediation of hydrocarbons on site would reduce risk to controlled waters leaving a negligible to minor beneficial impact which is not significant. Mitigation can be secured via conditions.

6.145 **Daylight, Sunlight and Overshadowing** – Assessments have been undertaken to assess the baseline daylight and sunlight amenity conditions of the areas surrounding the site and the potential impacts that the proposed development may have on daylight and sunlight outside of the site. The potential daylight, sunlight and sun on ground effects during demolition are considered to be negligible to the surrounding sensitive receptors, which is not significant. There is anticipated to be a marginal reduction in daylight and sunlight amenity to surrounding sensitive receptors upon completion of the development. Given the urban context of the development, the anticipated impacts at the completed development stage are negligible which is not significant. Given that the impacts are anticipated to be negligible, no further mitigation is considered necessary.

6.146 **Wind Microclimate** - An assessment has been undertaken to assess the baseline wind conditions on site and to evaluate what effects the proposed development may have on these conditions during both the construction and operational phases. The assessment was performed using the London Docklands Development Corporation (LDDC) variant of the Lawson Comfort Criteria. The existing wind conditions on site during the summer are suitable for a mixture of sitting and standing, and winter conditions are suitable for a mixture of sitting, standing and strolling. All areas are suitable for their intended use. There are no areas on or in close proximity to the site which are considered to be unsafe for pedestrians in terms of wind speeds. A wind

issue is deemed significant if it is a moderate or major adverse on-site effect or a major adverse off-site effect.

- 6.147 At the completed development phase, a major adverse impact is anticipated on the Plot 1 roof terrace which is significant. Mitigation to alleviate this impact includes the erection of screening extending 0.5m above the balustrade of the building to span the north-eastern half of the terrace perimeter. The adverse effects following the construction of Plot 1 are expected to be eradicated upon the completion of the full proposed development, so the screening may potentially be temporary. The residual impact is anticipated to be negligible which is not significant.
- 6.148 Moderate beneficial impacts are anticipated at all entrance locations on site which is significant as they will be one category calmer than the target conditions (i.e. suitable for sitting as opposed to standing).
- 6.149 Cumulative Effects - A planning application search was undertaken to identify any committed developments (those which are existing and/or approved) to consider the potential for cumulative effects. Consequently those developments that are within a 2.5km radius of the proposed development have been included. The results have identified that there is not anticipated to be any significant adverse cumulative effects at either the construction or completed development phase. Significant beneficial impacts are anticipated with regard to the socioeconomic effects, townscape and visual, heritage and wind microclimate. There are some significant adverse impacts associated with townscape and visual impact during demolition and construction, however, these impacts are temporary and reversible.
- 6.150 In summary any adverse effects identified through the assessment have, according to the applicants, been minimised through the design process or would be by applying appropriate mitigation measures. Those effects associated with the construction activities would be controlled by a Construction Environmental Management Plan (CEMP). Potential environmental impacts of the completed development range from negligible to moderate beneficial.
- 6.151 During the progress of the planning application additional information was requested and submitted in respect of the Daylight and Sunlight and Wind Microclimate assessments. This constituted additional environmental information as defined by the 2017 EIA Regulations and an ES Addendum was submitted. The additional information related to the potential daylight and sunlight levels within the development and the overshadowing of the amenity areas within the scheme. No further technical analysis has been undertaken in respect of wind microclimate, the original assessment was simply revisited to provide points of clarification.
- 6.152 There is anticipated to be a marginal reduction in daylight and sunlight amenity with the proposed development in place. Given the urban context of the development and the low sensitivity of the receptor, the anticipated impacts at the completed development stage are negligible to minor adverse which is not significant. No further mitigation is considered necessary.

6.153 The results of revisiting the Wind Microclimate assessments are negligible to moderate beneficial in significance and therefore not EIA significant. The mitigation outlined previously can be secured via planning condition.

6.154 Furthermore the description of development has been amended during the progressions of the application; reducing the residential element on Plot 1 from 214 to 213 units and providing a predominance of 2 and 3 bed units plus removing the co-living element from the outline plots. An ES Statement of Conformity has been submitted justifying why the environmental effects are no worse than those reported in the original ES and the later ES Addendum.

6.155 It is considered that the ES provides adequate information and has reached a reasoned conclusion on the significant environmental effects of the proposed development.

Other Matters

6.156 The CRT have raised a number of queries and concerns. With respect to the impact of the proposed massing of the development upon the canal it is considered that the additional overshadowing drawings submitted by the applicants demonstrate that this would not be significant. In response to providing another access point on the canal towpath the applicants have responded that the potential to provide a new access point onto the canal was considered in full by the design team at pre-application stage. A potential access point from Adderley Street was previously discussed however there is limited scope to provide a direct route to the canal towpath given the width of the towpath south of the bridge and land outside of the applicant's control to the north. On this basis the applicants consider that it is not viable or feasible to provide a new link to the towpath as part of the proposed development plans.

6.157 The applicants have responded to the queries raised by the Police confirming that deliveries will be via the main building entrance lobby on Adderley Street, there is no management plan in place for the upkeep of the communal areas at this moment in time, both the vehicular and pedestrian entrances will be subject to access control, access control will be in place at building entrances as well as lift and stair cores, the cycle store forms part of the internal car parking area of the building and CCTV will be provided to all internal and external residential communal areas.

6.158 The Civic Society and the Twentieth Century Society both comment that the existing bus depot garage building is worthy of retention, with the former suggesting that it should be reassessed as a locally listed building and the latter objecting to its demolition as it would cause harm to a non-designated heritage asset. It is however considered that the most important feature of the building, the wall facing Liverpool Street, is being retained. Plus there is a condition attached to ensure that the existing friezes mounted on the building, reading 'Birmingham Corporation Tram & Omnibus Dept', are removed, stored and relocated on site. Therefore these elements would communicate its historic function as a bus depot. These actions are considered sufficient to overcome any harm to the recognised non designated heritage asset.

Planning Obligations

6.159 The number of units proposed is above the threshold for the provision of affordable housing (Policy TP31 and Affordable Housing SPG), and for off site open space (TP9 and Public Open Space in New Residential Development SPD).

6.160 Through the consultation process there has also been the request for the following contributions:

- a) Leisure Services - £476,275
- b) Sport England - total playing pitch contribution of £736,375.
- c) Education - £8,837,817.84; and
- d) Canals and Rivers Trust - contribution towards a new access point onto the towpath.

6.161 As required, the applicants have submitted a Financial Viability Assessment (FVA). The baseline appraisal concludes that a policy compliant development providing 35% affordable housing would not be financially viable. This has been independently assessed, and led to negotiations concluding in an offer of:

1. 5% of the total C3 residential units as affordable housing on-site, including 5% as part of the first phase (Plot 1 – 213 units). This equates to 10 units on Plot 1 and up to 51 units on Plots 2 to 6. With respect to the outline plots the affordable units would be delivered at a ratio of 5% of the total number of residential units within each and every plot, however there would be some flexibility to allow the affordable units to be grouped should more than one plot be delivered at the same time; and
2. Provision of affordable workspace - A minimum of 50% of the ground floor commercial area (retail – A1-A5, and commercial – B1 office) across the masterplan at 70% market rent, divided between the plots as follows:
 - Plot 1 - 350sqm; and
 - Plots 2 to 6 – between a minimum of 1,596sqm and maximum of 5,050sqm.

6.162 It is acknowledged that other requests for contributions have been received, however the development would provide a minimum of 8,516sqm of accessible public realm on site plus a new public square at Bordesley Wharf of 787sqm. There is therefore the provision of play space within the site supplemented by Kingston Hill Park and Garrison Lane Park both of which are within walking distance and equipped with children's playgrounds. Furthermore it is anticipated that there would only be a small proportion of family homes at this City Centre location with consequently a low child ratio requiring play space and education facilities.

6.163 National guidance states that the weight to be given to a viability assessment is a matter for the decision maker, and it acknowledges that the cost of all relevant policies should not be of a scale that would make a development unviable. In this instance the level of affordable housing provision is considered acceptable particularly as the development would also provide some affordable workspace. This latter provision is consistent with one of the Vision, Objectives and Strategy of the

BDP which seeks to create a prosperous, successful and enterprising economy with benefits felt by all. It is also supported by BDP Policies PG1, GA1.1 and GA1.3. Plus the Curzon HS2 Masterplan and Curzon Investment Plan seek to build on the economic opportunities of the extension to the Midland Metro and unlock sites delivering the economic impact that will create uplift in business rates and maximise the growth potential of HS2.

7. Conclusion

7.1 The determination of the current scheme lies in the planning balance. There are many benefits that support the NPPF objectives, as set out below, that contribute to the achievement of sustainable development:

7.2 Economic Objectives:

- Providing 157 construction Full Time Equivalent (FTE) jobs supported on-site during the build period and a further 185 off-site indirect FTE jobs;
- Bringing £30.8m of expenditure to the local economy that could directly support 160 full time equivalent jobs within local shops in the City;
- Providing new commercial floorspace including between a minimum of 1,596sqm and a maximum of 5,050sqm affordable workspace to deliver services and facilities to local residents; and
- Stimulating wider regeneration opportunities as supported by the Curzon Masterplan.

7.3 Social Objectives:

- Supporting a vibrant community of up to 1,250 homes to meet the City's housing need with a range of homes and a mix of commercial uses to create a mixed community;
- Providing between 10 and 51 affordable homes;
- Providing a well-designed and safe environment with good links to the City Centre; and
- Providing a range of private and communal amenity areas including a public square at the heart of the development;

7.4 Environmental Objectives:

- Reusing previously developed land at a sustainable location with good connections through the site, to other developments and to the City Centre;
- Providing a well-designed building at Plot 1 that provides active uses at street level with a robust design code to ensure that the quality is maintained throughout the wider masterplan;
- Activating the canalside by providing a public square known as Bordesley Wharf with the potential for moorings;
- Providing biodiversity enhancement in the form of landscaping for Plot 1 and via a landscape strategy for the remaining plots
- Creating no significant impact upon air quality, flood risk or ecology;
- Creating no harm to the significance of the existing heritage assets;

- Providing energy efficient buildings designed to reduce energy use and carbon including the use of photovoltaics and ground source air pumps, and targeting a BREEAM Excellent rating for the commercial spaces;
- Providing a sustainable drainage scheme; and
- Providing cycle storage facilities and electric vehicle charging points.

7.5 However Digbeth is renowned for its night life and entertainment venues, as promoted by Policy GA1.3, and in order to avoid placing undue restrictions on how these premises operate in the future it is considered necessary to seal a proportion of the residential units on Plot 1 and potentially additional units within the wider masterplan. Provision of sealed units would not provide the highest living conditions for occupiers, contrary to emerging Policy DM2 and the NPPF; however it is considered that, in the circumstances the mitigation is reasonable and a justifiable solution.

7.6 Therefore weighing the proportion of sealed units against the wider benefits the scheme the proposed development is supported.

8. Recommendation

8.1 The recommendation is to APPROVE application 2020/01796/PA subject to the prior completion of a Section 106 Legal Agreement to secure the following;

- a. 5% of the residential units on each plot as affordable housing on-site comprising a mix of 1 bed (45%), 2 bed (50%) and 3 bed (5%). Plot 1 to provide 10 units comprising 4 x 1 bed, 5 x 2 bed and 1 x 3 bed. The affordable homes to be sold as low cost home ownership tenure at a discount of 20% of market value;
- b. A minimum of 50% of the ground floor commercial area (retail (Use Classes A1-A5), and commercial (Use Class B1 office) across the masterplan as affordable workspace at 70% market rent in perpetuity; providing 350sqm in Plot 1 and between a minimum of 1,596sqm and maximum of 5,050sqm in Plots 2 to 6 ; and
- c. Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000;

and subject to the conditions listed below.

8.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 15th January 2021 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:-

- a) In the absence of a legal agreement to secure a commitment provide on-site affordable housing units the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.

b) The lack of affordable commercial floorspace is contrary to one of the Vision, Objectives and Strategy of the BDP which seeks to create a prosperous, successful and enterprising economy with benefits felt by all, BDP Policies PG1 (Overall Growth,), GA1.1 (City Centre Role and Function,) GA1.3 (The Quarters), the Birmingham Curzon HS2 Masterplan for Growth and its accompanying Curzon Investment Plan.

8.3 That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.

- 1 Pre - Demolition: Submission of Demolition Phasing Plan
- 2 Pre - Demolition: Method Statement for Bus Garage
- 3 Pre - Demolition: Submission of Demolition Management Plan
- 4 Pre Demolition: Submission of Details to Protect Black Redstarts and their Habitat
- 5 Pre Demolition: Submission of a Further Bat Survey
- 6 Full Plot 1: Prior to Commencement of Development Submission of a Contamination Remediation Scheme
- 7 Full Plot 1: Prior to Commencement of Development Submission of Overheating Assessment
- 8 Full Plot 1: Prior to Commencement of Development Submission of Sustainable Drainage Scheme
- 9 Full Plot 1: Prior to Commencement of Development Submission of a Construction Employment Plan.
- 10 Full Plot 1: Prior to Above Ground Works Submission of Materials
- 11 Full Plot 1: Prior to Above Ground Works Submission of Hard and Soft Landscaping
- 12 Full Plot 1: Prior to Above Ground Works submission of Biodiversity Enhancement Plan
- 13 Full Plot 1: Prior to Occupation of Plot 1 Submission of a Contaminated Land Verification Report
- 14 Full Plot 1: Prior to Occupation Submission of Extraction and Odour Control Details
- 15 Full Plot 1: Prior to Occupation Submission of Noise Insulation
- 16 Full Plot 1: Prior to Occupation Implementation of Windows to Achieve Sound Reduction
- 17 Full Plot 1: Prior to Occupation Implementation of Building Envelope to Achieve Sound Reduction

- 18 Full Plot 1: Prior to Occupation Implementation of Sealed Windows to Liverpool Street & Adderley Street Elevations
- 19 Full Plot 1: Prior to Occupation Submission of a Sustainable Drainage Operation and Maintenance Plan
- 20 Full Plot 1: Prior to Occupation Implementation of Approved Car Parking
- 21 Full Plot 1: Prior to Occupation Provision of Vehicle Charging Points
- 22 Full Plot 1: Prior to Occupation Implementation of Approved Cycle Parking
- 23 Full Plot 1: Prior to Occupation Details & Implementation of Parking Management Plan
- 24 Full Plot 1: Prior to Occupation Implementation of Public Realm - Liverpool Gully & Upper Bowyer Street
- 25 Full Plot 1: Prior to Occupation Provision of Photovoltaics
- 26 Full Plot 1: Prior to Occupation Provision of Air Source Heat Pump
- 27 Full Plot 1: Prior to Occupation Provision of Wind Microclimate Mitigation
- 28 Full Plot 1: Prior to Occupation Provision of CCTV scheme
- 29 Full Plot 1: Implement within 3 years (Full)
- 30 Full Plot 1: Implemented in accordance with Approved Plans
- 31 Full Plot 1: Removal of Temporary Parking Spaces Prior to First Occupation of Plots 2, 3 or 4
- 32 Full Plot 1: Post Occupation Submission of BREEAM Excellent certificate/statement
- 33 Full Plot 1: Rating Levels for cumulative noise from all plant and machinery
- 34 Outline Plots 2 to 6: Phasing Plan Required before Submission of the first Reserved Matters Application
- 35 Outline Plots 2 to 6: Reserved Matters submission to be accompanied by a Completed Relevant Design Code Checklist
- 36 Outline Plots 2 to 6: Reserved Matters Submission of Student Needs Assessment
- 37 Outline Plots 2 to 6: Reserved Matters Submission of Construction Environmental Management Plan (CEMP)
- 38 Outline Plots 2 to 6: Reserved Matters Submission of Construction Details to Protect Black Redstarts and their Habitat
- 39 Outline Plots 2 to 6: Reserved Matters submission of Signage and Wayfinding Plan
- 40 Outline Plots 2 to 6: Reserved Matters Submission of Ventilation and Flue Strategy

- 41 Outline Plots 2 to 6: Reserved Matters Submission of Scheme of Noise Insulation
- 42 Outline Plots 2 to 6: Reserved Matters submission to be accompanied by Noise Assessment
- 43 Outline Plots 2 to 6: Reserved Matters submission to be accompanied by a sustainable drainage scheme
- 44 Outline Plots 2 to 6: Reserved Matters Submission to be accompanied by Biodiversity Enhancement Plan
- 45 Outline Plots 2 to 6: Reserved Matters Submission of CCTV strategy to public realm areas
- 46 Outline Plots 2 to 6: Reserved Matters Submission of Updated Energy Statement
- 47 Outline Plots 2 to 6: Reserved Matters Submission of Daylight, Sunlight and Overshadowing Assessment
- 48 Outline Plots 2 to 6: Reserved Matters Submission of Sustainable Design and Construction Assessment to meet BREEAM Excellent
- 49 Outline Plot 2: Reserved Matters Submission of Details of Bordesley Wharf
- 50 Outline Plots 2 and 3: Reserved Matters Submission of Moorings Strategy
- 51 Outline Plots 3 and 4: Reserved Matters Submission of Details of Liverpool Square
- 52 Outline Plots 5 and 6: Reserved Matters Submission of Details of Trinity Corner
- 53 Outline Plots 5 & 6: Reserved Matters Submission of Details of Trinity Gully
- 54 Outline Plots 2 to 6: Prior to Commencement of Development Submission of a Contamination Remediation Scheme
- 55 Outline Plots 2 to 6: Prior to Occupation Submission of a Contaminated Land Verification Report
- 56 Outline Plots 2 to 6: Requires the submission of reserved matter details
- 57 Outline Plots 2 to 6: - Timing of Submission of Reserved Matters Applications and Implement
- 58 Outline Plots 2 to 6: In accordance with Approved Parameter Plans
- 59 Outline Plots 2 to 6: In accordance with Table 5.1 of Amended Development Specification
- 60 Outline Plots 2 to 6: Submission of Environmental Statement Phasing Should There Be Unassessed Environmental Effects
- 61 Outline Plots 2 to 6: Limits the maximum gross floorspace of each unit within Use Class A1 Retail

- 62 Outline Plot 2: Prior to Occupation of Plot 2 Implementation of Public Realm - Bordesley Wharf
- 63 Outline Plot 3 & 4: Prior to Occupation of the second or final plot of plots 3 and 4 - Implementation of Public Realm - Upper Bowyer Street and Liverpool Street Square
- 64 Outline Plot 5: Prior to Occupation of Plot 5 - Implementation of Public Realm - Pumphouse Passage and Lower Bowyer Street
- 65 Outline Plot 6: Prior to Occupation of Plot 6 - Implementation of Public Realm - Pumphouse Passage and Lower Bowyer Street
- 66 Outline Plots 5 & 6 - Prior to Occupation of the second or final plot of plots 5 and 6 - Implementation of Public Realm - Trinity Corner and Trinity Gully

Case Officer: Julia Summerfield

Photo(s)



Looking Eastwards along Adderley Street - Plot 1 on left hand side



Liverpool Street - Existing Wall to be Part Retained



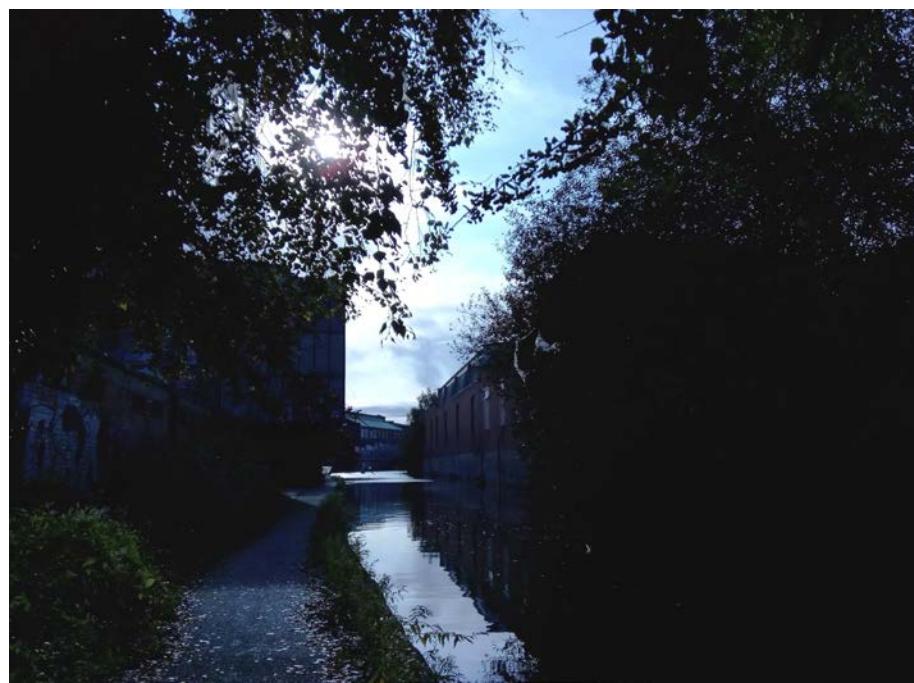
Aerial View from West Looking Across Plots 5 & 6



From Canal - Plot 2 to left hand side

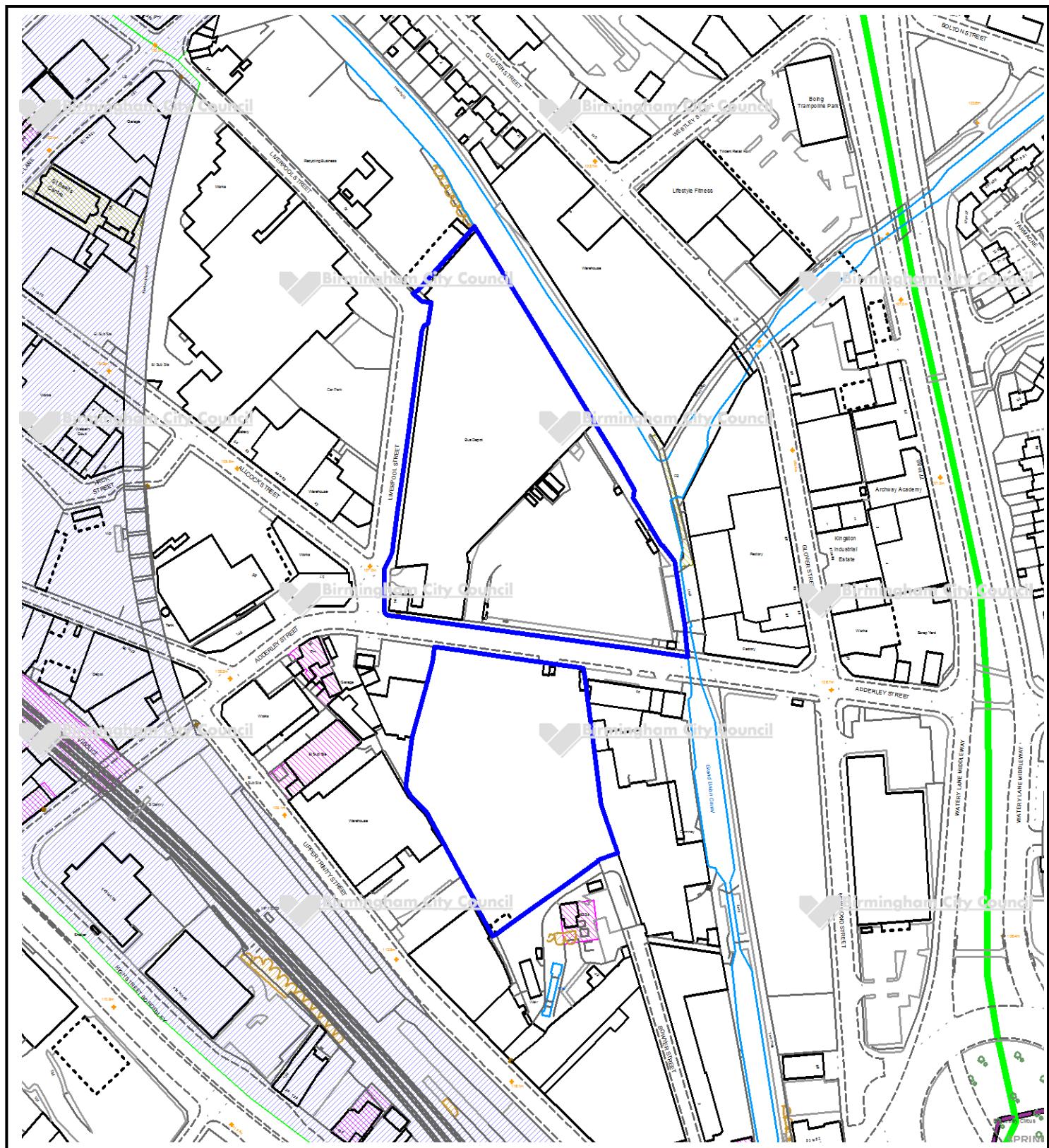


Existing Building to be demolished – Plot 3 to Left Hand Side



From Canal – Plot 3 to Right Hand Side

Location Plan



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|-----------------|------------|---------------------|---------------|
| Committee Date: | 03/12/2020 | Application Number: | 2020/00189/PA |
| Accepted: | 23/04/2020 | Application Type: | Full Planning |
| Target Date: | 03/01/2021 | | |
| Ward: | Ladywood | | |

