

Birmingham City Council

Planning Committee

19 November 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	6	2020/04401/PA Harborne Academy Harborne Road Edgbaston Birmingham B15 3JL Replacement of existing hard court with artificial grass pitch and associated floodlighting

Committee Date:	19/11/2020	Application Number:	2020/04401/PA
Accepted:	18/06/2020	Application Type:	Full Planning
Target Date:	19/11/2020		
Ward:	Edgbaston		

Harborne Academy, Harborne Road, Edgbaston, Birmingham, B15 3JL

Replacement of existing hard court with artificial grass pitch and associated floodlighting

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning permission is sought for the installation of an artificial grass pitch (AGP) to replace an existing hard court facility, and the installation of 4 associated 10m high floodlights at Harborne Academy.
- 1.2. The 3rd Generation AGP would replace the existing hard court which is located to the south of the school site. The AGP would measure 54m in length and 37m in width, with a total area of 1,998sqm. The playing area would be set in from the perimeter of the pitch by a 3m wide buffer on all sides. The pitch would be green with all playing lines stitched, cut or painted on. The existing fencing which currently encloses the pitch would be retained. There would be a kickboard around the perimeter of the AGP measuring 0.25m in height.
- 1.3. The lighting would consist of 4no. 10m high galvanised columns with 'Philips Lighting OptiVision LED gen3' rotational floodlights, measuring 695mm x 737mm. The lighting level could be switched between 120Lux and 200Lux to meet the sporting requirements. Vertical lux levels have been provided at 5m and 10m heights on a lighting matrix.
- 1.4. The proposed AGP would provide improved quality of play for football and rugby, whilst the remaining hard court facility to the north of the site would meet demands for tennis, netball and basketball. The agent states that the small size of the pitch means it could only accommodate rugby training play or football play at one time. At maximum capacity, there could be two small-sided football games simultaneously; however this is only likely to be practical for pupils due to the facility footprint.
- 1.5. The applicant proposed the following hours of use:
 - Monday to Friday: 08:00 to 18:00 (school use) and 18:00 to 21:00 (community use)
 - Saturday: 09:00 to 21:00 (community use)
 - Sunday and Bank Holidays: 09:00 to 18:00 (community use).
- 1.6. The application is supported by a site access plan; drainage arrangement; design, access and planning statement; and guidance notes for the reduction of obtrusive light.

- 1.7. Following the initial validation of the application and consultation with the relevant bodies, some amendments have been made to the proposal. The proposed floodlights have been changed following consultation with Ecology; the access to the AGP has been changed following consultation with Trees and the site boundary has been amended following consultation with Sport England, to allow conditions to be attached relating to the smaller hard court to the north of the site. These changes are explained in further detail within this report.
- 1.8. This application is reported to Planning Committee at the request of Councillor Alden, and due to the number of objections received.



Aerial images of proposed AGP with 4no. floodlights circled in red.

1.9. [Link to Documents](#)

2. [Site & Surroundings](#)

- 2.1. Harborne Academy is a secondary school located off Harborne Road in Edgbaston. The main school building lies to the north of the site, and has recently been re-developed following planning approval 2012/02507/PA.
- 2.2. The hard court proposed to be converted to the AGP is located to the south of the school site, and close to the boundary with the adjacent Blue Coat School to the west. There is a running track running parallel to the pitch to the north west. There are residential properties to the north, east and south which are separated from the pitch by grassed areas. The closest residential properties to the AGP are at High Point (approx. 53m at the closest point) and on Petersham Place (approx. 78m at the closest point). At its closest point, the AGP would be 41m from the boundary of the school site adjacent to the grounds of residential properties.
- 2.3. The smaller hard court is located to the west of the site, to the rear of properties on Harrison Green. At its closest point, this pitch is approx. 19m from the rear boundary of No. 22 Harrisons Green, and 30m from the rear elevation of the property. Car parking is located between the pitch and the residential boundary.
- 2.4. To the south west of this pitch there is a multi-use games area (MUGA) within the grounds of the Blue Coat School which was approved subject to conditions in March 2017 (2016/10335/PA). The MUGA was approved with 6no. 10m high floodlights and associated fencing.
- 2.5. No. 11 Belgrove Close lies at the very edge of the Edgbaston Conservation Area, and borders the north east boundary of the Harborne Academy site. At its closest point, the proposed AGP would be over 80m away from this heritage asset.
- 2.6. [Site Location.](#)

3. [Planning History](#)

- 3.1. 14/08/2004 - 2003/07290/PA - Erection of fabric structure to provide covered multi use games area. Resurfacing of existing playing areas, erection of new and replacement fencing and installation of floodlighting - Refused for the following reason:
- The proposed floodlighting and fabric structure to provide a covered multi-use games area would result in unduly obtrusive features within the school grounds which would adversely affect visual amenity of nearby residents. In addition the proposed development would increase the intensity of use of the site by virtue of floodlights on the tennis courts and an increase in facilities offered within the site. Consequently, the proposed development would adversely affect visual amenity of the area and the amenities of adjoining residents by virtue of noise and disturbance contrary to policies 3.8 and 3.10 of the adopted and deposit draft Unitary Development Plan.*
- 3.2. 04/11/2004 - 2004/05393/PA - External works including resurfacing of courts/pitches (with extension to playing area), fencing, disabled parking and access ramps, and new footpath - Approved subject to conditions.

- 3.3. 19/07/2012 - 2012/02507/PA - Demolition of existing school (except for existing hall area), demolition of caretakers house and erection of new 2/3 storey school building and associated works, landscaping, access improvements & car parking - Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. BCC Leisure Services – No objection.
- 4.2. BCC Regulatory Services – No objection subject to conditions.
- 4.3. BCC Transportation Development – No objection.
- 4.4. Severn Trent Water – No objection.
- 4.5. Sport England – No objection subject to conditions for a community access agreement and a detailed condition survey and scheme of works for the retained tennis court
- 4.6. West Midlands Police – No objection. Recommendations have been made for 'Secured by Design' principles to be adopted; a management plan is in place for the opening and unlocking of the facility; CCTV; and for external areas to be well lit.
- 4.7. The Blue Coat School – No response received.
- 4.8. 29 neighbouring properties and local Ward Councillors, MP and Residents' Associations consulted, and site notices displayed on Harborne Lane and at the entrances to Petersham Place and Cofters Court. Full re-consultation was carried out following the amendments to the red line boundary.
- 4.9. Preet Kaur Gill MP – Objection
- Consultation – little effort from school and agent to consult the community; concern that not enough neighbours were sent consultation letters;
 - Lack of business case – school could not provide business case outlining need for the development; lack of planning and preparation ahead of application; several similar pitches in the area apparently are not operating near their capacity;
 - Commercial use – residents support improving student facilities, however proposal includes commercial use outside of school hours, on evenings, weekends, bank holidays and throughout holidays; noise implications for residents; no respite from noise nuisance.
- 4.10. Councillor Deirdre Alden – Objection
- Light and noise nuisance from the proposal would affect residents;
 - Use of court to 9pm – outside of school hours; cause of resident concern;
 - Would prefer the proposal to not include floodlighting so that it could not be used until late into the evening, therefore no late evening noise and light nuisance to neighbours;
 - Concern that the court would be let out to non-school organisations and would be for a number of different sports such as football as well as tennis;

- Local residents are very worried about noise and light disturbance from a number of different games potentially happening on a number of nights and not just in school hours;
- The proposal is not acceptable in the middle of a residential area;
- Concerns about community access to the site
- Considers the proposal would change the character of the area.

4.11. Calthorpe Residents' Society – Objection

- Site is within a long established, prime residential area surrounded by housing to the north, south, east and west;
- The site is very close to the boundaries with Crofters Court, Petersham Place and High Point;
- There is a risk/likelihood that residents, including the very young and old, would be affected by noise;
- Noise and light pollution outside of school hours are top of risk assessment list;
- Provision of good sporting and educational facilities is to be encouraged, however the proposed operating hours have potential to cause disturbance to residents;
- Suggest limiting the hours would be appropriate;
- Use on Sundays and Bank Holidays are considered to be particularly anti-social and shouldn't be allowed.

4.12. High Point (Edgbaston) RTM Company Ltd – Objection:

- No objection to the school improving its facilities;
- No objection to floodlights that would be angled downwards;
- Concern regarding proposed hours of operation and use for noisy sports;
- Use during the evenings, weekends and bank holidays would generate noise nuisance for residents;
- Concern about noise from the sports themselves, and also crowds and tournaments;
- Concern that windows would have to be closed to keep noise out;
- Consider hours of operation should be limited to 9am to 5pm Monday to Friday, with no weekend or Bank Holiday use;
- Development of school facilities into a business to generate income by letting to others outside of school hours not in keeping with outdoor facilities which are close to residents.

4.13. 2 comments received on the following grounds:

- Existing anti-social behaviour concerns associated with school; concern the late hours would create excessive noise and additional anti-social behaviour;
- Younger people should be given the chance to exercise, but not to 9pm; 6pm should be the latest time;
- Consideration should be had for local residents;
- Support for the increased sports provision for schools.

4.14. 32 objections received on the following grounds:

- No problem with school improving facilities for use during term time; support for improving sports for children/students

- Development of school facilities into a business to generate income by lettings outside of school hours is inappropriate and not in keeping with setting so close to local residents; residents wouldn't expect a commercial enterprise within grounds of a school; community use would exceed school use; concern of school's plans to maximise use of the proposed facility; extent of development would constitute a change of use from a school;
- Concern the pitch would have little/no supervision; would want appropriate management; anti-social behaviour concerns; concern existing issues with refuse/litter would worsen; security concerns; residents would want a point of contact if there are issues;
- Hours of operation – use in evenings, at weekends and on bank holidays not suitable; not in the interest of local residents; suggested alternative hours of operation (8am/9am to 5pm-8pm Monday to Friday; no evening, weekends or bank holiday use; limited weeknight use; 9am-11am-5pm weekend use);
- Noise and disturbance – concerns of games, spectators, cheering and crowd noise carrying into the surrounding area; the multi-sport facility; concerns tournaments and competitions would be held at the site; the evening, weekend and bank holiday use; would force residents to have their windows shut; would prevent neighbours from using their gardens;
- Detrimental to peace and quiet enjoyed by residents; impact on sleep, particularly children and shift workers; exceeds noise expected from living close to a school; proposed kickboard would present an additional source of noise;
- Note that the application states proposal wouldn't have noise levels greater than at present and no higher than 50-58 decibels; this noise is already disturbing to residents and tolerable because occasional and for education; consistent noise at this level is concerning;
- Previous use of the site for sports at evenings and weekends saw unbearable noise including from shouting parents which was disruptive and stressful for residents;
- Site is already noisy from school use of courts and facilities; would worsen with lighting and extended operating times;
- Residents would have no respite from noise and light pollution and general disturbance;
- Floodlights – disturbance to residents; would cause glare; light pollution; obtrusive to residents; light could penetrate residents windows;
- Would impact health and physical and mental wellbeing of neighbours; would not maintain peaceful residential atmosphere of locality; no peace and quiet for residents in their leisure time; large numbers of elderly people and young families nearby; prevent quiet enjoyment of residents' homes; prevent residents of High Point from using their balconies; impact study time for neighbouring children; pitch very close to the boundary of neighbouring gardens;
- Concern about lack of consultation with residents;
- Tennis is in a state of decline; participation rates have dropped;
- School could link up with other clubs in the area;
- There are already a number of sports facilities, AGPs and flood lit pitches nearby (University of Birmingham and Blue Coat School); there's a similar scheme at the adjacent Blue Coat School which is apparently not being rented out because it was not economically viable; no need for any more;
- Concern that bookings from further afield would cause an influx of people who do not care about the area or surrounding;
- Application doesn't state which sports would be played; questions of whether site would become the 'home ground' for clubs;

- Concerns about socialising after games/matches involving drinking and entertainment; questions about licensing for this;
- No control over number of spectators;
- Concerns about parking and disturbance from increased vehicles coming to the site; congestion concerns; on-street parking and highway safety concerns; existing local parking problems would be worsened; pedestrian and vehicular safety concerns;
- Objection under Human Rights Act 1998 – Article 8 – right to respect for private and family life
- Birmingham City Council has a duty of care to residents; planning permission would affect mental health of neighbours;
- Proposal would make renting/selling properties difficult as people would not want to live next to the proposal;
- The reasons for refusal on the previous planning application (2003/07290/PA) are still relevant to this application.

4.15. 7 further objection received following re-consultation, all from residents who had previously commented:

- Concern that agent's comments in the Statement of Residential Comments have been accepted by the Council without the option for neighbours to contest it; document doesn't include further mitigation towards material considerations
- Consultation on behalf of the school and Council has been poor and application should be refused because of this; not enough homes near the school were sent consultation letters; site notices displayed obscured by vegetation; school should have arranged a meeting with neighbours
- Re-consultation following the amendments to the red line plan is not clear and there is confusion over what is included in the proposal; clarity is needed over the second court now within the red line;
- No business plan has been produced; school does not know who they would be hiring the facilities to; residents concerned about the lack of a plan for the site and the unknown impact this could have;
- Lack of information about demand; residents consider the proposal is ill-conceived; too many unknown variables; concern about long term intentions;
- Residents of nearby flats will have no respite from noise; concerns that sufficient noise checks and surveys haven't been carried out; residents not satisfied their noise objections have been addressed; crowd noise concerns; 'new noise' would be at times of the day not previously experienced and would not be similar to the existing situation;
- Noise and lighting would be a nuisance to residents; infringement of current quiet enjoyment on local residents' homes;
- The statement that the pitch and other sports areas (court and track) are available already at evenings and weekend is questioned by residents; residents have not experienced recent evening weekend use;
- Operating hours proposed in the application form state Saturday use ends at 18:00 however this is 21:00 in the design and access statement.
- Concern the proposal is a way for the school to attract funding; residents consider alternative ways to attract funding should be sought; commercialisation of the school rather than increasing facilities;
- COVID-19 could mean the facility would not be able to be used;
- Council should be enhancing the lives of residents not making them worse.

4.16. Petition in objection with 13 signatures:

- Commercial sports facility on a school site; primary purpose for commercial gain not the advantage of students; proposal has little to do with children and education;
- Close to sensitive residential areas; not consistent with the quiet enjoyment of homes that's reasonable to expect in a residential area; unwelcome intrusion into a peaceful residential area;
- Floodlighting;
- Use during evenings, weekends and school holidays;
- Proposal is out of keeping with the surround area;
- Parking concerns;
- Adequate similar facilities close by.

5. Policy Context

5.1. Relevant Local Planning Policy:

- Birmingham Development Plan (BDP)
- Birmingham Unitary Development Plan (UDP) Saved Policies
- Places for Living SPG
- Floodlighting Guidance SPG

5.2. Relevant National Planning Policy:

- National Planning Policy Framework (NPPF)

6. Planning Considerations

- 6.1. This application has been assessed in accordance with the policies outlined above. The key factors for consideration are the principle of development, the impact on residential amenity (due to light and noise impacts), the impact on visual amenity, and the impact on local ecology, trees, highway safety, and drainage.

Principle of Development

- 6.2. TP11 of the BDP (sports facilities) states that '*Facilities within the City's educational establishments that can be used by the community provide a useful contribution towards the recreational and leisure requirements of the City and this will be encouraged.*'
- 6.3. This application seeks permission for the installation of an artificial grass pitch (AGP) on an existing hard court, with associated floodlighting. The existing pitch provides 3 tennis courts and 2 netball courts and the replacement AGP would provide a facility for football and rugby. With a proposed pitch size of 48m x 31m, it would be considered 'small'. Sport England note that the school is a constrained site with limited outdoor playing field space. A small triangular shaped grass playing field exists to the south-east of the proposed AGP, however its practical use for sport is limited, and not of a sufficient size to accommodate mini or youth football teams, for example. There is a second hard court facility to the north-west of the AGP which accommodates 2 tennis courts and 1 netball court.
- 6.4. Whilst the proposal would result in the loss of a court for tennis and netball, there is alternative provision on site for these sports, and the AGP would accommodate alternative sports provision (football and rugby) at the site. The proposal would

therefore satisfy the tests of Paragraph 97 (b) of the NPPF as the loss of tennis and netball provision resulting from the proposed development would be replaced by an equivalent provision for football and rugby, and therefore increase the quantity of sports available at the site. The proposal would also meet the tests of Paragraph 97 (c) of the NPPF as the development is for alternative sports provisions: the benefits of which outweigh the loss of the current use as one of the two tennis and netball facilities within the school.

- 6.5. Sport England's consultation with Birmingham FA and Football Foundation revealed they were not aware of any additional local demand from clubs and the Lawn Tennis Association (LTA) expressed frustration at the proposed loss of a court to another facility, and requested the school look at improving the remaining court.
- 6.6. Sport England considered the comments from the FA and LTA, and recognised the benefits to the school of broadening the range of sports at the site, given the lack of playing field space. They noted that whilst there are some additional 3G pitch requirements in Birmingham, the local area is generally well served (Lordswood School and University of Birmingham), and no evidence was submitted to make the case for demonstrable local need. They considered the 'small' size of the pitch would unlikely undermine the existing 3G pitches elsewhere. It is considered there is generally good coverage for tennis in this part of Birmingham, and whilst the loss of the court would be regrettable, it would not be a reason for objecting. To mitigate for the loss, Sport England recommended the school maximise the capacity and provision of the remaining courts to the north-west of the proposed AGP.
- 6.7. Following consultation between the school and the LTA, Sport England removed their holding objection subject to conditions for a community use agreement and detailed condition survey and scheme of works for the retained tennis court. These conditions would activate the use of the remaining court within the school grounds through a combination of a new gate and online access system, school tennis programmes and staff training. The condition of the court would be reviewed and a scheme of improvements undertaken which could include re-surfacing/re-lining the courts, new nets, new fencing where this is identified to be necessary in a condition survey of the retained courts. These conditions would mitigate for the loss of the existing courts and enhance the tennis provision at the site.

Residential and Visual Amenity

- 6.8. The closest residential properties to the AGP are at High Point (approx. 53m) and on Petersham Place (approx. 78m). At its closest point, the AGP would be 41m from the boundary of the school site adjacent to the grounds of residential properties. The impact on residential amenity could principally take the form of noise and/or light intrusion; with the potential to be more intrusive at less sociable hours into the evenings.

Noise and Disturbance

- 6.9. The concern from local residents regarding noise and disturbance has been carefully considered. I note that many objections raise concerns about potential noise and disturbance outside of traditional school hours and when the AGP would be used by the community, and not by the school.
- 6.10. The application site is currently in use as a sports court, and therefore already has the capacity to generate noise. The 2012 application for the redevelopment of the school included this court, with condition 13 limiting the hours of use to 08:00-20:00

Monday to Saturday, and 10:00-18:00 on Sundays, and condition 25 requiring the submission of a community access agreement. Condition 25 was approved through discharge of condition application 2013/04564/PA in July 2013.

- 6.11. The court is already available for community hire outside of school hours; therefore the proposal would be upgrading the existing facilities. However, I note from the comments made by local residents that this pitch is not known to have been used outside of school hours in recent years. The agent has stated that due to the small size of the AGP, and to respect residential amenity, there would be no matches, competitions or tournaments on the pitch, however this is not something that could be controlled by the LPA.
- 6.12. The applicant proposed the following hours of use for the AGP:
- Monday to Friday: 08:00 to 18:00 (school use) and 18:00 to 21:00 (community use)
 - Saturday: 09:00 to 21:00 (community use)
 - Sunday and Bank Holidays: 09:00 to 18:00 (community use)
- 6.13. The hours of use have been considered given the proximity to residential properties, the existing hours permitted through application 2012/02507/PA, and the hours granted at other similar facilities, namely the AGP at the adjacent Blue Coat School.
- 6.14. The proposal would see extended use of the court. Firstly there would be more demand for community use of an artificial grass pitch rather than a court, and secondly there would be lighting.
- 6.15. Regulatory Services have considered the proposal from a noise perspective, and note that no noise assessment is included within the application. Reference is made to the Sport England guidance on the acoustic implications and design considerations for AGPs which is mentioned in the Design and Access Statement. The Planning Consultation Guidance Note (PCGN) on noise and vibration states that applications for single court/pitch MUGAs will normally be supported where there is no residential accommodation within 30m of the development and the hours of operation are within 08:00-20:00 (Monday to Saturday) and 10:00-18:00 Sundays).
- 6.16. Regulatory Services state they would have expected a noise assessment in support of such an application. However, as the nearest residential use is 50m away, a desk study was carried out based on the Sport England guidance. This suggests noise levels at the garden fence of 44dB and at the building façade of 43dB. Regulatory Services consider that given the existing use of the site, this would not be unacceptable; however concerns are raised over the proposed 09:00 start on Sundays. They consider weeknight use should not extend beyond 21:00. Regulatory Services also require a condition is attached for the submission of a noise mitigation and management plan prior to use
- 6.17. Given the floodlighting approved at the Blue Coat School (2016/10335/PA) is conditioned not be used past 8pm, and the existing use of the court is permitted to 8pm, I consider that the use of the proposed AGP should be restricted to 8pm. Similarly, use on a Sunday should be restricted to commence at 10am in line with the previous approval, and the concerns raised by Regulatory Services. As such, the following time limits are recommended for the use, as per the 2012 application:
- 08:00 to 20:00 (Monday to Saturday)

- 10:00 to 18:00 (Sunday and Bank Holidays)

6.23. A condition is also recommended preventing the use of amplification equipment.

Lighting

6.18. The proposal includes 4no. floodlights measuring 10m in height. A lighting matrix has been provided to show the degree of light spill.

6.19. TP11 of the BDP states '*Appropriate and sympathetic sports lighting can enhance the use and sustainability of community sports provision to the benefit of the local community. However, any development involving sports lights should balance the benefits for sport with the amenity of local residents.*'

6.20. Supplementary Planning Guidance for Floodlighting describes 4 environmental zones:

- E1: National Parks, Areas of Outstanding Natural Beauty and other dark landscapes
- E2: Areas of 'low district brightness' such as rural locations, and in Birmingham include greenbelt, green wedge, canal corridors, areas designated for nature conservation, and rear windows.
- E3: Areas of 'medium district brightness' such as urban locations
- E4: Areas of 'high district brightness' such as an urban centre with high night-time activity.

6.21. Based on this criteria, I consider that the light spill on the neighbouring residential properties would have to satisfy the E3 (medium district brightness) due its urban location. E3 requires that cumulative light levels into windows do not exceed 5 lux after curfew. The SPG also requires floodlights are at least 12.5m from habitable room windows.

6.22. The closest distance between a floodlight and residential property would be 53m. The lighting matrix for 200 lux floodlighting shows a 1 lux level, the lowest recorded contour, extends a maximum of 13.9m from edge of the AGP. The closest residential properties would be 44m from the 1 lux contour.

6.23. I acknowledge that there are concerns from neighbouring residents, however as the proposal complies with guidelines contained with the Floodlighting SPG, achieving the lux levels for E2 in addition to E3, and exceeding the minimum separation distance, I do not consider the proposed lighting would harm residential amenity.

6.24. Regulatory Services have raised no objection regarding the floodlighting, subject to conditions. They note that the lighting drawings show the lighting would result in illuminance of less than 1 lux within the school grounds, and hence there is no predicted impact from the lighting that would adversely affect residential amenity. Nonetheless, it is recommended that a condition is attached that provides the LPA with the opportunity to seek shielding, if required, once the scheme is installed, to reduce any unforeseen lighting issues. Regulatory Services also require a condition requiring the lighting be installed and maintained to avoid adverse amenity impact from glare or light intrusion and restricting the hours of floodlighting use.

6.25. The following floodlight restrictions are recommended:

- 15:00 to 20:00 (Monday to Saturday)

- 15:00 to 18:00 (Sunday and Bank Holidays).

Appearance

- 6.26. The proposed AGP would be a green surface with all playing lines stitched, cut or painted on. The 4no. floodlights would be mounted on galvanised steel poles at 10m high. The existing fencing which currently encloses the pitch would be retained. I consider there would be a minimal impact on the character and appearance of this part of the school site, and on the outlook from neighbouring residential properties.