Radio House, 15 Sutton Street, City Centre, Birmingham, B1 1PG

Demolition of existing building and construction of six storey residential building comprising 45 one and two bedroom apartments and ground floor office (Use Class B1a) unit with associated car parking

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. This full planning application comprises the demolition of existing buildings and the construction of a six storey residential building comprising 45 apartments and ground floor office space (Use Class B1a) with associated landscaping and car parking.
- 1.2. The 45 apartments proposed include 17 x 1 bed apartments (38% of total unit provision) and 28 x 2 bed room apartments (62% of total unit provision). The development includes 5 mezzanine apartments, 2 one-bedroom (two person) and 3 two-bedroom (four person). The remaining units provide for occupancy as follows; 15 one-bedroom apartments (two person) and; 25 two-bedroom (three person) apartments.
- 1.3. The commercial floorspace totals 89.7sqm, and consent is sought for a B1a use class, as defined by the old use classes order. It is worth noting that the application was submitted before the amendments to the Use Classes Order came into effect on the 1st of September 2020. As such, former use class B1a would become Use Class E should consent be granted. The new Use Class E also incorporates former uses classes A1, A2, A3, B1b, B1c and D1 which would allow a future change of use to any of these uses without the need for planning permission. The proposal includes nine car parking spaces and 48 cycle parking spaces, 1:1 for the residential dwellings and three for the commercial unit.
- 1.4. The proposed building would front Sutton Street and comprise a double height ground floor incorporating a mezzanine level, with five storeys above, and a wing of the same scale to the rear. The building is proposed to be constructed of orange/red brick and includes large metal framed windows of a uniform design, with concrete sills and lintels. The pillars to the front elevation are finished with facing brick, with double height windows provided to the commercial unit fronting Sutton Street. A railing style gate is also proposed to this elevation to allow for access to the car park and courtyard to the rear.
- 1.5. Double height windows are also proposed at ground floor level to the rear elevations fronting the courtyard. Windows on the upper floors continue to follow a uniform

pattern but are smaller than those fronting Sutton Street. The majority of residential units fronting the courtyard benefit from a private terrace or external balcony. The ground floor and mezzanine level supports 5 duplex units which all front onto the courtyard. The upper floors follow a typical floor layout and each floor contains 8 apartments. All units meet or exceed the national described space standards.

- 1.6. The courtyard itself provides the 9 car parking spaces and the bike store, but also includes hard and soft landscaping incorporating planting and seating areas to provide a usable amenity space.



Figure 1 – CGI from Sutton Street

- 1.7. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1. The site is bounded by Sutton Street to the west, and faces a large school playing field on the opposite side of Sutton Street. Irving Street lies to the south with an Ibis hotel to the east and shops / offices to the north. The site is covered by existing buildings, last used as a car radio/stereo fitting business, standing at 2 storeys to Sutton Street, with a hard surfaced yard to the south, and single storey workshop to the rear. The site measures approximately 0.08ha and falls gently to the south.
- 2.2. The surrounding area is presently occupied by architecturally unprepossessing buildings, generally comprising 2 storey commercial/office buildings fronting Sutton

Street, including offices, warehousing and car businesses, mostly vacant and/or derelict, particularly to the rear.

2.3. Holloway Head has a range of new residential developments either complete, under construction, benefitting from planning consent, or awaiting determination together with a range of ground floor commercial businesses. New Street Station is approximately half a kilometre to the north.

3. Planning History

3.1. None relevant.

4. Consultation/PP Responses

4.1. Site and press notice displayed. MP, ward members, residents associations and neighbouring occupiers notified. No comments received.

4.2. Lead Local Flood Authority – no objection subject to a conditions requiring submission of a sustainable drainage plan and its implementation, and a sustainable drainage operation and maintenance plan.

4.3. BCC Leisure Services - This proposed development would generate (in accordance with current BDP Policy), an off-site POS contribution as it is a residential application of over 20 dwellings. It would not generate any contribution for play because it is composed of mainly non-family type 1 and 2 bed accommodation and located in the City Centre. The POS contribution would = 1460 sq m of POS generated. 1460 x £65 per sq m (cost of laying out POS) = £94,900 which would be spent on the provision, improvement and/or biodiversity enhancement of St Thomas Peace Garden within the Ladywood Ward.

4.4. BCC Transportation – No objection subject to conditions requiring cycle parking.

4.5. BCC Landscape Team – No objection subject to landscape scheme condition.

4.6. BCC Regulatory Services – No objection subject to conditions requiring; a noise insulation scheme; the provision of an electric vehicle charging point; contaminated land remediation scheme a contaminated land remediation report.

4.7. West Midlands Police - Recommend that access control CCTV system be installed.

4.8. Severn Trent Water – No objection subject to a condition requiring the submission of surface and foul water drainage plans and their implementation.

5. Policy Context

5.1. Birmingham Unitary Development Plan 2005 (Saved Policies); Birmingham Development Plan (BDP) 2017; Places for All SPG; Car Parking Guidelines SPD; Public Open Space in New Residential Development SPD; Affordable Housing SPG; Loss of Industrial Land to Alternative Uses SPG (2006); Places for Living SPG; and the National Planning Policy Framework 2019. Also, the draft Development Management DPD and the non-statutory Big City Plan (BCP).

6. Planning Considerations

- 6.1. The BDP identifies the application site as being within the City Centre Growth Area where the focus will primarily be upon re-using existing urban land through regeneration, renewal and development.
- 6.2. The application site lies within the Westside and Ladywood wider City Centre area of change as an opportunity for cultural, entertainment and residential development.
- 6.3. Key issues for consideration are the principle of the development; loss of employment land; scale and design; affordable housing and S106 obligations.

PRINCIPLE

Unit Mix

- 6.4. Considering housing mix, the BDP sets the following targets for market dwellings: 1-bedroom 13%, 2-bedroom 24%, 3-bedroom 28%, and 35% 4-bedroom. By comparison the proposed housing mix for this 45 apartment scheme would have a 38% - 62% split between 1 and 2 bedroom apartments. Although the housing mix figures are not ceilings, given the city's overall housing requirement, there is a need to ensure that the right type and mix is provided in the city as a whole. The housing mix proposed is influenced by a number of factors including housing needs and demands in this part of the city and affordability.
- 6.5. It is accepted that in the city centre a higher percentage of one and two bedroom apartments are going to be delivered. This is on the basis of development land being at a premium, and the types of households that are likely to want to reside within a city centre locale. All apartments comply with or are in excess of minimum floor areas set within the Nationally Described Space Standards for a 2 person occupancy or above. These units are designed without internal corridors, to maximise the use of the living space. The development is considered to provide a good standard of living accommodation, with private balconies particularly welcome. Given the overall housing needs of the city and the site's location the proposed mix is considered acceptable.



Figure 2 – Ground/Mezzanine Level Floor Plan

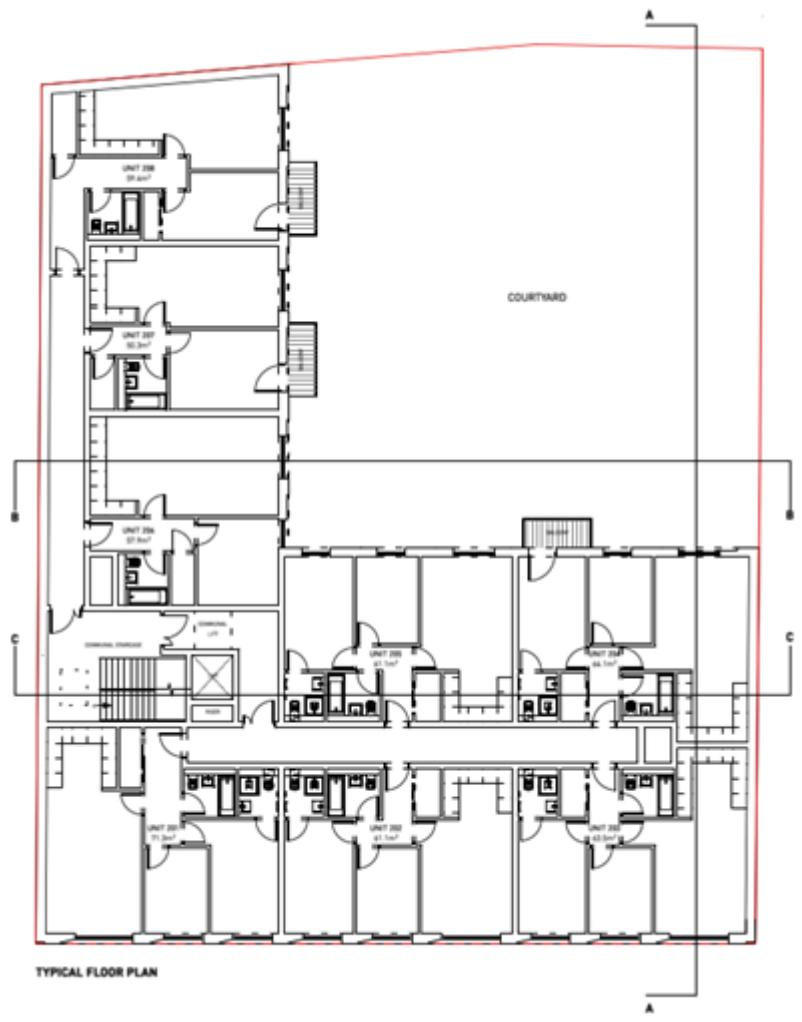


Figure 3 – Upper Floors Plan

Loss of Employment Land

- 6.6. Although the building is currently vacant its former use was as a car radio repair/fitting workshop, formerly class B1(c) (now use class E) and as such Policy TP20 of the BDP seeks to ensure the protection of employment land and stipulates if employment land is to be lost it should be in instances where the site is considered a non-conforming use or where the site has been actively marketed, normally for a period of two years, at a competitive price.
- 6.7. The Loss of Industrial Land to Alternative Uses SPD states that “within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives.
- 6.8. The SPD goes on to define ‘non-conforming uses’ as generally sites less than one acre isolated from other industrial uses within predominantly residential areas. The application site is approximately 0.2 acres and located within an area undergoing considerable change, with further residential schemes under construction or seeking consent. Examples include the former Lee Bank Business Centre on Holloway Head and the residential development on Florence Street. The emerging character of the area is mixed use supported by appropriate residential redevelopment which is supported by policies PG1 and GA1.3 of the BDP and further contributes to the city’s identified housing need.
- 6.9. The applicant has not provided evidence of active marketing of the site to support the application in this instance. However, the site falls within the Westside and Ladywood area of the city centre defined by Policy GA1.3 of the BDP which states new development in this location should support the growth of the area’s cultural, entertainment and residential activities and its economic role complemented by high quality public spaces and pedestrian routes.
- 6.10. While it is arguable the proposal does not fully conform with Policy TP20 it does meet the aspirations of GA1.3 by providing further residential provision in the area. It is also worth noting that the commercial element of the scheme could potentially change to another use with Use Class E without the need for planning consent, the other uses within this class would also generate employment. The proposal would also result in the redevelopment of a site without any architectural interest and replace it with a building of high design quality. In addition the proposed commercial unit would also support a small number of jobs. On balance, for the reasons outlined above, the proposal is considered acceptable in principle.

DESIGN

- 6.11. The building currently occupying the site is a flat roof brick built structure of no particular architectural merit or interest. A single storey workshop structure is also located to the rear.
- 6.12. Whilst the principle of a development on the site is supported, it is regrettable that the application site has been designed in isolation and not comprehensively. The plot layout of the proposed is considered appropriate considering the size and location of the site. Alongside the residential units there would be a ground floor commercial space fronting Sutton Street. This would allow the development to become an active and lively part of the wider community and contribute positively to the life of the area as it changes and emerges.

6.13. The application originally proposed a seven storey building. The proposal has been reduced to a six storey building on the front elevation and whilst it also remains six storeys at the rear, this is considered acceptable in regards to urban design as the ridge is below the front elevation. The mass and scale allows for a frontage on Sutton Street with a rear wing and is considered an appropriate level of development.

6.14. The initial submission did not include the details of successful precedents and was considered appear quite mundane with a repetitive façade. During negotiation several design iterations were developed and worked through, resulting in a proposal that is now deemed acceptable.

6.15. The proposed now includes a building characterised by strong and well-proportioned elevational grids with large window apertures typical of industrial and warehouse buildings. In conjunction with a simple and honest material palette of brickwork and concrete, details have been carefully considered with recessed panels and piers utilised to reinforce the building's proportions and enhance the elevational design. The façade treatment includes vertical brick and recessed brick patterns adding to subtle relief.



Figure 4 – Sutton Street Proposed Elevation

6.16. The commercial unit on the ground floor relates to the proportions on upper floors with large floor to ceiling glazing forming an active frontage use. The entrance has been accentuated. The flank wall to the side elevations could provide a potential point of interest as an art wall. A condition is proposed to ensure that an element of public art is included within the scheme.

6.17. The previous submission was for a buff brick and precast concrete has been selected. These have now been altered to a textured red/orange brick which relates to the Birmingham identity and concrete which also relates to the industrial heritage of the area and complement each other well. The detailed elevations show the brick and bonding which are important features.

6.18. Conditions should be attached to agree materials, architectural details, hard and soft landscaping, external doors, lighting strategy, a scheme for public art and material samples prior to commencement of the development to ensure the development represents high architectural quality and is acceptable on design grounds.

RESIDENTIAL AMENITY

- 6.19. As previously discussed, all of the units would be compliant with the Nationally Described Space Standards applicable to the number of occupants and would provide an adequate residential environment for future occupiers.
- 6.20. Private amenity space is provided in the form of a shared space courtyard which also provides residents car parking, at ground floor level to the rear of the building which is not overlooked by the neighbouring uses. Boundary treatments are to be agreed by condition and will seek to ensure a suitable degree of privacy. The units fronting the courtyard at ground floor level would also benefit from their own private amenity space, while the majority of units on the upper floors are provided with private external balconies. The units fronting Sutton Street do not benefit from private amenity space but would have use of the shared courtyard. The courtyard would be subject to a hard and soft landscaping scheme to ensure suitable planting is provided to create a pleasant and useable space. A lift provides access to all residential units and the courtyard amenity area for all prospective residents.



Figure 5 – Proposed Sutton Section from courtyard

- 6.21. All internal room sizes are satisfactory and all habitable rooms have a suitable outlook onto surrounding streets or the external amenity space.
- 6.22. In respect of the amenity of potential future residential developments in the vicinity, there are no overlooking issues, given the lack of windows on the flank walls. There is also limited potential for overshadowing given future developments are likely to be of a similar scale to that proposed and would be orientated towards the surrounding road frontages. However this is typical of a dense city centre context development and each subsequent development would be considered on its merits. Noise and disturbance generated by future occupiers is unlikely to be material given the surrounding context and proposed residential developments.
- 6.23. Given the above, it is considered that a satisfactory level of amenity would be provided and maintained relative to a city centre development.

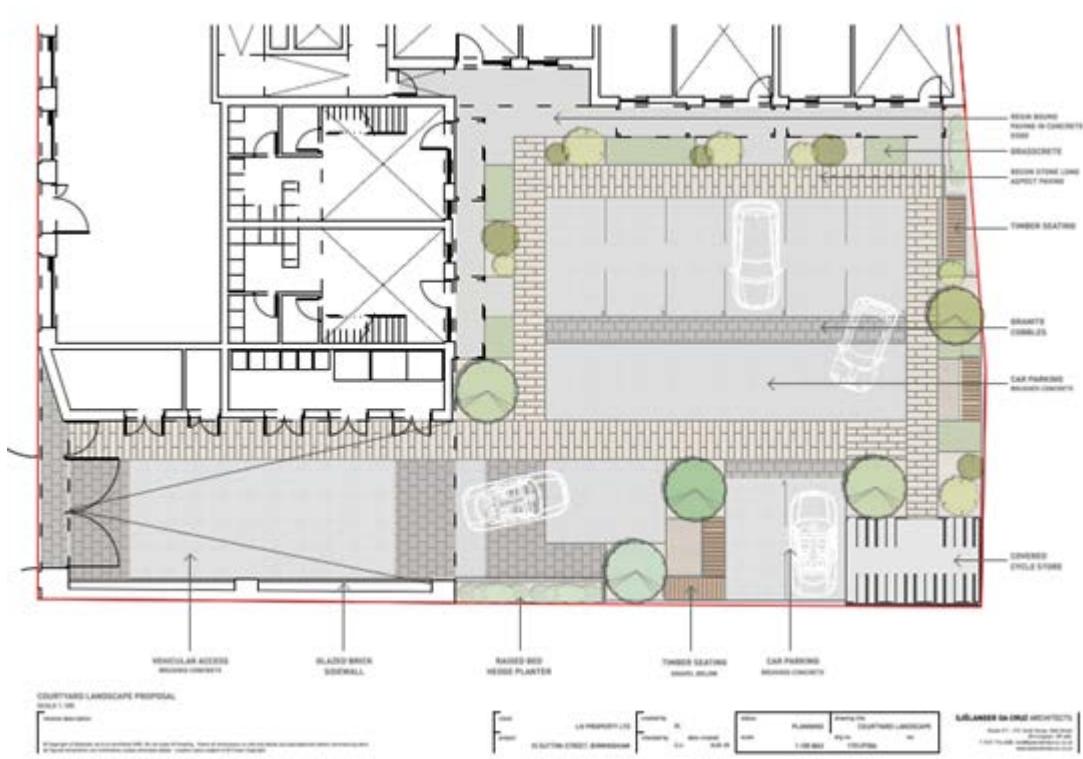


Figure 6 – Proposed courtyard amenity and parking area

EQUALITY IMPACT

6.24. The City Council in its decisions have a particular obligation under the Equality Act to ensure that there is no direct or indirect discrimination for those with protected characteristics save where those actions are a proportionate means of achieving a legitimate aim; together with exercising strategic decisions in a way that is designed to reduce the inequalities which result from socio-economic disadvantage. Those with physical disabilities do possess protected characteristics as do those with maternal responsibilities.

6.25. As the whole building is not fully accessible (i.e. there is no lift to the upper level of the mezzanine units) and as such this discriminates against those with disabilities. A lift is provided within the reception area allowing level access throughout the majority of the building with the only inaccessible areas being the upper mezzanine levels of the ground floor units. It is considered that providing lifts to these upper levels would be unfeasible given the restricted floor space within them and would further compromise the financial viability of the scheme. These 5 units represent 11% of the total units provided by the scheme and it is possible that the private staircases within them could be adapted in the future by prospective tenants. Given the small number of such apartments, the overall accessibility of the wider scheme and the acute pressure for affordable housing in the city the duty under the Equalities Act has been discharged in this instance.

SUSTAINABILITY

Drainage

6.26. The development proposes to connect to the existing surface and foul water drainage network. Surface water drainage from the proposed building will be

collected into a new below ground drainage network, with flows from the car park being picked up by a combination of permeable paving located within the proposed parking bays, as well as a couple of linear drainage channels. Flows will then convey through the site where they will connect with the foul water drainage from the site before discharging into an existing 300mm combined water sewer located along Sutton Street to the west.

6.27. The Lead Local Flood Authority have requested the submission of a sustainable drainage scheme and a plan for its operation and maintenance, both prior to commencement of development. I agree that these details are necessary to ensure the sustainable drainage of the site and as such recommend the requested conditions.

Ecology

6.28. Given the developed nature of the site the possibilities to support biodiversity are extremely limited and ecological surveys of the site are not necessary in this instance, but I recommend a condition be appended to any approval requiring a scheme for biodiversity enhancements be submitted prior commencement of development to ensure a net gain for biodiversity in accordance with Policy TP3 of the BDP. I believe there is sufficient scope to facilitate this within landscaping in the courtyard amenity space and on the building's flat roof.

Energy Efficiency

6.29. A Sustainability Report explains that the scheme adopts a fabric-first and future proofed focus approach. The specifies that high performance glazing and insulation, exceeding minimum building regulations requirements, together with the use of construction materials that will be responsibly and legally sourced, as well as having the highest BRE Green Guide ratings will be utilised in the building's construction. Any insulation materials specified will also have a high Green Guide rating and be responsibly and legally sourced.

6.30. A series of sustainability features are identified to significantly reduce the potential carbon emissions of the development, including an array of photo-voltaic cells on the roof; energy efficient lighting; and occupancy sensing to control lights and other services when not occupied. Details of the photo-voltaic panels will be required for submission and approval prior to commencement of the development via a recommended planning condition. The fabric first construction approach and the provision of photo-voltaic panels will ensure the development is constructed sustainably and contributes to renewable energy generation in accordance with Policy TP3 and TP4 of the BDP.

HIGHWAY MATTERS

6.31. A Transport Statement notes that the site is clearly in a highly sustainable location, close to all amenities, public transport and sources of employment. It also notes that there do not appear to be any inherent significant highway safety or capacity issues within the vicinity of the site which need to be addressed in the development.

6.32. The Transport Assessment concludes that the development proposals adhere with policy guidance and demonstrate no material impact upon the operation, safety or environment of the local highway network. Para 109 of the NPPF states that development should only be prevented or refused on transport grounds where the

residual cumulative impacts of development are severe. This would not be the case in regard to this proposal.

6.33. The transportation officer agrees with the findings of the Transportation Statement and I recommend a condition regarding cycle parking provision.

PLANNING OBLIGATIONS

6.34. This application is supported by a Financial Viability Statement that sets out the viability position of the scheme. The original report concludes that the scheme would only become financially viable if all Section 106 obligations were waived.

6.35. This report has been the subject of independent assessment on behalf of the city council, and the conclusions reached reference the high build costs and the likely residential values that could be achieved in this part of the City Centre.