Construction

- 6.27. The proposal would involve laying the artificial turf directly onto the existing surface. There would be no groundworks or excavations other than for the lighting.

Amenity Summary

- 6.28. In addition to the points raised above, I must acknowledge the refusal in 2003 (2003/07290/PA) for the erection of fabric structure to provide a covered multi use games area, the resurfacing of existing playing areas, erection of new and replacement fencing and installation of floodlighting. This application proposed a fabric enclosure around the pitch measuring between 7.6m and 9.5m in height, 6no. floodlights at 10m high and hours of use between 08:00-21:00.
- 6.29. Whilst the floodlighting is likely to increase the desirability of the use of the pitch in the evenings, the principle of community use of the court was established in the 2012 planning application, with use up to 8pm during weekdays and Saturdays and 6pm on Sundays approved through condition 13. However, from neighbour comments this does not appear to have been in use. The floodlighting matrix shows the proposed levels of illumination would comply with the Floodlighting SPG, and the number of floodlights proposed with this application is 4: a reduction from the 6 previously proposed.
- 6.30. The concerns relating to the Human Rights Act have been considered. There is a balancing exercise between the rights of the landowner to develop their land, subject to planning permission, and the rights of surrounding residents not to be unduly impacted by a development. The LPA has appropriate planning policies in place to ensure that proposed development does not result in undue adverse impact on others. The application has been assessed against planning policies, and regard has been had for other material planning considerations.
- 6.31. To conclude, I consider that with the attachment of conditions restricting hours of use and hours of floodlighting; for the LPA to seek shielding to reduce any unforeseen lighting issues; for a noise mitigation and management plan; and preventing the use of amplification equipment, the proposal would comply with planning policies and not harm the residential amenity or visual amenity of neighbouring occupiers. The proposal would therefore be acceptable on amenity grounds.

Ecology

- 6.32. The City's Ecologist initially raised concerns about the proposed floodlighting on protected species such as bats, as the survey data was based on 2011/12 findings, which could not be relied upon. Concerns were raised that the trees close to the court may have, or developed, bat roost features since this survey, and other

external factors and seasonality change bat foraging patterns. The lines of trees were considered to offer some moderate potential for bat foraging.

- 6.33. The application originally proposed metal halide floodlighting, which would have had significant levels of light spill onto the mature trees to the south west, a currently unlit landscape feature, with values ranging from 5 lux to 50 lux. The Ecologist considered no more than 1 lux should be falling on the tree canopy and required the provision of vertical light spill plans to indicate how much of a canopy would be affected. Any significant illumination of potential bat roost features on trees would destroy them. The Ecologist noted that the use of metal halide light sources as initially proposed is not recommended, and LED is more appropriate.
- 6.34. The agent updated the proposed floodlighting to an LED light, which includes a smart switch to allow emitted light to switch between 120 lux and 200 lux to meet sporting requirements. Vertical lux level plans were also provided at 5m and 10m above ground level based on the 200 lux level. These plans show lux levels below 1 on the tree canopies at both 5m and 10m.
- 6.35. Following the amendments made to floodlighting, the Ecologist raises no objection.

Transportation, Highways, Access and Trees

- 6.36. The application was submitted with a site access plan, which showed the site would be accessed through the main car park and then to the west of the smaller court. This would have involved travelling over tree routing areas, which the City's Tree Officer considered would have required ground protection conditions.
- 6.37. The agent confirmed the construction duration is expected to be short in comparison to a new development over turf, given the existing tarmac surface. Nonetheless, the access plan was amended to show the route via the curved road within the centre of the site, over the running track, and via an existing pathway. This has been reviewed by the Tree Officer, and no arboricultural conditions are required.
- 6.38. Transportation Development required additional information about the operation of the facilities during evenings and weekends. The agent explained that there are 71 parking spaces formally marked out at the site, with 4 disabled spaces. The majority of staff are said to vacate the car park by 5pm, with 60% of spaces (42) typically available for the evening community uses.
- 6.39. Trip generation proposals have been estimated by the agent using similar sites. 5-a-side matches typically generate 4 'in' and 4 'out' trips from 6pm onwards when accessible by local communities. Therefore, 2 simultaneous user groups would generate 16 'two-way' trips.
- 6.40. Transportation Development consider that parking provision can only be contained within the site due to the local on-street restrictions and high demand. They do not consider the application or proposed use out of school hours would have a detrimental impact on the highway network. There are also regular bus services on Harborne Road running into Edgbaston, the City Centre, Quinton and Bartley Green.

Other Matters

- 6.41. Severn Trent Water initially raised no objection subject to a condition for the submission of drainage plans for the disposal of foul and surface water flows. The agent commented that the existing hard court last had works carried out in 2012 as

part of the main school development. Condition 17 attached to the 2012 application required the submission drainage plans for the disposal of foul and surface water. This was approved under discharge of condition application 2012/05464/PA, and the agent provided a copy of the approved plan. Severn Trent Water subsequently confirmed they did not require a drainage related condition to be applied.

- 6.42. West Midlands Police raise no objection to the proposal. They note the Design and Access Statement refers to a lettings manager, but does not state who would manage the facility on a day to day basis. Recommendations are made for 'Secured by Design' principles to be adopted; a management plan for the opening and unlocking of the facility; CCTV; and for external areas to be well lit.
- 6.43. The 2012 permission for the redevelopment of the school contained plans for security and lighting arrangements. The existing court was part of this application and the approved hours of use of the facilities is very similar to that recommended for the proposed AGP. I therefore do not consider additional security conditions would be necessary.

7. Conclusion

- 7.1. This application proposes the replacement of an existing hard court facility with an artificial grass pitch and associated floodlighting. As part of the 2012 permission to redevelop the school, this pitch was made available for community use outside of school hours: up to 8pm Monday to Saturday and 6pm on Sundays. This proposal would therefore upgrade the existing facilities. The proposal is likely to increase the use of the site, as there would be more demand for an AGP than a court and as there would be lighting.
- 7.2. As such, the impact on residential amenity has been carefully considered, and Regulatory Services conclude that with the attachment of the recommended conditions, the proposal would not harm the amenity of neighbouring residents by means of noise or light. The recommended hours of use of the AGP would match those conditioned in 2012. Additional information has been submitted to ensure the proposal would not harm local ecology, trees, highway safety and drainage.
- 7.3. The proposal would constitute sustainable development and is recommended for approval.

8. Recommendation

- 8.1. Approve subject to conditions.

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|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the submission of a community use agreement |
| 3 | Requires the submission of a detailed condition survey and scheme of works for the retained tennis court |
| 4 | Prevents the use of amplification equipment |
| 5 | Requires notification to the LPA prior to first use |
-

-
- 6 Limits the hours of use - 08:00 to 20:00 (Monday to Saturday) and 10:00 to 18:00 (Sunday and Bank Holidays).
 - 7 Limits the use of the floodlighting - 15:00 to 20:00 (Monday to Saturday) and 15:00 to 18:00 (Sunday and Bank Holidays).
 - 8 Requires the submission of a noise mitigation and management plan prior to use
 - 9 Implement within 3 years (Full)
-

Case Officer: Caroline Featherston

Photo(s)



Photo 1: Existing court and track – looking towards Blue Coat School



Photo 2: Looking towards High Point



Photo 3: Looking towards High Point



Photo 4: Existing court – looking towards Petersham Place



Photo 5: Second court – looking towards Blue Coat School

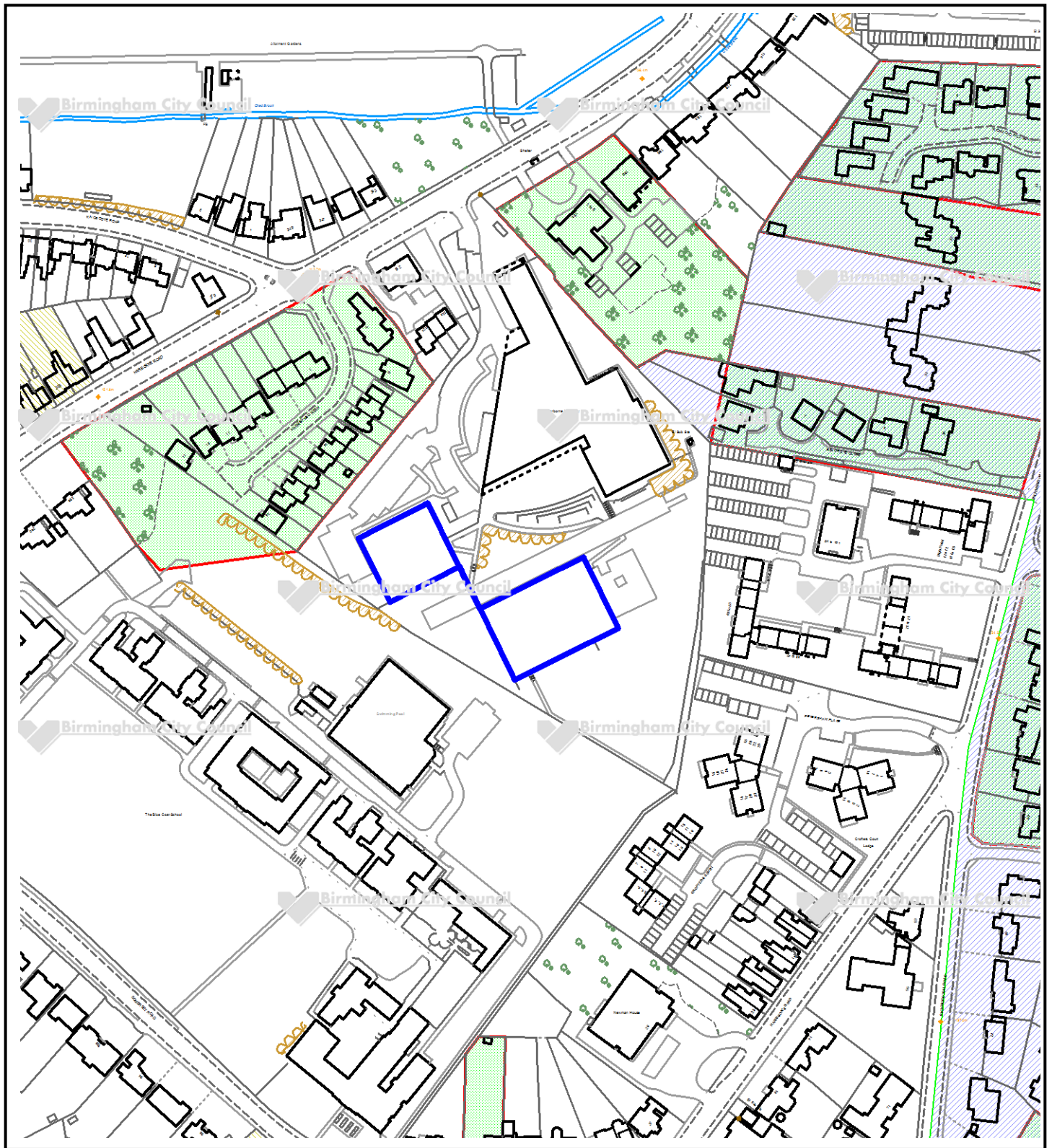


Photo 6: Second Court – looking towards car park and Harrisons Green



Photo 7: Satellite view of application site looking east (Google Maps)

Location Plan



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Birmingham City Council

Planning Committee

19 November 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	7	2019/03469/PA 58-66 Darwin Street Highgate Birmingham B12 0TP Demolition of existing building and erection of a part 5/part 6 storey building providing 116 apartments, parking, amenity space and associated development
Approve – Subject to 111 Legal Agreement	8	2020/02556/PA Land bounded by Lionel Street, Livery Street, Great Charles Street and Ludgate Hill Jewellery Quarter Birmingham B3 Construction of a mixed-use development of 3-39 storeys comprising 722 residential apartments (Use Class C3) with ancillary internal and external amenity areas, ground floor commercial floor space (Use Classes A1, A2, A3, A4, B1, D1, D2) and associated works including site clearance, public realm, landscaping and parking
Approve – Subject to 106 Legal Agreement	9	2020/04784/PA Priory House Gooch Street North/Kent Street Birmingham B5 6QU Conversion and refurbishment of Priory House, including change of use from Use Class B1(b) to include 79 residential apartments (Use Class C3), ancillary internal and external resident's amenity areas, secure car and cycle parking and other associated works

Committee Date:	19/11/2020	Application Number:	2019/03469/PA
Accepted:	24/04/2019	Application Type:	Full Planning
Target Date:	20/12/2020		
Ward:	Bordesley & Highgate		

58-66 Darwin Street, Highgate, Birmingham, B12 0TP

Demolition of existing building and erection of a part 5/part 6 storey building providing 116 apartments, parking, amenity space and associated development

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 This application for full planning permission proposes the clearance of the site and the erection of a standalone building containing 116 apartments together with parking, landscaping and associated development. Since submission of this application the previous industrial warehouse building that occupied the site has largely been demolished and therefore consent for this element of development is retrospective.
- 1.2 In response to the falling topography towards the River Rea the scheme is broken into three principal elements when viewed from Darwin Street, stepping down the hill. Some of the development is subterranean at its eastern end. At its maximum the development is over seven floors, with the plant room being beneath prevailing ground level and therefore having the appearance of 6 floors. The development then varies between 5 and 6 storeys when viewed from Darwin Street as ground level falls.
- 1.3 In plan form the development roughly describes a compressed capital 'I' with a central connecting block providing five floors of accommodation above a vehicular access connecting two parts of a car park area.
- 1.4 A block runs parallel with the street frontage block towards the rear (south) of the site, providing five floors of single aspect apartments looking north into the central parking area. The rear (southern) elevation has windows serving circulation areas only.
- 1.5 On-site communal outdoor amenity space is provided in two areas, one to the rear of the southern block taking advantage of the site's irregular boundary here with the other being a roof terrace area above the western-most block on the Darwin Street frontage. In addition, a number of apartments benefit from private terrace spaces.



Figure 1 – Upper street level plan

- 1.6 In respect of architecture, the building is entirely flat roofed and is rectilinear in its general approach to facades. The frontage consists of a two-storey blue brick base which is recessed beneath the floors above which are clad in either vertical corrugated metal cladding or vertical zinc standing seam cladding both of which are anticipated to be dark in colour. Windows are sat in reveals of 205mm depth. The overall effect is one of solidity.
- 1.7 In order to effectively handle the falling topography along the frontage of the scheme there are a series of walls and railings, with opportunities taken for ground floor dwellings to have defensible space where possible. This also has the benefit of disguising the cycle and refuse stores when viewed from the frontage.
- 1.8 The scheme is entirely residential with the amended plans providing 45 (39%) one-bedroom, 67 (58%) two-bedroom and 4 (3%) three-bedroom apartments. Within that mix 16 are the smallest dwelling type, being suitable for single person occupancy.



Figure 2 – Front elevation

- 1.9 A total of 24 parking spaces are provided on-site representing a 21% provision. In respect of cycle parking, a full 100% provision is shown within the basement of the scheme.
- 1.10 This application follows extensive discussion and negotiation, with a particular focus on the impact of the industrial/commercial uses directly adjoining the application site, together with design.
- 1.11 This application is accompanied by a full suite of (amended) plans; various noise survey and interpretation material; Design and Access Statement (and addendum); Financial Viability Statement; Planning Statement; Ecology Appraisal; Transport Statement; Sustainable Drainage Statement; Energy Statement (updated September 2020); and a Ground Conditions Statement.
- 1.12 [Link to Documents](#)
- 2.0 Site & Surroundings
- 2.1 The application site is an irregular shaped plot of now largely cleared land that previously accommodated a large low-rise industrial building used for cash and carry / distribution purposes. The site forms part of a wider development block bounded by Darwin Street, Stanhope Street and Leopold Street. Topography falls markedly towards the river to the northwest, with the existing and proposed vehicular access being at the low point of the frontage.
- 2.2 Direct neighbours to the site include Samuel Heath which manufactures bathroom fixtures and fittings; Falcon Engineering that provides metal forming services together with a Japanese vehicle importer/sales business. The wider block also includes a restaurant/shisha lounge and a civils company.

- 2.3 The site lies within the Highgate area with a broad mixture of uses in close proximity. Dwellings lie on the opposite side of Darwin Street, with Calthorpe Academy to the east. Highgate Park is a short distance from the site to the north/east. There are further blocks of industrial/commercial uses to the south/west, with further housing, schools and the Highgate local centre beyond. There are children's play facilities both in Highgate Park and fronting Upper Highgate Street to the south both being a short walk from the site.
- 2.4 [Site location](#)
- 3.0 [Planning History](#)
- 3.1 29th July 1979 – 18262/007 – Approval - Use of existing transport garage and workshops as a wholesale food warehouse with part use for packaging of bulk goods
- 3.2 20th March 1980 – 18262/008 – Approval – Use as wholesale warehouse with ancillary packaging and wholesale cash and carry
- 3.3 22nd August 2019 – 2019/04902/PA - Prior Approval is Required and Refuse – Application for prior notification for the demolition of existing building
- 3.4 14th October 2019 – 2019/07448/PA - Prior Approval is Required and Approval – Application for prior notification for the demolition of existing building*
- * See Para 6.12**
- 4.0 [Consultation/PP Responses](#)
- 4.1 Transportation Development – No objection subject to conditions requiring the provision of a suitable highway agreement, that the parking and cycle storage is provided and that a demolition and construction method statement be submitted and agreed.
- 4.2 Regulatory Services – Comment as follows:
- 4.3 Darwin Street acts as boundary between residential and industrial/commercial land uses. The proposed development site is surrounded on three sides by industrial use.
- 4.4 The Environmental Protection Unit (EPU) would not normally support the incursion of a sensitive use into an industrial area. The initial noise assessments (note - based on the original scheme) indicated that noise from the operations in the adjoining premises could be expected to have a severe adverse impact on future residents especially if windows were opened. Condition requiring further details of glazing/ventilation measures; contaminated land study; preventing the insertion of new windows and requiring the provision of electric vehicle charging points are recommended.
- 4.5 The latest design (described in Hoare Lea Acoustics – report REP-1010203-05-AM-20180221-Environmental Noise-Rev 5 dated 23/03/2020) means that no openable windows to habitable rooms will have a direct line of sight to the noise sources in the adjacent industrial properties. Provided that all the recommendations in the noise report are incorporated into the approved plans EPU no longer object to this proposal on noise grounds. Given the change to design of the development to achieve this the approved plans need to be amended to include the design and recommendations in the noise assessment before any permission is granted.

- 4.6 Local Services - In accordance with BDP policy, this development (like other adjacent recently approved schemes of over 20 dwellings) should be liable for an off-site POS contribution of £248,300. This would be directed towards the provision, improvement and/or biodiversity enhancement of Highgate Park or other priorities in the Ward. The development is within the City Centre containing a very small percentage of family accommodation and therefore would not generate a play area contribution.
- 4.7 BCC Employment Team – Request either a condition or a S106 clause to secure local employment during the construction of the development.
- 4.8 Lead Local Flood Authority- No objection subject to the imposition of conditions and informatives.
- 4.9 Severn Trent Water – No objection subject to a condition requiring foul and surface water drainage details.
- 4.10 Victorian Society – Object on the basis that Samuel Heath is an undesignated heritage asset and whilst they raise no objection to the demolition of the existing building, they object to the proposed residential use here. They comment that Samuel Heath & Sons is a fully functioning foundry and business in its original location and historic setting, and they consider that such an application for residential use on a neighbouring site to be incompatible with the significant industrial use and important heritage of the Cobden Works. The future of possibly the last surviving brass foundry in the city and its historic buildings could thus be severely compromised.
- 4.11 Access Birmingham - Are very disappointed that a 5-6 storey 116-unit development is proposed with no lifts to upper floors limiting access and opportunity for older and disabled occupiers and parents and carers of young children from visiting upper floors. There is no mention of access proposals in the Design and Access Statement and the LPA should undertake its duty under the Equality Act to promote a more inclusive development.
- 4.12 West Midlands Police – Note that the area suffers from a relatively high level of crime. Notes that parking is at a premium in the area, particularly during the daytime. Welcome the inclusion of gates to the vehicle parking area and the cycle spaces and notes that the development would be required to meet the security standards set out in Building Regulations. Has concerns/questions regarding the fact that the application forms indicate that there will be staff but no further details provided, would like to know whether the units are for rental or sale and whether sub-letting will be allowed, question the use of the void area at level 0, concerned at the lack of on-site car parking, question how access to the side gate and vehicle access gate will be controlled and makes further comments/questions in relation to detailed security arrangements of the development. Conclude by offering a series of detailed recommendations on how to secure and operate the building, including a recommendation of providing CCTV.
- 4.13 West Midlands Fire Service – no objection
- 4.14 Ward Councillors, MP, Residents Associations, local residents and businesses notified of the original and amended proposals, site/press notices displayed. Three individual letters received from local businesses (namely Samuel Heath, Falcon Engineering and Highgate Autos) which raise the following objections (in summary):

- Concerns over demolition taking place
 - Parking pressure on street, including servicing, and lack of parking in the proposed scheme
 - Noise/impact upon the adjacent businesses – objected to the initial assessment which only had three days' worth of measurements – and potential loss of jobs
 - Odour impact of existing businesses
 - Loss of employment land
 - Not a well-designed high-quality living environment as set out in GA 1.1 of BDP
 - Poor quality of amenity space to be provided
 - Contrary to the National Design Guide
 - No weight should be given to the wider master-planning exercise
 - Significant number of units with only north facing windows
- 4.15 In addition, a petition of 13 signatures from local residents objecting on parking grounds has been received.

5.0 Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan 2005 (saved policies), Places for Living SPG, Places For Living SPG, Car Parking Guidelines SPD; Rea Valley Urban Quarter SPD; Loss of Industrial Land to Alternative Uses SPG (2006); Public Open Space in New Residential Development SPD; Affordable Housing SPG 2001 and National Planning Policy Framework (as amended).

6.0 Planning Considerations

Land Use Policy

- 6.1 Policy PG1 of the Birmingham Development Plan (BDP) states that significant levels of housing, employment, office and retail growth is required to meet the needs of its growing population. 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. The site is close to, but not within, the Southern Gateway Area of Change. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. Whilst Policy TP20 states that where an industrial use is to be lost this should only be on the basis of either a non-conforming use or following an unsuccessful 2 years' worth of active marketing, the permitted use of this site is not definitively industrial. Referring to the planning history of the site the primary former use of the site is likely to have been as a cash and carry with other functions ancillary to this. Therefore, whilst it is difficult to be definitive the former use of the site is likely to have been primarily uses other than those that are captured by policy TP20.
- 6.2 Therefore the tests set out in TP20 of being either a non-confirming use or completion of 2 years' marketing are not applicable in this instance.
- 6.3 The Loss of Industrial Land to Alternative Uses SPG is referenced in the BDP and is therefore consistent with this more recent policy. It therefore continues to carry weight. The SPG, which defines industrial uses as those within the B1, B2 and B8 Use Classes, 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. The boundary of the City Centre is defined in the UDP by the Ring Road – A4540. The 2003 industrial land review recognises the contribution of industrial land towards City Centre housing development. Proposals involving the loss of industrial land will be supported, however, only where they lie in areas which have been identified in other planning policy documents, that have been approved by Birmingham City Council, as having potential for alternative uses.” Notwithstanding this, as the permitted use is most probably a *sui generis* use the proposals would not be captured by its requirements. However, given there is some doubt, for robustness the following shows that the development is consistent with the SPD in the event that permitted use did fall within B1, B2 and/or B8.

- 6.4 The site is within the recently adopted Rea Valley Urban Quarter SPD boundary. The SPD provides detailed policy and design guidance for the transformation of the River Rea corridor supported by a range of uses. This particular area is identified as the ‘Highgate Park neighbourhood’ which will become an attractive family housing area. Whilst the SPD illustrates a vision for the area including detailed building block layouts and heights it should be noted that this does not expand to the application site although the SPD states “relocation of the commercial businesses in the anomalous industrial pocket should be considered as part of the masterplan, in order to expand the quality of family housing in Highgate”. In terms of density the SPD envisages a greater density overlooking the park. Given the proximity of the Wider Area of Change (BDP) and the SPD notwithstanding the likely *Sui Generis* use of the site, the proposals would be consistent with the Loss of Industrial Land to Alternative Uses SPD.
- 6.5 The NPPF contains a presumption in favour of sustainable development and seeks to significantly boost the supply of homes and also to create the conditions in which businesses can invest, expand and adapt. Significant weight is to be given to the need to support economic growth and productivity, taking into account, both local business needs and wider opportunities for development.
- 6.6 The city has an identified housing need of 89,000 for the plan period of 2011 – 2031. The BDP makes provision for 51,000 homes, with the unmet need of 38,000 to come from windfall sites and contributions by neighbouring authorities in the Greater Birmingham Housing Market Area. Latest figures show that in terms of overall quantum the city is on track to meet its planned requirement with the target between 2100/2012 and 2018/2019 being 16,950 and a total of 18,324 being delivered (accounting for demolitions). However, as the city has an unmet need the target of 51,000 is not a ceiling and further contributions towards the overall need should be supported where appropriate. Discussion on housing mix is provided below at para 6.22.
- 6.7 BCC Planning and Growth Strategy highlight the relevant policies in the BDP including TP20 and TP4 (Low and Zero Carbon Technologies) and raise no objection subject to the provision of additional information relating to the photovoltaic panels.
- 6.8 The application site lies within a continuous block of commercial/industrial uses with residential development on the opposite side of Darwin Street to the north. The application proposals therefore represent a piecemeal incursion into this wider development block which would be surrounded by industrial / commercial uses on three sides. Policy is pulling in both ways in respect of this application. In favour there is the delivery of homes, which would contribute to the city’s unmet housing need identified by the BDP. In addition, the SPD lends some support in its aspiration for the potential relocation of industrial uses although the proposal would not be likely to form family housing as per the aspiration for this wider neighbourhood.

- 6.9 Weighing against the proposal is the loss of a site that provided employment on a piecemeal basis, even if that fell outside of the B1, B2 or B8 Use Classes. Whilst the SPD says that the relocation of industrial uses should be *considered* this does not confirm that it is necessary at this time. The SPD envisages further exploration of this issue with the potential outcome being that some or all of the industrial could remain in situ.
- 6.10 Therefore the principle of this proposal is finely balanced. The issue of potential impact upon the activities of the adjacent industrial uses is considered in detail below. However, on a purely policy basis the balance, in this officer's view, lies in favour of the development.

Demolition

- 6.11 Since submission of this application the building that occupied much of the site, last occupied by a warehouse/distribution company, has largely been demolished to slab level. The applicant sought to remedy this through the prior approval process (see planning history) with the first application being refused on insufficient information grounds and the second being confirmed that no prior approval was required. Subsequent advice has confirmed that the GPDO does not allow for retrospective prior approval for demolition works other than in the case of emergency demolition work, which was not the case here. Therefore, despite the planning history, the principle of the demolition of the building remains a live issue for consideration in this application.
- 6.12 No architectural or historic interest has been identified for the demolished building which consisted of a brick and metal roofed industrial warehouse of likely mid-20th century construction together with various ancillary structures including a canopy to the side. The demolition of the building would not engage a land use issue, which is considered above. Therefore, no objection is raised to the retrospective consent for the demolition of this building.



Figure 3 – Front elevation

Design

- 6.13 Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. This commitment to high quality design is a key aspiration of the Rea Valley SPD. The NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 states that planning policies seeks to ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment and maintain a strong sense of place.
- 6.14 The site layout proposed would provide a close to back of pavement development that follows the industrial development pattern rather than the suburban layouts to the north. There is a further single aspect block to the rear of the site on the same alignment with both being connected by a central limb. The block therefore loosely describes a capital 'I' (or rotated H) shape. This is considered appropriate and helps provide an amenity area to the rear that is shielded from the industrial uses with which it shares a boundary. The proposed layout also keeps parking largely shielded from public view. The City Design Officer raises no objection and notes that the applicant's master planning exercise for the wider block demonstrates that this scheme would not prejudice the delivery of this should the industrial uses be relocated in time.
- 6.15 In terms of scale, the proposed apartment block responds to prevailing ground levels that are falling in the direction of the River Rea to the west with two 'breaks' to step down this slope. The impact of the more functional requirements of the building are mitigated where possible by utilising the ground levels with the refuse and bike stores either partly or wholly subterranean. A colonnade, gentle ramps and private terraces successfully manage the pavement boundary.
- 6.16 Using street level as a guide the development is almost 6 storeys at the development's eastern end and just over 5 at its western end. The rear single aspect block is 5 storeys in height. Prevailing scale in the area is typically lower than the proposal, with a mixture of two storey dwellings, industrial blocks of varying heights together with a free-standing tower block of 9 storeys further north. As set out above, this area is not master planned in detail in the SPD, which shows typically 5-8 storeys at the closest reaches of the master planned area to the site. It is considered that the proposal strikes an appropriate balance between making best use of the land whilst not appearing unacceptably overbearing within its existing context. Limited weight should be given to the future context given the policy weighting of this aspect of the SPD as discussed above, although the City Design Officer has given this some weight in reaching the conclusion that scale and massing is acceptable.
- 6.17 In terms of the detailed design of the block, the proposal's use of a mixture of brick, metal cladding and zinc is supported and the handling of these materials across the elevations is well considered. Conditions to secure appropriate detailing and application are recommended to ensure that this high-quality design intent is delivered on site. The City Design Officer has been actively involved in the negotiation of minor changes to the elevations and the submission of further information to give confidence on the quality of the design proposed.



Figure 4 – Elevational detail

- 6.18 Therefore, the design is considered to be appropriate to its existing context, with some thought given as to what the future context may be. Subject to conditions the development is therefore consistent with local and national policy and no objections are raised from a design perspective.



Figure 5 – Oblique view of frontage

Dwelling Mix

- 6.19 Policy TP27 of the BDP states that new housing in Birmingham is expected to contribute to making sustainable places and demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. Policy TP31 seeks 35% affordable housing on schemes of 15 dwellings or more and where this percentage cannot be provided it states that the viability of the proposal will be assessed. The NPPF guidance on affordable housing (annex 2) states that where discounted market sales housing is proposed it should be sold at a discount of at least 20% below local market value, with eligibility to be determined with regard to local incomes and local house prices and provisions should be in place to ensure housing remains at a discount for future eligible households.
- 6.20 The application proposes 45 (39%) 1 bedroom, 67 (58%) 2 bedroom and 4 (3%) 3-bedroom apartments. As a city between 2011/12 and 2018/19 30% of new homes delivered have been 1-bedroom units and 38.4% have been 2-bedroom units. At policy TP31 the BDP sets out the overall mix needed for the city comprising a mix of market and affordable tenure units as 14.6% 1-bedroom units and 30.8% 2-bedroom units. It is noted that in recent years the number of completions related to apartments has outpaced the completion of houses whereas the opposite was true in the earlier parts of the plan period. In the monitoring year 2018/19 753 houses vs 3,112 apartments were completed whereas 2014/15 1,364 houses vs. 438 apartments were completed. It should be noted that completion of large schemes will have a significant impact upon the overall proportion delivered in any given year.
- 6.21 Therefore the overall picture is one of delivery against the objectively assessed needs for the city, albeit with an over delivery of 1-bedroom units in particular and under delivery of larger properties. The application's dwelling mix compares

favourably with other schemes recently consented in the city with a typical viable mix of 50/50 one and two-bedroom units regularly seen. In comparison, this scheme offers a majority of 2-bedroom apartments and a handful of 3-bedroom units resulting in over 60% being 2- or 3-bedroom units. It is also noteworthy that only 14% (16 apartments) are suitable for single person occupancy according to the nationally described space standards. A detailed breakdown is provided below.

Mix			Mix		
1 bed 1 person	16	14%	1 bed apartments	45	39%
1 bed 2 person	29	25%	2 bed apartments	67	58%
2 bed 3 person	30	26%	3 bed apartments	4	3%
2 bed 4 person	37	32%		116	100%
3 bed 4 person	4	3%			

Figure 6 – Dwelling Mix

- 6.22 All of the units comply with the Nationally Described Space Standards.
- 6.23 Finally, in respect of affordable housing, the viability issue is considered below, however the proposal is for 12 of the proposed units (10.25%) of a proportional mix to be provided in the form of on-site low-cost market housing with a discount of 25% on market value.
- 6.24 In conclusion the proposed mix compares favourably with other similar schemes in the city centre and would contribute towards the city's unmet housing need.

Impact on Heritage Assets

- 6.25 In determining this application the LPA must have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the "special regard" and "special attention" duties of the LB Act requires that the decision maker should afford "considerable importance and weight" to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. The NPPF and local policy also attach significant weight to the preservation and/or enhancement of heritage assets.
- 6.26 The site is neither within a conservation area nor is it in close proximity to any locally or statutorily listed buildings. The closest assets being Rowton House (former Paragon) and 112 Moseley Street to the north and Stratford House and properties fronting Moseley Road to the north/east. All of which are Grade II listed aside from the timber framed Stratford House which is II*. Due to the distance between these assets and the proposal and intervening buildings and landscaping the development will preserve the setting of these buildings and would not affect their significance.
- 6.27 The Victorian Society considers the Samuel Heath building a non-designated heritage asset and the proposed residential use a threat to this ongoing industrial use. The Principal Conservation Officer has confirmed that the works hold a degree of significance and are considered as a non-designated asset. The officer considers that the harm to the significance of the setting of this asset that has already occurred needs to be acknowledged. The surrounding 20th Century industrial buildings do not contribute significantly to the setting of this building and in many cases have a negative impact (through poor quality buildings, gap sites and car parks etc). There

are also several areas of residential development adjacent to the site and not unusual for industrial and residential to sit side by side in this part of the city. Therefore any perceived harm to the setting of this building can be reasonably balanced against the overall benefits of the scheme to a degree that meets the tests of paragraph 197 of the NPPF. Therefore no objection is raised on heritage grounds. The benefits of providing new homes, some of which are affordable, added to the delivery of high quality design are significant public benefits that outweigh harm to the setting of this building. The issue of noise is considered below, however the conclusion is that the proposed residential use would not harm the ongoing operation of Samuel Heath.

Residential Amenity

- 6.28 As set out above, all of the units would be compliant with the Nationally Described Space Standards and the plans include furniture layouts that demonstrate that an adequate residential environment would be provided for future occupiers.
- 6.29 A private amenity space is provided to the rear which is not overlooked by the neighbouring industrial/commercial uses with brick walls containing this space. In order to not prejudice future proposals, the windows on the rear part of the proposed development provide views from corridor/circulation only. This results in the amenity space not being as actively overlooked as ideally required, although ground floor windows could be transparent without compromising future development opportunities. A further shared amenity space is provided at roof level on part of the frontage block, which would be more readily accessible to those units at that end of the development. Additional amenity is provided in the form of a number of private terraces across the development although it is noted that those within the rear of the development do not benefit from direct access from those apartments and therefore are considered more as incidental landscaping/space providing relief from the parking area. It is noted that Highgate Park is in close proximity to the development, with a green link off Darwin Street itself a few yards from the development.
- 6.30 In respect of the amenity of residential properties in the vicinity, there are no overlooking or overshadowing implications. Noise and disturbance generated by future occupiers is unlikely to be material given the surrounding context and the previous use of the site.

Noise

- 6.31 Since this application's submission significant investigation and assessment of the impact of noise and vibration has been undertaken by officers with the assistance of Regulatory Services. This has included a site visit to the neighbouring premises. The site directly adjoins active industrial premises and efforts to both safeguard the amenity of future occupiers of the development and to safeguard the operation of these businesses have been paramount importance in assessing this submission. Officers needed comfort that the proposal would provide a suitable living environment without significant harm to these occupiers, one of which has been in situ for almost 200 years.
- 6.32 Since submission further information in relation to noise has been provided and the scheme has been amended in an effort to reduce the likelihood of conflict between the two uses including ensuring no openable windows have direct line of sight to the industrial sources of noise. Whilst there is residential to the north, the application proposals would sit residential immediately adjacent to these industrial uses.

Samuel Heath

- 6.33 Samuel Heath occupy the majority of the boundary with the development site, wrapping around its western and southern sides. The business manufactures bathroom fixtures and fittings from a collection of buildings that appear to have evolved from the mid-19th-century to the latter half of the 20th-century as the needs of the business has grown. The buildings are largely of brick construction with metal windows and vary from small cellular offices to large-span industrial shed type spaces. The roofs are uninsulated and provide roof lights in a variety of locations. Within this collection of buildings, the function varies from offices to workspace that accommodates heavy machinery including presses and other manufacturing equipment. Some servicing activity takes place on Darwin Street together with Stanhope and Leopold Streets.

Falcon Engineering

- 6.34 This business occupies a relatively small unit adjoining the site's eastern boundary. It comprises of a two-storey workshop to the rear behind a small open yard with small buildings either side. This business provides metal forming functions such as turning, drilling and milling and via computer aided machinery can (and does) operate overnight. There is an extract on the front of the principal building serving this machinery. The building is of brick construction with uninsulated metal roofs. Due to the limited size of the yard servicing for this unit is from Darwin Street.

Other neighbours

- 6.35 Other direct neighbours include a Japanese vehicle importer/sales business which has a large open yard to the rear adjoining part of the application site where vehicles for sale are stored. Access to this is via Leopold Street. Further afield in this block are Gauge Master who provide precision tooling to the Aerospace sector and the Arabesque Restaurant and Shisha Lounge. Land at the corner of Darwin Street appears to be in use by a civils company (Keavman Contractors).

Discussion

- 6.36 Regulatory Services, subject to amendments to the scheme referenced in the latest noise report, raise no objection on noise grounds and are satisfied that the development would create a suitable living environment. The changes referenced in the report have been incorporated into the proposals.
- 6.37 Neighbouring occupiers have raised the issue of noise and disturbance in their objections. Whilst Regulatory Services has no objection, there will be impacts from the adjacent premises from comings and going to the adjacent premises. Samuel Heath benefits from a number of accesses around its buildings which at the very least dilute the impact of large servicing vehicles on the proposed development. The nearest loading bay shutters on Darwin Street are not directly adjacent to the application site. What will have more of a material impact is the ongoing servicing of Falcon Engineering given their limited capacity for handling deliveries on site. Service vehicles are likely to generally pull up in front of this business and be located directly in front of apartments at this closest corner of the development. This will cause an element of disturbance. Slight mitigation is provided by the setback nature of the lower two levels.
- 6.38 In more recent correspondence neighbours have raised the level of amenity offered by the development. Regulatory Services has responded to this specific point noting

that the main source of any noise on this façade will be traffic or other non-specific noise (not identified with a particular premises). Due to the low traffic flows on Darwin St and general level of the noise they would not expect this to be an issue for future residents, most residents would expect some noise from the street and it would only be very noticeable noises (i.e. with character or non-anonymous) that may give rise to disturbance. In addition, in general the courtyard is well shielded from surrounding noise sources and therefore they would not expect noise here to be a significant issue.

- 6.39 Although Regulatory Services considers this subject to low traffic flows (and compared with an arterial route that's true), however for a relatively minor street Darwin Street is relatively busy with high on-street parking pressure and therefore the impact of servicing needs to be considered in this context. The site is within a mixed-use area and residents should legitimately anticipate a level of amenity akin to this peripheral city-centre site rather than a suburban location where commercial use is absent.
- 6.40 Taking all of the above into consideration together with the particulars of the amended application, the conclusion reached is that subject to conditions requiring the mitigation measures set out in the application being fully provided, the development would provide a satisfactory level of residential amenity and refusal on noise grounds could not be sustained.

Transportation Matters

- 6.41 A number of the comments received to the application strongly object to the level of on-site car parking spaces and note that the current street is the subject of high parking pressure. Policy TP38 of the BDP seeks to ensure land use planning decisions support and promote sustainable travel and Transportation Development raises no objections to this development providing 24 on-site parking spaces (21%) and 116 cycle spaces.
- 6.42 High parking pressure along Darwin Street is evident. This is likely to be a mixture of local residents, local commercial uses/staff and parking associated with the nearby school. Transportation Development comment that there are no on-street parking restrictions and that the proposed use would generate far fewer HGV movements than the consented use. They conclude by raising no objection subject to conditions requiring a suitable highway agreement for the necessary changes, that the cycle and car parking facilities are provided, and a construction and demolition management plan be agreed.
- 6.43 The site can be considered as city centre; all be it slightly peripheral to the city core. The city centre proper would be walkable/cyclable for most and Highgate Centre with local amenities is also roughly a 10-minute walk away (0.5 mile). Bus stops are nearby, including on the Middleway to the east. Train stations and metro stops are located in the city core with Moor Street approximately a 1-mile walk from the site (the closer Bordesley Station has a very limited service when football is being played at St. Andrew's Stadium).
- 6.44 Therefore, the site can be considered as being in a sustainable and accessible location and is supported by 100% cycle parking provision. Whilst local concerns about parking are noted the scheme is in accordance with the Car Parking Guidelines SPD. The NPPF requires development to give priority to pedestrian and cycle movements and facilitate so far as possible access to public transport. It is clear that "development should only be prevented or refused on highway grounds if there would

be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

- 6.45 Given that Transportation Development have not identified any highway safety or cumulative impacts on the highway network, given the sustainable nature of the site and the efforts to encourage travel by more sustainable means than the private car no objections are raised on highway grounds.
- 6.46 Whilst not identified by Transportation Development, the applicants have offered to undertake a review and fund changes to on-street parking should this be considered necessary in light of local on-street parking pressures and local concerns.

Drainage

- 6.47 Severn Trent Water raise no objection subject to a condition requiring foul and surface water drainage details. The Lead Local Flood Authority raise no objection subject to conditions and informatives. These conditions are recommended below.

Sustainability and Ecology

- 6.48 The City's Principal Ecology officer raises no objection subject to conditions and is satisfied that despite the length of time that has elapsed since the original submission the ecological appraisal still provides a reasonable assessment of the site's ecological characteristics and its value for protected species. No further survey work is required at this stage, however, if demolition works have not commenced by March 2021, an updated bat survey (Preliminary Roost Assessment) should be completed to ensure there has been no change in the bat roost status of the buildings. This requirement should be secured by condition. Although much of the building has already been demolished, as the front wall survives such a condition would continue to serve a purpose and is recommended.
- 6.49 Despite the minimal ecological constraints, the report includes recommendations for precautionary approaches to wider site clearance/demolition to minimise the risk of harm to wildlife and to ensure compliance with protected species legislation. Whilst much of the site has now been cleared, implementation of these recommendations for the remainder of the site could be secured by condition and is recommended.
- 6.50 BCC Planning and Growth Strategy recognise that the Design and Access Statement commits to low energy lighting, a heat recovery system, mechanical ventilation and each apartment having a heat interface unit in addition to a scheme of photovoltaic equipment on the rooftop. Whilst this is welcome, in accordance with policy TP4 of the BDP further details of the photovoltaics are needed. A condition is therefore recommended to secure submission of this detail.

Equality Impact

- 6.51 Access Birmingham consider that as the whole building is not fully accessible (i.e. there is no lift) this discriminates against those with disabilities. Two lifts are provided within the reception area providing level access throughout the majority of the building with the only inaccessible areas being the upper floors of six apartments (the top storey parts of the duplex units). The two amenity spaces benefit from level access. In response the applicant comments that these units comprise just 0.5% of the overall number of apartments and confirmed that to add further lift provision for

these units would negatively impact the financial viability of the scheme and, the private staircases within each unit 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 have been discharged in this instance.

Public Participation

- 6.52 The adjacent businesses and local residents have objected to the scheme as set out above. Issues of impact upon amenity (and therefore viability of adjacent businesses) and parking which are common themes in objections received are considered in detail in this report. In addition, concerns regarding the quality of the proposed development including the usability of the amenity spaces have been raised. The amenity space to the rear of the development would be somewhat overshadowed by existing and proposed development, however it would nevertheless provide some outdoor space for residents. In addition, details of the rooftop amenity space would be secured by condition so as to ensure no line of sight to the adjacent industrial use. In addition the city centre context of these spaces is material, where a level of amenity/tranquillity expected in a suburban setting would not legitimately be expected here. An objector has raised the issue of odour, which is a material planning consideration. Regulatory Services have raised no concerns on this matter, and whilst, generally there is smell associated with the adjacent uses (namely oil) this is not considered so pervasive as to prevent an appropriate level of amenity. It is noted that, whilst not as close, residential use already exists in the local area. The lack of objection from Regulatory Services and discussion on the wider amenity issues generated by the scheme are discussed above.

Planning Obligations

- 6.53 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a financial assessment with the application that comments that the development is unviable in that it would not make a sufficient developer return, even with the vacant building credit applied. The supporting statement concludes that 12 units (10.25%) at a maximum discount of 25% is the maximum that the scheme can sustain. This has been the subject of independent review on behalf of the city and they concur with this conclusion. The issue of whether vacant building credit is applicable (as the building has been demolished) is a moot point given that even with this applied the scheme would not be able to sustain 19.5% affordable housing provision which would be the target with the credit applied. A slightly greater percentage of affordable housing could be provided if the NPPF minimum level of discount were applied (20%) however greater overall benefit would, in officer's opinion, be derived from a further 5% discount as recommended.
- 6.54 The Section 106 offer would meet the necessity tests set out in the CIL Regulations.
- 6.55 It is noted that Local Services have requested a financial contribution towards the provision of/improvement to public open space in the area. Given the overall viability position of the development, together with the proximity of Highgate Park to the application site it is appropriate to divert the entire planning contribution towards affordable housing in this instance. Education's request for a contribution is also noted, however again given the nature of the scheme and the demand needed in the city, affordable housing should be prioritised.

7.0 Conclusion

- 7.1 The proposed development raises a number of material planning issues that must be considered as part of an overall planning balance. In support of the scheme the development would deliver significant urban design and visual amenity benefits and new housing including an on-site affordable provision. The amenity implications of siting residential in such close proximity to industrial uses has been given intense scrutiny, with the final version of the scheme presented to committee supported by various noise study information. On the basis of this scrutiny and information Regulatory Services, being the city's technical experts on this matter, raise no objection. The development does result in the loss of a use that whilst it was not employment land, did provide some level of employment. In addition, some minor harm to the adjacent undesignated heritage asset has been identified.
- 7.2 In conclusion, the benefits of the development outweigh those disbenefits set out in the report and approval, subject to safeguarding conditions, is recommended.