6.36. However, the report concludes that it is possible for the development to generate a profit in excess of the agreed benchmark, therefore demonstrating some capacity to contribute to affordable housing, in addition to the CIL liability of £212,951. After discussions with the applicant it has been agreed that five apartments will be provided for Low Cost Home Ownership tenure to be sold at 75% of market value in perpetuity. The mix of apartments are as follows:

- Plot 1 (Ground Floor) – one bedroom apartment 562 sq ft.
- Plot 6 (First Floor) – one bedroom apartment 597 sq ft.
- Plot 5 (First Floor) – two bedroom apartment 658 sq ft.
- Plot 7 (Second Floor) – one bedroom apartment 541 sq ft.
- Plot 5 (Third Floor) – two bedroom apartment 658 sq ft.

6.37. Having regard to the above, I am satisfied that the proposed provision of 5No apartments (11.11%) for Low Cost Home Ownership comprising 3No one bedroom apartments and 2No two bedroom apartments, to be sold at 25% discount on market value in perpetuity, in addition to the CIL liability of £212,951, is the most that can be sustained by the development without impacting on viability and deliverability.

6.38. The leisure services team have requested a planning contribution of £94,900. However, taking the independent financial viability assessment into account, it is not considered reasonable to require a contribution towards POS in this instance, with the priority deferring to the provision of on-site affordable housing.

7. Conclusion

7.1. This proposal represents a high quality development that would make efficient use of a brownfield site. The scheme will play a part in meeting the city's housing demand identified over the current plan period. The units proposed are of good quality and are complemented by suitable private and shared amenity space. The commercial element of the scheme will create an active frontage to Sutton Street and contribute to the vibrancy of the area. On balance the loss of a former employment site is considered acceptable in this city centre location given the changing character of the area. In addition an affordable housing contribution of 5 units for sale at 75% of current market value to be retained in perpetuity would be provided via a Section 106 agreement. Therefore, subject to appropriate safeguarding conditions, I recommend that this application be approved.

8. Recommendation

8.1. APPROVE application number 2020/00189/PA subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- i) the provision of 5 No. on-site affordable housing units (3 No. 1 bed units and 2 No. 2 bed units) to be sold at 25% discount on market value, in perpetuity.
- ii) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.

and subject to the conditions listed below.

8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 4th January 2021 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason(s):-

- a) In the absence of a legal agreement to secure an onsite affordable housing contribution the proposal conflicts with Policies 8.50-8.54 of the Birmingham Unitary Development Plan 2005 (saved policies) and Policy TP31 and paragraph 10.3 of the Birmingham Development Plan

8.3. That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.

8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 4th January 2021 favourable consideration is given to this application, subject to the conditions listed below.

- 1 Implement within 3 years (Full)
- 2 Requires the scheme to be in accordance with the listed approved plans
- 3 Requires the submission of material details.
- 4 Requires the submission of architectural details.
- 5 Requires the submission of a detailed section of the proposed brick work recess detail.
- 6 Requires the prior submission of sample brickwork
- 7 Requires the prior submission of sample materials
- 8 Requires the submission of hard and/or soft landscape details
- 9 Requires the prior submission of external fixtures and fittings
- 10 Requires the submission of boundary treatment details
- 11 Requires the submission of external doors

- 12 Requires the submission of details of public art
- 13 Requires the prior submission of a contamination remediation scheme
- 14 Requires the submission of a contaminated land verification report
- 15 Requires the prior submission of a sustainable drainage scheme
- 16 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
- 17 Requires submission of scheme for low and zero carbon energy generation.
- 18 Requires the submission of a landscape management plan
- 19 Requires the submission of a lighting scheme
- 20 Requires the submission of a CCTV scheme
- 21 Requires the provision of cycle parking prior to occupation
- 22 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
- 23 Requires the prior submission of noise insulation (variable)
- 24 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
- 25 Requires the implementation of the submitted mitigation/enhancement plan
- 26 Requires the provision of a vehicle charging point

Case Officer: Tom Evans

Photo(s)



Figure 7 – Existing building on application site



Figure 8 – View of site from Sutton Street towards Holloway Head

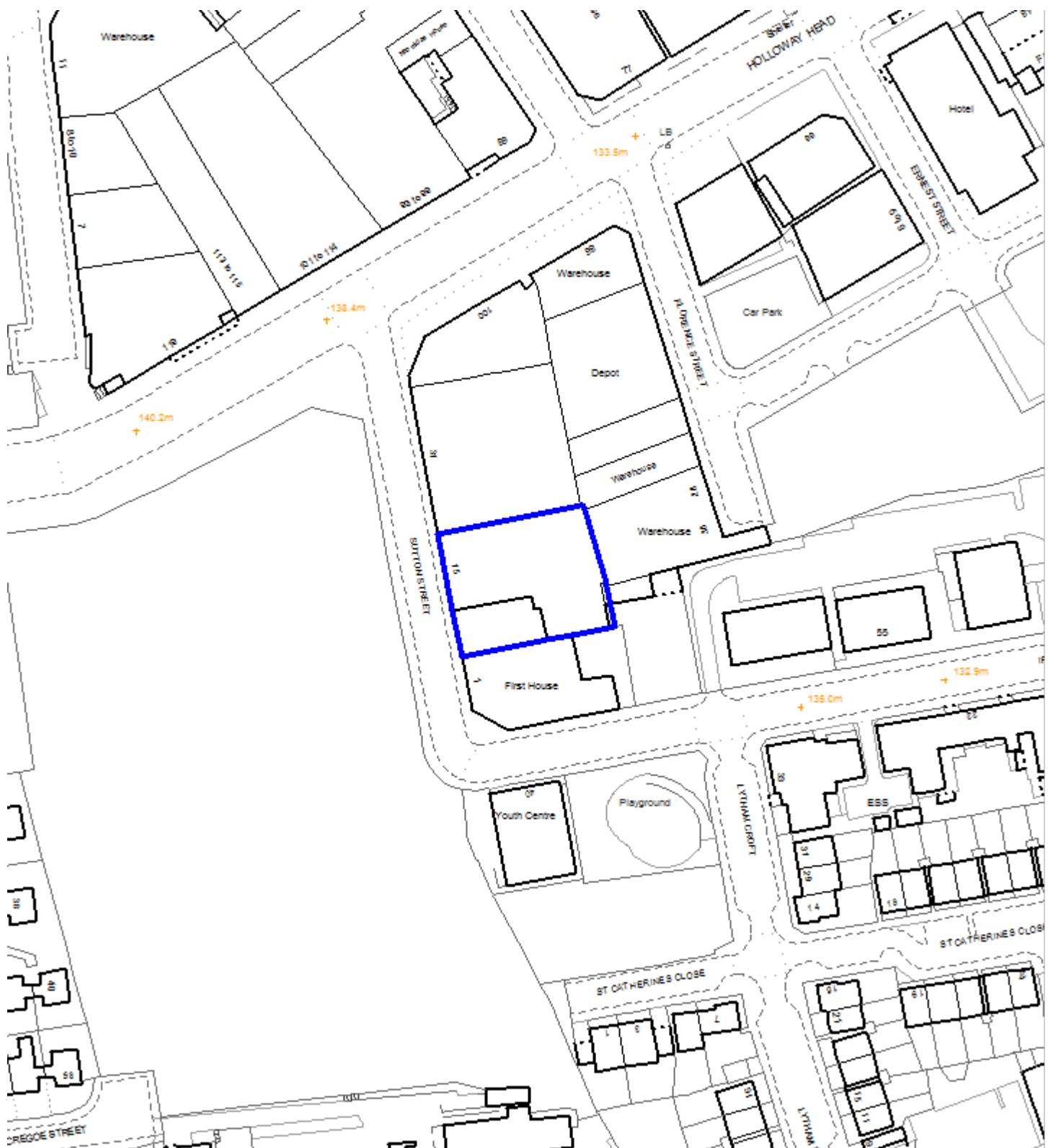


Figure 8 – View of buildings on Holloway Head



Figure 9 – View from Holloway Head towards Sutton Street

Location Plan



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|-----------------|------------|---------------------|---------------|
| Committee Date: | 03/12/2020 | Application Number: | 2020/05576/PA |
| Accepted: | 22/07/2020 | Application Type: | Full Planning |
| Target Date: | 20/11/2020 | | |
| Ward: | Ladywood | | |

**Site between 50-52 Newhall Street and 85-87 Cornwall Street,
Birmingham, B3 3RJ**

Erection of dwelling including a basement, with proposed site clearance and all associated works.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning permission is sought for the construction of a bespoke 3 bedroom residential dwelling (Use Class C3) located within a gap site between 50-52 Newhall Street and 85-87 Cornwall Street.
- 1.2. The design of the building is bespoke to the application site, and would consist of an inverted townhouse accommodation, with the bedrooms located on the lower floors and the open plan kitchen and living room to the upper floors.
- 1.3. The internal accommodation would include a basement gym, with the main street entrance at ground floor, which includes a utility room; bike store/workshop and cinema/ media area. The 1st, 2nd and 3rd floor host a bedroom with en-suite or bathroom, with the kitchen/living and dining space on the 4th floor leading to a roof terrace.
- 1.4. The proposed townhouse would also include a 'lightwell' along the northern boundary of the site, which adjoins 50 and 52 Newhall Street.
- 1.5. The development would be constructed of bespoke black terracotta panels with a geometric engraving at the Cornwall Street elevation and glazed black brick to the rear.
- 1.6. The removal of the existing fire escape to 50 and 52 Newhall Street has been consented through a separate listed building consent application previously submitted by the applicant (planning ref: 2020/05326/PA).
- 1.7. The application is supported by a Heritage Statement and Design and Access Statement. A Listed Building Consent application has been submitted in conjunction (planning ref: 2020/05598/PA).

1.8. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site is currently a service yard to Nos 50 & 52 Newhall Street, with ground floor parking, and fire-escapes serving 50 & 52 Newhall Street. The site borders with buildings 85 Cornwall Street (Grade II*) and building 50 Newhall Street (Grade II) and is located within the Colmore Row and Environs Conservation Area. There are several other listed buildings on Newhall Street and Cornwall Street which form the setting of this site, including the grade II* School of Art.

3. Planning History

3.1. Current – 2020/05598/PA - Listed Building Consent for the erection of proposed construction of no.1 dwelling including a basement, with proposed site clearance and all associated works. Awaiting Decision.

50 & 52 Newhall Street

3.2. 05/10/2020 – 2020/05326/PA - Refurbishment works including removal of internal walls and insertion of new openings. Approved subject to conditions.

4. Consultation/PP Responses

4.1. Birmingham City Centre Management, Local Councillors, Colmore Row Improvement District, amenity societies and resident associations notified. Press and site notices posted. One comment from a nearby occupier regarding the impact of construction noise and the following four letters of objection.

Owners of 85-87 Cornwall Street:-

- Provided a report discussing the appropriateness and impact of the development on the historic environment, the appropriateness of the design, impact upon existing amenity and future occupiers and statutory consultee comments.
- Special regard has not been had to protecting or enhancing the unique and special context of the location.
- Proposed development is likely to have significant harm upon existing heritage assets and so cannot be considered favourably against National Guidance.
- Height of the building does not respond well to neighbouring properties and the contemporary design and proposed materials are completely at odds with the established character of the location.
- External appearance to Cornwall Street is also considered to be both overly fussy and overly dominant and presents an appearance which will prove overbearing.
- Rear elevation is plain and devoid of any character or interest.
- Detrimental impact upon the light afforded to multiple existing users to the rear, most notably the well-used rear courtyard serving 85-87 Cornwall Street.
- Validity of the proposals in the context of the effects the proposed will have upon the access, safety and enjoyment of light for the existing users of 50-52 Newhall Street.

Cornwall Street Chambers:-

- Has provided a statement listing a number of policies to try and demonstrate view of non-compliance with the Development Plan. The Statement also comprises of a description of the locality and significance of surrounding heritage assets.
- Proposed development is not sympathetic in character and lacks merit required for development at this location.

- Does not achieve a satisfactory relationship with the street frontage elevation of its neighbours.
- Palette of materials lack variety employed in other buildings.
- Façade detail makes no contribution to the proposed building's legibility in the architectural context in which it would be placed.
- The gap is an absence and therefore something that is unobtrusive. The proposal would be a forceful and obtrusive presence in Cornwall Street, highly visible and therefore damaging.
- The preservation of heritage assets is beneficial to the economy of the City Centre. Equally, it is true that damage to them by unsympathetic development is detrimental to that economy.
- Its façade, with its limited entrance, lacks the welcome projected by the frontages of the adjacent premises.
- The monolithic appearance of the proposed development, if approved, could detract from the City's ability to derive income from the use of Cornwall Street as a film location.
- Loss of light for occupiers towards the rear of the building.

A Local Building Historian:

- Report on the heritage value of the Colmore Row and Environs Conservation Area and surrounding Listed Buildings.
- The proposed development would intrude on the building line on the north-west side of Cornwall Street, and crowd out the buildings going up the street.
- The proposed development has five storeys where all its neighbours have four.
- The horizontal lines of the windows do not run through to the neighbour's buildings.
- The materials and patterning will clash with its neighbours.
- The best way of designing a building here in harmony with its distinguished neighbours would be for it to have three storeys and an attic.

The Birmingham and Midland Institute:

- The facade must demonstrate significant parity with the materials in the nearby listed buildings which are red brick, orange and buff terracotta, and grey stone.
- The use of black terracotta will have a negative impact on the character and appearance of the several listed buildings in the vicinity and on the Colmore Row and Environs Conservation Area.

- 4.2. BCC Transportation Development – No objection.
- 4.3. BCC Regulatory Services – No objection subject to noise insulation scheme, contamination remediation scheme and contamination verification report.
- 4.4. Ancient Monument Society – Object. Consider the design to be obtrusive and alien in context. Three main areas of objection are:-
 - The proposal is five storeys in the height of four in the back block of 50-52, so no horizontals line through, this makes it an unaccommodating neighbour.
 - Black terracotta facing.
 - It is vital that any development here should respect the Cornwall Street building line.
- 4.5. Birmingham Civic Society – Support proposals for the following reasons:

- Appears to be a well-considered application; on the basis of the visualisations. Heritage impact assessment and resolution of detailing is welcomed.
- Proposal will form part of a terrace of historic dwellings, each of which is very individual in character and ebullient in their ornament. The proposal will infill an unsightly break in the streetscape, and is appropriately contemporary in character.
- Impacts on historic buildings are considered acceptable in this context.

4.6. Historic England was consulted following the submission of amended plans. As a result of revisions made Historic England no longer wish to object to the application. The building line has been set back improving its junction with adjacent listed buildings and further stress that the success of this scheme will depend greatly upon the use of high quality materials, finishes and close attention to design detail.

4.7. Victorian Society – Object on the following grounds:-

- The design and height does not relate well to the neighbouring listed buildings;
- The proposed main entrance appears mean in the context of the grand entrances to the neighbouring listed buildings;
- Windows seem above overly large in comparison with those on the listed buildings;
- Black terracotta is not appropriate here; and
- The proposed new building simply appears too dominant in the streetscape.

4.8. Severn Trent Water – No objections.

4.9. West Midlands Police – No objection. Proposals should comply with Approved Document Q and Secured by Design guidance for Roof lights and glass curtain walling.

5. Policy Context

5.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan 2005 (saved policies); Draft Birmingham Development Management DPD; Places for Living SPG; Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies; and revised National Planning Policy Framework.

6. Planning Considerations

Design

6.1. The Council's City Design Officer considers the proposed development to be in keeping with the existing urban grain. The design comprises of a contemporary slender townhouse which would contrast between the red brick buildings. The geometric patterning (a response to the design of windows found in No. 50-52 Newhall Street) in black terracotta offers a contrasting and bold response to the context of a site surrounded by buildings nationally recognised as being of special architectural interest. Conditions have been added to ensure the tiles and bricks are of high quality.

6.2. Objections from neighbouring occupiers in regards to the scale and massing of the proposed development have been noted. However, after discussions with the Council's Design Officer it is considered that the ridge of the proposed building would be in keeping with the immediate No. 50 Newhall Street and No.85 Cornwall Street with its modern floorplate. It would not negatively impact upon the

neighbouring building or streetscape in regards to urban design. The scale and mass would infill the plot to the same depth as the 50 Newhall Street and is a slender form allowing for a glazed element between 50-52 Newhall Street.

- 6.3. The proposed development is considered to be of an appropriate scale and height and the striking architecture would juxtapose within the street and provide a contemporary addition to this part of Birmingham.

Impact on the Conservation Area and Nearby Listed Buildings

- 6.4. The Colmore Row and Environs Conservation Area Appraisal and Supplementary Planning Policies (December 2006) states that the Council will expect all new development to achieve a satisfactory visual relationship with its historic surroundings, demonstrating a regard for the character of the immediate street scene and the wider conservation area.
- 6.5. Discussions amongst the applicant, local authority and Historic England have led to a series of amendments. The building line has been set back to behind where the string course returns on the side elevation of No.85 Cornwall Street (Grade II*), helping to reduce the proposed building's prominence in the street and improving its junction with adjacent listed buildings. This has also resulted in an improved relationship at eaves level. The proportions of the fenestration have also been revised to better reflect those found in the street. Historic England considers the revised scheme to be acceptable subject to the use of high quality materials, finishes and close attention to design detail. This will be secured through conditions requiring the prior submission of sample panels and full architectural details and specifications.
- 6.6. Furthermore, the applicant had undertaken a review of a series of sketch options for an angled bay window seen on the neighbouring buildings. The first option showed an angled bay window that ran from first floor to fourth floor. The second option showed a bay window to the fourth floor only whilst the final option showed a contemporary square bay window. It was concluded that design options 1 and 2 risked the proposal appearing pastiche whereas the final option offers a simple yet aesthetically pleasing and contemporary design. The Council's Conservation Officer agrees that a confidently contemporary approach to design was an acceptable approach to development in this location.
- 6.7. The Council's Conservation Officer has raised no objection and considers the proposed development to be a confidently contemporary piece of architecture of an acceptable scale, form and design. The geo-metric patterning (a response to the design of windows found in No. 50-52 Newhall Street) in black terracotta offers a contrasting and bold response to the context of a site surrounded by buildings nationally recognised as being of special architectural interest. A slender glazed separation between the townhouse and 50-52 Newhall Street provides the transition between the two and minimises the impact to historic fabric. A condition has been attached requiring details of how the new build will be fixed to the adjacent listed buildings.
- 6.8. The applicant has submitted a heritage statement in support of the application which identifies the heritage assets likely to be impacted by the development and assesses the significance of these assets and the impact of the development on their significance. The Statement concludes that generally the development will have a minor level of benefit to the significance of these heritage assets and no harm will be caused to significance. The Council's Conservation Officer concurs with the

assessment of the Heritage Statement and considers that this development will both preserve the setting of the identified heritage assets and preserve and enhance the character and appearance of the conservation area as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Overall, it is considered that subject to safeguarding conditions the proposal can be supported on heritage grounds.

- 6.9. Objections from nearby occupiers, the Victorian Society and the Ancient Monument Society concerning the obtrusive and dominant appearance of the proposed development are considered to have been addressed through the revised scheme. The façade has been set back to the line of adjacent no. 85-87 Cornwall Street and allowing a slender contemporary 'bay window' to project forward in reference to the typology along Cornwall Street. This now allows for a fully integrated infill to the gap in Cornwall Street respecting both neighbouring building lines. Overall, Officers are of the view that the building is well designed and that it makes a positive contribution to the townscape and will address the negative visual impact of the current gap site. As stated within the Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies document 'the street pattern and the close grain of the street blocks in the area create a strong sense of enclosure, obviously more powerful in the narrower secondary streets'. As a result, the development of this narrow gap site will ensure that this tight grain (characteristic of the conservation area) is maintained and further enhanced.
- 6.10. In conclusion, there has been no consensus amongst these Conservation bodies (namely, Historic England, Birmingham Civic Society, the Victorian Society and the Ancient Monument Society) in regards to the impact of the proposed development on heritage. Overall, it is considered that whilst the proposed dwelling is a departure from the existing architectural detailing of its neighbours, as amended it represents a modern and well considered design that will not harm the significance of the heritage assets, including its direct neighbours.

Overlooking and Privacy

- 6.11. The side windows located at 50 & 52 Newhall Street would face directly into the proposed development. Therefore, to prevent any overlooking issues the lightwell in its entirety would need to have obscured glazing. A condition has been attached to ensure that this is implemented to safeguard the amenity of any prospective occupier of the development.

Highway Matters

- 6.12. BCC Transportation Development have raised no objection and overall it is considered that the proposed development (consisting of only one home) would be unlikely to have a detrimental impact on highway safety and free flow, the site is situated within City Centre and benefits from excellent links by all modes of transport.

Other Matters

- 6.13. BCC Regulatory Services have raised no objection subject to the prior submission of a contamination remediation scheme and contamination verification report. A further condition requiring the prior submission of a noise insulation scheme to ensure that all habitable rooms are not negatively impacted by noise particularly along the Cornwall Street elevation is also recommended. Overall, it is considered that a satisfactory living environment would be provided. The comment raised by a nearby

resident regarding impact of construction noise has been noted and a condition requiring the provision of a construction management plan has been attached. Furthermore, no demolition works are required and given the relatively small-scale nature of the works it is considered that any nuisance from the construction of the development would be temporary.

- 6.14. The Council notes the concerns raised on behalf of the nearby occupier of the adjoining building (85-87 Cornwall Street). The representation notes that proposed development would result in the loss of light to neighbouring occupiers and the existing courtyard to the rear. Right of Light to commercial premises is addressed under common law. In this instance whilst the City Council has policies to protect residential amenity, there is not the same level of policy protection given to commercial premises. It is therefore considered that the planning consent cannot be refused on grounds that the proposal would result in loss of light to adjoining commercial buildings.
- 6.15. The proposal includes a rooftop terrace area which would provide adequate private amenity space for any prospective residents. A condition has been attached to ensure that the roof terrace does not comprise of paraphernalia. This will prevent domestic clutter impacting on the high level open views of the Conservation Area.
- 6.16. Further comments have been raised regarding the removal of the 1970s external staircase and fire door. It is important to note that the removal of these elements have been consented under a previous listed building consent application 2020/05326/PA. The neighbouring listed building approval provides new circulation access between 50 and 52 Newhall Street. This allows for the use of both staircases from either building providing a secondary means of escape. The external staircases are therefore made redundant by the new circulation/ fire strategy approach.

7. Conclusion

- 7.1. The Council acknowledges that the key to the success of this development is in the architectural detailing and quality of the materials used. The craftsmanship, particularly in regards to the terracotta panels is of primary importance. As a result, safeguarding conditions have been attached to ensure high quality at the delivery stage of the development. Overall, it is considered that the proposed development would have no harm on the significance of the Colmore Row and Environs Conservation Area or the neighbouring listed buildings and would provide an enhancement to the current situation.