8.0 Recommendation

- 8.1 That application 2019/03469/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) The provision of 12 open market sale dwellings of a proportionate mix at a 25% discount on normal market rents in perpetuity
 - b) 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
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the **20th December 2020** or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-
- In the absence of a legal agreement to secure any on-site affordable market sale dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
- 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 **20th December 2020** planning permission for application 2019/03469/PA be APPROVED, subject to the conditions listed below:-

-
- | | |
|---|---|
| 1 | Requires the prior submission of a contamination remediation scheme |
| 2 | Requires the submission of sample materials |
| 3 | Requires the prior submission of level details |
| 4 | Requires the submission of architectural design details |
-

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- 5 Requires an employment construction plan
 - 6 Requires the submission of cycle storage details
 - 7 Requires the prior submission of a construction and demolition method statement/management plan
 - 8 Requires the prior submission of a sustainable drainage scheme
 - 9 Requires the prior approval of details of the performance and appearance of the photovoltaic panels
 - 10 Requires the prior submission of a foul drainage details
 - 11 Requires the prior submission of details of bird/bat boxes
 - 12 Requires the submission of details of green/brown roofs including the amenity area
 - 13 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
 - 14 Requires the submission details obscure glazing for specific areas of the approved building
 - 15 Requires the submission of boundary treatment details
 - 16 Prevents occupation until the turning and parking area has been constructed
 - 17 Requires the submission of hard and/or soft landscape details
 - 18 Requires the submission of a CCTV scheme
 - 19 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 20 Requires the submission and completion of works for the S278/TRO Agreement
 - 21 Requires the submission of a contaminated land verification report
 - 22 Requires the provision of a vehicle charging point
 - 23 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 24 Requires the prior submission of an additional bat survey if further demolition works do not commence by 1st March 2021
 - 25 Prevents further windows being added without prior approval
 - 26 Requires the development to be carried out in accordance with the submitted noise report
 - 27 Requires the scheme to be in accordance with the listed approved plans
-

28 Implement within 3 years (Full)

Case Officer: Nicholas Jackson

Photo(s)



Photo 1 – The application site prior to the majority of the building's demolition. The service yard and canopy is in the foreground



Photo 2 – Taken during early demolition works (the roof had been removed) showing the previous building and yard



Photo 3 – View along Darwin facing west showing the former building, high levels of on street parking and on-street servicing for Falcon Engineering to the left of the image



Photo 4 – Recent photograph of site frontage

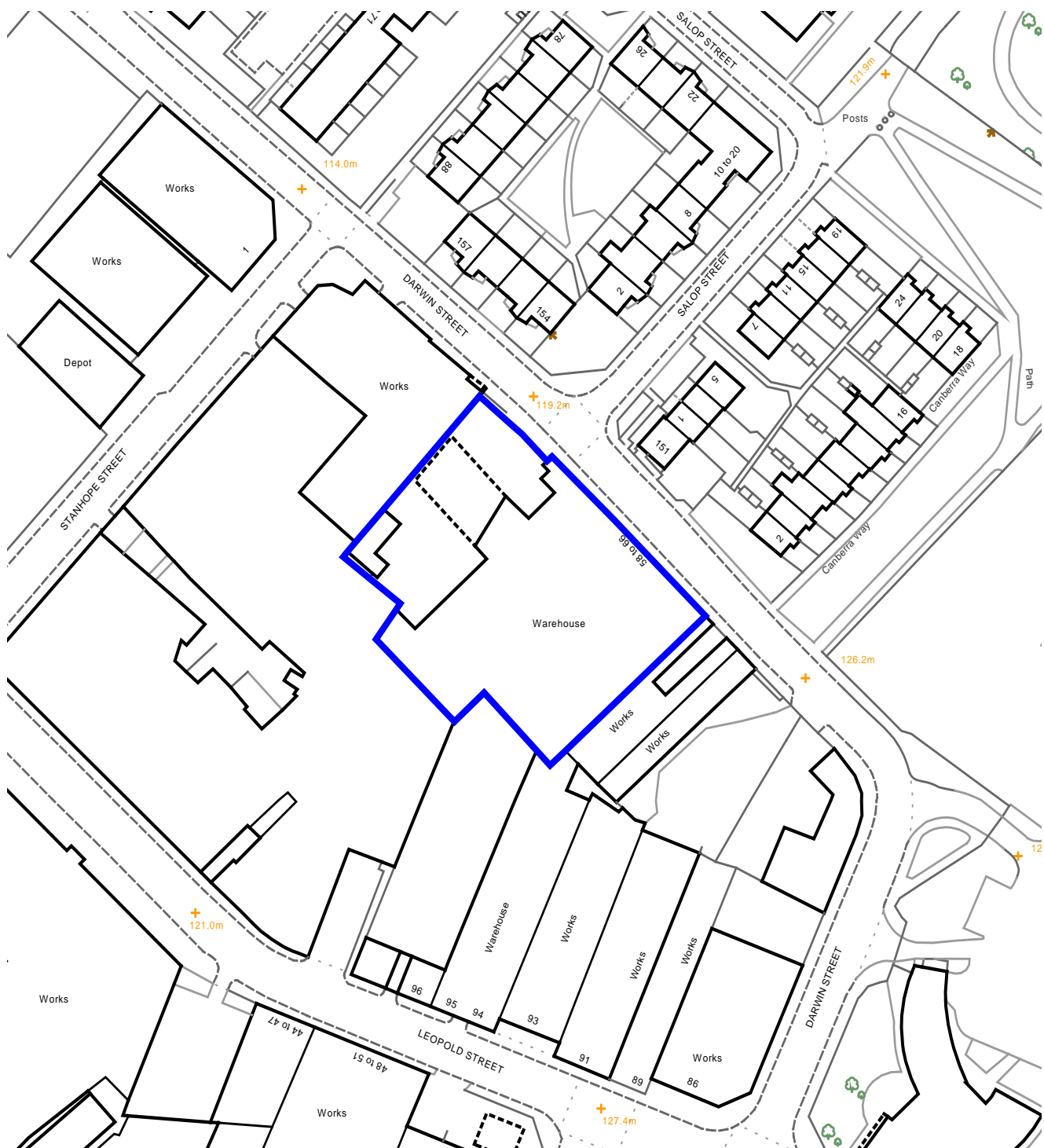


Photo 5 – Recent photograph of the site showing adjacent buildings



Photo 6 – Showing the juxtaposition of residential and industrial/commercial

Location Plan



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Committee Date:	19/11/2020	Application Number:	2020/02556/PA
Accepted:	06/04/2020	Application Type:	Full Planning
Target Date:	15/02/2021		
Ward:	Soho & Jewellery Quarter		

Land bounded by Lionel Street, Livery Street, Great Charles Street and Ludgate Hill, Jewellery Quarter, Birmingham, B3

Construction of a mixed-use development of 3-39 storeys comprising 722 residential apartments (Use Class C3) with ancillary internal and external amenity areas, ground floor commercial floor space (Use Classes A1, A2, A3, A4, B1, D1, D2) and associated works including site clearance, public realm, landscaping and parking

Recommendation

Approve Subject to a Section 111 Legal Agreement

1. Proposal

- 1.1 The application proposes the redevelopment of a large cleared plot of 0.98 ha which has frontages to Great Charles Street, Ludgate Hill, Lionel Street and Livery Street within the Jewellery Quarter Conservation Area. Planning permission is sought for its development with a private rental housing scheme of 722 apartments with associated resident's communal facilities and a range of ground floor commercial units providing 2,159 sq.m for A1, A2, A3, A4, B1, D1 and/or D2 uses.
- 1.2 The development would be accommodated in 3 blocks (A-C) with heights of between 3-39 storeys. They would be located at the back edge of the pavement on the site frontages apart from Livery Street, where the built form would be set back behind a landscaped arrival plaza. The blocks would enclose a large internal courtyard/amenity space which includes a private pedestrian route through the site between Livery Street and Ludgate Hill to align with the route of Ludgate Passage which previously crossed the site. Active ground floor uses would face the street with apartments above. A lower ground floor level would be provided on the Lionel Street frontage with a vehicular entrance to a basement area accommodating a CHP facility, bin and cycle storage areas, resident's storage space and car parking.



Figure 1: Site layout at street level



Figure 2: Proposed upper ground floor layout

- 1.3 The development has been designed to provide a transition between the Jewellery Quarter Conservation Area and the city core. Lower buildings heights are proposed on the Lionel Street frontage facing existing buildings in the conservation area with the taller elements on the Great Charles Street frontage facing towards the city centre core and the Queensway. Block A would form the tallest part of the scheme being a tall tower of 39 storeys located at the junction of Great Charles Street and Livery Street. It would accommodate 366 apartments and residents communal facilities with the ground floor providing commercial units and the main entrance into the development from Livery Street via the new landscaped arrival square.



Figure 3: Birds eye view of proposals

- 1.4 Block B would extend along the remainder of the Great Charles Street frontage and half way along the Ludgate Hill frontage. It would be linked to Block A with a double height glazed link and have heights of 16 Storeys and 11 storeys on the Great Charles Street frontage and to the corner with Ludgate Hill before dropping down to a height of 6 storeys. At the rear of the Great Charles Street frontage on Block B there is also a short wing into the courtyard area of 10 storeys. This block would accommodate 236 apartments with commercial and resident's communal space on the ground floor.
- 1.5 Block C would be detached from the other blocks and extend the full length of the Lionel Street frontage and continue around the junctions onto Ludgate Hill and Livery Street. It would provide 120 apartments, a double height entrance on the corner of Lionel Street and Ludgate Hill and ground floor commercial units on the other street frontages. Proposed buildings heights are 5 and 6 storeys but a small section drops down to and 3 and 4 storeys on Ludgate Hill.
- 1.5 The design proposed for each block would reflect its location and form. The tower element has been designed to be a tall elegant structure with its narrowest gable facing towards the Jewellery Quarter. It would be of glass with a primary and secondary grid of vertical black piers to emphasis its height and use a grey spandrel panel every third floor. There would be slightly different treatment to the base, main section and the crown. The ground floor would have taller, floor to ceiling heights and have full height glazing to emphasis the commercial uses. On floor 18 there would be a different glazing pattern to show the location of the resident's communal facilities.



Figure 4: Proposed views of Block A and the arrival plaza fronting Livery Street

- 1.6 Where Block B, fronts Great Charles Street its design seeks to reflect the character of the existing large mansion houses that front this street further north and would have a similar order and proportions. It has been subdivided to have the appearance of two blocks with different heights and widths and would use slightly different tone

materials. The elevations treatment would also be different with the lower block having a vertical pier between each window, a tall parapet detail and smooth polished concrete to the base. The taller section would have grid of piers every second floor and a base of double height polished and fluted concrete. The upper floors would be of stone effect aluminium panels. Where Block B fronts Ludgate Hill the same treatment is initially proposed but where the building reduces in height to six storeys it would have a more traditional appearance. This includes the use of a grid of brickwork piers, concrete lintels and vertical stacked brickwork to the crown. The ground floor would have double height openings and a brickwork stall riser.



Figure 5: Views of proposed Block B from Great Charles Street and Ludgate Hill

- 1.7 For Block C which fronts Lionel Street the development has been designed to reflect the lower scale and form of buildings on the opposite side of the street which are more characteristic of the JQ Conservation Area. Here the block has been subdivided to have the appearance of 4 buildings with different heights, fenestration treatment and detailing but would all be of brick with a flat roof and parapet detail. These include the use of brick piers with recessed slim line aluminium windows of different styles, use of stacked and projecting brickwork, decorative tiles and concrete lintels. On the ground floor the openings would be double height to accommodate the ground floor commercial units and main residential entrance. This frontage would also accommodate the vehicle entrance to the basement car park secured with perforated aluminium doors. These lower scale buildings also continue around the junctions with Ludgate Hill and Livery Street.



Figure 6: Views of proposed Block C from Lionel Street

1.8 The building designs also include measures to save energy consumption and reduce carbon emissions including a fabric first approach to reduce the buildings energy demand, maximising the use of insulation and stringent airtightness standards. This would be combined with passive solar gain, mechanical ventilation and heat recovery systems that require minimal heating. Central Mechanical Ventilation with Heat Recovery (MVHR) systems would be specified in each dwelling to maintain a healthy living environment, reduce heat loss and energy demands. In addition the MVHR system would also help address issues of noise and air quality within the apartments. LED lighting is proposed to communal areas to improve energy efficiency. The applicant's energy report anticipates the development will achieve approximately 10.3% reduction in development wide CO2 emissions beyond the Building Regulations from its passive design and energy efficiency measures. In addition they are proposing a number of renewable technologies including an on-site CHP and a voltaic system to generate on site electrical energy with panels located at roof level which it is anticipated would lead to a 19.2% reduction in CO2 emissions beyond the Building Regulations.

1.9 The mix of apartments proposed is as follows:-

Accommodation type	Number	Sizes	Percentage
1 bed x 1 person	158	42 - 45 sq.m	22%
1 bed x 2 person	213	50 sq.m	29%
2 bed	315	70 – 86 sq.m	44%
3 bed	35	93 - 113 sqm	5%

The apartments would all be for market rent with 5% being offered as affordable market rent units in the form of 36 units discounted by 20% of open market rent.

1.10 The development includes a range of internal and external communal facilities for residents. The internal facilities total 1,604 sq.m and provide reception/lounge areas, co-working space, private dining areas, gym and spa, library and media rooms. The external communal spaces cover 3,204 sq.m and include roof gardens and a large central courtyard space. Other flat roof areas would accommodate green roof and solar panels and some of apartments also have private terraces.

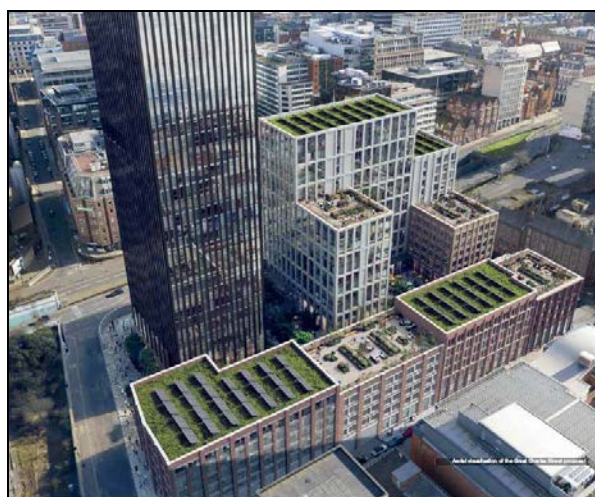


Figure 7: Birds eye view showing proposed roof top treatment

- 1.11 The application proposals also include improvements to the public realm around the site frontages as well as the new plaza/arrival space in front of the Block A fronting Lionel Street. The works include footways being built out into the carriageway in key locations to provide segregated on-street servicing bays as well as reducing the road widths. The footways around the site would be resurfaced in blue brick paving apart from on the Great Charles Street frontage where concrete blockwork paving would be used and several tree planters provided. The new public square on Lionel Street is designed to form an arrival space between the development, the rear entrance to Snow Hill Station and the underpass that provides a pedestrian crossing under Great Charles Street. It would be laid out with granite paving, street furniture and tree planting. The tree planting and planters also form part of the wind mitigation measures for the development.
- 1.12 Vehicular access to the development would be from Lionel Street into the lower ground floor car park with 41 (5.7%) parking spaces including 4 electric vehicle charging points. Deliveries and servicing would be from Lionel Street, Livery Street and Ludgate Hill utilising the on street loading bays proposed. There would be 462 cycle parking spaces within the basement area representing a 64% provision.
- 1.13 The application is supported by a Aerodrome Safeguarding Assessment, Air Quality Assessment, Tree Survey, Archaeological Assessment, Communications Impact Assessment, Daylight and Sunlight Assessment, Design and Access Statement, Landscape Strategy, Economic Benefits Summary, Energy Statement, Financial Viability Statement, Flood Risk and SUDS Assessment, Geo-environmental Desk Study, Ground Penetrating Radar Survey, Heritage Statement, Noise and Vibration Assessment, Planning Statement (including Tall Building Assessment), Preliminary Ecological Appraisal, Statement of Community Engagement, Television Baseline Survey Report, Townscape and Visual Impact Assessment, Transport Assessment and Travel Plan, Utility Statement, Ventilation Statement, Waste Management Strategy and Wind Microclimate Assessment. An EIA screening opinion was requested and officers have concluded that the proposals do not require an Environmental Statement.
- 1.14 [Link to Documents](#)
2. Site & Surroundings
- 2.1 The application site extends to 0.98 hectares and is located on southern edge of the Jewellery Quarter close to the City Centre core, Central Business District and Snow Hill Station. It has frontages of about 110 metres to Great Charles Street Queensway (A4400) and Lionel Street and about 55 metres to Ludgate Hill and Livery Street. There is a change in levels across the site of about 5.5 metres. It was fully occupied by buildings until about 70 years ago when a further narrow street crossed the site known as Ludgate Hill Passage.
- 2.2 In recent years the site has been used as two surface level car parks which are served by seven existing vehicular access points onto Livery Street, Lionel Street and Ludgate Hill. It primarily consists of hardstanding and hard core materials with areas of unkempt grassland and a number of self-seeded trees. It is enclosed with a mix of low walls and fencing and there are two large digital adverts on the Great Charles Street frontage
- 2.3 Opposite the site are variety of commercial and residential developments, vacant buildings and the railway arches associated with Snow Hill station. The buildings

opposite the site frontages comprise mainly of modern office developments on the Great Charles Street frontage with more traditional lower scale buildings on Ludgate Hill and Lionel Street, several of which have been converted into apartments. Within the railway arches are a number of small retail units and bars as well as an entrance to Snow Hill Station. On the street frontage to Great Charles Street are the ramps to a subway that runs under the Queensway and there is also a pedestrian bridge over the road from Ludgate Hill. Both provide links between the City Centre core and the Jewellery Quarter.

- 2.4 The site lies within the Jewellery Quarter conservation area and close to the northern boundary of the Colmore Row and Environs conservation area. There are a number of listed buildings in the vicinity of the site including the Church of St Paul – Grade 1 listed, Cathedral Church of St Chad and 45 Great Charles Street both listed Grade II* and no's 61 Ludgate Hill, 63 – 64 Ludgate Hill, 37– 39 Ludgate Hill, 31 – 33 Ludgate Hill, 63 St Pauls Square, 1 St Pauls Square, 23 Ludgate Hill, 21 Ludgate Hill, 61 Newhall Street and the Public Toilets within Snow Hill Railway Arch all listed Grade II.

2.5 [Site Location](#)

3. [Planning History](#)

- 3.1 06/09/2005 - 2005/04253/PA – Consent given for replacement of 7 x 48 sheet externally illuminated adverts with 2 internally-illuminated pole mounted displays.
- 3.2 28/02/2002 - 2001/06425/PA – Planning permission granted for mixed use development comprising coach terminal, terminal building, with ancillary uses, hotel with ground floor food and drink uses (Class A3), office building and apartment building, including parking area and means of access.

4 [Consultation/PP Responses](#)

- 4.1 Transportation – No objection and comment that the proposal will result in a significant reduction of vehicle trips and the principle of development is supported by the Birmingham Transport Plan. They request conditions are imposed requiring a Section 278 Highway agreement, delivery/servicing strategy and omission of the D1 current use class.
- 4.2 Regulatory Services – Object in principle to the scheme which would create not only new residential exposure in an area with significant air quality challenges, but would also create a street canyon which has a wider Air Quality impact and is in a poor acoustic setting. Comment that with regard to contaminated land further intrusive investigation works is recommended which can be adequately conditioned. They would require further details on the proposals for the commercial uses in relation to extraction and noise insulation but are content that this can be conditioned.
- 4.2.1 With regard to noise Regulatory Services comment that noise levels exceed the levels at which they would recommend refusal on the Great Charles Street façade and it would provide a poor acoustic environment. Although the applicants have provided further reports they still conclude that this location is a poor acoustic environment given the impacts of traffic, rail and commercial noise. In the event that permission is granted they consider the proposed façade treatments are broadly acceptable. However there needs to be an assessment of railway noise over a 24-hour period and if any of the commercial units are used as a gym a detailed assessment to minimise the risk of adverse impacts to structurally connected apartments is required and should be conditioned. They would also require a revised

scheme once the design is progressed to provide composite façade insulation design and a commissioning test of the performance of the installed system. In addition there will need to be an overheating assessment in accordance where sealed windows are necessary for air quality reasons

- 4.2.2 With regard to air quality they comment that the summary provided in the applicants report concludes an adverse AQ impact in 2023 up to the 5th floor on the Great Charles Street façade. This is largely due to the height of the tower creating a road canyon which will adversely affect dispersion of traffic emissions up to the 5th floor. The applicants report outlines the hierarchical approach to mitigation being to seal the windows and provide NOx removal which they do not accept. They still consider the proposal will create a road canyon which will adversely affect dispersion of pollutants in the vicinity and worsen air quality. However in the event that it is decided to approve the application they recommend a condition is requiring a minimum of 6-months monitoring for nitrogen dioxide adjacent to Great Charles Street and submission of proposed measures to mitigate any adverse air quality impacts where national air quality objectives for exposure to NOx are likely to be exceeded.
- 4.3 Local Services - No objection but comment that in a City Centre which is desperately short of Green Infrastructure and it is disappointing that this major development makes no external attempt to enhance green ground level street links that would help form and encourage connections across Great Charles Street. Some form of greener 'stepping stone' between St Philips Cathedral Square and St Paul's Square would have been particularly appropriate on this site. Notwithstanding this as the scheme is for over 20 dwellings it should be subject to an off-site POS and play area contribution in accordance with the BDP. This is calculated as £1,469,475 which would be spent on the provision, improvement and/or biodiversity enhancement of public open space, and the maintenance thereof at St Paul's Square, New Spring Street POS and All Saints Parks all within the Soho and Jewellery Quarter Ward.
- 4.4 Lead Local Flood Authority – No objection subject to suitable drainage conditions being imposed.
- 4.5 BCC's Employment Team – Request either a S106 agreement or conditions to secure a construction employment plan.
- 4.6 Education -School Organisation Team request a contribution under Section 106 for the provision of places at local schools. Subject to a surplus pupil place analysis they request a total of £1,615,057 for nursery, primary and secondary school places.
- 4.7 Historic England - Objects to this application due to the harm caused to the character and appearance of the Jewellery Quarter Conservation Area, and to the significance of some of Birmingham's most revered and highly significant heritage assets. With such colossal height and scale proposed they feel that the scheme would need to be significantly reduced to address the impact on the historic environment.
- 4.7.1 They comment that they gave pre-application advice that they were gravely concerned at the impact this large scale development would have on the Jewellery Quarter Conservation Area and upon the significance of the Grade I listed St Paul's. Despite this advice, the proposed designs remain unchanged from pre-application stage. Some effort has been made to develop the elevations along Lionel Street to give some variation in building plots and heights and in emulating a style which loosely speaks of the larger former manufactories that stood in this location in the middle of the 20th century. Whilst this approach is understood, they fear this has been at the expense of the rest of the site which offers little or no reference to its

surrounding historic environment. The 'City Fringe' character area is described as being a transitional point between the edge of the Jewellery Quarter and into the city centre, however the scheme includes buildings which are of a larger scale than those even those within the city centre.

- 4.7.2 Historic England recognise that the site sits at the edge of Birmingham City Council's 'Central Ridge Zone' for Tall Buildings in the Snow Hill Masterplan and have no objection to the development of the site in principle which provides a welcome opportunity for enhancement in the conservation area. Whilst some modest increase in building height at this far eastern corner of the site is not disputed, at 39 storeys the proposed tower would be among the tallest buildings in Birmingham. It would be nearly twice that of the neighbouring Snow Hill developments which, even at their 20 storeys, have a considerable presence. Similarly, they have no objection to some increased height along Great Charles Street, however the proposed block of 16 storeys also appears an overly large mass which is dominant in the context, approximately twice the height of even those larger 20th century Portland Stone offices that characterise the more densely developed parts of Newhall Street, some distance from the site. Even the applicants Heritage Statement acknowledges, *"the taller buildings currently appreciable within and beyond the boundary of the conservation area are limited in number, of lower height than the proposed development, or only visible in distant views"*
- 4.7.3 Historic England further comment that from various locations within the Jewellery Quarter Conservation Area, the images presented and Heritage Statement show that the scheme proposes buildings of almost twice the height and scale of any other close by. The resulting effect is that the scale is not only increased dramatically, but brought closer and more prominent in views from within the conservation area. This impact is thrown into sharp relief in views provided from Caroline Street, St Paul's Square, and Ludgate Hill, where both the 39 storey tower and adjacent 16 storey block stand over the Quarter's historic streetscape. Similarly, these viewpoints indicate a considerable impact on the setting of the Grade I listed St Paul's Church which plays a fundamental role in the story and significance of the Jewellery Quarter. The images presented show the proposed tower dominating and distracting views of the Church from the north-west, competing with its tower and spire. They fear that the impact on St Paul's may be even more acute as you move through St Paul's Square and your perspective changes.
- 4.7.4 Historic England also feel that the proposed tower is likely to exacerbate the cumulative impact of existing and emerging tall buildings on the Grade II* listed Roman Catholic Cathedral of St Chad which has become increasingly isolated and dominated by road traffic and by unsympathetic neighbouring developments. They consider further information to indicate the potential impact upon the setting of Birmingham's Grade I listed St Philip's Cathedral should be provided.
- 4.7.5 They comment that the conservation area's defining low-scale character and appearance is such that the City Council's Jewellery Quarter Design Guide sets out a clear limit of four storeys for the scale of new development within the Quarter with a view to preserving local character and distinctiveness. Whilst this limit does not extend to the City Fringe character area whose townscape is more varied, the document emphasises the careful attention required to be given to important characteristics such as the scale and grain of the historic townscape. In considering applications for planning permission the local authority has a statutory duty to have special regard to the desirability of preserving the setting of listed buildings (Section 66) and of preserving or enhancing the character or appearance of a conservation area (Section 72). What is more, section 16 of the NPPF calls for local authorities to

look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance (paragraph 200). Section 12 calls for well-designed places, ensuring that developments are sympathetic to local character and history (paragraph 127c). The present scheme appears far from achieving this.

- 4.7.6 Historic England consider the proposals will affect some of Birmingham's most revered and highly significant heritage assets, resulting in a high level of harm to the character and appearance of the Jewellery Quarter Conservation Area and to the significance of the Grade I listed St Paul's church through development in its setting. They consider this harm to be at the upper end of less-than-substantial, as outlined in the NPPF. It is not clear therefore why a development of such colossal height and scale is considered appropriate in this highly sensitive area, for which heights are an intrinsic element of the character, appearance and significance of its historic environment. They therefore object to the application in its current form and urge the City Council and the applicants to explore ways of developing this site without causing such irreparable harm. They feel that the scheme would need to be significantly reduced in height and scale to address the impact on the historic environment.
- 4.8 Victorian Society - Object to this application and urge the Council to refuse consent. They consider that the proposed development with the 39 storey tower will have a negative impact on the character, appearance, setting and significance of the Jewellery Quarter Conservation Area and its listed buildings as well as on the grade II* listed St Chad's Cathedral. Similar comments could also be made about the impact on the Georgian grade I listed St Paul's Church and St Paul's Square
- 4.8.1 The Victorian Society comment that they note that the development is divided into two parts; that bordering Great Charles Street, being taller and responding to the city centre scale and that bordering Lionel Street, being lower and responding to the scale of buildings into the Jewellery Quarter. Between the two is a garden the length of the block, responding to the earlier division of the block into two by a narrow street between Livery Street and Ludgate Hill, called Ludgate Passage. As a development principle they consider this is appropriate, and they are pleased to note that the Great Charles Street element holds the street building line and includes active uses at street level. Whilst they are keen to see the redevelopment of this car park site, there are two elements of the proposals which they are unable to support.
- 4.8.2 The first is the design of the part of the development on Lionel Street. The heights proposed for these buildings are acceptable, but the intention is to respond to the previous 19th century development pattern by making what appear to be four separate buildings of different design joined together, but in reality one continuous building. They consider this could be better expressed and regret that the proposed façade architecture is undistinguished and verging on the pastiche.
- 4.8.3 Secondly, they note the tall 39 storey tower proposed at the corner of Great Charles Street and Livery Street. Whilst the tower will be set back from Livery Street to make a small public space facing Snow Hill Station and will be within the zone for tall buildings, at 39 storeys the tower will be very visible on views both into and out of the conservation area. The City Fringe Zone of the Jewellery Quarter Conservation Area has two principal building types identified in the Character Appraisal and Management Plan (2002), namely large commercial buildings of between eight and twelve storeys in height, and late 19th and early 20th century factory buildings of three to four storeys in height. In their view the proposed tower is simply too tall for

this location and will have a negative impact on the character and appearance of the JQ conservation area and the listed buildings within it.

- 4.8.4 The Victorian Society also point out that area to the east beyond the conservation area was traditionally characterised by mainly Victorian industrial buildings of two to five storeys, of which the grade II listed buildings further along in Shadwell Street, Princip Street and Loveday Street survive today. However, in this part of the Jewellery Quarter and beyond, St Chad's Cathedral is and has been the most dominant building since the 19th century. When erected the Cathedral was surrounded by small mainly industrial building and although many of these have subsequently been removed and replaced, the impressive scale of the Cathedral can still be best appreciated when it features in views from the nearby streets. The Cathedral with its twin spires should remain strongly prominent, but due to the proposed 39 storey tower it will appear diminished between the tower, the recently completed tall towers at Snow Hill, and other new buildings including those on Shadwell Street currently under construction.
- 4.8.5 The Victorian Society therefore considers that the proposed development with the 39 storey tower will have a negative impact on the character, appearance, setting and significance of the Jewellery Quarter Conservation Area and its listed buildings as well as on the grade II* listed St Chad's Cathedral. They are also concerned about the impact on the grade I listed St Paul's Church and St Paul's Square.
- 4.9 Birmingham Civic Society – Comment that their committee found much to be applauded in the overall strategic use of the site, but could not yet support the scheme given it given the impact of the tower (Block A). Overall they felt its design does not sufficiently meet the test set out in High Places which states that *“buildings will be required to reflect the highest architectural standards and to respect and respond to the surrounding context”*. They raise the following points:-
- The application site is in great need of development and this is a carefully considered scheme, however the overall height of the tower is significant, with impact on a number of historic areas.
 - The tower is the most challenging aspect of the scheme, which at 39 storeys will equal to Beetham Tower, which is in a similar position on the Inner Ring Road with respect to the city centre, acting as a city gateway building and with a similar dominance upon the skyline, visible from many locations. That building is 121m, compared to the 152m BT Tower close to MODA's site. However in terms of impacts, that on the historic environment is most significant and is where this proposal differs from examples such as Beetham Tower.
 - High Places guidance of 2003, notes that *“unless there are exceptional reasons... tall buildings should not be located in areas where they disrupt an existing coherent townscape of merit or block important views and sightlines of key buildings and spaces; for example, in a conservation area or adjacent to listed buildings”*.
 - The proposal is within the Jewellery Quarter Conservation Area, albeit on a site which is fully occupied by surface level car parking and which has no visible characteristics reflective of the CA.
 - The site is close to the Grade II* St Chad's Cathedral which is the seat of Roman Catholic worship in the city, designed by Pugin. The height of the tower, and visual impact of the setting of the Cathedral, including views along Queensway from both directions, is potentially the development's most serious impact. We are particularly concerned that this proposal will create a precedent for further development adjacent to the cathedral, particularly to its west.

- 61 and 63-64 Ludgate Hill are Grade II listed, and while the proposed development will have some impact we would anticipate the 'activation' of the area locally will enhance the likelihood of these buildings being brought back into beneficial use.
- There are other listed buildings opposite, including two Grade II*, but with much changed setting, particularly by Queensway, which reduce the relative impact of the development.
- Other significant views include those between the two spires of St Paul's in the Jewellery Quarter and St Philip's Cathedral – these spires form an axis between the two significant squares which a new tower will compete with. Its placement in the Eastern corner of the site limits this impact however.
- We are particularly concerned by the impact on views from St Paul's Square. The tower will be visible from a considerable number of locations throughout the city.
- We are concerned that the Heritage Statement considers that there were "*no locally-listed buildings or structures near the application site with potential to be affected by the proposed Development*". Given the number of locations from which the tower would be visible, we considered this could not be the case and would encourage a more detailed scoping exercise to be carried out.
- The scheme represents a significant opportunity to improve an area of the city which has been poorly utilised for many years, disconnecting the Jewellery Quarter from the City Centre. The proposals fulfil the desire of the Snow Hill Masterplan to 'extend' the office core beyond the artificial boundary created by Queensway Great Charles Street.
- The site acts as a transitional area between the characters of St Paul's Square and Ludgate Hill, and those of the city centre. We feel that this approach is sound, mediating between the building heights, plot widths and detailing between the differing conditions surrounding. We query whether it is possible to mitigate to the height of the tower by increasing the height of these surrounding buildings.
- The proposal takes inspiration from the townscape of Ludgate Hill / Lionel Street. Quality of detailing and materials are important and inspiration should be sought from the best examples. We accept that construction of the elevations to Lionel Street will require considerable expense but this is an important mitigation for the height of the proposed tower.
- The tower would be 19 storeys greater than the approved 20 storey Three Snow Hill adjacent.
- The Snow Hill Masterplan notes that "*Tall buildings of greater than 15 storeys may be appropriate at key gateway locations*". The site is close to that of Three Snow Hill which is marked in the 2003 guidance as an appropriate site for tall buildings and is also within the 'city centre ridge'.
- Overall it is felt that the design should respond more closely to the historic precedents of the Jewellery Quarter or more closely reflect the individual conditions of the site. Expression of a 'plinth' would be beneficial to improve the view along Great Charles Street moving towards St Chad's. Critical to the success of such as tall building will be its slenderness, material quality, elegance of detailing, and the benefit to in acting as a gateway on this very prominent vehicular route through the city.

4.10 Jewellery Quarter Development Trust – Have submitted a holding objection in relation to the height of Block B facing Great Charles Street. They comment that the development of this site is very welcome as it has lain empty for decades, contributing to the physical barrier which separates the Jewellery Quarter from the city core.

They SUPPORT:-

- The creation of a route through the site, which references the historical route of Ludgate Hill Passage both in its orientation and through the use of blue-brick pavers. Understand that while it is a private route, it will be open to the public during the day and request this is secured through planning conditions and that suitable hours would be 7am – 8pm.
- The on-site landscaping proposals referencing the site's historical uses and demarcate previous plot lines. The quality in detailing and material specification must be secured through conditions.
- The provision of a variety of commercial unit sizes around the perimeter of the building including the opportunity for food & beverage opposite Snow Hill Station entrance and smaller units on Lionel St.
- The provision of public art and the suggestion that the gates to Ludgate Hill Passage could be developed working with a local artist. This should be secured through conditions and also carried through to other architectural features such as metalwork, entrance doors etc.
- The limited provision of vehicle parking and encourage the applicant to consider a car club
- The external amenity space including the residents' terraces. The green roofs will also provide visual amenity for residents in upper storeys as well as improving biodiversity.

4.10.1 The JQDT comment that although the design response for this development does not justify a tower (Block A) they understand that it is desired by the applicant and that part of the site is demarcated as suitable for a tall building in Birmingham City Council's Snow Hill Masterplan. It will provide a landmark for Snow Hill Station and will join a series of tall buildings along the A38 corridor. They are therefore comfortable with the principle of a tall building and support its relatively small footprint, its orientation facing the narrow-side onto the Jewellery Quarter which creates a plaza for the Arrival Space on Livery St which will become a key visual marker when viewed from Colmore Row. They are also very pleased to see extensive use of brick, differences in bond, and the depth of the brickwork façade, on the Lionel Street Block C. Although they would prefer individual buildings rather than a continuous block they consider the elevational treatment achieves the optical illusion of separate buildings very well and must be secured to ensure sill heights, reveal depths and façade details are delivered.

4.10.2 The JQDT however OBJECT to the height of Block B2 facing Great Charles Street as they are very concerned that at 11 storeys adjacent to Ludgate Hill it has the potential to harm views from Church St to the Grade I listed St Paul's Church. This view will be extremely important for navigation when Ludgate Hill and Church St are eventually connected with an at-grade crossing. They would support lowering part of Block B2 and re-providing the apartments on top of Block B1 if expressed as receding top storeys with a central vertical section as found further along Great Charles Street. They consider the current height and risk to sightlines is in conflict with BDP policy TP12.

4.10.3 The JQDT also seek the following IMPROVEMENTS:-

- That the concrete pavers for the public footway around the perimeter of the site which are not characteristic of the Jewellery Quarter be replaced with blue brick pavers and silver or pink granite kerbs which are part of the area's identity.
- That the vehicle crossovers and bell mouths are granite.
- That the junction between Livery St and Great Charles St be closed to vehicle traffic and this section of Livery St become a pedestrianised surface with access for deliveries. Support this being part of a Section 106 contributions and

recommend carrying out works to the junction of Lionel St and Old Snow Hill to enable left-turns into Lionel Street and this section returned to two-way operation to facilitate deliveries and bus services.

- That the landscaping includes street trees in pavement build-outs on Lionel St and on Ludgate Hill to reinforce the green link between St Philip's & St Paul's and up Caroline St, and along Great Charles St to soften the harsh urban edge and improve biodiversity. This is supported by JQ CAAMP policy.
- That the commercial unit in Block C facing the Snow Hill viaduct be re-oriented to be entered from the Arrival Space and allow it to spill out on to this plaza with chairs and tables to contribute to the sense of place and atmosphere of arrival.
- That shelter/shade is provided within the Arrival Space such as providing retractable awnings for the commercial units to provide useable outdoor space.
- Wish the applicant to explore creating a publicly-accessible route through the Snow Hill Station entrance to the land on the other side of the viaduct. With reconfiguration of the barriers this would provide a through route during opening hours and make a better connection from the tram stop for this site's residents, as well as access to future development.
- Applicant should help with the superficial maintenance of subway it e.g. regular cleans and prompt removal of graffiti. This would provide a safe route for their residential tenants as well as customers for their commercial tenants. A commitment to do this could be secured through conditions.
- Cycle parking should be provided to at least 1 cycle space per apartment. Currently there are 464 cycle spaces for 722 apartments. Consideration should be given to secure lockers for foldable bikes.
- 4 electric car charging bays is substantially below what will be required in the near future and infrastructure to extend this to all bays should be installed. Spaces should also be available for motorbikes, mopeds and for e-scooters.
- The construction hours should be 8am-6pm Mon-Fri and 8am-1pm on Saturday in line with Considerate Constructors' requirements and roads keep clean
- The tower should identify with the Jewellery Quarter. The crown could provide this visual reference on the skyline and the base use metal cladding and glass to provide a fine filigree or imprinted pattern to reference the site's heritage
- The metal clad elements must be durable and polished black concrete may be preferable in this location
- The best Portland stone/white concrete buildings on Great Charles St have a strong plinth containing commercial units, and a clearly-defined crown, often set-back. We think this could be employed on Block B.
- On Lionel St (Block C) would like to see the buildings having a client entrance and a worker's entrance with a vehicular entrance offering glimpses into the courtyard beyond. If not possible these can still be used as cues and interpreted for entrances to commercial units, the main tenant entrance on Ludgate Hill, and for service entrances e.g. to the car park, bin stores or transformers.

4.11 The pre-application proposals were considered by the Design Review Panel on 13 January 2020 when the following comments were made:-

(i) *Relationship with the tall building cluster of Snowhill*

Considering the Snow Hill masterplan and the relationship of this site with the station and the emerging scale of the central business district the tower, its location and height could be supported. Concerns were raised by the panel about the impact on St Chads which would be overshadowed and St Paul's church from longer distant views from a heritage aspect. It was felt a study to see further views would necessary.

(ii) *Impact on Conservation Area* –The concept of creating a layout plan based on the historic layout of the site was supported. A modern interpretation of the now lost Ludgate Passage as a central route and principle point of access was considered sound. Splitting the site along this new route so that the southern side responded to the Queensway and to the City centre proper and the northern side towards Lionel Street and the Jewellery Quarter has worked well. Subsequently the scale of these two halves has ensured that the impact on the Colmore Row and Environs Conservation Area and the Jewellery Quarter Conservation Area respectively is appropriate. With regards to the Jewellery Quarter, the design has carefully analysed different building typologies and responded to local buildings and modern architecture precedents to find good architectural solutions for the four buildings fronting the quarter. The buildings fronting the Queensway seek to respond to the early and mid 20th century Portland Stone buildings and structure along this key corridor. The use of GRC is untested in the city and further work would need to be done to ensure quality can be delivered. Further testing of St Chads views towards the site from Caroline Street are necessary to ensure the development is appropriate.

(iii) *Architectural design*

Generally the three areas of the development respond well to their immediate context. It is appreciated the development has attempted to deliver individuality and creativity within its design. The next stage of planning would be critical as architectural detailing, sound proportions, depth of modelling and materiality would be key to the success of this project. A specific concern was raised over the treatment of the amenity floor expressed midway on the tower. It was felt that this concept was strong but would be better if continued all the way along on all four elevations. The strength of the link between the tower and Block B was considered to be weak and possibly landscaping could help its function.

(iv) *Conclusion*

The rationale applied to all aspects of this scheme were clearly understood and supported. The importance of this development as a major regeneration site warrants exceptional quality in the design detail.

- 4.12 Birmingham Airport – No objection, following the receipt of further information and subject to the imposition of suitable condition relating to crane usage during the construction period.
- 4.13 Network Rail - Comment that in accordance with the NPPF the LPA should ensure that they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest, and that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 4.14 Canal and River Trust – No objection subject to conditions and a legal agreement to address the issues they raise. They comment as follows:-
- The proposed development has little impact on the canal corridor given the intervening built form. However its proximity and importance as a heritage asset should be recognised especially within the wider conservation area as acknowledged in the supporting documentation.
 - The stepping down of the heights away from the city centre and the proposed use of sympathetic materials in the Lionel Street frontage is welcomed and this treatment should be kept if permission is granted. As a transition site between the city centre and the Jewellery Quarter the proposed massing appears to work well and the commercial units at ground floor will assist in providing activity.

- The canal provides a range of potential benefits for occupiers of the development including sustainable travel/commute route, a socio cultural asset, a place of relative tranquillity, benefits to physical health and wellbeing as well as a means of access to facilities and other opportunities in the wider city.
- Although the drainage scheme shows there is unlikely to be any impact on the canal water quality the LPA should satisfy itself that this is the case.
- The introduction of public realm with soft planting is welcomed along with other roof top planting which could be of benefit to biodiversity but the proposed species appears poor and should include more native species. Recommend creating better wildlife corridors and that conditions are imposed to secure an improved planting scheme and a suitable long term strategy for its management and maintenance.
- Request wayfinding and signage is provided in the public realm via a condition to direct people to the canal towpath using the existing access points
- Request development includes bicycle storage and showers for the commercial elements of the development and that secure external cycle hoops are provided to encourage sustainable travel for staff.
- A condition should be imposed for a travel plan for residents, staff and visitors to ensure there is a preference to sustainable modes of travel.
- Wish to see proposals to improve pedestrian/cycle links across Great Charles Street particularly for persons with mobility issues. Aware of the existing footbridge and subway but request an at grade crossing point.
- Consider the development is likely to lead to increase in use of the two nearby canal access points and towpath which would result in a need to upgrade these facilities and therefore request a financial contribution towards their improvement lighting, signage, wayfinding and interpretation.

4.15 Severn Trent Water – No objection subject to a drainage condition being imposed.

4.16 West Midlands Police – No objections in principle but have the following concerns:

- What controls there are over access when properties are vacated i.e. when people still have key fobs or door security codes?
- Will the car parking gates be suitably controlled?
- How will the opening/closing times of the external courtyard be managed to ensure that no unintended visitors / offenders gain access
- There should be another layer of access control beyond the reception to ensure unintended visitors cannot gain access
- What height are the barriers around the edge of the accessible areas of the roof garden and what measures are proposed to stop items being thrown off the roof and/or fix furniture and prevent it being used as climbing aids.
- Will there be an intruder alarm system for the commercial units and how will they be managed
- There is a recessed area at the corner of Block C which could create an area for intruders/rough sleepers and ideally should have a suitable boundary treatment if the recess cannot be brought forward to the building line.

Should planning approval be granted request conditions for a lighting plan, CCTV coverage, a video intercom access control system be installed on all doors, pedestrian entrances to the building have two or more layers of secured doors, that a clause in the tenancy agreement prevents subletting, all doors to bin stores/cycle storage area/tenant storage be to an appropriate security standard, internal access controls be installed throughout all parts of the building, the car park be designed to the British Parking Association 'Park Mark' standards, that a suitable 2 metre high anti climb boundary treatment is installed around the accessible roof terrace areas and any furniture cannot be used as a climbing aid, the commercial units are subject

to intruder alarms, the planting is managed so that it is clear of access routes and circulation areas, suitable species are used as defensive planting and avoids creating hiding places and the development is undertaken to meet Secure by Design standards.

- 4.17 West Midlands Fire Service – The development will need to meet the requirements of Building Regulations regarding access and facilities for the fire service and firefighting.
- 4.18 Local Councillors, residents associations, nearby neighbours and businesses have been notified of the application, press advert made and site notices displayed. 6 letters received which include the following comments/objections:-
- The 39 storey tower is in JQ Conservation Area and would adversely affect the setting of the Grade 1 listed St Paul's church and adjacent listed buildings.
 - At 39 storeys the tower will dwarf the nearest tall buildings including Snow Hill 3 and appears even taller than the BT Tower. It would not provide a transition from the city to the Jewellery Quarter, but an extension of the city across the Queensway.
 - The developments proposed on Ludgate Hill and Lionel Street would replicate the height of buildings opposite but this approach is then abandoned with the 39 storey tower. Whilst development would be a massive improvement on its current use, a 39 storey tower does not fit in with surrounding structures.
 - Height and design of the high rise section of the development is not sympathetic to neighbouring buildings and is not designed to preserve the character of the Jewellery Quarter. It is also not in keeping with other buildings of similar heights.
 - Building heights on Great Charles Street and the designs should align with the other towers around it, reduce the height so that it is in keeping with the skyline.
 - The development contravenes the emerging Jewellery Quarter policies which state that: *"new development will preserve the prevailing scale of the JQ, will generally be a mix of two to four storeys, exceptions will require strong justification, the tallest building in the site's surroundings will not be taken as a baseline, where designers aspire to create prominent architecture, creative and bespoke approaches to materials and form, rather than tall buildings, are encouraged"*
 - Though the site has previously been identified as suitable for a "tall" building but the proposal is beyond "tall", and is more suitable for a city centre site.
 - The proposal for 722 mainly small "build to let" dwellings, designed for a transient population and does nothing to encourage long term and family residents who would participate fully in the JQ's vibrant life
 - There would be a significant reduction in the natural daylight to the railway arches occupied by ourselves and other businesses.
 - Elevation of building C4 on Lionel Street should be lower in keeping with Queensway House and also set back further back from the road to avoid loss of light to Queensway House and provide for additional pedestrian footfall. The current plans show 6 storeys when the building opposite has only 4 residential floors. They should be the same height which would also provide symmetry in keeping with the appearance of Lionel Street.
 - 41 parking spaces for 722 apartments are inadequate. The existing car parks are full most working days, with 300 cars. Not only will these cars have to park somewhere else, but the apartment occupiers will not be totally car free so households will try and park on the already busy on street bays in the surrounding area
 - Parking in the Jewellery Quarter is an issue. Suggest lowering the tower height thereby reducing the number of residents and the effect of additional cars.

- If the development does not have ample car parking space for its residents there will be more cars than on street spaces rendering permits useless for current residents.
- Propose that more "electric" car parking spaces are provided. 4 spaces are very low for the future and would not support the sustainable approach to climate control within the city's environmental plans.
- Concerned that the visibility for pedestrians crossing Livery St to access station or leaving station is already poor and the proposed high rise tower could restrict vision. There have already been a number of incidents involving vehicles entering Livery St from Gt Charles St and therefore concerned about pedestrian safety.
- There is a need for proposals to make any improvement to the existing pedestrian subway under Great Charles Street which is intimidating due to restricted vision at the entrances. It does not provide an attractive gateway between the city centre and the Jewellery Quarter/Great Charles Square.
- The proposals should improve access between the site and the City Centre core which is currently inadequate. The footbridge is totally inaccessible for anyone with health issues and the underpass is in a disgusting state, is unsafe and not pleasant to use. This is a great opportunity to greatly improve the access to the Jewellery Quarter and really integrate it into the City, effectively enlarging the City Centre and opening up this unique part of Birmingham for residents and visitors
- BCC should ensure that sufficient planning gain funds are provided to deliver dramatic improvements for pedestrians to cross Great Charles Street.
- Request enhancement of pedestrian walkways on Great Charles Street
- Request landscaping is placed at the intersection of Livery Street/Lionel Street so that it is congruent with the other plans for landscaping along Livery Street.
- Consideration should be given to installation of fibre optic connectivity to appeal to office users

5.0 Policy Context

- 5.1 National Planning Policy Framework 2019, Birmingham Development Plan 2031, Birmingham Unitary Development Plan 2005 (saved policies), Snow Hill Masterplan 2015, The Jewellery Quarter Urban Village Framework SPG, The Jewellery Quarter Conservation Area Character Appraisal and Management Plan SPG, Jewellery Quarter Conservation Area Design Guide SDG, Conservation Through Regeneration SPD, Places for All SPG, Places for Living SPG, High Places SPG, Car Parking Guidelines SPD, Public Open Space in new Residential Development SPD; Affordable Housing SPG, non-statutory Big City Plan and submitted Development Management in Birmingham Development Plan 2020.