8. Recommendation

8.1. Approve subject to the following conditions:-

- 1 Implement within 3 years (Full)
- 2 Requires the scheme to be in accordance with the listed approved plans
- 3 Requires the prior submission of a construction method statement/management plan
- 4 Requires the submission of sample materials
- 5 Requires the submission of sample terracotta panel

- 6 Requires the submission of a lighting scheme
- 7 Requires the submission of roof materials
- 8 Requires the submission of external doors
- 9 Requires submission of full architectural and specification details
- 10 Requires the submission of a contaminated land verification report
- 11 Requires the prior submission of a contamination remediation scheme
- 12 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
- 13 Prevents paraphernalia on roof terrace
- 14 Requires lightwell to have obscured glazing

Case Officer: Miriam Alvi

Photo(s)



Figure 1. View south-west along Cornwall Street from Newhall Street



Figure 2. View north-east along Cornwall Street



Figure 3. The application site with 50 & 52 Newhall Street to the right

Location Plan



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| | | | |
|-----------------|------------|---------------------|-----------------|
| Committee Date: | 03/12/2020 | Application Number: | 2020/05598/PA |
| Accepted: | 22/07/2020 | Application Type: | Listed Building |
| Target Date: | 20/11/2020 | | |
| Ward: | Ladywood | | |

**Site between 50-52 Newhall Street and 85-87 Cornwall Street,
Birmingham, B3 3RJ**

**Listed Building Consent for the erection of dwelling including a
basement, with proposed site clearance and all associated works.**

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Listed Building Consent is sought for the construction of a bespoke 3 bedroom residential dwelling (Use Class C3) located within a gap site between 50 and 52 Newhall Street and 85 and 87 Cornwall Street.
- 1.2. The proposed townhouse would abut a Grade II* and Grade II listed building, namely 85 and 87 Cornwall Street and 50 and 52 Newhall Street respectively.
- 1.3. The design of the building is bespoke to the Site, and would consist of an inverted townhouse accommodation, with the bedrooms located on the lower floors and the open plan kitchen and living room to the upper floors.
- 1.4. The internal accommodation would include a basement gym, with the main street entrance at ground floor, which includes a utility room; bike store/workshop and cinema/media area. The 1st, 2nd and 3rd floor host a bedroom with en-suite or bathroom, with the kitchen/living and dining space on the 4th floor leading to a roof terrace.
- 1.5. The proposal would comprise of bespoke terracotta cladding panels with a geometric engraving recessed to the line of 85 and 87 Cornwall Street. Shadow gap flashing detail would allow the string course of 85 and 87 Cornwall Street to return the corner. This recess would be further mirrored on the northern boundary with a recessed lightwell adjoining 50 and 52 Newhall Street. This would then allow a contemporary bay window to project forward in reference to the typology along Cornwall Street. The rear elevation of the proposed townhouse would be made from black glazed brick.
- 1.6. The application is supported by a Heritage Statement and Design and Access Statement. A full planning application has been submitted in conjunction (planning ref: 2020/055768/PA).

2. Site & Surroundings

2.1. The application site is currently a service yard to Nos 50 & 52 Newhall Street, with ground floor parking, and fire-escapes serving 50 & 52 Newhall Street. The site borders with buildings 85 Cornwall Street (Grade II*) and building 50 Newhall Street (Grade II) and is located within the Colmore Row and Environs Conservation Area.

3. Planning History

3.1. Current – 2020/05576/PA – Erection of proposed construction of no.1 dwelling including a basement, with proposed site clearance and all associated works. Awaiting Decision.

4. Consultation/PP Responses

4.1. Birmingham City Centre Management, Local Councillors, Colmore Row Improvement District, amenity societies and resident associations notified. Press and site notices posted. One comment from a nearby occupier regarding the impact of construction noise and the following four letters of objection.

Owners of 85-87 Cornwall Street:-

- Provided a report discussing the appropriateness and impact of the development on the historic environment, the appropriateness of the design, impact upon existing amenity and future occupiers and statutory consultee comments.
- Special regard has not been had to protecting or enhancing the unique and special context of the location. No regard has also been had to the Council's Supplementary Policies noted at 3.10 above since the proposals are not considered to align with the defined design principles.
- Proposed development is likely to have significant harm upon existing heritage assets and so cannot be considered favourably against National Guidance.
- Height of the building does not respond well to neighbouring properties and the contemporary design and proposed materials are completely at odds with the established character of the location.
- External appearance to Cornwall Street is also considered to be both overly fussy and overly dominant and presents an appearance which will prove overbearing.
- Rear elevation is plain and devoid of any character or interest.
- Detrimental impact upon the light afforded to multiple existing users to the rear, most notably the well-used rear courtyard serving 85-87 Cornwall Street.
- Validity of the proposals in the context of the effects the proposed will have upon the access, safety and enjoyment of light for the existing users of 50-52 Newhall Street.

Cornwall Street Chambers:-

- Has provided a statement listing a number of policies to try and demonstrate view of non-compliance with the Development Plan. The Statement also comprises of a descriptor of the locality and significance of surrounding heritage assets.
- Proposed development is not sympathetic in character and lacks merit required for development at this location.
- Does not achieve a satisfactory relationship with the street frontage elevation of its neighbours.
- Palette of materials lack variety employed in other buildings.
- Façade detail makes no contribution to the proposed building's legibility in the architectural context in which it would be placed.

- The gap is an absence and therefore something that is unobtrusive. The proposal would be a forceful and obtrusive presence in Cornwall Street, highly visible and therefore damaging.
- The preservation of heritage assets is beneficial to the economy of the City Centre. Equally, it is true that damage to them by unsympathetic development is detrimental to that economy.
- Its façade, with its limited entrance, lacks the welcome projected by the frontages of the adjacent premises.
- The monolithic appearance of the proposed development, if approved, could detract from the City's ability to derive income from the use of Cornwall Street as a film location.
- Loss of light for occupiers towards the rear of the building.

Building Historian:

- Report on the heritage value of the Colmore Row and Environs Conservation Area and surrounding Listed Buildings.
- The proposed development would intrude on the building line on the north-west side of Cornwall Street, and crowd out the buildings going up the street.
- The proposed development has five storeys where all its neighbours have four.
- The horizontal lines of the windows do not run through to the neighbour's buildings.
- The materials and patterning will clash with its neighbours.
- The best way of designing a building here in harmony with its distinguished neighbours would be for it to have three storeys and an attic, and perhaps a basement behind an area.

The Birmingham and Midland Institute:

- The facade must demonstrate significant parity with the materials in the nearby listed buildings which are red brick, orange and buff terracotta, and grey stone.
- The use of black terracotta will have a negative impact on the character and appearance of the several listed buildings in the vicinity and on the Colmore Row and Environs Conservation Area.

4.2. BCC Regulatory Services – No objection subject to noise insulation scheme, contamination remediation scheme and contamination verification report.

4.3. Ancient Monument Society – Object. Consider the design to be obtrusive and alien in context. Three main areas of objection are:-

- The proposal is five storeys in the height of four in the back block of 50-52, so no horizontals line through, this makes it an unaccommodating neighbour.
- Black terracotta facing.
- It is vital that any development here should respect the Cornwall Street building line.

4.4. Birmingham Civic Society – Support proposals for the following reasons:

- Appears to be a well-considered application; the visualisations. Heritage impact assessment and resolution of detailing is welcome.
- Proposal will form part of a terrace of historic dwellings, each of which is very individual in character and ebullient in their ornament. The proposal will infill an unsightly break in the streetscape, and is appropriately contemporary in character.

- Impacts on historic buildings are considered acceptable in this context.

4.5. Historic England was consulted following the submission of amended plans. As a result of revisions made Historic England no longer wish to object to the application. The building line has been set back improving its junction with adjacent listed buildings and further stress that the success of this scheme will depend greatly upon the use of high quality materials, finishes and close attention to design detail.

4.6. Victorian Society – Object on the following grounds:-

- The design and height does not relate well to the neighbouring listed buildings;
- The proposed main entrance appears mean in the context of the grand entrances to the neighbouring listed buildings;
- Windows seem above overly large in comparison with those on the listed buildings;
- Black terracotta is not appropriate here; and
- The proposed new building simply appears too dominant in the streetscape.

5. Policy Context

5.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan 2005 (saved policies); Draft Birmingham Development Management DPD; Places for Living SPG; Regeneration Through Conservation SPG; Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies; and revised National Planning Policy Framework.

6. Planning Considerations

Policy

6.1. The statutory test for development involving listed buildings is that 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 it possesses.

6.2. The main issues are considered to be whether the design of the proposed townhouse extension is appropriate having regard to its impact on the Colmore Row and Environs Conservation Area and neighbouring listed buildings.

Impact on the Conservation Area and Nearby Listed Buildings

6.3. The NPPF requires heritage assets to be conserved in a manner appropriate to their significance and requires an applicant to describe the significance of any heritage assets affected and to assess how that significance may be affected by a proposal. The BDP also contain other guidance regarding the need for new development within the Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of the area and provides various criteria relating to siting, scale and design against which new development will be judged.

6.4. The Colmore Row and Environs Conservation Area Appraisal and Supplementary Planning Policies (December 2006) provides guidance for development. It states that the Council will expect all new development to achieve a satisfactory visual relationship with its historic surroundings, demonstrating a regard for the character of the immediate street scene and the wider conservation area.

6.5. Discussions amongst the applicant, local authority and Historic England have led to a series of amendments. The building line has been set back to behind where the string course returns on the side elevation of No.85 Cornwall Street (Grade II*), helping to reduce the proposed building's prominence in the street and improving its junction with adjacent listed buildings. This has also resulted in an improved relationship at eaves level. The proportions of the fenestration have also been revised to better reflect those found in the street. Historic England has since removed their formal objection and considers the revised scheme to be acceptable subject to the use of high quality materials, finishes and close attention to design detail. This will be secured through conditions requiring the prior submission of sample panels and full architectural details and specifications.

6.6. Furthermore, the applicant had undertaken a review of a series of sketch options for an angled bay window seen on the neighbouring buildings. The first option showed an angled bay window that ran from first floor to fourth floor. The second option showed a bay window to the fourth floor only whilst the final option showed a contemporary square bay window. It was concluded that design options 1 and 2 risked the proposal appearing pastiche whereas the final option offers a simple yet aesthetically pleasing and contemporary design. The Council's Conservation Officer agrees that a confidently contemporary approach to design was an acceptable approach to development in this location.

6.7. The Council's Conservation Officer has raised no objection and considers the proposed development to be a confidently contemporary piece of architecture of an acceptable scale, form and design. The geo-metric patterning (a response to the design of windows found in No. 50-52 Newhall Street) in black terracotta offers a contrasting and bold response to the context of a site surrounded by buildings nationally recognised as being of special architectural interest. A slender glazed separation between the townhouse and 50-52 Newhall Street provides the transition between the two and minimises the impact to historic fabric. Furthermore, the shadow gap flashing detail now proposed ensures that the string courses of the neighbouring buildings are visible. A condition has been attached requiring details of how the new build will be fixed to the adjacent listed buildings.

6.8. The applicant has submitted a heritage statement in support of the application which identifies the heritage assets likely to be impacted by the development and assesses the significance of these assets and the impact of the development on their significance. The Statement concludes that generally the development will have a minor level of benefit to the significance of these heritage assets and no harm will be caused to significance. The Council's Conservation Officer concurs with the assessment of the Heritage Statement and considers that this development will both preserve the setting of the identified heritage assets and preserve and enhance the character and appearance of the conservation area as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Overall, it is considered that subject to safeguarding conditions the proposal can be supported on heritage grounds.

6.9. Objections from nearby occupiers, the Victorian Society and the Ancient Monument Society concerning the obtrusive and dominant appearance of the proposed development are considered to have been addressed through the revised scheme. The façade has been set back to the line of adjacent no. 85-87 Cornwall Street and allowing a slender contemporary 'bay window' to project forward in reference to the typology along Cornwall Street. This now allows for a fully integrated infill to the gap in Cornwall Street respecting both neighbouring building lines. Overall, Officers are of the view that the building is well designed and that it makes a positive contribution

to the townscape and will address the negative visual impact of the current gap site. As stated within the Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies document 'the street pattern and the close grain of the street blocks in the area create a strong sense of enclosure, obviously more powerful in the narrower secondary streets'. As a result, the development of this narrow gap site will ensure that this tight grain (characteristic of the conservation area) is maintained and further enhanced.

7. Conclusion

7.1. The Council acknowledges that the key to the success of this development is in the architectural detailing and quality of the materials used. The craftsmanship, particularly in regards to the terracotta panels is of primary importance. As a result, safeguarding conditions have been attached to ensure high quality at the delivery stage of the development. Overall, it is considered that the proposed development would have no harm on the significance of the Colmore Row and Environs Conservation Area or the neighbouring listed buildings and would provide an enhancement to the current situation.

8. Recommendation

8.1. Approve subject to the following conditions:-

- 1 Implement within 3 years (conservation/listed buildings consent)
- 2 Requires the scheme to be in accordance with the listed approved plans
- 3 Requires the submission of sample materials
- 4 Requires submission of full architectural and specification details
- 5 Requires the submission of external doors
- 6 Requires the submission of roof materials
- 7 Requires the submission of sample terracotta
- 8 Requires the submission of a lighting scheme

Case Officer: Miriam Alvi

Photo(s)



Figure 1. View south-west along Cornwall Street from Newhall Street



Figure 2. View north-east along Cornwall Street



Figure 3. The application site with 50 & 52 Newhall Street to the right

Location Plan



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Birmingham City Council

Planning Committee

03 December 2020

I submit for your consideration the attached reports for the **East** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|-----------------------|-------------------|---|
| Determine | 10 | <p>2018/08593/PA</p> <p>Land at junction of Highgate Road & Stratford Road and land at Stoney Lane Sparkbrook Birmingham B12 8DN</p> <p>Comprehensive redevelopment of site to include demolition of existing buildings, removal of public car park, stopping up of public highway; erection of mosque and mixed-use building to comprise community centre, school, residential flats and retail units; basement car park and surface car parking areas; access, landscaping and associated works</p> |

| | | | |
|-----------------|---------------------------------|---------------------|---------------|
| Committee Date: | 03/12/2020 | Application Number: | 2018/08593/PA |
| Accepted: | 19/11/2018 | Application Type: | Full Planning |
| Target Date: | 06/11/2020 | | |
| Ward: | Sparkbrook & Balsall Heath East | | |

Land at junction of Highgate Road & Stratford Road, and land at Stoney Lane, Sparkbrook, Birmingham, B12 8DN

Comprehensive redevelopment of site to include demolition of existing buildings, removal of public car park, stopping up of public highway; erection of mosque and mixed-use building to comprise community centre, school, residential flats and retail units; basement car park and surface car parking areas; access, landscaping and associated works

Recommendation

Determine

Report Back

- 1.1. Members will recall that this application was deferred on 5th November 2020 for the provision of further information in relation to matters regarding the catchment areas and additional information for the school and place of worship, historic environment, ownership of land, loss of employment land, Design Review Panel comments, security, recommended conditions and stopping-up order on Stoney Lane.
- 1.2. **School** – The applicant has confirmed that the proposed school would be a single sex girls school, accommodating the need within the community which has most recently resulted in pupils travelling further afield to attend girls schools. It is expected that the majority of pupils would be from the local area; however, it is also noted that there are good public transport links if travel distance would be further than walking distance. A dedicated drop-off and pick-up point is proposed within the site to ensure highway safety concerns would be suitably addressed. The main school operational hours would be from 9am to 3/3.30pm weekdays, therefore recognising the peak times for drop off and pick up between 8.30am and 9am and 3pm and 4pm. The Transport Statement has concluded that the vehicle trips generated would be acceptable. It is also acknowledged that vehicles would be able to access the basement car park to wait for pupils which would prevent any delay/congestion to the local highway network. Transportation Development has confirmed they accept and agree with these findings.
- 1.3. As stated within the Transport Statement, the envisaged catchment area for the proposed school would be 5 miles, however, in order to achieve a more robust assessment, a 7 mile catchment was used as per the existing Jamia Islamia College, which is approximately 1km to the east of the site. The survey undertaken at this school showed that almost 45% of pupils would travel to this school from a 1mile radius and similar levels would be expected for the new school at the application site. In addition, it is expected that approximately 45% of all pupils would walk to the site, with approximately 11% using public transport and 44% traveling by private car.

- 1.4. **Place of Worship** - In terms of the proposed mosque, the applicant has confirmed that the existing centre which has been in use since 2005 at the site at 26 Alfred Street, Sparkbrook, does not provide adequate or appropriate facilities, resulting in various additional prayers that have to be held to accommodate a greater number of worshippers, above the existing capacity. Therefore, it is envisaged that the existing mosque would continue to operate, however, with a more appropriate (smaller) number of worshippers. The applicant has stated that the proposed new mosque would assist in addressing this current need for additional services as well as allowing and attracting new worshippers and users, not currently affiliated with any local mosque.
- 1.5. The applicant has also confirmed that the proposed catchment area is considered to be approximately 2 miles. It is therefore anticipated that a large number of worshippers would walk to the site from surrounding residential neighbourhoods. The assessment within the Transport Statement has been based on surveys undertaken as part of the existing Stratford Road/ Fulham Road mosque and Islamic centre which was approved in 2014 to determine travel modes of worshippers. This showed that over 80% would walk to the site and similar levels have been estimated for the mosque.
- 1.6. The application site is considered to be located within a very sustainable location, within walking distance to bus stops, local amenities and residential neighbourhoods. It is therefore expected that a large majority of users of the development would walk to the application site. If further travel is required, for example for a wedding or other festivity, it is considered that there is sufficient vehicle parking within the site. In addition, the proposed lay-by could be used by coaches to drop-off passengers and long-term stay for coaches could be accommodated at the Stoney Lane car park within close proximity to the site.
- 1.7. It should again be noted that Transportation Development raises no objections to the proposed development on highway grounds.
- 1.8. **Historic Environment** – The application site is located in close proximity to the Grade I Listed Church of St Agatha and there are two locally listed buildings situated within the site, proposed for demolition. As detailed in the report, Historic England was consulted as part of the planning application. Historic England acknowledged that the site would be situated within close proximity of the Grade I Listed Church of St Agatha, built in 1899-1901 and designed by the celebrated Birmingham Arts and Crafts architect W.H. Bidlake. The comments provided by Historic England further state that the applicant's Heritage Impact Assessment concludes that the scale of the development and its prominent position on the Stratford Road will impact of some important views of St Agatha's, and the architectural prominence of its tower. The scheme would also result in the demolition of non-designated heritage assets within the site. This would lead to less-than-substantial harm to the church's significance through development within its setting. With the above in mind, Historic England would draw the attention to the statutory duties of the local authority set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and section 16 of the National Planning Policy Framework (NPPF) relating to the Historic Environment. Furthermore, whilst raising concerns, Historic England concur with the assessment put forward in the applicant's Heritage Impact Assessment and draws the attention to paragraph 196 of the NPPF which requires the local authority to weigh this harm against the public benefits associated with this scheme. This procedure has been undertaken in the assessment of the planning application and as detailed in the report below.

- 1.9. In addition, the Victorian Society have been consulted on the application and their comments are detailed below. It should be noted that they are non-statutory consultee.
- 1.10. **Ownership of Land** – As part of the planning application submission in October 2018, the applicant completed ownership certificate B noting that the land of the existing car park on the corner of Stratford Road and Highgate Road was in the ownership of Birmingham Property Services. Since the submission, the car park land was declared surplus to requirements by the Council's Highways team and is currently being sold to the applicant to be used for community purposes. The lease was completed on 13th November 2020 which will allow the purchase of the freehold following completion of the development. Therefore, the correct ownership certificates have been completed as part of this submission and the land within the red line application site is in ownership of the applicant as confirmed on the forms.
- 1.11. **Loss of Employment Land** – The application seeks to demolish the existing buildings on the application site, namely the commercial properties at nos. 7-9 Stoney Lane, used for retail purposes including ancillary workshop buildings to the rear (the buildings at nos. 11-17 have already been demolished), the former Brewers Arms public house (locally listed Grade B), currently used as a restaurant, the former public conveniences (locally Listed Grade C) at 17 Stoney Lane, a commercial shop; and nos. 291-293 Stratford Road also currently used for retail purposes. The existing buildings and lawful uses within the application site do not fall within the use classes B1(c), B2 or B8 and therefore would not be classified as employment land as detailed in the Council's Supplementary Planning Document 'Loss of industrial land to alternative uses SPD'. Whilst it is understood a small part of the site is currently (unlawfully) used as a car wash and repair facility, it is not considered that an assessment in relation to the loss of industrial land would be required in this instance.
- 1.12. **Design Review Panel** – The application scheme was considered at the Council's Design Review Panel on 10th February 2020. A presentation of the proposals was given by the applicant and a number of issues were raised which can be summarised as follows:
 - It was considered that the principle of a community/religious use was appropriate for the site.
 - The position has a strong rationale, but ideally should be set back further from the Highgate Road/ Stratford Road junction to reduce the overall impact.
 - The curved form and stepping back of the mosque building was supported, but there was some nervousness over the scale and height, which could be improved through better architectural treatment.
 - There was a lack of justification for the provision of two minarets.
 - The proposed form and design of the cladding was considered to lack finesse and elegance.
- 1.13. In response to the comments received from the Design Review Panel, further discussions and consultation was undertaken with the Council's City Design team and subsequently a set of high quality 3D visuals was submitted, providing additional details relating to the architectural treatment, cladding and position of the building. In addition, conditions have been imposed that would require the submission of materials and architectural details prior to commencement of works and for each phase of the proposed development.

- 1.14. **Security** – It was requested that further information is provided in relation to security and comments from West Midlands Police regarding the access and general permeability of the site. As already detailed in the report below, West Midlands Police raised no objections, but recommended that secure gates should be provided at the entrance to the basement car park. They should be electric gates, as any gates that would need to be physically operated would likely be left open and not offering any security. It was also recommended that the off-site parking area should be fenced with a gate access in order to be more secure and the applicant should consider colour powdered coated weldmesh fencing which is visually permeable providing natural surveillance. Details in relation to fencing and gates would be covered by a condition.
- 1.15. In addition, the provision of one single entrance would be preferred for security purposes; however, noting the scheme seeks to encourage walking and provides a level of openness to the surrounding community, the closure of all but one pedestrian access to the buildings would not appear achievable. However, in order to ensure appropriate security for the wider site and each use, a condition to provide a detailed security strategy for each phase of development to include measures such as CCTV and a separate condition for an external lighting scheme would also be attached.
- 1.16. In addition, West Midlands Police recommended that the applicant considers Secured by Design details for commercial premises and security advice and crime prevention details stated in Secured by Design for New Homes.
- 1.17. The detailed comments have been previously relayed to the applicant.
- 1.18. **Recommended Conditions** – Further information was requested to understand the reasoning for the large number of recommended conditions. The application scheme comprises various elements, including a mosque, community centre, school, residential flats and retail units, with each element having its own set of recommended conditions and requirements. In addition, the scheme as proposed would be implemented in phases and due to its size and location, there are a number of site specific matters which will require the submission of additional information. In summary, it is therefore considered that all the recommended conditions are necessary and reasonable.
- 1.19. **Section 247 Stopping-up Order** – As detailed in the report, in order to implement the proposed development, it is proposed to close part of the Stoney Lane public highway, to the north of Highgate Road. Whilst this is not a matter to be reviewed or confirmed as part of the planning application process, by way of an update it can be noted that the Council's Highways team confirmed that the draft order for the stopping up of the public highway was approved by Birmingham City Council on 23rd March 2020. The made Order is currently awaited from the Department for Transport (DFT) as a confirmation that the stopping up order process has been completed which would allow for works on this land to commence.
- 1.20. Addendum
- 1.21. Since the publication of the Committee Report and verbal update, a further 5 comments have been received on the planning application, raising concerns with regards to the following:
 - There would be no need for an additional mosque within the area
 - It is considered that application was only submitted to make profit

- It was queried whether the correct process for the purchase of the land had been followed.
- There would be traffic chaos and concerns with health from the proposal.
- The scheme would not be appropriate for the area.
- There is a need for a community centre within the area.

1.22. In response to the additional comments received, it should again be noted that Transportation Development has confirmed that the final scheme would be acceptable in terms of its impact on highway and pedestrian safety in relation to the site and the wider area. Stratford Road and Highgate Road are both main arterial routes into the city centre and it is unlikely that congestion would increase significantly due to the development on this corner. Suitable vehicle parking provision including suitable access in and out of the site has been included within the scheme, including a new basement car park and separate car park off Stoney Lane with the provision of public parking on a pay and display basis to replace the existing public car park. The site is located within a very sustainable location, including various bus stops and within short walking distance to surrounding residential neighbourhoods. Therefore, it is likely that, especially with the introduction of the clean air zone, there would be less use of private vehicles and increased use of sustainable modes of transport, assisting with the overall reduction of emissions within the area.

1.23. Site Notices have been displayed at the application site on three separate occasions over the last two years. In addition, surrounding neighbours and occupiers and residents (over 75 individual properties) have been consulted separately. It is therefore considered that sufficient consultation with the public was undertaken and the opportunity to comment was appropriately given.

1.24. The applicant has purchased the existing public car park from Birmingham Property Services, which was considered to be surplus to the Council's requirement. The appropriate and legally binding procedure was followed during the purchase.

1.25. Matters in relation to religious values, concerns about the division and disunity of local communities and profit gains for developers are not considered to be planning related issues and would not be of consideration as part of this planning application.

1.26. Since publication of the report, comments have also been received from the Victorian Society.

- Victorian Society: Objection. It is considered that the site is close to the Grade I Listed St Agatha's Church, which would be one of the most significant buildings in Birmingham. The tower would form a very important part of the streetscape on Stratford Road and features prominently in many townscape views. The application site is considered to be excellent for a mosque and community uses, concerns have been raised about the dominance, scale and massing of the proposed building which would significantly reduce the visual impact of the Grade I Listed Church. There is disagreement with the conclusion of the Heritage Impact Statement and would have a negative impact on the setting and thus the character and appearance of the Grade I Listed building.

2.2. Recommendation

2.3. That the application recommendation continues to be approved, subject to conditions as detailed below.

ORIGINAL REPORT

1. **Proposal**
 - 1.1. The application seeks planning permission for the comprehensive redevelopment of the site to include demolition of existing buildings, removal of public car park, stopping up of public highway and erection of mosque and mixed-use building to include community centre, school, residential flats, retail units, basement and surface car parking and associated works at land on the junction of Highgate Road and Stratford Road; and land at Stoney Lane.
 - 1.2. **Demolition of existing buildings** - The application seeks to demolish the existing buildings on the application site, namely the commercial properties at nos. 7 – 15 Stoney Lane including ancillary workshop buildings to the rear; the former Brewers Arms Public House (locally listed Grade B) at 309 Highgate Road and the former public conveniences at 17 Stoney Lane (locally listed Grade C), currently in use as restaurant and commercial shop; and nos. 291-293 Stratford Road which is currently used for retail purposes. As part of the proposal, the scheme proposes to close part of Stoney Lane (to the north of its junction with Highgate Road) and the applicant has submitted a separate S247 application for the stopping up of the public highway. This also includes the purchase of the existing public car park from Birmingham City Council, located on the corner of Highgate Road and Stratford Road.
 - 1.3. **Proposed Mosque Building** - The proposed mosque building would be located on the prominent corner of Highgate Road and Stratford Road and would have an oval shape to follow the site's boundaries. The scheme seeks a design with an arced form stepping back from Stratford Road as it rises up to seven storeys (ground floor plus six upper storeys) in height when viewed externally. The ground and first floor would be double-storey internally, therefore viewed as five storeys plus a dome above. The overall height of the building would be approximately 25 metres (28 metres including dome) and is set back from the public highway to allow for landscaping along the buildings' ground floor frontage. The modern design aspirations are reflected in the external appearance of the building with proposed materials combining a mix of bronze, white and grey triangular shaped cladding panels on a metal frame together with a mix of curtain wall, frosted and clear glazing, dark grey framed windows, glass balustrading and a pre-patinated copper dome above. There would be a large triangular shaped opening within the metal frame façade towards the Highgate Road/ Stratford Road corner to reduce the overall massing and open the building to the prominent road corner. At the rear (towards the Aldi supermarket car park), the scheme proposes to end the arced form and provide a large gable wall with the primary material being decorative cladding in line with the proposed panels to the main façades.
 - 1.4. Internally the mosque building would provide for a large daily prayer hall (approximately 640 sqm), including separate men and ladies entrance areas, reception and offices on the lower/ground floor. The prayer hall would be of double-height, also covering part of the first floor. On the second floor the majority of the building would be provided as a ladies hall with additional offices and lobby areas. The third floor would be used as a conference hall with an additional board room,

kitchen facilities and store. The fourth and fifth floor area would be used as exhibition halls as well as a library whilst there is also access to a roof garden (approximately 85sqm) from the fourth floor which is situated on the small flat roof at the western end of the building. There would be three separate internal staircases as well as three lifts surrounding a large lobby area on each floor to access the upper storeys. In addition, each floor would provide for male and female toilet facilities. The mosque building would provide for funeral services, including a 'janaza wash' at basement level which will be used for the washing of the deceased. In addition, there is a separate body lift proposed at the front of the hall. The main entrance into the mosque building would be from the Highgate Road frontage, whilst there would be separate ladies entrance from the rear of the building which can also be accessed from the third access to the north of the site (via the minaret), fronting Stratford Road. The proposed maximum capacity for the mosque is stated as 2500 worshippers during peak Friday prayers with a maximum of 500 attendees during other prayer times. The proposed opening hours for the mosque would be 4am to 11pm daily.

- 1.5. In addition, the mosque comprises the provision of 2no. minarets, located to the north (adjoining the Aldi car park) and south (adjoining Highgate Road) of the mosque building. The contemporary design proposes a grey cladded block at its base which links with the ground floor of the mosque. As they rise above the mosque it is proposed to add three gold cladded tiers, decreasing in size as they increase in height up to an overall height of approximately 43m. In order to add a degree of articulation, Islamic symbols are proposed on their street facing façade.
- 1.6. **Proposed Mixed-Use Building** - The proposed mixed-use building would be situated to the west of the proposed mosque with its main frontage towards Highgate Road and extending to the rear, following the boundary line of the application site. From a design perspective, the building would be four-storeys in height with two central elements on the Highgate Road frontage being five-storey to provide for the internal lift shaft. The Highgate Road façade is characterised by large areas of glazing on the ground/first floor and corner element of the school entrance building at the western end of the site. The proposed materials would comprise a mix of dark brown brick and buff colour facing brick, timber cladding (along the school entrance) combined with dark framed windows. The fourth floor of the community building would adopt the design aspirations from the main mosque building by providing similar triangular shaped cladding with a mix of bronze, dark grey and white panels. Internally, the building would comprise of commercial units on the ground floor; a school built around an open courtyard area to the rear and with its main access from the western end of the building; a community centre to the rear of the commercial units; and residential apartments on the second and third floor, above the commercial units on the Highgate Road frontage.
- 1.7. Retail/Commercial Units - In terms of the retail units, there would be 7no. commercial units provided on the ground floor towards the Highgate Road frontage, with a size ranging from approximately 58sqm to 88sqm ground floor commercial space. Each unit would have its own internal staircase to access the first floor which is of similar size as the ground floor space and would be suitable for additional retail space and/or storage/staff purposes. The units would have direct front access onto the new pedestrian walkway which adjoins the new servicing lane off Highgate Road. The shopfront windows would be of double-height glazing with the first floor being visible from the road. The modern appearance is reflected in the use of minimalistic dark grey framing and doors. The proposed opening hours for the commercial units would be 8am to 11pm Sundays to Thursdays and 7am to 12pm

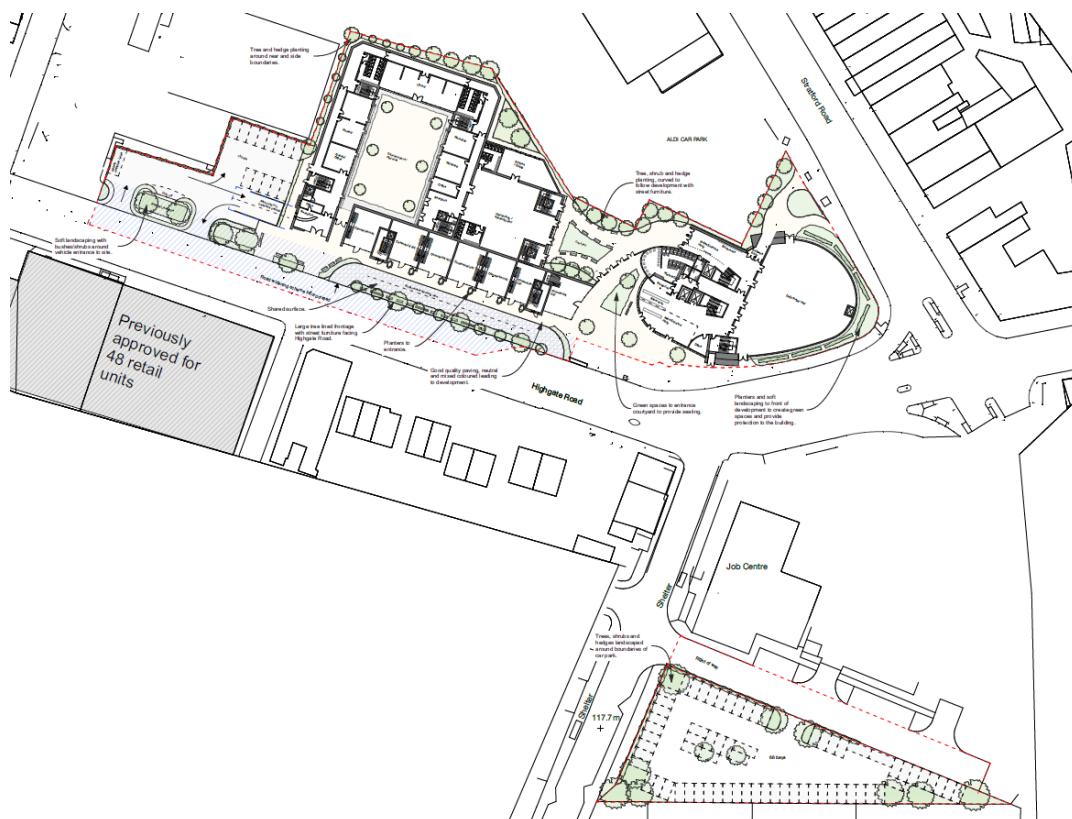
Fridays and Saturdays. The use would be restricted to retail shops with a maximum of 2no. units being used as a restaurant/ café.

- 1.8. **Residential Apartments** - In between the commercial units there would be two main pedestrian entrances from the Highgate Road frontage to the proposed residential apartments which would be located on the second and third floor, providing 12no. flats with a mix of 2no. one-bed apartments (73sqm each) and 10no. two-bed apartments (ranging in size from 70sqm to 95sqm) with outlook over Highgate Road. Each apartment would provide for a kitchen/lounge area, double bedroom, bathroom and storage areas. On the fourth floor roof of the building, the scheme seeks to provide a roof garden (approximately 350sqm) for residents of the flats below. There would be no allocated parking for the residential units.
- 1.9. **School** - The proposed school would have its main entrance and reception area from the western end of the building on Highgate Road and would extend along the western and northern boundary of the application site. The ground floor would comprise of offices, nursery (with a capacity for 39 children, aged 0-4), workshops, a library and external play space (approximately 570 sqm) within a dedicated courtyard area surrounded by the rectangular school building. On the first, second and third floor there would be an overall 27no. classrooms, a staff room, a meeting room and laboratory, all overlooking the internal courtyard area. Each floor would also be provided with male and female toilet facilities. The capacity for the school facilities are stated as a maximum of 500 pupils, aged 11 – 16 and with up to 43 members of staff. Operational hours for the school are detailed as 9am to 4pm Mondays to Saturdays. In addition, it is proposed to hold evening classes and training courses which would occur between 5pm and 10pm Mondays to Saturdays.
- 1.10. **Community Centre** - The proposed community centre would be located to the rear of the commercial units, centralised within the application site. Its main access would be from the external courtyard area located between the mosque building and mixed-use building. On the ground floor it would provide for a large internal play area/ assembly hall. On the first floor the scheme provides offices, an advice and day centre and board room, whilst the second floor would be used as a ladies community hall and the third floor as a men's community hall. Each floor would also have an allocated kitchen/dining area and two separate staircases and lifts would also be provided with direct access to the school element to the west. The flat roof on the fourth floor would be provided as a roof garden (approximately 510sqm) for the community centre and is separated from the adjoining resident's roof garden. Operational hours for the community centre would be Mondays to Saturdays 9am to 10pm.
- 1.11. **Access and Parking** - In terms of access, the scheme seeks to provide separate 'in and out' lanes at the western end of the site which would allow access to a drop off area, refuse storage, 13no. level parking bays and to the ramp, accessing the basement car parking with an additional 153no. parking spaces. Once completed, this car park would also be provided for the public on a 'pay and display' basis. The 'in' and 'out' lanes would be arranged around soft landscaping areas along the Highgate Road frontage taking into account the area proposed to form part of the Highway Improvement Line (HIL). Following the Highgate Road frontage to the east, there would be a separate surface level servicing lane in front of the commercial units, approximately 60m in length and separated from the main road by soft landscaping, again with a separate access and egress. The areas surrounding the building would be hard surfaced and for sole use of pedestrian, with large courtyard areas including soft landscaping and street furniture between the mosque building and mixed-use building.

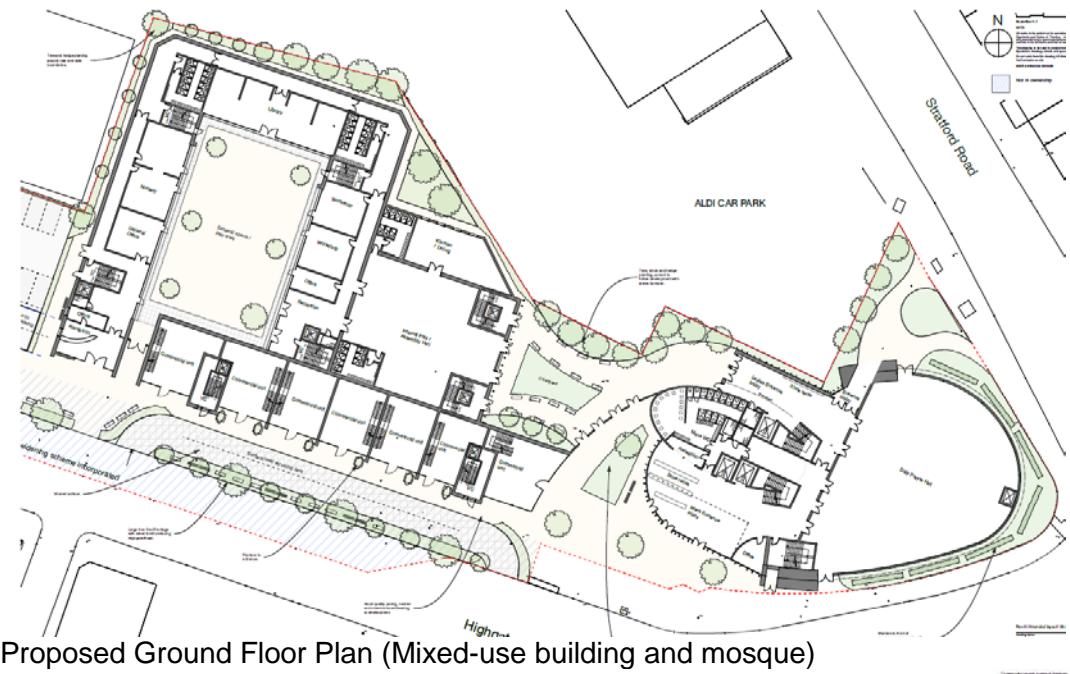
1.12. In addition, there will be an additional surface level car park being provided for users of the development, approximately 70m to the south of the site. This additional car parking area would allow for an additional 68no. vehicle parking spaces for the development with the overall number of parking spaces provided for the development comprising 234no. vehicle parking spaces. The proposed basement car park, once completed, would be available for use by the public ('pay and display'). Following closure of the existing public car park, the Stoney Lane car park would initially be provided for public parking until the basement car park is established, also on the basis of 'pay and display'.

1.13. The proposed development would be carried out in a number of phases, however, no further details have been provided at this stage. The provision of detailed phasing information would need to be provided prior to commencement of any works on site.

1.14. The application submission is supported by a Design and Access Statement, Transport Statement and Framework Travel Plan, Noise Impact Assessment, Air Quality Assessment, Heritage Impact Assessment, Sustainable Drainage Assessment and Drainage Strategy, Contamination Assessment and Phase 2 Ground Investigation Report,



Proposed Site Plan (including Stoney Lane car park)



Proposed Ground Floor Plan (Mixed-use building and mosque)



Proposed Highgate Road Elevation



Proposed Stratford Road Elevation

[Link to Documents](#)

2. Site & Surroundings

2.1. The application site lies within the Sparkbrook area of the city and has a size of 0.85ha. The site is located on the northern side of Highgate Road (A4167), on the prominent corner with Stratford Road (A34). The main application site comprises a number of existing buildings and structures which would be demolished as part of

the proposal. The existing buildings on site currently comprise a flat roofed, two-storey warehouse building at 291-293 Highgate Road, currently in use for retail purposes; 309 Highgate Road, the former Brewers Arms Public House which is a locally listed building (Grade B); the buildings at 7-15 Stoney Lane which are two-storey in height and used for commercial purposes, including single-storey flat roofed garages and outbuildings at the rear partly in use as a car wash; as well as the locally listed (Grade C) former public conveniences at 17 Stoney Lane.

- 2.2. The main application site also includes the most northern part of Stoney Lane (to the north of Highgate Road) which is currently highway land maintained at public expense (HMPE). In addition, there is a public car park on the immediate corner of Highgate Road and Stratford Road accessed off Stoney Lane which provides 25 spaces.
- 2.3. The site also comprises a triangular shaped parcel of land approximately 70m to the south, on the corner of Stoney Lane which has a size of 0.17ha and is currently used for storage and sales of vehicles, a use which does not appear to have been regularised.
- 2.4. The site is partly located within and on the northern fringe of the Sparkhill Local Centre which extends along the north and south along Stratford Road to the east. The wider surrounding area is therefore mixed in character, including retail, commercial and educational uses as well as restaurant and hot food takeaways. Immediately to the north of the application site with access off Stratford Road is a large Aldi supermarket, whilst to the west the site is adjoined by single-storey commercial warehouse/depot buildings accessed off Mole Street. Highgate Road with commercial premises and residential dwellings beyond is located to the south and the large junction with Stratford Road borders the site to the south and east. Most recently planning permission was granted for a new 5-storey mixed commercial/residential building on the southern corner of Stratford Road/ Highgate Road (reference 2018/07490/PA) and is adjoined to the west by a job centre.
- 2.5. The application site is located on an important road route linking Sparkbrook and adjoining local centres and communities to the city centre via the City's Middleway ring road with Stratford Road and Highgate Road forming a junction of this primary route. There are a number of bus stops located along Highgate Road, Stratford Road and Stoney Lane to the south, all within walking distance. An area of land to the western end of the application site is also affected by the proposed Highgate Road improvement line which extends along Highgate Road to the west up to the Belgrave Middleway roundabout.
- 2.6. The surrounding vernacular is dominated by Victorian properties, predominantly 3-storeys in height within the local centre and 2-storeys within the adjoining residential communities. Within the clusters of non-residential uses there is a greater mix of architectural periods, but the scale largely aligns with the primary vernacular. The most prominent building within the vicinity are the Grade I Listed Church of St. Agatha and the Grade II* Listed Ladypool Primary School which are located approximately 150m to the north of the application site.

Location

3. Planning History

3.1. **Land at Mole Street**

- 13.05.2010: 2010/01971/PA – Erection of temporary porta cabin. Approved temporary.

3.2. **291-293 Highgate Road**

- 13.11.2003: 2003/05299/PA – Continued use as retail and wholesale sale of furniture. Approved, subject to conditions.

3.3. **295-297 Highgate Road**

- 11.02.2000: 1999/04312/PA – Continued use of site as motor salvage yard. Approved temporary.
- 27.04.1990: 1990/01832/PA – Continued use for storage and repair of motor vehicles. Certificate of Lawfulness – Approved.

3.4. **309 Highgate Road, The Brewers Arms PH**

- 08.10.2013: 2012/07378/PA – Continued use of first floor as restaurant, erection of two storey side and first floor rear extension, loft conversion to provide incidental storage areas, installation of four extraction flues and structure to store plant/ machinery to the rear (Amended Plans). Approved, subject to conditions. Not implemented.
- 28.03.2000: 2000/00520/PA – Conversion of vacant public house to restaurant/hot food takeaway with retention of living accommodation at first floor, with external alterations including installation of shop front, roller shutters and disabled access, demolition of outbuildings and installation of external extract flue. Approved, subject to conditions.

3.5. **Rear of Stoney Lane/ fronting Highgate Road**

- 10.11.2005: 2005/05925/PA – Continued use for the sale of cars and retention of fencing to the front forecourt area. Approved temporary.
- 11.03.2005: 2004/08303/PA – Change of use to car sales yard. Refused.

3.6. **7-9 Stoney Lane**

- 12.09.1991: 1991/02255/PA – Continued use of first floor as private car hire booking office. Approved, subject to conditions.

3.7. **11, 13 and 15 Stoney Lane/ Highgate Road**

- 11.03.2005: 1995/04326/PA – Retention of shop front. Approved, subject to conditions.
- 29.01.1991: 1990/05434/PA – Continuation of car repair use, motor accessories shop and ancillary car parking. Approved temporary.

3.8. **17 Stoney Lane (Former Public Conveniences)**

- 24.01.2000: 1999/05091/PA – Change of use to financial and professional services (Use Class A2). Approved temporary.
- 20/06.2005: 2005/02584/PA – Change of use from vacant public toilets to A1 retail unit, with internal and external alterations and installation of shopfront.

3.9. **Land on the corner of Highgate Road/ Stratford Road**

- 08.01.2004: 2003/06454/PA – Display of internally illuminated triple-sided monopole advertisement and boundary fencing. Approved temporary.

3.10. **303-305 Stratford Road/ Land adjacent Highgate Road**

- 19.01.2005: 2004/07999/PA – Creation of car parking area to provide 11 parking spaces in connection with 'red route' highway works. Approved, subject to conditions.

3.11. **Stoney Lane car park**

- 12.01.1995: 1994/03611/PA – Erection of office building for class A2 and/or class B1 use including parking area and access. Approved, subject to conditions.

4. Consultation/PP Responses

4.1. Local Ward Councillors, MP, Residents Associations and local residents consulted. Site Notices posted in January 2019, November 2019 and October 2020.

4.2. Letters in support received from (former) Roger Godsiff MP, Khalid Mahmood MP, Councillor Robert Alden, Councillor Shafique Shah, Councillor Shabrina Hussain, Councillor Zaker Choudhry and Sparkbrook Residents Association.