6. Planning Considerations

Land Use Policy

- 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. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. For the Jewellery Quarter it seeks to create an urban village supporting the areas unique heritage with the introduction of an appropriate mix of uses and radically improved connections to the City Centre Core.
- 6.2 The Jewellery Quarter has a Conservation Area Character Appraisal and Management Plan SPG which divides the conservation area into eight sub areas.

The application site is shown as being within the City Fringe locality characterised by large post war commercial buildings and lower late 19th/20th century manufactories. It also refer to two large and prominent cleared sites in the city fringe area including one entire street block bounded by Great Charles Street, Livery Street, Lionel Street and Ludgate Hill used for car parking. The plan encourages sensitive new development on vacant sites and notes (in 2002) that the application site is proposed for a mixed use development.

- 6.3 The site lies within the area covered by the Big City Plan 2011 masterplan which sets out a regeneration framework for Birmingham's city centre and how and where the city centre will expand from the existing city core into the adjacent quarters. The vision for the Jewellery Quarter includes the development of a diverse provision of housing respecting the historic environment as well as supporting manufacturing and new growth sectors such as accommodation for creative industries. The redevelopment of the application site is stated as a short to medium focus for the City. The application site also lies within the boundary of the Snow Hill Masterplan 2015 and forms part of an area identified for a Key Development Project. It is termed the 'Ludgate Hill Enterprise Zone' and was anticipated as providing a flexible mix of office, residential, hotel and leisure uses.
- 6.4 Planning policies therefore support the erection of a mixed use scheme on the application site and its development with apartments and commercial uses is acceptable in principle. The proposals also provide an important opportunity to regenerate a large brown field site that has been effectively vacant for decades which currently detracts from the appearance of the conservation area and from wider views into and out of the Jewellery Quarter. Although the proposals are for a residential led development the ground floor accommodation provides a range of commercial units to street frontages which would provide active frontages around the site to enhance activity and vibrancy. It would also deliver a significant number of new dwellings on a brown field site and help transform this important transitional location between the city centre core and the Jewellery Quarter.

Tall Buildings Policy

- 6.5 Proposed Building A has been designed as a tall tower of 39 storeys and part of Block B fronting Great Charles Street is 16 storeys in height therefore the guidance in High Places, the City Council's SPG on tall buildings, needs to be considered. The SPG states that the City welcomes and encourages well placed, high quality tall buildings of 30-40 storeys high respecting and enhancing the existing skyline on the City Centre ridge zone to enhance the image of the City and identifies a number of suitable locations. It states that tall buildings will not normally be acceptable within conservation areas or next to listed buildings unless there are exceptional circumstances. The policies in the JQ Conservation Area Management Plan regarding new building heights normally limit new development to a four storey maximum except in the City Fringe where taller buildings may be more appropriate.
- 6.6 In more recent documents such as the 2011 Big City Plan however the site is shown as being within a tall building cluster area within which tall buildings may be considered appropriate. The 2015 Snow Hill Masterplan identifies the site as being within the Ludgate Hill Enterprise Zone where new building heights will range from 5 to 15 storeys in keeping with the surrounding context and the character of the Jewellery Quarter Conservation Area and nearby listed buildings. It also states buildings of greater than 15 storeys may be appropriate at key gateway locations and will be required to reflect the highest architectural standards and to respect and respond to the surrounding context, particularly in the vicinity of listed buildings. A

massing diagram forms part of the masterplan and whilst it is illustrative and does not show the number of storeys it does indicate that tall buildings would be appropriate fronting Great Charles Street.



Figure 8: Extract from the Snow Hill Masterplan

- 6.7 Proposed Block A would be taller and in a slightly different location than that shown on the masterplan by having a more rectangular footprint. It would also extend further along the Lionel Street frontage to lie opposite one of the entrances/exits to Snow Hill station. This is intended to aid legibility of the city's form by marking a key arrival point at a major public transport interchange. The proposals set back the tower from the site frontage on Lionel Street to allow a new public arrival square to be provided between the station entrance/exit and the development and would create a lively public space with seating and landscaping. Most of proposed Block B fronting at 16 storeys would also constitute a tall building and here the Snow Hill master plan indicates tall building heights to reflect those on the opposite side of Great Charles Street.
- 6.8 Therefore although High Places would not normally support a tall tower in a conservation area this SPG adopted in 2003 is now relatively dated and more recent masterplan documents give policy support to tall buildings particularly around the Snow Hill area. The cityscape of Birmingham has also changed significantly over the last decade and planning permission has also recently been given for a number of tall buildings over 30 storey's in various locations in the city centre reflecting its status as a growth area. The principle of developing tall buildings on part of the site as proposed is considered to be acceptable in principle subject to other design considerations.
- 6.9 In terms of design Policy PG3 of the BDP requires all new development to be of a high quality contributing to a strong sense of place and Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense

of place with high design quality so that people identify with and feel pride in their neighbourhood. The NPPF seeks to ensure new developments are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment. High Places SPG sets out the criteria against which a tall building should be judged and states that it should:-

- respond positively to the local context and be of the highest quality in architectural form, detail and materials;
- not have an unacceptable impact in terms of shadowing and microclimate;
- help people on foot to move around safely and easily;
- be sustainable and good places to live;
- must comply, with the Civil Aviation Authority's Aerodrome Safeguarding Criteria
- considers the impact on local public transport; and
- be lit by a well-designed lighting scheme.

These criteria are addressed below:-

Local Context and Design

- 6.10 Although the site lies within the boundary of the Jewellery Quarter Conservation Area its inclusion is not based on historic built fabric, but rather proximity and long term association. The Great Charles Street frontage adjoins the city inner ring road and faces onto the City Core. This scheme seeks to deliver a development that addresses this interface and helps knit the Jewellery Quarter and city core together. Whilst there is a strong presumption in favour of development of this large vacant city centre block, it needs to bridge this gap between two areas of very different character and function. The Snow Hill Masterplan sets out a strong desire to develop this site and to see it contribute positively to the regeneration of the city centre and to realising the targets of the City's Growth Agenda. In urban design terms it offers the opportunity to increase footfall on all four frontages and repair this damaged segment of Birmingham's urban fabric.
- 6.11 Historically the site was occupied by a number of works across the block fronting principally towards Great Charles Street and Lionel Street, with a central route running parallel to these roads linking Ludgate Hill to Livery Street. Ludgate Passage has therefore become the new focus of this proposal, reinventing this passageway as part of a large central amenity space. Surrounding this are three principal components, namely the tower Block A, the Great Charles Street Blocks B and the Lionel Street Blocks C.

The Tower - Block A

- 6.12 Block A is proposed at 39-storeys would be 126.15 metres high. The City Design Manager comments that it has long been accepted that the site, whilst in the Conservation Area designation, is not an orthodox plot and that the Great Charles Street frontage will need to respond to the City's Central Business District. The tower therefore comprises a simple orthogonal plan with a more slender profile towards the City Centre and the Jewellery Quarter. The structure is linked at low level to the longer Great Charles Street frontage, but otherwise is grounded in isolation on its south-eastern, north-eastern and north-western faces. This allows for the tower to have a 360-degree face on all elevation as it sits in isolation on a shoulder block. On the Livery Street boundary, the tower is set back and placed within the plot to create an apron than counters the buildings typology. As such, its chief elevation/entrance is on the north-eastern Livery Street frontage. This also allows for a clear view into Ludgate Passage from this north-eastern end, via a new wide open piece of public realm, ensuring that it is elevated to its role as the main external private amenity space.

- 6.13 In terms of its form, height and design the Jewellery Quarter Design Guide seeks to ensure that new development is generally no taller than four floors in height. Greater building heights are however recognised as being more appropriate within the city fringe area and should also be considered in conjunction with the generally greater scale of the buildings in the city centre core and the aspirations of the Snow Hill Masterplan. The submitted Design and Access Statement makes it clear that the tower is intended to be viewed as part of a cluster of tall buildings, albeit on the other side of Great Charles Street. Whilst the formation of a tower on the northern side of Great Charles Street is a new element in this section of townscape, the Snow Hill Masterplan expressly supports other tall buildings on this side of the road, and indeed closer to St. Chads cathedral. At 39 storeys the tower will be visible from various viewpoints across the city and therefore the applicant has provided a Townscape and Visual Impact Assessment which identifies a number of viewpoints in a short and medium range perspective and as identified from High Places SPG. The City Design Manager has assessed these viewpoints and considers they show that a tower of the height and scale proposed would be acceptable.
- 6.14 In terms of the design and architecture the City Design Manager comments that the towers form and materiality are based on a simply monotone grid. The design has been refined during discussions to become more rational, anchoring to the ground confidently and developing a hierarchy of primary and secondary vertical members that extend the full height of the structure, simplifying at the top into a crown. The striking of a break on the city façade (which wraps partly onto the north-east and south-west flanks) has been a sustained concept from the start and relates to an amenity floor. Although cladding on tall buildings can compromise quality, in this instance the tower is effectively a glass structure with cladding to the vertical members which will not read as a panel system. There are two bays on each elevation of the tower that extends through every floor which will be solid. The tower has an identity of its own so as to introduce a structure that is positive to the Birmingham skyline.
- 6.15 It will be seen from the consultation and public comments that the height of the tower at 39 storeys is criticised. Whilst some of the objectors note the site is proposed for a tall building they consider the 39 storeys proposed would be excessive and inappropriate for a site that is outside the city centre core. Some of the objections relate to the impact on heritage assets which are dealt with further in para's 6.43-6.69 but Birmingham Civic Society consider the design does not sufficiently meet the tests set out in High Places. They query whether it is possible to mitigate to the height of the tower by increasing the height of the surrounding buildings as the tower would be 19 storeys greater than the approved 20 storey Three Snow Hill block nearby. They also consider its design should respond more closely to the historic precedents of the Jewellery Quarter and the individual conditions of the site and that expression of a 'plinth' would be beneficial to improve the view along Great Charles Street. Also critical to its success will be its slenderness, material quality and elegance of detailing. Some local residents also consider the tower has not been designed to reflect the character of the Jewellery Quarter and is not in keeping with keeping with the heights of other buildings fronting Great Charles Street. That it would compete with the BT tower which already provides a landmark in the conservation area and although the site has previously been identified as suitable for a "tall" building it is beyond "tall", and is more suitable for a city centre site.
- 6.16 Although there are some objections to the height and design of the tower its relatively small foot print does allow it to be a slim feature and become a key visual marker in the City skyline. It is not considered to compete with the BT tower which at 152 m

would still be about 30 metres higher than the proposal. There are requests for the tower height to be reduced and possibly for the height of the other blocks to be increased but this would detract from the composition of the various blocks and their relationship to each other and their surroundings. The building designs and heights were considered by Design Review Panel in January 2020 and the panel considered the development responded well to its immediate context. Considering the Snow Hill masterplan, the relationship of this site with the station and the emerging scale of the central business district the tower, the panel felt its location and height could be supported. Although they felt the treatment of the amenity floor expressed midway on the tower would be better if continued along all four elevations the amenity facilities which are on level 18 of the tower only occupy part of the floor space so the treatment has not been carried around the entire floor. This design element therefore reflects the function of the space behind and no objection to this approach is raised by the City Design Manager.



Figure 9: Proposed elevations to Great Charles Street

Block B1

- 6.17 Part of Block B, shown as B1 on the submitted plans, fronts Great Charles Street at a height of 16 storeys and therefore also falls within the definition of a tall building. It also occupies the location indicated for a tall building in the Snow Hill Masterplan. The City Design Manager comments that the block along the Great Charles Street frontage responds to the City Core in its form and is set back along a generous building line that offers up a deep pavement. Here the City Fringe Character Area of the Jewellery Quarter Conservation Area is somewhat different to the wider area and impact of the 20th century is not only more evident but the principal characteristic. The provision of commercial uses along the entire frontage offers a hugely beneficial move in terms of animating this otherwise difficult part of the city. The current blank office frontages (on the City Core side of the streets) in conjunction with the four lanes of traffic and associated tunnel slip roads in front of the current surface car park on the site have long sterilised this section of Great Charles Street and bringing such a significant amount of commercial/leisure floor space into play is highly beneficial.
- 6.18 Block B1 seeks to emulate the scale and form of the inter-war and post war buildings elsewhere on Great Charles Street. Although it would be taller than its counterpart on the opposite side of Great Charles Street, it is not substantially so and would site

within the general evolved scale of the area. When considering the sites immediate context the City Design Manager considers there is a significant benefit to boldly and confidently enclosing Great Charles Street as proposed.

- 6.19 In terms of architecture the design of the block makes a direct reference to the scale and form of other buildings along the Great Charles Street corridor particularly those extending past the junction with Newhall Street which date to the inter-war period and are constructed in Portland stone in a stripped-classical and art deco style. These have been the architect's inspiration for B1 and B2 and would be built from white/cream glass reinforced concrete (GRC) on the upper floors with a base/plinth of polished concrete. Fluting in contrast to a plain finish is applied to the pilasters for Block B1 which responds to the scale of the architecture. The upper floors would have a simple grid with large floor to ceiling windows applied throughout. The various elements of Block B1 are considered to make a sensitive transition between the character of the City Core and the City Fringe character of the Jewellery Quarter.



Figure 10: Wider view showing proposals from Great Charles Street

- 6.20 Objections have however been received to the height of Block B1 from Historic England who have no objection to some increased height along Great Charles Street, but consider that at 16 storeys it appears as an overly large mass which is dominant in its context. They also point out that it would be approximately twice the height of even those larger 20th century Portland Stone offices that characterise the more densely developed parts of Newhall Street which are some distance from the site. They refer to the applicants Heritage Statement which acknowledges that the taller buildings in the vicinity are limited in number, of lower height than the proposed development, or only visible in distant views. Other comments received however suggest increasing the height of Block B1 to off-set requested reductions in heights of the tower or adjacent Block B2.
- 6.20 I consider that the height of Block B1 is acceptable and that if it was increased or decreased in height it would compete and be out scale with the height of the tower and/or Block B2. The three different buildings heights proposed along Great Charles Street are currently in proportion with each other and help emphasis the slim nature of the tower. In addition they provide a varied roof line and help provide the appearance of a line of individual buildings rather than one large block.

Microclimate and Shadowing

- 6.22 Daylight, sunlight, townscape and wind/microclimate assessments have been submitted with the application. In terms of sunlight/daylight the applicants study identifies a minor adverse impact on sunlight/days light to some properties in Lionel Street facing the site. However this due to the impact of Block C which is to be

located on the opposite side of Lionel Street rather than the tall buildings proposed on the site. The impact on these properties is considered further para's 6.80-6.84.

- 6.23 The submitted wind microclimate analysis assesses conditions on and around the site of the proposed development for wind comfort and safety having regard to the expected pedestrian usage. Substantial adverse conditions were found to the east side of the development around the bottom of the tower if there were no wind mitigation measures. The proposals therefore include ground level tree planting, planters and porous gates to the eastern end of the courtyard which the report concludes would be sufficient to eradicate these effects. This report has been independently assessed and also concludes that with the mitigations measures proposed the conditions would be suitable for the intended pedestrian use. These mitigations measures are considered to be appropriate for the development and a condition is recommended to ensure they are provided.

Helping People Move Around

- 6.24. The proposed tower would be significantly taller than other buildings in the immediate locality and would be visible in the street scene, from Snow Hill station, the metro stop and pedestrian bridge crossing over Great Charles Street. It would therefore act as a local landmark to help legibility within this part of the City Centre. The ground floor commercial uses and entrances would provide activity to street frontages and with the arrival square on Lionel Street would all make the streets feel safer. All the main entrances would be at street level and suitable for people with disabilities and are designed to provide suitable and safe access for all members of the community. There are level access points and lifts providing access to all internal floors.

Sustainability and Providing Good Places to Live

- 6.25 The proposed development will reuse a brownfield site includes a range of ground floor retail and commercial units. It is in a location with good access to services and facilities within the City Centre core and Jewellery Quarter by public transport and by foot. It is also close to bus and metro stops as well Snow Hill and New Street stations. On site cycle parking is included to encourage the use of alternative modes of transport. Key sustainable measures included within the development include:-
- A fabric first approach to reduce the buildings energy demand, maximising the use of insulation, stringent airtightness and energy efficient lighting systems
 - A number of renewable technologies including an on-site CHP and a voltaic system to generate on site electrical energy with panels located at roof level
 - Measures to address solar gain with mechanical ventilation and heat recovery systems to create buildings that require minimal heating.
 - A central Mechanical Ventilation with Heat Recovery (MVHR) system in each dwelling to reduce heat loss and energy demands.
 - That in combination these measures would achieve approximately a 19.2% reduction in CO2 emissions beyond the Building Regulations. The non-residential (commercial) floor space is designed to achieve a BREEAM Excellent rating.
- 6.26 High Places and Policy TP27 of the BDP require that tall places should be good places to live and deliver a strong sense of place so that people identify and feel pride in their neighbourhood. A range of apartment sizes would be provided all of which would meet the guidance set out in the Nationally Described Space standards. In addition there would be a range of private shared amenity spaces for residents to use. Externally these include a plaza, garden square and roof terraces and internally they include large reception areas with seating, a café, meeting rooms, games room, private dining space, library, gym and spa. Together these provide some 4,808 sq.m

of shared facilities the equivalent of 6.6 sq.m per apartment and would be dispersed throughout the blocks and available to all residents. This would provide a high quality living environment and place for residents to live as required by Policy TP27.

CAA Aerodrome Safeguarding

- 6.27 At 250.15 metres Above Ordnance Datum (AOD), Block A would breach the aerodrome safeguarding limit for Birmingham Airport. An Aviation Safeguarding Assessment has been provided in support of the application and following initial comments further information was provided which has allowed Birmingham Airport to raise no objection subject to a suitable condition relating to crane usage during the construction period. The applicants report also finds that the proposed development is unlikely to have any impact on helicopter services to and from Birmingham Children's Hospital. Aviation lighting would be required for the tower and for any crane that breaches the obstacle limitation surfaces during construction.

Impact on local public transport

- 6.28 A Transport Assessment has been submitted in support of the planning application which confirms that the highway network is adequate to support the vehicle movements and servicing arrangements for the proposed development so as not to be detrimental to the highway safety of road users. The site is also located in a highly sustainable city centre location within walking distance of retail, leisure and employment opportunities, along with bus, metro and rail services. The canal towpath network is also close to the site and the application includes works to resurface the footways around the site frontages, include buildouts to slow traffic. It is also proposes to contribute to works to improve the pedestrian underpass that runs from Lionel Street under Great Charles Street.

Lighting

- 6.29 The application does not include a detailed lighting scheme however this can be covered by conditions and the applicants advise that appropriate external lighting measures would be brought forward to ensure the safety of residents and visitors, and enhance the appearance of the buildings. The comments from the Police would also be taken into account when agreeing the scheme details.

Conclusions

- 6.30. Overall, I consider that the design of the scheme is to a high standard and that the development would meet the criteria for tall buildings as set out in High Places as well as BDP policies PG3 and TP27 which require all new development to demonstrate high design quality contributing to a strong sense of place. Conditions are recommended to secure samples of materials, submission of details, suitable landscaping and lighting.

Layout and building heights

- 6.31 Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. The NPPF in Para 124 states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 seeks to ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the

surrounding built environment and maintain a strong sense of place. The JQ Management Plan requires the design of new development to respect the traditional scale, form and density of the historic street pattern of the Jewellery Quarter and the JQ Design Guide states that new development should respect the local street hierarchy, dense urban grain and building lines.

- 6.32 The site layout proposed would provide buildings to the back of the footway on the sites frontages would be characteristic of the Jewellery Quarter. Although the tower (Block A) would be set back from the Livery Street frontage to allow an area of public realm to be provided at the foot of the tower this would provide a welcome arrival space in front of the development and Snow Hill station. The three principal components of the development would be arranged around a large central private amenity space varying in width between 10 and 28 metres. This would be subdivided to provide two different character areas, a garden square with a green character and a plaza with more hard landscaping to allow use for a variety of activities.

Blocks B2 & B3

- 6.33 Comments on the layout and height of Block A and B1 are dealt with in detail in the paragraphs relating to the tall buildings policy above. Blocks B2 (11 storeys) would complete the remainder of the Great Charles Street frontage and continues around the junction with Ludgate Hill. It is of a scale which responds to the City Core in its form and height so that there would be a continuous built form to Great Charles Street. Block B3 which would front Ludgate Hill is of a more traditional form and scale at 6 storeys to provide a transition between the greater scale of development in the city centre core and the lower scale of development within the Jewellery Quarter. The layout for both buildings includes a series of entrances and commercial uses at ground floor level facing the street which would provide activity to area thereby improving the natural surveillance of the pedestrian route between the two localities.

Blocks C1, C2, C3 & C4

- 6.34 These four linked blocks range in height from 3-6 storeys and largely front Lionel Street but extend around the junctions with Ludgate Hill and Livery Street. The scale and form of this block offers a response to the historic development of traditional workshop typology in the Jewellery Quarter and more closely follows this in its plot form, which is smaller and attempts to reflect the more traditional character of Lionel Street. The frontage would be broken down into four buildings and has been laid out to follow the historic mapping and photographs from the early 20th century before the site was cleared. Block C1 which sits on the Ludgate Hill corner would have the lower 3 and 4 storeys heights reflecting the lower height of the buildings directly opposite which are 4 storey high. It would be the residential hub building and would focus animation to the important thoroughfare of Ludgate Hill, but also draw activity into Lionel Street where further commercial/leisure units are proposed. Lionel Street also provides the utilities and servicing face of the building as being at the lowest point of the site it allows access to a basement area.
- 6.35 There have been some objections to the height of these blocks as policies in the JQ Conservation Area Management Plan regarding new building heights normally limit new development to a four storey maximum. However policies acknowledge that an exception can be allowed in the City Fringe locality. The existing buildings on the opposite side of Lionel Street are of similar heights to those proposed at between 4-6 storeys. The development would be higher than the lowest 4 storey building opposite the site on Lionel Street but this has planning permission for a 2 storey roof top extension as part of a scheme to convert it to apartments. The proposed 5 and 6

storey heights are therefore considered to be in scale with their surroundings and would also provide a varied roof line.



Figure 11: View along Lionel Street

Design

- 6.36 Policy PG3 of the BDP requires all new development to reinforce or create a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context including heritage assets. Policy TP27 expects new housing to contribute to making sustainable places, characterised by a strong sense of place with high design quality so that people identify with, and feel pride in, their neighbourhood. The JQ Management Plan requires the design of new development to respect the scale, mass and density of the historic pattern and form of the existing traditional buildings within the area and the JQ Design Guide also outlines principles for good design including guidance on scale, form and materials. The scheme comprises three very different elements that are responding to very different environments and the architecture has been refined throughout the pre-application process to find a language appropriate for these three different contexts. The design of the two tall buildings, namely Block A (the tower) and Block B1 facing Great Charles Street are addressed in paras 6.10-6.21 above as part of the tall building assessment but the other blocks are assessed below.

Blocks B2 & B3

- 6.37 Block B2 follows the approach proposed for Block B1 which makes a direct reference to the scale and form of other buildings along the Great Charles Street corridor particularly those of the inter-war period which are constructed of Portland stone in a stripped-classical and art deco style. They would both be built from white glass reinforced concrete to respond to the Portland stone with a base/plinth of polished concrete with variations in tone between the lower and upper floors and between buildings B1 and B2 to help break the massing. The upper floors would have a simple narrow grid with large floor to ceiling windows throughout.