4.3. Petition in support, signed by 373 people, additional 20 supporting letters received from local businesses and occupiers. In summary it is stated that:

- the development is much needed for the area;
- it would hugely benefit the people of Sparkbrook and surrounding areas;
- it would offer enhanced economic activities and jobs for community members;
- It would assist in bringing about an inter-faith harmony among various communities;
- It would deliver a variety of different services in a safe environment; and
- Proposal reflects an open and forward-looking community.

4.4. 8no. objections received on original scheme with consultation in January 2019 and 5no. additional objections received following re-consultation in November 2019, stating concerns with regard to:

- Proposal would have unacceptable impact on traffic and parking situation within area.
- Loss of existing car park would be unacceptable. Scheme needs to provide additional public car parking which is getting lost in the area.
- Loss of public car parking will result in community and business uses having to close and want to see legally binding agreement for use of parking facilities on this site.
- Ideally parking provided should be free, but if pay and display this should not be excessive.
- Proposal would result in general disruption to neighbourhood.
- Proposal would have negative impact on other local communities/ faith groups.
- There are already enough mosques within the local area.
- Birmingham, and in particular this area, needs more green space.
- Do not need additional poorly considered and constructed buildings.
- Find location for existing businesses to move to before demolishing them.
- Scheme would be waste of public money.

4.5. **BCC Employment** – No objections. Request for inclusion of Employment Obligations or conditions in relation to the provision of a construction employment plan.

- 4.6. **West Midlands Police:** No objections. Recommends electric gates for access control, CCTV to all entrances and car parks. Reference is also made to Secured by Design for Commercial Premises.
- 4.7. **West Midlands Fire Services** – No objections.
- 4.8. **Severn Trent** – No objections subject to conditions in relation to drainage plans for the disposal of foul and surface water flows and that the scheme shall be implemented in accordance with the approved details.
- 4.9. **Lead Local Flood Authority** – No objection subject to conditions in relation to prior submission of a sustainable drainage scheme and sustainable drainage operation and maintenance plan.
- 4.10. **Ecology** – No objections subject to informative in relation to nesting birds.
- 4.11. **Regulatory Services:** No objections subject to conditions in relation to a Contaminated Land Verification Report; unexpected contamination; noise insulation scheme between commercial and residential; noise insulation for various other areas; extraction and odour control details; hours of use for amplification equipment; traffic management plan; noise levels for plant and machinery; hours of operations for various uses including retail, non-residential institution; restaurant/cafes and hot food takeaways; hours of delivery; and electric vehicle charging points.
- 4.12. **Transportation:** No objections subject to conditions in relation to a construction method statement/management plan; measures to prevent mud on the highway; means of access for construction; no occupation until service road constructed; no occupation until turning and parking areas constructed; siting/design of means of access; vehicle parking and turning details; details of pavement boundary; entry and exit sign details; parking management strategy; commercial travel plan; cycle parking provision; delivery and service area completion; details of parking facilities; residential travel plan, parking area laid out prior to use; details of turning, loading and parking; access and egress details; cycle storage details; delivery vehicle management scheme; car park management plan; signing up to Travelwise; S278/TRO Highway Works; electric vehicle charging points; on-site and off-site car park management; and resolution to grant S247 Works.
- 4.13. **Historic England** – Considered there would be less than substantial harm to setting of Grade I Listed Church and this would need to be weighed against public benefits associated with the scheme.

5. Policy Context

- 5.1. National Planning Policy Framework (NPPF, 2019); Birmingham Development Plan (BDP, 2017); Saved Policies of the Unitary Development Plan (UDP, 2005); Shopping and Local Centres SPD (2012); Places for All SPG (2001); Places for Living SPG (2001); Car Parking Guidelines SPD (2012); Places of Worship SPD (2012); Technical Housing Standards – Nationally described space standards (2015); Council's 45 Degree Code; and Shop Front Design Guide.

6. Planning Considerations

6.1. The application has been assessed against the objectives of the policies as set out above. The main issues for consideration are as follows:

Principle of Development:

6.2. The application seeks the demolition of existing buildings, removal of car park, stopping up of the public highway and erection of a mixed-use development to comprise mosque, community centre, school, residential flats, retail units, basement and surface car park including associated works. The development site is located on Highgate Road with its junction of Stratford Road partly within the Sparkhill Local Centre as identified under policy TP21 of the BDP 2017. The policy states that such centres are the preferred location for retail, religious, education and community facilities. The western end of the site falls outside the existing local centre boundary.

6.3. There are some existing industrial/commercially used units within the application site. Policy TP20 of the BDP 2017 determines that outside core employment areas and regional investment sites, that change of use proposals from employment land to alternative uses will be supported where it can be confirmed that the site is a non-conforming use or the site is no longer attractive for employment use/development having been marketed for a minimum of at least 2 years.

6.4. Policy TP27 determines that residential developments should contribute towards creating sustainable places; Policy TP28 outlines the desired location of new residential development; Policy TP30 asserts density standards for varying locations (50 dwellings per ha for locations well served by public transport). Noting the scheme seeks to provide 12no. residential units, there would be no requirement to provide affordable dwellings as part of this development.

6.5. In addition, policy TP36 refers to education facilities and notes that as the City's population grows, there will also be a need for additional Primary, Secondary and Special Needs school and college provision. Proposals for new education facilities should have safe access by cycle and walking as well as by car and incorporate a school travel plan; have safe drop-off and pick-up provision; provide outdoor facilities for sport and recreation and avoid conflict with adjoining uses. The school element would provide an internal courtyard area which would be suitable for external recreation purposes.

6.6. In addition, and noting the mixed-use nature of the development, the Council's SPD on Places of Worship supports this scale of proposal in locations within local centres and, given the position of the site on the junction of main arterial routes, it also has good access to public transport which is also in accordance with the SPD.

6.7. Considering the above, the principle of the development on this site is supported noting its potential to provide an important community and faith facility for the city which could enhance the environment along Highgate Road by introducing a high quality built environment. This is subject to discussion of various technical details as set out below.

Impact on Heritage Assets

6.8. The site is located on the prominent corner of Highgate Road and Stratford Road within the Sparkhill area of Birmingham. Within the curtilage of the development site there are currently 2no. locally listed buildings, namely the former Brewers Arms Public House (Grade B), an Arts & Crafts Tudor Revival public house built in 1927,

and the former Stoney Lane Public Conveniences (Grade C) built c.1925, which would both be demolished as part of the proposed development.

- 6.9. In addition the site is situated close to the setting of the Grade I Listed Church of St. Agatha, built 1899-1901, listed as being exceptionally fine and an original church by W E Bidlake and the Grade II* Listed Ladypool Primary School, built 1884-1885, designed by Martin and Chamberlain, both approximately 200-250m to the northwest of the development site. The church is dominated by its great tower, in a perpendicular style freely reinterpreted in an Arts and Crafts idiom and of very fine workmanship. The scale of the proposed mosque building and its minarets would sit alongside the church tower on the local townscape.
- 6.10. Other listed and locally listed buildings are located in the vicinity of the development site including John Whybrow Limited Building (200 Stratford Road) and the Angel Public House (207-209 Stratford Road). In addition, the Stratford Road Baptist Church (266 Stratford Road) is identified as a non-designated heritage asset.
- 6.11. The application is accompanied by a Heritage Impact assessment (HIA) (Locus Consulting, November 2019) which assesses the significance of the heritage assets on and around the application site using the methodology in Historic England's *Conservation Principles Policies and Guidance* (2008). The Assessment considers the impact of the development (both direct and indirect) on the identified heritage assets and any harm caused to these assets. It concludes that whilst the scheme results in the loss of significance through the demolition of two non-designated heritage assets, they would be of limited level of architectural and historic interest due to high levels of modern adaptation. In addition, it considers that the proposal would bring a low degree of harm to the ability to appreciate the architectural and historic interest of St Agatha's Church (a Grade I Listed building) from within its setting; however the level of harm is considered to be less than substantial which would need to be weighed against the public benefits arising from the scheme.
- 6.12. In terms of planning policies, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states 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. In addition, Policy TP12 of the BDP 2017 highlights that great weight will be given to the conservation of the City's heritage assets. Proposals affecting designated and non-designated heritage assets or its setting will be assessed in line with national policy.
- 6.13. Loss of non-designated heritage assets: As noted, two buildings within the application site, namely the Brewers Arms Public House and the Stoney Lane Public Conveniences, are locally listed (Grade B and C) and therefore considered to be non-designated heritage assets. Paragraph 197 of the NPPF 2019 acknowledges that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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 of loss and the significance of the heritage asset.
- 6.14. The supporting Heritage Impact Assessment has analysed the architectural and historic interest of the buildings. In terms of the Brewers Arms Public House, the extensive alterations relate to both the interior and exterior with high levels of loss of traditional features from the principal elevation. Modern wooden cladding has

replaced the original timber-framed aesthetic whilst the bay windows have been demolished including a total loss of the traditional fenestration with poor quality replacement. It is also noted that the historic interest has derived from its communal value being constructed in the early decades of the 20th Century to service Birmingham's expanding neighbourhoods. However, it is also noted that there are a number of other examples of its type within the city. In terms of the Stoney Lane Public Conveniences, it is stated that it has also been extensively altered externally and internally through its conversion to a commercial premises, subsequently losing its original function as conveniences. Whilst it holds a degree of interest, the architectural and historic interest is considered to be significantly lost.

- 6.15. The City's Conservation Officer has reviewed the submitted assessment and notes in terms of the Brewers Arms Public House (Locally Listed Grade B) that whilst there is a degree of loss of architectural features and details due to recent alterations, there continues to remain some identifiable elements of its architecture including roof form, chimney and tiled roof, making it worthy of retention. With regard to the Stoney Lane Public Conveniences (Locally Listed Grade C), it is acknowledged that some of the functional elements of the building have been lost and that other elements have been poorly altered over the years. However, it is considered that there would remain some value with a level of significance. Overall, the Conservation officer therefore raises concerns to the proposed loss.
- 6.16. It is acknowledged that both buildings have some remaining elements of architectural interest and would make a positive contribution to the history and local distinctiveness of the area. However, the only alternative option in order to avoid the loss of the buildings would be their conversion by integrating them into the wider development scheme. However, noting the scale of the proposed uses within the site, it is not considered they could be accommodated within the two buildings, jeopardising the redevelopment and subsequent benefits of the proposal to the local area.
- 6.17. The scale of harm in this instance is the loss of the two non-designated heritage assets (Grade B & C). It is recognised that both buildings may have had a social history and their loss is regrettable. Options to protect the building in any future proposals for the sites are however limited and costs of refurbishment to get both buildings back to their original status would unlikely be viable.
- 6.18. In conclusion, it is considered that the retention of the two non-designated heritage assets within the site would not be viable or practical noting the scale and important significance of the application scheme. Whilst the loss is regrettable, both buildings over the years have been significantly altered and lost a majority of their original features and details. Consequently, on balance, the loss of the former Brewers Arms public house and the former Stone Lane Public Conveniences would be acceptable in planning terms.
- 6.19. Impact on setting of Grade I Listed Church - The proposal sits within the setting of the Grade I Listed St Agatha's Church. The Heritage Impact Assessment has identified the Church as having exceptional levels of historic and architectural interest and is widely considered as being amongst the most significant buildings in Birmingham. The Assessment goes on to identify the church tower as a 'landmark' building. The document further identifies St. Agatha's as comfortably the tallest and most ornate element of the street scene. 17 viewpoints have been provided in order to undertake an assessment of impact of the development of the significance of the church.

6.20. Taking account of the representative views provided it is considered the most significant to be those along the Stratford Road. The church was designed to be highly visible along this part of the Stratford Road and established views of the church have allowed for the continued appreciation of this highly significant asset. The Heritage Impact Assessment identifies that the minarets will appear as a pair of new landmarks within the street scene and wider townscape setting of the church. It correctly goes on to say that their construction may distract from, but will not conceal, the church tower's ornate detailing and grand scale which are key elements of its architectural and historic interest.

6.21. My Conservation Officer has reviewed the information and accepts the viewpoints and assessment provided. Whilst it is noted that the church will remain a distinctive and landmark element of the townscape, the introduction of a development of this scale in this location would have an impact on the historic significance of the church and its established townscape setting. It is considered the development would cause less than substantial harm to the ability to appreciate the architectural and historic interest of the church from within its setting. In addition, Historic England has been consulted on the application and raises some concerns with the development, concurring with the Conservation Officers view and acknowledging the findings of the Heritage Impact Assessment that there would be less than substantial harm to the setting of the Church which would need to be weighed against the public benefits associated with this scheme.

6.22. Therefore, as stated in paragraph 196 of the NPPF, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate securing its optimum viable use.

6.23. It is considered there would be a number of public benefits which include: The scheme would deliver a new mosque facility which is of city-wide and local significance; it comprises a redevelopment of an area which is in need of significant regeneration; the scheme would improve the visual appearance along this prominent part of Highgate Road and Stratford Road; it would provide a high-quality and sustainable development within a highly sustainable location; it would provide additional commercial units within a highly regarded local centre setting; it would provide new school facilities; it would provide 12no. units of high quality residential accommodation; a community facility for local people to meet and provide communal activities; attractive hard and soft landscaping provision and roof gardens within an area where there is a recognition of very low provision of green space.

6.24. It is therefore considered that there are a number of public benefits resulting from the proposal that would outweigh the less than substantial harm caused to the nearby Grade I Listed St Agatha's Church.

6.25. Impact on setting of Grade II* Listed Ladypool Primary School – The Heritage Impact Assessment identifies the school building as located away from the roadside and visually enclosed by surrounding streets. The document also identifies no current functional relationships between the site and the asset however does identify some inter-visibility between the school and the 'minarets' of the proposed mosque.

6.26. My Conservation Officer considers that there would be some impact on the school through a development of this scale within its townscape setting, however, the overall impact on the significance of the school would be less harmful than the impact on St. Agatha's. The development would not compete with school or on the ability to appreciate its architectural and historic significance as it more obviously

would with the church. I therefore consider that the development would have a neutral impact on the ability to appreciate the architectural and historic interest of the school.

- 6.27. **Impact on other nearby heritage assets** - The Heritage Impact Assessment has considered the impact of the development on several other heritage assets both designated and non-designated. These include John Whybrow Limited Building, No.200 Stratford Road (grade II listed), The Angel Public House, No 207-209 Stratford Road (locally listed) and the Stratford Road Baptist Church (non-designated heritage asset).
- 6.28. There are varying degrees of inter-visibility between these assets and the application site and therefore there will be some impact on the townscape setting of these buildings. However, based on siting, location and levels of significance of these heritage assets in line with advice from my Conservation Officer and the submitted Heritage Impact Assessment I consider that the overall impact of the scheme will have a neutral impact upon the ability to appreciate the architectural and historic interest of these assets.
- 6.29. **Conclusion** – The scheme seeks the demolition of 2no. non-designated heritage assets and in assessing the scheme, the effect of an application on the significance of a non-designated heritage asset should be taken into account. As required, a balanced judgement has been undertaken, and whilst the loss is regrettable, it is considered, on balance, it would be acceptable in planning terms, noting the overall benefits and aspirations of this significant redevelopment scheme. In addition, with its location within the setting of the Grade I Listed Church of St. Agathas, it is considered to result in less than substantial harm to the significance of a designated heritage asset which has been weighed against the public benefits of the scheme which are considered to outweigh the harm caused. In addition, there would be a negligible impact on other designated and non-designate heritage assets from the development. Overall, on balance, it is therefore considered that the scheme would be appropriate in terms of impact on heritage assets.

Design and Impact on Visual Amenity

- 6.30. Policy PG3 of the BDP 2017 requires all new development to demonstrate high design quality especially pertinent considering the development's prominent location within the Sparkbrook area. The proposal has evolved from extensive pre-application discussions and meetings with the City Council including the consideration of the proposals at the Birmingham Design and Conservation Review Panel in February 2020.
- 6.31. In terms of the layout of the proposal it is considered that the proposed development makes best use of the space available and has acknowledged the site's road frontage and prominence on the junction of Highgate Road and Stratford Road.
- 6.32. **Mosque** - The proposal is seeking to create a large and prominent mosque which would likely to be of local and city-wide significance which is reflective in the proposed form and scale of the building with its arced form stepping back as it rises to its 7th floor (when viewed externally) and dome above. The stepped tier of the floors (ground and first floor of double-height), together with the proposed façade design would assist in reducing the overall massing. The element on the Stratford Road frontage may appear dominant, however, whilst floor plans suggest the provision of additional glazing within the upper floors, further details of this element would need to be provided in order to ensure the visual scale is appropriate to its

surroundings. Given the prominent location of the mosque, allied with its architectural and community aspiration, it is considered that the scale and height of the building is appropriate and would not over-dominate the existing streetscene.

- 6.33. The proposed mosque would be a standalone element that seeks to effectively punctuate and frame the prominent corner plot. The use of soft landscape along the boundaries subtly sets the building back from the street edge, providing an element of defensible space to the primary prayer hall whilst introducing new green infrastructure into this hard environment. As this transitions towards Stratford Road, a greater setback is provided, creating a landscaped space at ground floor level which leads into the secondary ladies entrance. At Highgate Road, the footprint of the mosque building would arc into the site enabling a landscaped entrance plaza to be created which would serve the main entrance and adjacent mixed use block to the west. Generally, the siting of the mosque building including the provision of landscape areas to soften the streetscene and enhance the experience for worshippers entering the building is supported.
- 6.34. The upper floors of the mosque would be reduced in size in line with the step back of the building. The response of the building to the rather awkward plot shape and its surrounding is largely supported, whilst it would be important that halls and entrance lobbies are provided with appropriate glazing and transparency with detailed design drawings to be conditioned.
- 6.35. In terms of the design, the 'halls' elements of the building would be grounded by a solid plinth, on top of which lies a light, decorative form, tiering down from the central dome. The base will utilise concrete panels with grey cladding which would also tie in with other elements such as the minaret and stairwell. Towards the Stratford Road frontage, the arc form of the building is interrupted by a large gable wall with the primary material being decorative cladding in line with the proposed panels to the main façades. Overall, the contemporary aspirations proposed are supported.
- 6.36. Minaret - The scheme seeks to provide 2no. minarets as part of the overall mosque design which would be located on the northern end of the main mosque building, adjoining the current Aldi supermarket car park, and to the south on the Highgate Road frontage. Overall, the height and location of the minarets proposed is supported.
- 6.37. Mixed-use building - The mixed-use building would be four-storeys in height with a flat roof. The fronting element would introduce a strong building line along Highgate Road which is supported. The scale is akin to the surrounding area with the subtle increase in height helping to reinforce the presence of the built form against the dominant road environment. The provision of double-height retail units and a rhythm of bays would also ensure that the massing of the block aligns with its context, acknowledging nearby 3-storey local Victorian shopping parades.
- 6.38. In addition, the introduction of a setback higher element with its materiality linked to the main mosque building would not appear visually dominant, but creating a degree of interest. From mid-distance views, this feature would further break the overall mass of the building via a step in height.
- 6.39. In terms of its layout, the proposed mixed-use building responds to the prominent road frontage of Highgate Road and the introduction of commercial/retail units and the entrance to the school at ground floor level would assist in the creation of an active street frontage. The introduction of residential units above the retail element would provide for further surveillance and enhancement of the immediate

environment. The less public functions of the school and community centre have been placed at the rear together with private outdoor amenity space which would ensure the main frontage would retain activity levels and an attractive commercial environment.

- 6.40. Overall, it is considered that the mixed-use building effectively responds to the character of the surrounding area with its simple architectural form.
- 6.41. Conclusion – Is it considered that the proposed development, including the proposed new mosque building and mixed-use building including its surrounding landscaped environment and parking arrangement would be acceptable in terms of their design, scale and massing. In addition, whilst of significant prominence in the streetscene, the scheme would not unacceptably impact on the visual amenity of the local area. It would have the potential to deliver a high quality, landmark building desired for the site, however in order to achieve this further details would need to be submitted to ensure the aspirations are achievable. Therefore, suitable conditions would be imposed.

Existing Views:



View from Highgate Road/ Stratford Road junction



View from Stratford Road towards Highgate Road (north)



View along Highgate Road towards Stratford Road



View along Stratford Road towards Highgate Road (south)

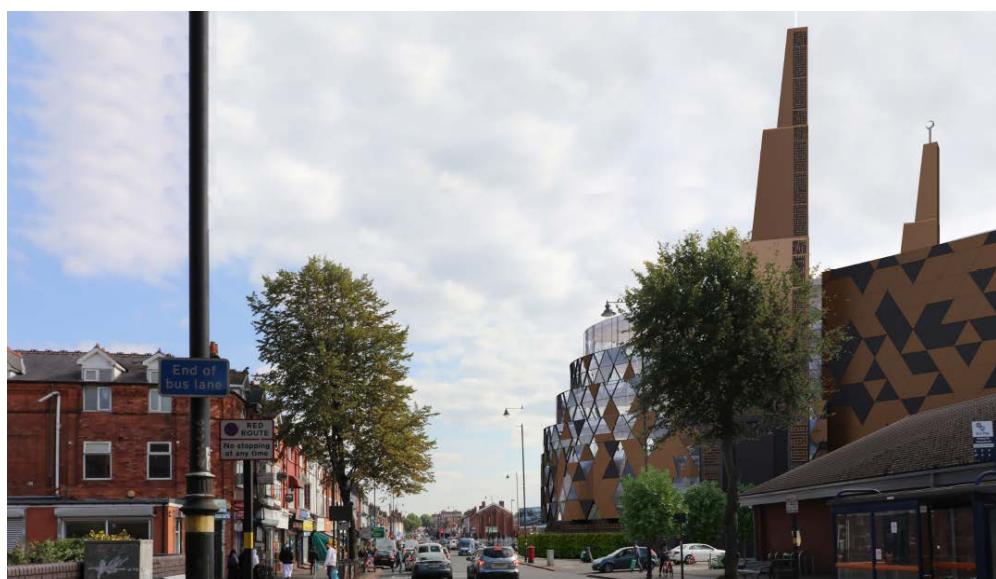
Proposed Views:



Aerial View



View from Highgate Road/ Stratford Road junction



View along Stratford Road



View along Highgate Road

Impact on residential amenity

6.42. The nearest residential dwellings are located on the opposite side of the Highgate Road (nos. 292 – 308 Highgate Road) which are situated opposite the proposed mixed-use building at the western end of the site. The nearest residential dwellings from the main mosque building are located on the upper floors of some of the commercial units along and on the opposite side of Highgate Road and Stratford Road. Other nearby residential development is screened by surrounding commercial/ industrial buildings.

6.43. The distance between the proposed mixed-use building and habitable windows on the frontage of nearest residential dwellings would be approximately 36m. The distance from the proposed arched mosque building (which would be approximately 28m in height overall) to nearest commercial units which potentially accommodate flats at first floor level would be approximately 28m. There are no other residential units within close proximity and it is acknowledged all existing residential units are located on the opposite side of Highgate Road and Stratford Road which are partly providing four road lanes. The proposed new buildings would comply with separation distances as set out in Places for Living and the Council's 45 Degree Code in terms of adjoining residential development. It is therefore considered that there would be no adverse impact on existing residents currently living around the site from this development by way of overlooking, loss of privacy or general disturbance.

6.44. The scheme seeks permission for 12no. residential apartments on the second and third floor of the mixed-use building along the Highgate Road frontage. The scheme seeks a mix of 2no. one-bed apartments and 10no. two-bed apartments, ranging in size from 70 to 95sqm which is in accordance with the guidance on spacing standards set out in Technical Housing Standards – nationally described space standards (2015). In addition, all main habitable windows would have their outlook towards Highgate Road and the scheme would comply with the separation distance guidelines set out in Places for Living SPG (2001) and the Council's 45 Degree Code in terms of future residents.

6.45. In terms of external amenity areas, the scheme seeks to provide an allocated residents roof garden on top of the building, which covers an area of approximately

350sqm. Places for Living SPG requires 30sqm communal amenity space per dwelling which would require a communal amenity area of 360sqm for the 12no. dwellings. Noting the provision and constrained location on this prominent corner within the Local Centre, I consider that the provision of 350sqm external communal amenity space is sufficient and would provide future residents with a good level of residential amenity and living conditions.

- 6.46. Regulatory Services request a condition for the provision of a contaminated land verification report and cover for the event of any unexpected contamination.
- 6.47. In addition, following submission and review of amended noise and air quality assessments they are satisfied there would be no impact on existing or future residents, subject to conditions including various noise insulation schemes between the commercial uses, school, community use, residential units and roof gardens; noise levels for plant and machinery; extraction and odour control details; lighting scheme; traffic management plan; hours of use for the proposed amplification equipment; hours of operation for the various uses including commercial, school, mosque and community use; and hours of delivery for the commercial units.
- 6.48. Overall, it is therefore considered that the scheme is acceptable in terms of its impact on the residential amenity of existing residents living around the site and future occupiers of the building.

Impact on highway and pedestrian safety

- 6.49. The application site is located within a very sustainable location on the corner of Highgate Road and Stratford Road, partly located within the Sparkhill Local Centre and within walking distance of a variety of amenities and residential neighbourhoods. There are bus stops connecting the site to the city centre and surrounding neighbourhoods just outside the application site along Highgate Road, Stoney Lane and Stratford Road.
- 6.50. The proposal seeks to provide an overcall car parking provision of 234no. spaces to be located within a basement car park (153no. spaces) accessed off Highgate Road, 13no. spaces on ground level, adjoining the basement car park access to the north and located to the west of the school building as well as a further 68no. spaces to be provided on the separate Stoney Lane car park, approximately 70m to the south of the application site. In terms of vehicle access, the site would have a designated 'in' and 'out' access when travelling from Highgate Road towards the junction with Stratford Road to access the refuse storage area, a drop off space, the level parking and basement car park provision. In addition, there would be a separate one-way service lane fronting the commercial units, following the same direction from Highgate Road towards Stratford Road. The areas between the mosque and mixed-use building would be provided as designated pedestrian areas to encourage walking. There would be various pedestrian entrances into the buildings, including a secondary ladies entrance from Stratford Road in the north-eastern corner of the site.
- 6.51. The scheme has taken into account the adjoining Highway Improvement Line (HIL) which is located along Highgate Road at the western end of the site, removing the currently designated service lane and some of the planting. In addition, a separate small strip of this Line is located on the immediate corner of Highgate Road and Stratford Road. This land is within the application site and currently shown to be provided with planters to provide landscaping and greenery in front of the main mosque building which would be removed from the site, once the implementation of the HIL is imminent.

6.52. The scheme seeks to include land on the corner of Highgate Road and Stratford Road, land which is currently used as a public car park and was most recently owned by Birmingham City Council. During the progress of the application a detailed assessment has been undertaken by Birmingham City Council and which was accepted by the Council's Legal Department, which has declared the currently free car park to be surplus to Highway requirements, allowing the sale of the land to the applicants to be included within the application scheme. In addition, and to continue to provide some public car parking for the local community the new basement car park, once completed, would be provided for the general public as a 'pay and display' car park, allowing public use. Noting the phasing of the development, it is proposed to initially provide the Stoney Lane car park for public use (also as 'pay and display'), following closure of the existing car park until completion of the basement car park.

6.53. In addition, it is proposed to close part of the Stoney Lane public highway, to the north of Highgate Road, in order to implement the proposed development.

6.54. Transportation Development has no objections subject to a number of conditions. These includes the provision of a construction method statement/management plan; measures to prevent mud on the highway; means of access for the construction phases; no occupation until service road and turning/parking area has been constructed; the siting/design of the means of access for the development; vehicle parking and turning details; details of pavement boundary; proposed entry and exit sign details; parking management strategy; commercial travel plan; cycle parking provision; delivery and service area completion; details of parking facilities; residential travel plan; parking areas laid out prior to use; details of turning/loading/parking areas; access and egress details; cycle storage details; delivery vehicle management scheme; car park management plan; sign up to travelwise; electric vehicle charging points; on-site and off-site car park management.

6.55. Transportation Development also acknowledges the separate requirement for works to the highway to be approved as part of S278 Highway Works and this would also be conditioned. The package of highway measures shall include Traffic regulation Orders to introduce 'no stopping/no waiting/no loading' on Highgate Road; enhanced pedestrian crossing facilities, 'school keep clear' and associated signage, kerb modification works to construct new access/pedestrian crossing points and achieve suitable visibility splays; introduce warning signs, relocate existing signage, guard railing and/or bollards to prevent vehicle override of footways, and speed limit review and modification.

6.56. Overall, it is considered that subject to the recommended conditions and resolution to grant of the S247 stopping up order, the scheme would be acceptable in terms of highway and pedestrian safety.

Flood Risk and Drainage

6.57. The application site is located within Flood Risk Zone 1 and the applicant has submitted Sustainable Drainage Assessment and Drainage Strategy with the application. The Lead Local Flood Authority requested conditions to provide details of surface water drainage and SUDS prior to commencement of works; and the submission of a Sustainable Drainage Operation and Maintenance Plan.

6.58. In addition, Severn Trent requests conditions to provide drainage plans for the disposal of foul and surface water flows.

Landscaping and Ecology

6.59. The site is currently considered to have negligible potential for roosting bats within the buildings on site; however, there may be potential for nesting birds either within the buildings or scattered vegetation around the site. The Council's Ecologist has no objections, but suggests that an advisory is attached to any grant of permission to raise awareness of any nesting birds and pre-commencement checks should be undertaken outside of the bird nesting period.

6.60. The application site would benefit from improved hard and soft landscaping. The submitted drawings show indicative planting areas along the Highgate Road and Stratford Road frontage as well as within the site and along the rear boundaries to improve overall visual amenity and increase the provision of green space within the site by providing a courtyard area with designated seating areas. In addition, there would be roof gardens provided on part of the mixed-use and mosque building to serve the proposed residential units, visitors of the community centre and mosque. In order to ensure the provision of good quality landscaping, surfacing, street furniture and boundary treatment provision, conditions would be imposed to any grant of planning permission, requiring the prior submission of hard and/or soft landscaping details, hard surfacing materials, boundary treatment details, landscape management plan, levels and public art.

6.61. The Highgate Road frontage would be improved with amenity tree planting. Considering the Highway Improvement line, which currently has no scheduled date for implementation, the trees would require under pavement rooting volume to be incorporated. The volumes of rooting areas should be designed to accommodate the species acceptable to discharge landscape conditions. Overall, the provision of trees within the site and separate car park area is acceptable and if implemented accordingly, will provide an improvement to the provision and amenity canopy and its quality in this urban setting.

Other matters

6.62. Local Employment - The Council's Employment team recommend a condition to provide a construction employment plan which would include that a minimum of 60 person weeks of employment per £1million spend on the construction of the site will be provided for new entrants who live locally.

6.63. Security - West Midlands Police raises no objections to, but recommends that secure gates are being provided at the basement car park. In addition, the provision of one single entrance would be preferred for security purposes; however, noting the scheme seeks to encourage walking and provides a level of openness to the surrounding community, the closure of all but one pedestrian access to the buildings would not appear achievable. However, in order to ensure appropriate security for the wider site and each use, a condition to provide a detailed security strategy for each phase of development to include measures such as CCTV and a separate condition for an external lighting scheme will be attached.

6.64. Sustainability - The Design and Access Statement confirms that the development proposes to use various methods to create a sustainable design, including the use of rainwater harvesting and provision of photovoltaic panels on part of the roof of the building. No further detail with regard to the provision of photovoltaic panels has

been proved and it is considered appropriate to impose a condition to clarify the position and use as part of the development.

- 6.65. The scheme proposes to naturally ventilate the mosque by the use of the proposed 2no. minarets which would bring in cool, fresh air and take away warm, stale air. This would allow for the proposed building to provide a comfortable atmosphere and assisting in the regulation of temperature by reducing the need for mechanical ventilation.
- 6.66. The development proposes the reduction of energy in construction by utilising local labour and local materials, recycling or re-using materials where practicable and making use of prefabrication methods if possible. On this basis, it is considered that the proposed development would comply with the adopted policies and has considered the incorporation of low and zero carbon forms of development and sustainable construction measures.
- 6.67. Community Infrastructure Levy (CIL) – The proposal would not attract a Community Infrastructure (CIL) contribution.

7. Conclusion

- 7.1. The application seeks planning permission for a comprehensive redevelopment of the site to include the demolition of existing buildings (including 2no. locally listed buildings), removal of public car park, stopping up of public highway and erection of mosque and mixed-use building to comprise community centre, school, residential units and retail units on land on the prominent corner of Highgate Road and Stratford Road in Sparkhill including land at Stoney Lane to the south. The application proposals would be of significant importance for the regeneration of the local area and wider city and with its location partly within a Local Centre, it is considered the principle of the provision of the mix of uses is acceptable in this location. In order to allow for the redevelopment, the scheme seeks to demolish 2no. locally listed buildings (former Brewers Arms Public House and former Stoney Lane Public Conveniences) and a detailed assessment has been undertaken which considers their loss, on balance, to be acceptable in light of the overall significant regeneration plans for the area. In addition, it is considered that whilst the scheme would result in less than substantial harm to the setting of the Grade I Listed Church of St. Agatha, the public benefits arising from the scheme would outweigh any harm caused. It is also considered that the proposal would be acceptable in terms of its design and visual amenity subject to the provision of further detailed design drawings and information. The scheme would also not unacceptably impact on the residential amenity of existing or future occupiers and would be appropriate in highway terms. Matters in relation to the stopping up of the public highway and the purchase of the public car park within the site are currently being progressed as separate matters. The scheme has also appropriately considered matters in terms of ecology, drainage, sustainability and security. The application is therefore recommended for approval subject to conditions and the resolution to grant the S247 stopping up order by the Department for Transport.

8. Recommendation

- 8.1. I. That no objection be raised to the stopping up of the areas of public highway within the application site and that the Department for Transport be requested to

make an Order in accordance with Section 247 of the Town and Country Planning Act 1990.

8.2. II. That Planning Permission be granted, subject to the following conditions.

- 1 Requires the prior submission of a phasing plan
- 2 Requires prior submission of architectural details - School, Community, Commercial and Residential Building
- 3 Requires prior submission of architectural details - Mosque
- 4 Requires prior submission of mechanical and electrical systems and water utilities strategy
- 5 Requires the submission of sample materials in a phased manner
- 6 Requires the prior submission of a security strategy on a phased manner
- 7 Requires the submission of an external lighting strategy
- 8 Requires the prior submission of a landscaping strategy on a phased manner
- 9 Requires the submission of hard and/or soft landscape details on a phased manner
- 10 Requires the submission of hard surfacing materials on a phased manner
- 11 Requires the prior submission level details on a phased manner
- 12 Requires the submission of boundary treatment details in a phased manner
- 13 Requires the submission of a landscape management plan
- 14 Requires the submission of details of public art
- 15 Requires the prior submission of a construction method statement/management plan
- 16 Requires the prior installation of means of access
- 17 Requires the submission of details to prevent mud on the highway
- 18 Prevents occupation until the service road has been constructed
- 19 Prevents occupation until the turning and parking area has been constructed
- 20 Requires the submission of the siting/design of the access
- 21 Requires the submission of vehicle parking and turning details
- 22 Requires the submission of details of pavement boundary
- 23 Requires the submission of entry and exit sign details

- 24 Requires the submission of a parking management strategy
- 25 Requires the submission of a commercial travel plan
- 26 Requires the provision of cycle parking prior to occupation
- 27 Requires the delivery and service area prior to occupation
- 28 Requires the submission of details of parking
- 29 Requires the submission of a residential travel plan
- 30 Requires the parking area to be laid out prior to use
- 31 Requires the submission of details of turning, loading and parking
- 32 Requires the dedicated use of access and egress points
- 33 Requires the submission of cycle storage details
- 34 Requires the submission of details of a delivery vehicle management scheme
- 35 Requires the submission of a car park management plan for disabled spaces
- 36 Requires the applicants to affiliate to Company Travelwise in Birmingham
- 37 Requires the submission and completion of works for the S278/TRO Agreement
- 38 Requires the provision of a vehicle charging point
- 39 Requires the prior submission of off-site and on-site car park management
- 40 Requires the basement car park to be available for public use - pay and display
- 41 Requires the provision of the Stoney Lane car park for public use (pay and display) prior to closure of existing public car park and until occupation of basement car park
- 42 Requires the submission of a contaminated land verification report
- 43 Requires the submission of unexpected contamination details if found
- 44 Requires the prior submission of a Noise Insulation Scheme to establish residential acoustic protection
- 45 Requires the prior submission of noise insulation (habitable rooms)
- 46 Requires the prior submission of noise insulation scheme - roof garden
- 47 Requires the prior submission of noise mitigation scheme - outdoor amenity
- 48 Restricts the use of amplification equipment within the building between 23:00 and 06:00
- 49 Prevents the use of external amplification equipment

- 50 Requires the prior submission of a traffic management plan
- 51 Limits the noise levels for Plant and Machinery
- 52 Limits the hours of operation - Mosque 04:00 - 23:00 daily
- 53 Limits the hours of operation - Commercial Units - 08:00 - 23:00 Sundays to Thursdays and 07:00 - 24:00 Fridays and Saturdays
- 54 Limits the hours of operation - School and Community Centre 8am - 10pm Mondays to Saturdays
- 55 Limits delivery time of goods to or from the site -08:00-19:00 Mondays to Saturdays and 09:00 - 19:00 Sundays
- 56 Requires the submission of extraction and odour control details in a phased manner
- 57 Requires the prior submission of a construction employment plan
- 58 Requires the prior submission of a surface water drainage scheme
- 59 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
- 60 Requires the prior submission of drainage plans for the disposal of foul and surface water flows
- 61 Requires the prior submission of photovoltaic panel details
- 62 Limits the use of commercial units to retail/professional services (A1/A2) with a maximum of 2no. units to be used as restaurant/cafe (A3)
- 63 Requires the prior submission of details of proposed roof gardens
- 64 Requires the prior submission of details of bird/bat boxes
- 65 Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
- 66 Implement within 3 years (Full)
- 67 Requires the scheme to be in accordance with the listed approved plans

Case Officer: Laura Pohl

Photo(s)



Image 1: View towards 11-15 Stoney Lane and former Public Conveniences (left) (locally listed Grade C)

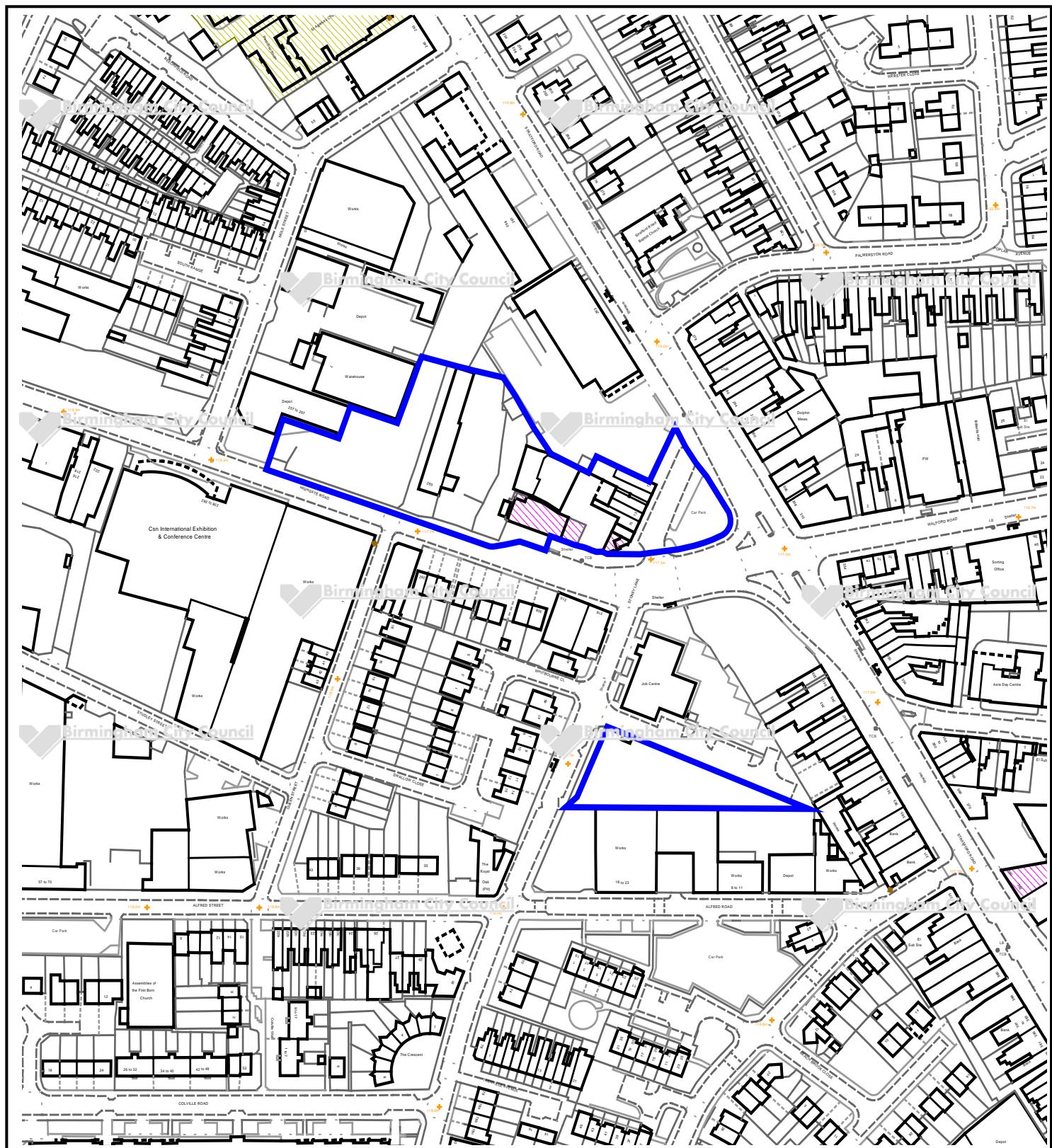


Image 2: View towards car park on corner of Highgate/Stratford Road with Stoney Lane (subject to stopping up order) at front



Image 3: View towards former Brewers Arms Public House (locally listed Grade B)

Location Plan



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Birmingham City Council

Report to Planning Committee

3rd December 2020

Subject: Revisions to the Planning Code of Practice

Report of: Acting Director, Inclusive Growth

Report author: Sean Hannaby, Interim Assistant Director Planning

Email Address: sean.hannaby@birmingham.gov.uk

Does the report contain confidential or exempt information? Yes No

If relevant, provide exempt information paragraph number or reason if confidential :

1. Executive Summary

To seek approval for a revised Planning Code of Practice to enable the reintroduction of public speaking at Planning Committee from the 17th December 2020.

2. Recommendations:

2.1. That the Code of Practice be amended as set out in Appendix 1 to reintroduce public speaking at Planning Committee from the 17th December 2020.

3. Background:

3.1. As a result of the coronavirus outbreak Planning Committee meetings have been held virtually for some months and there is currently no indication of when this will cease, although the regulations that were put in place are temporary and allow virtual meetings to be held up to the 7th May 2021.

3.2. Virtual Planning Committee meetings raised novel issues in terms of governance, public participation and technology and a temporary Planning Code of Practice was adopted in April in order to address these issues that included the temporary suspension of public speaking. There was a commitment given at the time to reconsider the matter once the operation of virtual meetings became established,

3.3. Other Committee meetings, such as Licensing, are already including public participation without any real difficulties and Planning Committee meetings have been operating reasonably smoothly and effectively, apart from the occasional technical problem. Therefore, it is now considered timely to consider the reintroduction of public speaking, albeit virtually.

- 3.4. In order to enable public speaking, ward members, applicants, agents and members of the public that are to speak will have to either record speeches to be played at the appropriate time during the meeting or be invited to join the virtual meeting, along with Planning Committee members and Council Officers and given 3 minutes to speak in accordance with the adopted protocol.
- 3.5. At the moment ward members, applicants, agents and members of the public watch the live streaming rather than joining the meeting and as such there is no risk of interruption. Reintroducing public speaking in this way could create the possibility of individuals intervening or interrupting the meeting. There have been instances reported in other authorities where meetings have been disrupted.
- 3.6. Pre-recording speeches would eliminate any risk of interruption but it is considered that there will be no more risk from speaking live in a virtual meeting than there would be if it were a live meeting with the public in attendance.
- 3.7. If applicants, agents and members of the public are to speak during a Committee meeting they will be invited to join the meeting in the same way that Members & Officers are invited. As speakers are from outside the Council they will have to wait in a virtual 'lobby' and be admitted to the meeting rather than automatically joining but, apart from that, they will be able to attend the whole meeting as a participant rather than simply viewing it.
- 3.8. The meeting platform holds speakers in a lobby waiting to be admitted at the beginning of the meeting and allows individual speakers to be muted until called on to speak or if they interrupt or over-run. The system cannot prevent an individual from unmuting their microphone but repeated interruptions could be dealt with by expulsion from the meeting in extreme situations. The meeting controls also prevent invited speakers from sharing their screens to display illustrations, photographs etc. It is considered that this provides an appropriate level of security available for the meeting.
- 3.9. Therefore it is considered that the risks of public speaking appear manageable and there is considered that there is no good reason why live public speaking could not be reintroduced. Those speaking can be called upon by a support officer or the Chair at the appropriate time and can be given a copy of the Public Speaking Protocol and Instructions (see Appendix 2) for guidance.
- 3.10. Accordingly it is recommended that the Code of Practice be amended (see Appendix 1) to allow the reintroduction of public and ward member speaking at Planning Committee at the next meeting.

Ian McLeod
Director of Inclusive Growth (Acting)

Contact Officer: Sean Hannaby Interim Assistant Director Planning
E-Mail: sean.hannaby@birmingham.gov.uk

APPENDIX 1

Part C8. PLANNING CODE OF PRACTICE FOR MEMBERS AND OFFICERS

8.1 Purpose of this Code

- i. This Planning Code of Practice ('the Planning Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.
- ii. The Planning Code is in addition to Birmingham's adopted Code of Conduct for Members and subject to the responsibilities and requirements as set down by the Monitoring Officer from time to time. The responsibility for declaring an interest rests with individual Members and officers. Members should seek legal advice if they are unsure as to whether they have an interest which may prevent them from taking part in a discussion or vote on a particular planning application. Planning Committee Members must exercise an independent mind on issues before the Committee.
- iii. The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and officers in dealing with approaches from property owners.
- iv. If you have any doubts about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place, from the Director (Inclusive Growth) and/or the Assistant Director Planning/Assistant Director Development.

8.2 Roles and responsibilities

- i. Members and officers have different but complementary roles in the planning process. Members have more than one role in the process – as Ward Members and as Planning Committee Members.