Figure 12: View of Blocks B2 and B3

- 6.38 The design approach for Block B3 which fronts Ludgate Hill would be more closely associated with the historic pattern of development within the Jewellery Quarter. It has therefore been designed to respond to the design criteria set out in the Jewellery Quarter Design Guide and would be of orange brick and take on an industrial character. An arrangement of full height pilasters and substantial concrete lintels is proposed along with a contemporary base of vertically stacked brickwork. The City Design Manger considers the various elements of Block B make a sensitive transition between the character of the City Core and the City Fringe character of the Jewellery Quarter. Materials have been changed as part of the negotiations to improve the quality and architecture to ensure that a more intimate local high street character is achieved on Ludgate Hill.



Figure 13: View of proposed frontage to Ludgate Hill

Blocks (C1, C2, C3 & C4)

- 6.39 The proposed designs are bespoke for each Block but embedded in a building type and materials from the Jewellery Quarter to give local identity. Building C1 which forms the corner with Ludgate Hill seeks to build on the tradition of using decorative ceramics in the street facing elevations and the design includes the use of tiles to the window aprons. Building C2 would have a clearly defined top, middle and bottom with large paired portrait windows and deep proportions spread over wider brick pilasters. Building C3 uses would have a more utilitarian architecture using the early 20th Century legacy as inspiration. It would have a simple and shallower brick grid with concrete lintels to give an industrial aesthetic. Building C4 would also have a more utilitarian appearance to relate to the listed buildings further north along Livery Street. Its design is based on a vertical arrangement of brick piers and expressed metal clad floor plates. The City Design Manger considers the approach to the Lionel Street blocks is highly successful as there is a significant degree of variation and yet at the same time consistency. He considers the depth of modelling across the four buildings is highly positive and will make significant steps to fully regenerate the street.



Figure 14: Proposed elevations to Lionel Street

- 6.40 It will be noted that the Victorian Society consider that the proposed façade architecture is undistinguished and verging on pastiche, however the conservation officer, Jewellery Quarter Development Trust and Design Review Panel have no objections to the design Block C. The conservation officer notes that the four further blocks are individually modelled and influenced by buildings and uses associated with the JQ and also incorporate active frontages to the street. The Jewellery Quarter Development Trust comments that they are very pleased to see extensive use of brick, differences in bond, and the depth of the brickwork façade on the Lionel Street Block C. Although they would prefer individual buildings rather than a continuous block they consider the elevational treatment achieves the optical illusion of separate buildings very well. The Design Review Panel also felt that that the design has carefully analysed different building typologies and responded to local buildings and modern architecture precedents to find good architectural solutions for the four buildings fronting the quarter.

Dwelling Mix

- 6.41 Policy TP27 of the BDP states that new housing in Birmingham is expected to contribute to demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages. Policy TP31 seeks 35% affordable housing on schemes of 15 dwellings or more and where this percentage cannot be provided it states that the viability of the proposal will be assessed. National planning policy guidance on build to rent schemes states that affordable housing should be provided in the form of affordable private rent and that 20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) with a minimum rent discount of 20% relative to local market rents.
- 6.42 The application proposes 372 (51%) x 1 bed, 315 (44%) x 2 bed and 35 (5%) x 3 bed apartments which would all meet the minimum national described space standards. Although the highest percentage of dwellings would be one bed and 159 would only meet the size for single person occupation, almost all are 45 sq.m in size above the minimum size of 39 sq.m. In addition the development also provides a range of internal communal space for residents which equates to a further 2.2 sq.m per apartment. In terms of tenure the applicant has offered to provide 5% [36 units] of the total units as Affordable Private Rent at 80% of open market rent. Objections have been raised that the development would provide mainly small “build to let” dwellings, designed for a transient population rather than family residents who would participate in the JQ’s vibrant life. Whilst it is acknowledged that only 35 (5%) of the units would be 3 bed dwellings this reflects the city centre location. There is also no reason to assume that tenants would not wish to use other facilities available within the Jewellery Quarter. The range of apartment’s sizes being provided would also allow people to move to smaller/larger apartments as required.

Impact on Heritage Assets

- 6.43 In determining this application the LPA must comply with the statutory duties relating to listed buildings and conservation areas. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires LPA’s to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case Law has now firmly established that the “special regard” and “special

attention” duties of the LB Act requires that the decision maker should afford “considerable importance and weight” to the desirability of preserving a listed building along with its setting and preserving or enhancing the character or appearance of a conservation area. It has also been established that “preserving” means “doing no harm” for the purpose of interpreting the LB Act duty.

- 6.44 The NPPF states that in determining applications, LPA’s should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal. Great weight should be given to the conservation of heritage assets and any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. LPA’s should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Where potential harm to a designated heritage asset is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) to identify which policies in the National Planning Policy Framework (paragraphs 194-196) apply. Within each category there is no grading scale for heritage harm and where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset paragraph 196 of the NPPF requires that this harm should be weighed against the public benefits of the proposal. Policy TP12 of the BDP states that great weight will be given to the conservation of the City’s heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.
- 6.45 The key heritage issues to be taken into consideration in assessing the proposed development are the direct effect on the Jewellery Quarter Conservation Area and the indirect effect of the development on the significance and setting of nearby designated heritage assets if, as a result of development proposed within their setting, it gives rise to an impact on its significance. The applicants have submitted a Heritage Assessment which has considered the significance of heritage assets in the vicinity of the site and the impact of the proposed development on them. The heritage assets assessed include the Jewellery Quarter Conservation Area, Colmore Row and Envions Conservation Area and a number of nearby listed buildings including the Church of St Paul and St Chads Cathedral which are important listed buildings as well local landmarks.

JQ Conservation Area

- 6.46 In terms of the impact on the JQ Conservation Area the heritage assessment comments that the proposed development will form part of and have a direct effect on the Jewellery Quarter Conservation Area and the tower element will be visible from a wide area. It notes that the site is identified in the Jewellery Quarter Character Appraisal one of two “large and prominent cleared sites in the City Fringe area” and that it is an uncharacteristic area of open land that discontinues the strong built form, definition and high quality townscape of the conservation area. It currently appears discordant, creates a weak boundary and detracts from the southern edge of the conservation area.
- 6.47 The report comments that the proposed development has been informed by an understanding of the significance of the Jewellery Quarter Conservation Area and the role played by the City Fringe. The development is transitional and responds to the

scale, mass and height of the distinctive townscape of the Jewellery Quarter, the grouping of existing and planned buildings at Snow Hill and the characteristics of the commercial core. The assessment considers the proposals relate positively to the conservation area by establishing a dense built form, respecting street edges and building to back of pavement, references the historic arrangement of buildings on the site and re-interprets Ludgate Hill Passage. The assessment acknowledges that the proposed development does not adopt the fine grain of the early history of the site but is influenced by the 20th century layout prior to demolition and also provides a strong reference to the industrial building typology, which is a key characteristic of the conservation area. The building heights on Lionel Street and Ludgate Hill broadly align with that established by existing buildings and there is variation in building heights, modelling, fenestration, articulation, sill lines, reveal depths and materials to articulate the façade.

- 6.48 In relation to the taller buildings heights and 39 storey tower proposed the applicants heritage assessment comments that the site is within the designated 'central ridge zone', within an area shown as appropriate for tall buildings within Birmingham's Big City Plan and adjacent to the 'tall building cluster' identified in the Snow Hill Masterplan. To minimise the impact on the Jewellery Quarter Conservation Area, the tower element is proposed in the southern part of the site, at the corner of Great Charles Street and Livery Street. In this location it will form part of a grouping of taller buildings existing and consented at Snow Hill and has a closer relationship with the commercial core of the city. It has also been orientated to present a narrower elevation to the Jewellery Quarter. The townscape of the conservation area is already influenced by the presence of tall buildings and it forms part of a wider cityscape. It is however acknowledged that a building of the height proposed will be visible across the conservation area and that the taller buildings currently within and beyond its boundary are limited in number, of lower height or only visible in distant views. The assessment concludes that the visual impact of the tower element would cause a degree of harm to the conservation area considered to be 'less than substantial' and Paragraph 196 of the NPPF is therefore engaged and requires the harm to be weighed against the public benefits of the proposal.
- 6.49 The Council's conservation officer supports the principal of developing the site as it is an opportunity to enhance the character and appearance and setting of the Jewellery Quarter and Colmore Row and Environs conservation areas. The site is currently devoid of any defining historic characteristic with no built form to provide any tangible relationship to its historic origins and is experienced predominantly in the context of a busy road, railway line and combination of modest and large scale buildings on the periphery of the city centre. Although the site lies within the boundary of the Jewellery Quarter Conservation Area it currently has a negative impact on both the character and appearance of the JQCA and on the setting of the Colmore Row and Environs Conservation Area based on its use as a large and poorly maintained car park.
- 6.50 The conservation officer notes the building heights of the three main blocks and whilst the Jewellery Quarter Conservation Area Appraisal identifies a maximum height for new development of generally no more than 4 storeys there are some areas of the JQCA that are able to accommodate some increase in height. She considers this part of the City Fringe Character Area, in conjunction with the scale of Great Charles Street and interface with the city core can be considered such an area. In addition the Snow Hill Masterplan identifies this location for a tall building, although not necessarily a tower. The conservation officer raises no objections to Block C as although the buildings proposed are generally 5 and 6 storeys they broadly align with those to the west of Lionel Street. The blocks are also individually modelled and

influenced by buildings and uses associated with the JQ and incorporate active frontages to the street.

- 6.51 The conservation officer has considered a number of views in and around the JQCA from where the development, and in particular the tower, would be visible thereby creating the potential for impact on heritage assets. She considers that in some views the proposals cannot be accommodated without any potentially harmful impact. These include the view from St Pauls Square/churchyard and the view looking down Ludgate Hill towards the city. Although the reinstatement of built form to Ludgate Hill will help to frame this views and provide a context for the setting of the listed buildings opposite she considers the tower element will be a highly visible vertical massing and as it is much higher than the city core buildings and the established built scale and therefore the setting of the conservation area would be challenged.



Figure 15: Proposed view looking from St Pauls Square down Ludgate Hill

- 6.52 The conservation officer therefore concludes that positioning of Block A within the boundary of the JQCA is harmful to the conservation area. The applicants Heritage Statement also concludes that the visual impact of the tower in the established and consistent townscape of the JQ would cause harm to the conservation area and that this is at a level of less than substantial harm. Based on the visual assessment of a number of identified views the conservation officer agrees that the development would cause less than substantial harm to the conservation area which will need to be weighed against the public benefits of the proposal. The conservation officer does not consider that the development would cause harm to the significance of Colmore Row and Environs Conservation Area.
- 6.53 A number of other objections to the application due to the harm caused to the character and appearance of the Jewellery Quarter Conservation Area have been received. Historic England comment that they are gravely concerned at the impact this large scale development would have on the Jewellery Quarter Conservation Area. Whilst the site is in the 'City Fringe' described as a transitional point between the edge of the Jewellery Quarter and city centre, the scheme includes buildings which are of a larger scale than those even within the city centre. They do not object to some modest increase in building heights but not a 39 storey tower which would be among the tallest buildings in the city and nearly twice that of the neighbouring Snow Hill developments which, at their 20 storeys, have a considerable presence. They also consider the Block B1 at 16 storeys also appears an overly large mass which is dominant in the context and about twice the height of the larger 20th century Portland Stone offices that characterise the more densely developed parts of Newhall Street, some distance from the site. Historic England point out that from various

locations within the Jewellery Quarter Conservation Area, the scheme proposes buildings of almost twice the height and scale of any other close by. The resulting effect is that the scale is not only increased dramatically, but brought closer and more prominent in views from within the conservation area. This impact is thrown into sharp relief in views provided from Caroline Street, St Paul's Square, and Ludgate Hill, where both the 39 storey tower and adjacent 16 storey block stand over the Quarter's historic streetscape.



Figure 16: Proposed longer distant views looking down Caroline Street

- 6.54 Historic England point out that the Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the setting of listed buildings (section 66), and of preserving or enhancing the character or appearance of a conservation area (section 72). Also that the NPPF calls for local authorities to look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance and should achieve well-designed places, ensuring that developments are sympathetic to local character and history. They consider the present scheme appears far from achieving this and that the proposals will affect some of Birmingham's most revered and highly significant heritage assets, resulting in a high level of irreparable harm to the character and appearance of the Jewellery Quarter Conservation Area. They consider this harm to be at the upper end of less-than-substantial and comment that they cannot support a development of such colossal height and scale in this highly sensitive area, for which heights are an intrinsic element of the character, appearance and significance of its historic environment.
- 6.55 Similar objections have also been received from the Victorian Society who also considers that the proposed development with the 39 storey tower will have a negative impact on the character, appearance, setting and significance of the Jewellery Quarter Conservation Area, on the grade I listed St Paul's Church and St Paul's Square. Although the tower would be within the zone for tall buildings at 39 storeys they consider it will be very visible on views both into and out of the conservation areas. Other large commercial buildings in this area are only between eight and twelve storeys in height and in their view the proposed tower is simply too tall for this location in the Jewellery Quarter Conservation Area. A number of other consultees and local residents also consider the tower would have a negative impact on the JQ conservation area and on views into and out of the area particularly from St Paul's Square.
- 6.56 It is acknowledged that the development particularly the 39 storey tower would cause some harm to the character and appearance of the Jewellery Quarter conservation area. Although there are differences of opinion as to whether this harm would be at

the upper or lower end of less than substantial, there is no grading scale within the NPPF and the comments from Historic England are considered to refer to the weight to be given to the “less than substantial harm” caused by the development. There is however general agreement that the harm falls within the definition of “less than substantial harm” set out in the NPPF and therefore will need to be weighed against the public benefits of the proposal which are covered in this report in paras 7.1 – 7.9.

St Paul's Church

- 6.57 St Paul's Church, which lies within the Jewellery Quarter Conservation Area and is also an important Grade 1 listed building in its own right and local landmark. The applicant's heritage statement comments that the setting and significance of St Paul's Church is already influenced to a degree by taller buildings to the south. The BT Tower is visible in combination with the building and its steeple, and taller buildings at Snow Hill create a backdrop that is visible with the nave of the Church. The tower element of the proposed development, although filtered by trees, would however be clearly visible and breach the roofline of the nave in views from the northern edge of St Paul's Square. The proposed development would bring taller development closer to St Paul's Church and this impact will harm the significance of the listed building to a degree, due to the distracting effect of the tower. Although the changes to views depend on the vantage point and time of year due to the adjacent trees, the harm caused is considered to be 'less than substantial'.
- 6.58 The conservation officer also considers the introduction of the tower would appear overly dominant and form an incongruous intrusion into views of St Paul's Church. The tower would be read in isolation and not as part of the wider city beyond which she considers to be particularly harmful. The tower would have a significant impact on the ability to appreciate the church in this setting and would appear dominant rising above the nave. In addition St. Paul's Church can be readily experienced in views along Caroline Street and Ludgate Hill, in which it holds a prominence, and more intimately from St. Paul's Square itself. Whilst the experience of the church is often set against the backdrop of larger buildings the proposed tower would become the dominant element in a number of views impacting on this prominence. There would be few views of St. Paul's in its immediate and JQ setting in which the tower will not be visible in combination with the Church. The conservation officer considers the screening effect of summer trees will do little to disguise the presence of the tower. As a highly significant building and landmark, with a designation at the highest level, conservation officer concludes the impact of the tower will therefore cause less than substantial harm to the significance and setting of St. Paul's Church.



Figure 16: Proposed view from St Paul's Square long towards St Paul's Church

- 6.59 Historic England also comments that there would be a considerable impact on the setting of the Grade I listed St Paul's Church which plays a fundamental role in the story and significance of the Jewellery Quarter. They consider the images provided show the proposed tower dominating and distracting views of the Church from the north-west, competing with its tower and spire. They fear that the impact on St Paul's may be even more acute as you move through St Paul's Square and your perspective changes. They therefore consider the development would cause a high level of harm to the significance of the Grade I listed St Paul's church through development in its setting.
- 6.60 Birmingham Civic Society also expresses concerns about the impact of the development on St Paul's Church. They point out that there are significant views between the two spires of St Paul's in the Jewellery Quarter and St Philip's Cathedral which form an axis between the two significant squares and which a new tower will compete with. They are also particularly concerned by the impact on views from St Paul's Square as the tower will be visible from a considerable number of locations throughout the city. Similar comments regarding the impact of the development on the setting of the St Paul's Church have also been raised by the Victorian Society, local residents and Design Review Panel who felt it would be overshadowed from longer distant views. The JQ Development Trust also considers that Block B2 at 11 storeys would obscure views of St Paul's Church from the City Centre core.
- 6.61 Officers agree that there will be some harm to the setting of St Paul's Church considered to be 'less than substantial' which again will need to be weighed against the public benefits of the proposal which are covered in paras 7.0 – 7.9.

Impact on the setting of listed buildings on Ludgate Hill and on St. Paul's Square

- 6.62 The applicants heritage statement also considers that the visual impact of the tower would cause some harm to the setting of the listed buildings at 37 – 39 Ludgate Hill, 31 – 33 Ludgate Hill, 63 St Paul's Square, 1 St Paul's Square, 23 Ludgate Hill and 21 Ludgate Hill. The conservation officer comments that these listed buildings exist in a cohesive and established townscape rising up to St. Paul's Square to the north and set against a backdrop of historic and modern buildings to the south. The tower element of this scheme will be a highly visible interruption to this cohesive street and the tower will appear rising high above the listed buildings on Ludgate Hill and impact on the experience of these buildings in their consistent townscape. She agrees with the assessment in the Heritage Statement that views up Ludgate Hill to St. Paul's Church and Square and the legibility of this relationship and setting will be sustained however harm would still be caused to the setting of these listed buildings looking south and the level of harm is less than substantial.



Figure 17: Wider view looking down Ludgate Hill towards the city centre

- 6.63 With regard to the impact on the setting of other listed buildings at 61, 63 and 64 Ludgate Hill, the conservation officer considers the proposed reinstated street frontage (Blocks B and C) to this part of Ludgate Hill would be beneficial to the setting of these listed buildings. She considers the stepped-up scale towards Great Charles Street is a reasonable response, as is the design and materiality of the blocks. The presence of the tower would still be apparent but is more clearly read in relation to the Snow Hill developments. Thus she agrees with the applicant's conclusions in the heritage assessment that the proposed development would provide a context and setting for 61 and 63-64 Ludgate Hill and due to distance, orientation and the screening effect of the Ludgate Hill frontage. The tower element would also not influence the significance of the former workshops.

St. Chad's Cathedral

- 6.64 The applicants Heritage Statement comments that the list description for the Cathedral Church (Grade II*) states that the building is "very much mutilated both in itself and in its setting". The Church occupies a highly changed setting and is already experienced in combination with modern and taller buildings and is located in an area where additional buildings of height are encouraged and anticipated. Although the site is separated from the Church by the railway viaduct and the modern road network, the proposed development will be clearly visible. The report comments that the listed building will not be obscured and it is anticipated that the development, including the tower will have a framing effect further east, with the wide elevation of the Church with its projecting spires still clearly appreciable. The tower element of the proposals also adopts a simple language with a vertical emphasis and will not detract from the wide elevation of the Church, the robustness of the shape and form of the building or its distinctive red brick construction in these views. Overall it concludes that due to distance and perspective, the proposed development would sit comfortably alongside the grouping of existing and consented buildings at Snowhill and will not impede or diminish appreciation of the grade II* listed Church and therefore its significance would be sustained.



Figure 18: Views in relation to St Chads from Great Charles Street and Shadwell Street

- 6.65 The Council's conservation officer does not agree with the applicants assessment and considers that the tower element of the proposal will be highly dominant in views of St. Chad's approaching from St. Chad's Queensway. The photograph presented to demonstrate this view (Fig 18 above) is taken from one static vantage point and sets

the tower in a group with the other tall Snow Hill buildings. In reality the approach along this road from the east would see the tower compete with the prominence of the church, in particular it's highly significant front elevation and pinnacles. At present this prominence can still be readily appreciated in these views and the church can be experienced as distinctly separate from the existing tall buildings opposite. Set back from the main Great Charles Street Queensway the BT Tower, whilst taller than St. Chad's, is slim and still allows for this element of setting to be retained. The dominance of the tower at 39 storeys and set virtually along the same route as St. Chad's would further 'mutilate' it's setting. The Conservation Officer therefore concludes that the tower element of the development would have a harmful impact on its setting.

- 6.66 Historic England also consider that the proposed tower is likely to exacerbate the cumulative impact of a number of existing and emerging tall buildings on the Grade II* listed Roman Catholic Cathedral of St Chad which they consider has, for some time, become increasingly isolated and dominated by road traffic and by unsympathetic neighbouring developments. They feel insufficient information has been provided to indicate the potential impact upon the setting of Birmingham's Grade I listed St Philip's Cathedral with only one view provided. The Victorian Society also objects to the impact of the development on St Chad's Cathedral which when erected was surrounded by small mainly industrial buildings. Although many of these have subsequently been removed and replaced, they consider the impressive scale of the Cathedral can still be best appreciated when it features in views from the nearby streets and with its twin spires should remain strongly prominent. The proposed development of a 39 storey tower in this location would however mean it would appear diminished between the proposed tower on the application site and the recently completed tall towers on the southern city centre side of Queensway at Snow Hill.
- 6.67 Objections to the impact of the tower on St Chads Cathedral have also been raised by Birmingham Civic Society. They consider the height of the tower, and visual impact of the setting of the Cathedral, including views along Queensway from both directions, are potentially the development's most serious impact. Concerns were also expressed by Design Review Panel that St Chads would be overshadowed by the development. Although the applicant has provided only one view of the proposals in relation to St Chads from Great Charles Street, officers consider that there would be harm to the setting of the Cathedral when viewed from along the Queensway. Officers do not therefore agree with the applicant that significance and setting of St Chads' would be sustained but rather conclude that the proposed development result in 'less than substantial harm' to its setting.

Other nearby listed buildings

- 6.68 The applicant's heritage statement also includes an assessment of the development on the significance or setting of other nearby listed buildings at 45 Great Charles Street, 61 Newhall Street, 57 and 59 Church Street, the public toilets built into Snowhill Railway Arch and concludes there would be no harm caused by the proposed development. The conservation officer agrees with these findings. Although Birmingham Civic Society have expressed concerns that the Heritage Statement has not considered the impact on locally-listed buildings or structures near the application site that have the potential to be affected by the proposed development, officers consider that a suitable analysis has been provided of the heritage assets that could be affected by the development and overall have conclude that harm to the significance of a number of heritage assets would be caused as a result of the development.

Conclusions

- 6.69 In relation to the impact of the application proposals on the conservations areas and listed buildings within and adjacent to the site officers conclusions are that there are a number of positive benefits to this scheme from a heritage point of view notably the re-introduction of built form, street frontage and back-of-pavement line reflective of historic street and plot patterns and dense urban grain. The re-interpretation of Ludgate Passage, active ground floor frontages and public realm improvements also have the potential to enhance this part of the JQCA and the setting of a number of listed buildings. However the proposed 39 storey tower due to its scale and visual impact would cause harm to the significance to the JQCA, the significance and setting of the grade I listed St. Paul's Church, the setting of the grade II* listed Cathedral Church of St. Chad and to the setting of a number of listed buildings on Ludgate Hill and St. Paul's Square. The degree of harm will be less than substantial and contrary to the statutory duties contained within Sec 66 and Sec.72 of the Listed Building Act. This harm must be afforded significant importance and weight and engages the presumption against the development. It also gives rise to conflict with policy TP12 of the development plan. Therefore in accordance with paragraph 196 of the NPPF the less than substantial harm needs to be weighed against the public benefits of the development which are covered in section 7 of this report.