Ward Members not on the Planning Committee

- ii. Ward Members who are not on the Planning Committee are in a position to represent the interests of their Ward when it comes to planning and related applications. Ward Members may:

- Observe virtual meetings of the Planning Committee

- Submit written representations to the Planning Committee, subject to the provisions in the public participation protocol;
- consultations on the draft heads of terms for section 106 agreements;

Members who are on the Planning Committee

- i. The role of Members who are involved in the planning decision making process is to exercise their judgment properly on the planning application before them – and be seen to do this. In coming to a decision on a planning application Members should make this decision based solely on material planning considerations. Officer reports to the Planning Committee will identify what is regarded as material to a decision and if Members are unclear on what matters may or may not be material to a decision they should seek advice from officers.
- ii. Whilst Members must act within the law, the exercise of planning judgment is theirs and theirs alone. The Planning Committee must take into account all relevant ministerial guidance, local plans (and related documents) and the advice of officers. The weight Members attach to the relevant considerations is a matter of their planning judgment and Members should not give weight to non-planning related matters that may be raised by members of the public.
- iii. Planning Committee Members often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should electronically forward a copy of the correspondence to the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development or inform them at the Planning Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.
- iv. Where Planning Committee Members are involved in pre-application discussions, they should be advised by the appropriate officers of the Council, which should always include a senior planning officer. The involvement of Planning Committee Members in such discussions should be recorded as a written file record of the meeting.
- v. Planning Committee Members should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation.
- vi. Members are democratically accountable to their electors and to the wider public on whose behalf they act.

Officers

- vii. The Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development have a dual role in the decision making process:

- Making decisions on the majority of planning applications under delegated powers.
- Making recommendations on planning matters which are determined by Members at Planning Committee. When making such recommendations the function of officers is to support and advise Members, ensure that any decision they make is lawful and identify any possible consequences of taking decisions.

8.3 Predetermination and Bias

i. In making their decisions, Members of the Planning Committee should not be seen to side with either the applicant or the objector/s prior to the hearing of the application when all the relevant facts are known. Members are required to keep an open mind. This is a requirement of the law and a separate guidance note on predetermination and bias to assist Members in complying with this complex area of legislation and case law is set out in Section C8.13 below.

8.4 Development Proposals submitted by Members and Employees

- i. Where development proposals are submitted by Members and employees in respect of their own property or land it is particularly important that the Council ensures that such applications are handled in a way that gives no grounds for accusations of favouritism.
- ii. Serving Members of Council who submit applications or act as agents should play no part in the decision making process for that application. Further, they should not take part in the processing of the application nor should they lobby employees or officers either directly or indirectly.
- iii. Any planning officer who submits an application for their own property or on behalf of a friend or family member will inform the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in writing and such applications will be determined by the Planning Committee.
- iv. Officers are required under the Employee Code of Conduct to make a declaration by completing the Register of Interests/Conflict of Interest Form, declaring any matters which may conflict with duties as an employee and their personal interests such as:
 - Any financial interest in any planning application;
 - Other interest where others may think that a conflict of interest may arise, such as for proposals near their residence.

v. In circumstances where there is a conflict of interest, the officer has no involvement in any part of the decision making process. If there is doubt about any conflict it is better to be cautious and for the officer to have no involvement.

8.5 Member contact with applicants and developers

i. The Government encourages applicants to enter into pre-application discussions. Such discussions are a normal part of the planning process to seek further information and to seek to identify improvements to proposals at an early stage. These discussions and meetings provide an opportunity for the potential applicant to receive advice and information about the policy and technical requirements that must be met and advice on design, on community engagement and other issues which may improve the chances of an application being acceptable to the Local Planning Authority (LPA). However, it should be made clear that any guidance given will not bind the LPA to making a particular decision.

ii. To minimise the prospect of challenges based on predetermination and bias, the guidelines below should be followed:

- It will always be made clear that any information or statements made cannot bind the LPA to making a particular decision.
- Wherever possible, Members should be accompanied by an officer when meeting with applicants.
- Members should refer applicants who approach them for advice to officers.
- A written record of the discussion should be made by the officer.
- Planning Committee Members are free to take part in meetings with potential applicants or their agents but extra care is needed to avoid any perception of predetermination or bias.

8.6 Planning Committee meetings

Attendance at meetings

i. It is important to ensure that Members taking planning decisions are in possession of all the relevant facts, including matters pointed out or that come to light during a site visit by Planning Committee, matters that may have been raised during public speaking and matters that may have been discussed and considered by Planning Committee on earlier occasions. Attendance of Members on all occasions during the application phase, i.e. once the application has been submitted, will not only demonstrate that Members are fully informed but will also ensure that high quality, consistent and sound decisions are made, and that the risks of legal challenge are minimised.

ii. A Planning Committee Member should not vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee for the whole of the deliberations on that particular application. In the case of a virtual committee meeting that means having listened to the entire presentation and debate relating to a particular application. By taking part in the vote on a particular item, members will be deemed to have made a declaration to that effect.

iii. In cases where an application has been discussed at Planning Committee on more than one occasion, if a Member has not attended on each occasion during the application phase and wants to take part in the decision on an application, he or she should consider whether or not they are fully appraised of all the facts and relevant information necessary to properly reach a decision. If there is any doubt, legal advice should be sought by the Member concerned.

Conduct at meetings

i. The Chair of the Planning Committee is responsible for the conduct of the meeting in accordance with the relevant Council procedure rules and for the effective delivery of business.

ii. The Planning Committee meetings are open to the public and they are often well attended particularly when there is a contentious application on the agenda. Meetings are also attended by the applicants/agents and/ or other parties supporting an application and/or objectors against an application. It is important to demonstrate that decisions have been made fairly and transparently and in the correct manner. Any debate should be confined to the planning merits of the matter.

iii. A legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes.

iv. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item, and if considered necessary this may include requesting from each Member as to how they have voted, noting this and the Member's name.

8.7 Decisions different to the officer recommendation

i. Decisions on planning applications must be taken in accordance with the Development Plan unless material considerations indicate otherwise. From time to time the Committee may attach different weight to the potential planning considerations and, therefore, take a decision which differs from the officer recommendation.

ii. Where this occurs, Members must be able to give a clear basis and reason for not taking the officer recommendation. It is important to ensure, as far as possible, that

any decision made will be capable of surviving a legal challenge or appeal. So in the event that this occurs the Chair will ensure that the following principles are followed:-

- When a planning application has been deferred following a resolution not to accept the officer recommendation, the Chair shall put to the meeting a proposed statement of why the recommendation is not considered acceptable, which, when agreed by the Committee, will be formally recorded in the minutes.
- In these circumstances, at a subsequent meeting, the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development will respond in a further written report the provisional reasons formulated by the Committee for granting or refusing permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for the decision and a summary of those planning reasons shall be given. The reasons will then be recorded in the minutes of the meeting.
- The officer attending the meeting should be given the opportunity to explain the implications of the decision.
- Members should ensure they clearly identify and understand the planning reasons leading to this conclusion. These reasons must be given before the vote and be recorded.

iii. Where an appeal to the Secretary of State is subsequently lodged against a decision which was different to the officer's recommendation, planning officers will act as a professional witness at the inquiry or hearing unless there is reason to suggest that this would prejudice the outcome. However, it should be noted that where the Planning Officer giving evidence is the officer that recommended approval, then their role is that of advocate for the Council's case.

8.8 Deferred applications

i. In some cases, planning applications may come before the Committee on more than one occasion. This is particularly the case with larger schemes where a pre-application presentation and/ or an Issues report (a report which describes the stage a proposal has reached and the main issues involved) is presented to the Planning Committee, or when an application is deferred for a site visit or further information. Where an application is deferred then the reasons for deferral will be clearly stated and minuted.

8.9 Public speaking

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place. Any ward members or members of the public wishing to make representations to the committee following the publication of an agenda can do so by registering to speak at Planning Committee in accordance with the Public Speaking Protocol.

- i. Where Members have a disclosable pecuniary interest in the application then they must not submit representations in relation to the application, even as a member of the public, unless they have a dispensation from the Head of Paid Service.
- ii. Speakers will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair of Planning Committee on the grounds that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers will only be able to speak about new matters or the amended details and not about matters which have been previously considered by the Committee.
- iii. Speakers should not raise any substantial new information (including correspondence, other documents, photographs or models) at the Planning Committee meeting, as this does not give all parties adequate time to consider and respond to the submissions, and Members of the Committee will not be able to give proper consideration to issues raised in the material.
- iv. It is important that members of the public are not permitted to communicate with or pass messages to individual Committee Members as this may give the appearance of partiality.

8.10 Site Visits

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place and during this time members are not able to request that a Planning Committee site visit take place.

8.11 Member training

- i. It is important that all Members involved in the planning process are aware of their role in the process and the policy and legal framework in which they operate.
- ii. Therefore, Members serving on Planning Committee should participate in, where possible, the following training each year:
 - For Members new to the Planning Committee two sessions comprising a governance and conduct session and mid-year update session;
 - For experienced Members of the Planning Committee, a single mid-year update session.
- iii. A record of attendance for the compulsory training will be maintained by Planning Officers and a list provided to Party Whips and Democratic Services for monitoring.
- iv. Other specialised training will be offered, where possible, periodically throughout the year which will enhance and extend Members' knowledge of planning matters.

These are not compulsory but will assist Members in carrying out their role on the Planning Committee.

8.12 Reviewing and Updating this Guide

i. The responsibility for reviewing and updating this Planning Code of Good Practice will be undertaken by the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee on an annual basis. Ad hoc reviews may occur if there are significant changes to be made; again these will be considered by a meeting of the Planning Committee.

8.13 Guidance Note on Bias and Predetermination in the Planning Process

What is Bias and Predetermination?

- i. The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly.
- ii. Decision makers are entitled to be predisposed to particular views. However, predetermination occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.
- iii. The leading case on local authority bias and predetermination acknowledges the difference between judges sitting judicially and councillors making decisions in a democratic environment. Given the role of councillors, there must be 'clear pointers' before predetermination is established.

Section 25 Localism Act 2011

- i. Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
 - a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - b) the matter was relevant to the decision.
- ii. The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.

iii. Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.

iv. The case law has also made it clear that the words used by particular Members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

Guidance

v. With this in mind:-

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.
- It is advisable not to give a view in advance of the decision. If you do comment on a development proposal in advance of the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of the advice and material put before you and having regard to the discussion and debate in the Committee meeting.
- Particular care should be taken where there are chance encounters with objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

Concluding Comments

vi. Councillors should avoid giving a view/ making statements in advance of determination of a planning application. If such views are given, these should be declared to the Planning Committee and legal advice should be sought if necessary as to whether that particular Member can continue to be part of the decision-making process. Any views given in advance should avoid giving the impression that you have already made up your mind and that your part in the decision is a foregone conclusion.

8.14 Protocol for public speaking at the Planning Committee meetings

Introduction

- i. This Protocol sets out the procedures to allow public speaking at the meetings of the Planning Committee.
- ii. Subject to the exceptions below, public speaking does not apply where Members are considering a report for information or where Members are considering detailed reasons for refusal or conditions of approval following a decision of an earlier Committee not to accept the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development recommendation. It also does not cover applications subject to non-determination appeals, where Members' views may be sought.

Procedures

Pre-application presentations

- iii. Agents or prospective applicants have the opportunity to present their proposals to members of the Planning Committee at presentations organised in accordance with the '**Protocol for Pre-application Presentations to Planning Committee.**'

Matters for determination or other matters requiring a decision:

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place. Any members of the public wishing to make representations to the committee following the publication of an agenda can only do in accordance with the public speaking protocol below.

- iv. Applicants, supporters and objectors to an application or other form of consent before the Committee for determination or other matter requiring a decision, will normally be allowed to speak to the Committee, subject to the details of the procedure set out herein and on giving notice of their wish to do so by to by completing an online form no later than 12 noon on the Friday immediately preceding the Committee.
- v. If a speaker does not join the virtual meeting or is disconnected and are not available to speak at the allotted time, the meeting will go ahead nonetheless. In these circumstances a written statement can be read out on their behalf if one has been submitted in advance by 12 noon on the Monday immediately preceding the Committee. The written submission must be no more than 1 side of A4 and be typed on 1.5 line spacing using Arial type face no smaller than 12 font.
- vi. Applicants, supporters or objectors will have a maximum of three minutes to address the Committee
- vii. In the event of more than one applicant, supporter or objector wishing to speak, a spokesperson should be nominated who will speak on behalf of all registered

speakers. If there is no spokesperson nominated, the allotted time will be equally divided between the registered speakers.

viii. Where an application is recommended for approval, objectors to an application will be heard first.

ix. Where an application is recommended for refusal, the objector will only be allowed to speak if the applicant or supporter has registered their intention to address the Committee, except in circumstances outlined in paragraph xiv.

x. The applicant, supporter and objectors shall take no further part in the Committee debate.

xi. If the applicant or supporters do not speak in relation to an application recommended for refusal the objectors will not normally be invited to speak.

xii. If no objector wishes to speak to an application for approval, the applicant or supporter will not normally be invited to speak.

xiii. In the circumstances where the officer's recommendation of approval is not accepted by Committee and the applicant or supporters have not been given an opportunity to speak, they shall be given the opportunity to address the Committee for up to three minutes when detailed reasons for refusal are reported.

xiv. In the circumstances where the officer's recommendation of refusal is not accepted by Committee and the objectors have not been given the opportunity to speak they shall be given an opportunity to address the Committee for up to three minutes when detailed conditions for approval are reported.

xv. For the avoidance of doubt applicants, supporters or objectors will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair on the basis that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers should only speak about new matters or the amended details, not about matters which have been previously considered by the Committee.

Passing around of information

xvi. The circulation of display of materials will not be accepted during the meeting. Public speaking is an opportunity to highlight important points already made in representations, rather than to introduce new information. Members of the Committee will not be able to give proper consideration of any new issues raised in the material.

Members of Planning Committee

xvii. A Member of the Planning Committee having a disclosable pecuniary interest in an application must either declare that interest or bring it to the attention of the meeting and may not participate in the discussion or vote on the matter and must leave the room.

xviii. In line with the Birmingham Code of Conduct for Members, a Member must declare any interest in an application and complete the Register of Interest/Conflict of Interest Form.

xix. No Members with a disclosable pecuniary interest (whether they are a member of the Planning Committee or not) are entitled to address the Committee in accordance with the terms of this protocol for public speaking.

Review

xx. This Protocol may be reviewed, revised or revoked by the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee at any time.

Note:

For the purposes of this code, reference to 'attending' a meeting of the Planning Committee includes reference to attendees being in more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

APPENDIX 2

Birmingham City Council

Planning Committee Public Speaking Protocol (Summary Version):

Introduction

The Public Speaking Protocol, is set out in full in the Planning Code of Practice, and specifies the procedures to allow public speaking at the meetings of the Planning Committee.

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place. Anyone wishing to make representations to the committee following the publication of an agenda can do so by registering to join the virtual meeting in accordance with the following procedures.

Procedures

- i. Applicants, agents, supporters and objectors to a planning application or other form of consent before the Committee for determination or other matter requiring a decision, will normally be allowed to speak to the Committee, in accordance with the conditions as set out in the Protocol.
- ii. Individuals are able to speak if they:
 - Object to or represent a group of people who object to a planning application which is recommended for approval.
 - Support or represent a group of people who support a planning application which is recommended for refusal.
 - Have submitted a planning application that is recommended for refusal.
 - Have submitted a planning application that an objector is speaking to the committee against.
- iii. Anyone wishing to speak in relation to a particular application must give notice of their wish to do so to by completing an online form:

https://www.birmingham.gov.uk/info/20182/planning_committee/60/speaking_at_planning_committee

It is not necessary to wait for an application to be included in a committee agenda before registering to speak but the latest that speakers can register is 12 noon on the Friday immediately preceding the Committee

- iv. Speakers will have a maximum of three minutes to address the Committee.
- v. In the event of more than one person wishing to speak in each category (objectors or supporters), a spokesperson should be nominated who will speak on behalf of all registered speakers in each category. If there is no spokesperson nominated, the time will be equally divided between the registered speakers in each category.
- vi. Speakers should not raise any substantial new information (including correspondence, other documents, photographs or models) at the Planning Committee meeting, as this does not give all parties adequate time to consider and respond to the submissions, and Members of the Committee will not be able to give proper consideration to issues raised in the material.
- vii. It is important that members of the public are not permitted to communicate with or send messages to individual Committee Members as this may give the appearance of partiality.
- viii. Subject to the exceptions below, public speaking does not apply where Members are considering a report for information or where Members are considering detailed reasons for refusal or conditions of approval following a decision of an earlier Committee not to accept the Officer recommendation. It also does not cover applications subject to non-determination appeals, where Members' views may be sought.
- ix. Where an application is recommended for approval, objectors to an application will be heard first.
- x. Where an application is recommended for refusal, the objector will only be allowed to speak if the applicant or supporter has registered their intention to address the Committee, except in circumstances outlined in paragraph xiv.
- xi. If the applicant or supporters do not speak in relation to an application recommended for refusal the objectors will not normally be invited to speak.
- xii. If no objector wishes to speak to an application for approval, the applicant or supporter will not normally be invited to speak, except in circumstances outlined in paragraph xiii.
- xiii. In the circumstances where the officer's recommendation of approval is not accepted by Committee and the applicant or supporters have not been given an opportunity to speak, they shall be given the opportunity to address the Committee for up to three minutes when detailed reasons for refusal are reported.
- xiv. In the circumstances where the officer's recommendation of refusal is not accepted by Committee and the objectors have not been given the opportunity

to speak they shall be given an opportunity to address the Committee for up to three minutes when detailed conditions for approval are reported.

- xv. For the avoidance of doubt applicants, supporters or objectors will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair on the basis that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers should only speak about new matters or the amended details, not about matters which have been previously considered by the Committee.
- xvi. The circulation of materials will not be accepted during the meeting. Public speaking is an opportunity to highlight important points already made in representations, rather than to introduce new information. Members of the Committee will not be able to give proper consideration of any new issues raised in the material.
- xvii. Public speaking is an opportunity to highlight important points already made in representations, rather than to introduce new information. Members of the Committee will not be able to give proper consideration of any new issues raised in the material.
- xviii. Once they have spoken for their allotted time, the applicant, supporter and objectors shall take no further part in the Committee debate.
- xix. If a speaker does not join the meeting or is disconnected and are not available to speak at the allotted time, the meeting will go ahead nonetheless. In these circumstances a written statement can be read out on their behalf if one has been submitted in advance by 12 noon on the Monday immediately preceding the Committee. The written submission must be no more than 1 side of A4 and be typed on 1.5 line spacing using Arial type face no smaller than 12 font.

Note:

For the purposes of this code, reference to 'attending' a meeting of the Planning Committee includes reference to attendees being in more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

Birmingham City Council

Planning Committee Meeting Public Speaking Instructions:

Please read and follow the following instructions when joining a virtual meeting of the Planning Committee.

Agendas and Papers

Agendas and reports are published on the Council's website five working days before a meeting so that you can download them ahead of the meeting:

https://birmingham.cmis.uk.com/birmingham/Committee/Regulatory/tqid/135/ctl/ViewCMIS_CommitteeDetails/mid/520/id/4/Default.aspx

Preparing for the Meeting – Practical Arrangements

Immediately before the meeting, you will need to make sure that you are ready to take part:

- Birmingham City Council uses Microsoft Teams (Teams) to host virtual Planning Committee meetings as this provides both video and/or audio input into meetings. 'Teams' can be easily accessed through an internet browser if you do not have the software. It is recommended that you use Microsoft Edge or Google Chrome as they provide the necessary functionality.
- Ensure that the meeting will not be interrupted (e.g. family members entering the room). Turn off all noise sources (radio, television, mobile phone) and ensure any smart speakers are turned off (Amazon Echo, Google Home etc) as they could turn on during the meeting
- Ensure your broadband connection is sufficiently stable to join the meeting. Others in the house streaming movies or playing on-line games may interfere with your connection. An alternative could be to use your mobile phone (tethered to your laptop) but this will be dependent on the signal in your area.
- Ideally, you should use earphones or a headset to participate in meetings as it reduces the risk of feedback from using your device's external speaker.
- Turn off notifications and/or close down Outlook, as alert noises may distract those listening.

Accessing the Meeting

To join the meeting simply click on the link in your meeting invitation:

[Join Microsoft Teams Meeting](#)

[Learn more about Teams](#) | [Meeting options](#)

When you click on the invitation you will be given the choice whether to join the meeting using your web browser, the 'Teams' desktop app or a mobile app. There will also be a telephone conference option that you can dial in instead if you have problems connecting or, if you do not have access to a PC, laptop or other device.

To ensure that you have sufficient time, you should aim to log-on and join the meeting 10 minutes before the start of the meeting, so if you have any technical problems you have time to resolve them.

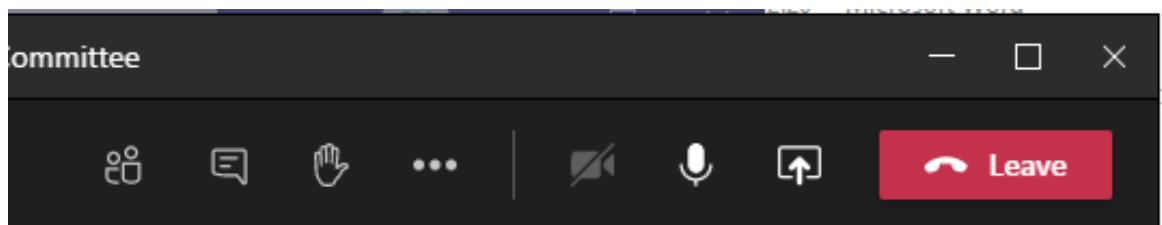
You will be 'held' in a lobby and will be admitted at the start the meeting. The meeting administrator will be aware that you are waiting.

After the advertised start time has passed no registered speakers will be allowed to join, except in exceptional circumstances when permitted by the Chairman / Meeting Manager, as this could disrupt the meeting.

If you do not join the meeting or are disconnected and are not available to speak at your allotted time, the meeting will go ahead nonetheless. In these circumstances a written statement can be read out on your behalf but, if you wish to avail yourself of this option, you must send a written statement in advance, by emailing a copy to PlanningandRegenerationEnquiries@birmingham.gov.uk by 12 noon on the Monday immediately preceding the Committee. The written submission must be no more than 1 side of A4 and be typed on 1.5 line spacing using Arial type face no smaller than 12 font.

Conduct during the Meeting

1. Please ensure that your microphone and camera are switched off until you are called on to speak (this helps to minimise background noise). You can do this by clicking on the camera and microphone icon on the toolbar that will come up on your meeting screen:



When switched off the icon will have a diagonal line through it as shown on the camera icon above.

2. Please do not click on any of the other icons on the toolbar or use the 'chat' function during the meeting but, when called on to speak please click on the microphone (and camera if you wish).
3. You cannot display or use any visual aids, plans, photographs or any other material.

4. When addressing the Committee you are requested to restrict your comments to material planning considerations that are relevant to the planning application.
5. Speakers are not able to ask questions of officers, the Committee or other speakers and please do not interrupt another speaker or the Committee debate about the application.
6. If you over-run your allotted time you will be asked to stop speaking and will be expected to cease talking immediately. If necessary, your microphone may be muted.
7. When you have finished speaking please turn off your microphone and camera and you must take no further part in the meeting. However, you are welcome to stay in the meeting for as long as you like to listen to the proceedings but, when you wish to leave, please click on the 'Leave' button.

Please note

Remember that the Planning Committee is a public meeting that is being livestreamed. Please act courteously at all times and do not make statements that are personal, slanderous or abusive.