Residential Amenity

Living and Amenity Space

- 6.70 The apartment sizes would all meet the nationally described space standards as mentioned in para 6.42 above. The proposed blocks fronting Lionel Street would be about 15 metres from the apartment and office buildings located opposite and there is a similar minimum distance between the apartments fronting Livery Street and the commercial uses within the railway arches. On Ludgate Hill there is about 20 metres between the frontage buildings and those opposite which are vacant and about a 50 metre separation distance across Great Charles Street. On the street frontages all of the apartments would be above ground floor commercial or communal space. Internally within the site separation distances between windows generally vary between 13 and 31 metres across the landscaped courtyards. These distances are considered to be suitable to ensure residents would not be unduly overlooked and would be provided with apartments having a suitable outlook and levels of light. The distance between opposing windows on the side elevations of Blocks B3 and C1 on Ludgate Hill would be only 7 metres at first and second level. However the rooms to the apartments affected also have windows either on the front elevation or rear elevation as well to ensure adequate levels of light can be provided.
- 6.71 The development would also provide a wide variety range of internal and external communal areas for residents which together provide some 4,808 sq.m of shared facilities the equivalent of 6.6 sq.m per apartment. Some apartments would have the benefit of a private terrace. The development would include a number of energy measures to save energy consumption. The scheme would therefore provide a good standard of living and amenity space.

Noise and Air Quality

- 6.72 With regard to noise Regulatory Services consider that due to the impacts of traffic, rail and commercial noise and in particular that noise levels on the Great Charles Street facades the development would provide a poor acoustic environment for

residents. Notwithstanding their objections they would accept the composite façade insulation design and that mechanical ventilation can be provided and would require that the performance of the installed system is tested prior to occupation which could be conditioned. They comment that the noise report refers to all windows being openable and given the air quality issues this cannot be agreed. They would also require a full overheating assessment, 24 hour assessment of railway noise as well as a number of conditions to control the use, hours of opening, delivery times, and any plant needed for the ground floor commercial units.

- 6.73 The applicants have provided further information in response to the comments raised by Regulatory Services. In respect of noise they confirm that the curtain walling will have a performance of at least $R_w + C_{tr} 50$ dB which should be readily achievable through the design. The glazing specifications they have detailed in the Noise Impact Assessment Report are not intended to be final specifications but are intended to show that residential dwellings are feasible on the site. Once more detailed design work has been undertaken finalised specifications can be provided via conditions for BCC to sign off. They also agree that a full overheating assessment can be conditioned. With regard noise from the railway/tram line they consider they have provided a robust assessment having measured the noise generated by trains and trams passing from the platforms and calculating the levels of train/tram noise egress at the boundary of the site using computer modelling. However they accept the need for the detailed noise mitigation measures and testing of the installed systems.
- 6.74 With regard to air quality Regulatory Services have raised objection in principle to the scheme on the grounds that it would create new residential exposure in an area with significant air quality challenges and create a street canyon which has a wider Air Quality impacts. They note the summary provided in the applicants report concludes an adverse AQ impact in 2023 up to the 5th floor on the Great Charles Street façade which is largely due to the height of the tower creating a road canyon which will adversely affect dispersion of traffic emissions up to the 5th floor. They consider the proposals do not provide an acceptable solution as windows from the 1st to 5th floor fronting Great Charles Street all serve bedrooms and living rooms and would need to be sealed. They however appreciate that this is a significant scheme and will serve to provide regeneration of the area and if on a wider planning balance the scheme is supported by committee they recommend conditions which would not address their objections but seeks to reflect their concerns and require site specific AQ monitoring.
- 6.75 In response to the objections from Regulatory Services regarding Air Quality the applicants advise that their assessment has been based on a worst-case basis assuming no improvement in vehicle emissions in future years. If however the CAZ is successful in its goal then the impacts of vehicle emissions will be reduced. Currently their monitoring recorded concentrations well in excess of the UK air quality objective for nitrogen dioxide along the Great Charles Street façade from the first to fifth floors. (there is no living accommodation on the ground floor). To provide the mitigation along the Great Charles Street façade a Mechanical Ventilation with Heat Recovery (MVHR) system would be installed that includes filtration for all units which would “scrub” [filter and clean] the incoming air stream of NO₂, reducing the concentrations of NO₂ to well below the air quality objective within the building. They propose to install mechanical ventilation to all residential rooms with MVHR units with a manually operable boost system to deal with overheating purposes. All windows installed would be capable of being opened but on the Great Charles Street frontage they would initially be locked/sealed for levels 1-5. Long term air quality monitoring would be undertaken at multiple heights along the street facing façades to determine the impact of the CAZ across the proposed development and whether the mitigation measures (mechanical ventilation) can be relaxed at a later date. Should the Clean

Air Zone implementation be successful and other initiatives taken in relation to future downgrading of Great Charles Street the windows can be subsequently unlocked. Conditions are suggested by the applicant to achieve this.

- 6.76 The objections from Regulatory Services are acknowledged and need to be balanced against the wider benefits to the City in redeveloping this important and prominent under used site. The development would take some years to be built out and be ready for occupation and during that time the CAZ will have been implemented and should improve air quality. Therefore subject to the conditions recommended by Regulatory Services it is considered that the objections relating to noise mitigation and air quality monitoring can be adequately addressed.
- 6.77 Regulatory Services have also expressed concerns that residents may be disturbed by noise from the by late night economy activities along Ludgate Hill and Livery Street which include several clubs and a jazz bar with an outdoor area. The applicants comment that these venues are not directly adjacent to the site and that there are other apartments directly opposite these premises. They consider the insulation and glazing specifications proposed for the apartments on the corner of Livery Street and Lionel Street should easily control any music noise from these venues and the apartments would also be above ground floor commercial units and not at pavement level.
- 6.78 As the development includes commercial and communal space along the street frontages there could be a conflict between these uses and the apartments above. Regulatory Services have however recommended conditions to require sound insulation, limits on equipment noise, hours of opening from 08.00 - 23.00 and delivery times of 08.00 - 20.00. They also require details of extraction and noise mitigation measures if any of the commercial units are used for the sale/preparation of hot food, as a drinking establishment of gym to ensure that neighbours amenity is adequately protected. The applicants have requested opening hours and delivery hours of 7am -11pm Monday – Saturday and 8am - 11pm Sundays. I do not consider that it is unreasonable to allow a 7am opening time Monday to Saturday but consider delivery times should be kept to the hours recommended by Regulatory Services particularly as it should not be necessary for goods to be delivered after 8pm.
- 6.79 Changes to the Use Classes Order came into force on 1 September 2020 but as the application was submitted before these were introduced it seeks previous A1, A2, A3, A4, B1, D1, D2 uses for the commercial floor space and transitional arrangements are in place so live planning permission can be determined by reference to the old use classes. Uses B1, A1, A2, A3 and some D1 (clinics, health centres, crèches) and D2 (gyms and indoor recreation) uses would fall within a new E Class but A4 (drinking establishments) and some D1 uses (schools, non-residential education, training and places of worship) and D2 uses (cinemas, concert halls, bingo halls) would now be in a different use class or be sui generis. Transportation request that the proposed D1 use class sought be removed as a school, day nursery or place of worship could attract significant levels of vehicle trips to the unit fronting Great Charles Street and I consider some of the D2 such as a cinema could cause similar issues. It is therefore recommended that a condition be imposed to prevent occupation by the D1 uses falling within the new F1 class and by D2 uses that are now sui generis.

Impact of neighbouring development

- 6.80 The applicants have submitted a daylight and sunlight report which considers the effect of the proposed development upon the existing surrounding properties, having

regard to the recommendations in the BRE guide to good practice. The assessment considers the existing and proposed conditions for daylight and sunlight levels before and after the development so the relative change can be determined. The report assesses the impact of the development on living accommodation on apartments opposite the site in Lionel Street and also several properties nearby in Water Street and Ludgate Hill.

- 6.81 The analysis of the scheme found that the majority of the rooms within the surrounding buildings would continue to enjoy satisfactory levels of daylight and sunlight with the proposed development in place. However at 17 Ludgate Hill, 16-17 Lionel Street, 21 Lionel Street and at Queensway House which all have windows directly overlooking the application site a number of rooms would have a reduction in daylight/sunlight. 17 Ludgate Hill has 10 windows at ground and first floor level that are considered to have substantial reduction in their daylight levels and there are 3 windows not able to meet with the BREs suggested level of sunlight during the winter months. At 16-17 Lionel Street 8 windows are considered to have a substantial reduction in their former daylight levels some of which are bedrooms which the guidance considers of 'less importance'. The windows are all able to meet the BRE guidance for both the annual and winter sunlight. At 21 Lionel Street there are 27 that have their VSC daylight levels reduced by more than 40%. There are also 11 windows that are not able to meet with the BREs suggested level of sunlight annually partly due to the buildings design which has large window heads to the ground and first floor windows and a balcony structure which sits over the 5th floor windows. At Queensway House there are 5 windows have moderate adverse losses (30%-39.99% reduction) and 6 windows that are considered to have substantial reduction (40% or more) in their former VSC levels, however the majority of these windows serve bedrooms and meet the BRE guidance for both the annual and winter sunlight.
- 6.82 It is acknowledged that there would be some loss of light to apartment windows located opposite the site as a result of the development. However as the application site is currently undeveloped these apartments currently experience very high levels of light for their urban location. The sunlight/daylight assessment has not considered the impact on the development on 18-19 Lionel Street last used as offices but now has approval for conversion to apartments including a 2 storey roof top extension. The impact on this property if converted to residential is likely to be similar to the other adjacent apartment developments. The proposed buildings on the Lionel Street are of a similar height to the existing buildings on this site frontage and the separation distance between windows of about 15 metres is wider than on many other streets within the Jewellery Quarter. The sunlight/day light report concludes that, overall, the results are commensurate with developments of this size and massing in tight, urban locations and I consider the proposed buildings heights are appropriate and would not affect the light to nearby properties to an unacceptable degree.
- 6.83 Objections have been received from several residents of Queensway House which lies at the junction of Lionel Street and Livery Street who request that the building proposed opposite their properties is reduced to 4 storeys to provide a similar design at the junction and avoid loss of light. The proposed building heights and separation distances are however considered to be acceptable and is illustrated in figure 11.
- 6.84 An objection has also been received from the occupier of one of the commercial units within the railway arches opposite the site on the Livery Street frontage. They are concerned that there would be a significant reduction in the natural daylight to the railway arches occupied by their businesses and by other commercial uses. However most of the proposed buildings are set back from the Livery Street frontage and there is also a break in the built form where the new public

square/arrival space is proposed. Although there could be some loss of light to units this needs to be balanced against the benefits to existing businesses of the site being developed, the additional residents that would be located close by and the public realm improvements proposed which would making the area safer, more active and attractive to potential customers.



Figure 19: Model showing relationship to neighbouring properties

Transportation Matters

- 6.85 Although transportation officers have raised no objections in principle to the application additional information was requested in respect of the proposed highway alterations, on how the commercial units fronting Great Charles Street would be serviced, whether a Section 106 sum is being offered for improvements to the pedestrian subway and whether the route where pedestrians cross Livery Street to/from Snow Hill station can be better defined. Additional information has since been provided by the applicant and explains that commercial deliveries for the commercial units fronting Great Charles Street would be via the new loading bays proposed on Ludgate Hill or Livery Street and then directly through the front entrance of the unit. The proposals include works to the existing footways which would be built out into the carriageway to provide three segregated on-street servicing bays as well as reducing the road widths around the site. They suggest that a condition be imposed to require the submission of a delivery strategy prior to the occupation of units. Confirmation has been provided that a £30,000 contribution for works to the subway forms part of S106 offer. With regard to the public realm improvements for pedestrian to cross Livery Street to/from Snow Hill station the applicants comment that they are willing to investigate the provision of a suitable crossing, such as dropped kerbs and tactile paving on Livery Street to define a semi-formal route to/from Snow Hill station which can be suitably addressed at the Section 278 stage. Transportation officers are satisfied with the additional information and request suitable conditions and a Section 278 Highway agreement be imposed.
- 6.86 A number of objections have been raised to the amount of car parking spaces proposed at 41 spaces (5.7%), the 64% provision of cycle spaces and 4 electric parking bays. This level of car parking is considered appropriate for this very sustainable location and the cycle parking provision is based the applicant's

monitoring of take up rates for cycle spaces in their other developments. The provision of secure lockers for folding bikes could also be provided if the need arises. The applicant agrees that creating the opportunity for electric cars to be charged within the car park area is important and will install infrastructure which enables all of the parking spaces to become electric car charging bays in the future to respond to changing demands. Spaces for motorcycles are included in the proposed car park and can also be used by mopeds. The proposed car and cycle parking provision is considered to be acceptable by transportation officers.

- 6.87 Other comments have been received that the proposals should improve access between the site and the City Centre core which is currently inadequate and that the development offers opportunities to greatly improve the access to the Jewellery Quarter and really integrate it into the City Centre. It is suggested that this could be achieved by the junction between Livery Street and Great Charles Street being closed to vehicle traffic so a section of Livery Street becomes a pedestrianised surface with access only for deliveries. Sufficient planning gain funds are also requested to deliver improvements for pedestrians to cross Great Charles Street including for the existing pedestrian subway which is intimidating to use. It is pointed out that Policy GA1.3 of the BDP seeks radically improved connections between the Jewellery Quarter and City Centre Core.
- 6.88 The City Council is considering the possibility of the future closure of the Livery Street/Great Charles Street junction and proposals for down grading Great Charles Street. Whilst these proposals are emerging it would be premature to alter the existing arrangements however the proposals would not prevent this occurring. The application does include works to upgrade the footways around the site and provide the new arrival space between the development and Snow Hill Station. The extent of blue brick paving has been increased and granite kerbs would be used as requested by the JQ Development Trust. In addition the applicants have offered a contribution of £30,000 towards improvements and maintenance of the underpass. The JQ Development Trust has also requested that the new pedestrian route through the development between Livery Street and Ludgate Hill be open to the public during the day. However the applicants consider this would not be possible due to security and management issues but comment that may be possible on an occasional managed basis such as if an event was taking place on the site.
- 6.89 The comments made by the JQ Development Trust that they are explore creating a publicly-accessible route through the Snow Hill Station entrance to the land on the other side of the viaduct to provide a through route and make a better connections for residents to the tram stop are supported by the applicants. They welcome being party to any future discussions with interested parties regarding how such a route could be delivered.
- 6.90 The JQ Development Trust, Local Services and landscape officers have also asked for and more street tree planting and green ground level street links to help form and encourage connections across Great Charles Street. In response the applicants comment that as part of the development, a total of 23 trees are proposed to be installed within the site, which will replace the 13 poor quality existing trees at a ratio of almost 2:1. Five of the proposed new trees will be in the arrival space on Livery Street, together with 3 specimen shrubs 1.5-2m tall. The remainder of proposed trees would be within the internal spaces which would be visible from Livery Street and Ludgate Hill. The applicant has investigated whether street trees can be provided on Lionel Street and Ludgate Hill, however highway safety and visibility, the existing pavement widths and access points into the development, together with the extent of underground utilities, restricts what is achievable in these locations.

Other matters

- 6.91 The comments made by West Midlands Police are noted and the applicant has replied that there will be no subletting of apartments and only residents that have leased a car parking space and Moda on-site staff will be provided with security fobs to gain access to the car park. Security and residents well-being is taken very seriously and there would be a CCTV system, access controls, barriers around the roof terraces and fixed furniture on the accessible terrace on Block C1. The development would also be managed 24 hours a day. Conditions can be imposed regarding lighting and installation of the CCTV. It is also proposed to require the ground floor glazing to be kept clear of obstructions to ensure natural surveillance and activity is viable on the street frontages. Network Rail has commented that there is a possibility of the development interfering with broadcast and electronic communications services in the area. A communications impact assessment and TV reception survey have been submitted with the application which confirms that applicants would work with any relevant operators to progress mitigation strategies as required.
- 6.92 The JQ Development Trust has listed a number of points where they consider the development could be improved. Most of these are addressed in the paragraphs above but in relation to their request that the commercial unit in Block C facing the Snow Hill viaduct be re-oriented to be entered from the arrival space the applicant agrees that the future access point for this unit could benefit from being from the arrival space. They suggest that this be considered further as part of the shop fronts condition details as this will partly depend on the future occupant of the unit. Their request that public art is provided as part of the development is agreed by the applicant who has advised they have already undertaken active discussions with local history groups such as the Birmingham Music Archive to assist with the development of a cultural strategy to inspire and inform the design of Great Charles Square. This is likely to include the provision of public art, metalwork and other elements of the landscape and design. A condition is recommended to secure an appropriate scheme.

Planning Obligations

- 6.93 Policy TP31 of the BDP requires 35% affordable dwellings on site of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or contributions towards off site provision for developments of 20 or more dwellings. The applicant has submitted a viability report with the application which has been independently assessed by the Council's consultants. They generally accept inputs within the applicant's appraisal but have identified a number of areas where they consider the overall viability of the proposed scheme would be improved. As a result they conclude that there is headroom for the allocation of 5% (36) on-site affordable dwellings as well as the other public realm improvements. This would be in the form of affordable private rented units at a 20% discount to Market Rent. With the inclusion of the affordable housing provision their appraisal produces a profit on cost at 11.45% (10.20% on GDV).
- 6.94 Following this assessment by the Council's consultants the following offer has been agreed:-
1. 5% on-site affordable housing provision based on affordable private rent at a 20% discount to Market Rent for 18 x 1 bed 2 person apartments and 18 x 2 bed 4 person apartments

2. High quality landscaping of the amenity spaces including for the public arrival space on Livery Street opposite the entrance to Snow Hill Station at a value of approximately £960,000
 3. Repaving the pavements around the perimeter of the site to Ludgate Hill, Lionel Street and Livery Street in traditional Staffordshire blue brick and repaving of Great Charles Street in concrete blocks at an estimated cost of £605,000.
 4. Contribution of £30,000 towards improvements to and/or maintenance of the Great Charles Street subway
 5. Provision of CCTV across the development, including external coverage of the Great Charles Street/Livery Street exit of the Great Charles Street subway.
 6. Creation of service laybys for use by all businesses in the vicinity and taxi drop off area and signage/street furniture for use by local community with an estimated cost of £210,000
- 6.95 The specific design enhancements total in the region of £1,805,000 which would represent the equivalent to an additional 6.5% affordable housing provision. Although some of these works are to for the residents private courtyard spaces the majority would have a wider public benefit particularly the provision of the arrivals space and repaving of the footways around the site perimeter and thus would meet the necessity tests set out in the CIL Regulations. At present the applicants are not able to enter into a Section 106 agreement as the site owned by the City Council. It is therefore recommended that a Section 111 agreement be completed prior to planning permission being granted which requires the applicant to enter into a Section 106 agreement to deliver the above requirements on acquisition of the site.
- 6.96 Section 106 contributions have also been requested from Local Services, Education and the Canal and River Trust but in view of the viability position it is considered that priority should be given to affordable housing and public realm improvements. The applicant has agreed to consider the introduction of signage directing pedestrians to the canal at the arrival space on Livery Street as part of the detailed landscape proposals for this area. The application site does not fall within a high value area that attracts a CIL payment.

7.0 The Planning Balance

- 7.1 The development would comply with a number of the relevant BDP policies relating to the re-use of urban land and promotion of mixed use development within the City Centre, creating sustainable and high quality new places. It would also meet some of the objectives set out for the Jewellery Quarter in the BDP to create a vibrant and mixed use urban neighbourhood supporting its unique heritage. The Snow Hill Master plan also indicates the site as being suitable for taller buildings fronting Great Charles Street and lying within an area identified for a Key Development Project. The Jewellery Quarter Conservation Area Character Appraisal and Management Plan encourages sensitive new development on current gap sites and the development of the site offers the opportunity to enhance the character and appearance of the Jewellery Quarter Conservation areas as it is currently devoid of any defining historic characteristic and has no built form.
- 7.2 There are however there are also a number of conflicts between the application proposals and the development plan policies in that the BDP policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance. Much of the lower scale development proposed would not cause harm to heritage assets but the height of the tower in particular is considered to cause

harm to the JQ Conservation Area, the setting of St Pauls Church, St Chads Cathedral and the listed buildings at 37 – 39 Ludgate Hill, 31 – 33 Ludgate Hill, 63 St Pauls Square, 1 St Pauls Square, 23 Ludgate Hill and 21 Ludgate Hill and would therefore conflict with the Development Plan policies. Significant weight and importance needs to be afforded to this conflict. The harm caused to the significance of these designated heritage assets is “less than substantial harm” and in accordance with paragraph 196 of the NPPF needs to be weighed against the public benefits of the proposals and include the following:-

7.3 *Heritage Benefits*

- Redevelopment of a long vacant brownfield site which currently detracts from the character and appearance of the JQ Conservation Area
- Creating a transitional development between the Jewellery Quarter and the city centre on an underutilised site;
- Provision of development which relates positively to the conservation area by establishing built form on street edges and buildings to back of pavement
- Expression of the historic building plot forms by providing individual building designs and a varied roof line which is a feature of the Jewellery Quarter Conservation Area
- Reinstatement of built development on the site and creating a street frontage which would enhance the significance of listed buildings 61 Ludgate Hill and 63 – 64 Ludgate Hill;
- Enhancements to the public realm by resurfacing the footways on the site frontages with blue clay pavers

7.4 *Economic Benefits.*

- Rejuvenation of prominent site city centre site and that been under used for decades
- Stimulation of wider regeneration opportunities within the Jewellery Quarter and city centre and to the immediate north of the site
- Investment in the city and area equating to approximately £140 million during the construction phase
- Provision of a number of ground floor commercial spaces within the scheme providing active frontages and the potential to deliver services and facilities to local residents
- Increasing the local population thereby boosting the vitality and viability of local shops and businesses, local leisure facilities and support services.
- Providing about 330 construction jobs and 105 jobs on completion within the commercial floor space and for the ongoing management of the development.
- Improving connections to the entrance to Snow Hill Station from Livery Street.

7.5 *Design*

- Replacing a vacant site with buildings giving the appearance of individual blocks of differing characters that would provide variety to elevations and roofline and reintroduce a number of architectural features which are characteristic of the conservation area
- The creation of a unique high quality living environment with a range of external and internal communal facilities for residents
- Providing large windows and active uses at ground floor level allowing natural surveillance to the street frontages.
- Upgrading the public realm around the Livery Street entrance to Snow Hill station by providing an arrival square and contribution towards subway improvements.

7.6 *Housing*

- Providing 722 apartments to contribute to the City Housing need.
- Delivering of a broad range of apartment types and sizes to create a diverse community
- Provision of 36 apartments for affordable market rent in perpetuity

7.7 *Sustainability*

- Redevelopment of a brownfield site close to the City centre core and good accessibility by means other than the car via pedestrian and cycle routes, bus and train services nearby
- Provision of energy efficient scheme including buildings designed to reduce energy use and carbon including use of water efficiency measures and sustainable materials, a CHP plant and solar panels and targeting BREEAM Excellent rating for the commercial spaces
- Provision of a sustainable drainage scheme
- Providing cycle storage facilities and electric vehicle charging points.

7.8 *Ecology*

- Inclusion of suitable native planting, bird/bat boxes, green infrastructure and green/brown roofs which would enhance the biodiversity of the site which currently has little ecological value.
- Providing tree planting and landscaping to the new area of public realm on Livery Street

7.9 These public benefits in developing the site as proposed are considered to outweigh the 'less than substantial harm' to heritage assets.

8. Conclusion

8.1 The development proposal would be contrary to the development plan, having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004. Moreover, it would give rise to "less than substantial harm" to heritage assets. These are factors that weigh against the development. However, the proposals would deliver an attractive and high quality mixed use development of apartments and ground floor commercial uses on a large prominent site which has been under used for many years. The proposal has carefully analysed the site context and used this to subdivide the site into two halves. Blocks A, B1 and B2 fronting towards the City Core would provide taller buildings and a tower to relate to the cluster around Snow Hill and the City Centre core and Blocks B3 and C fully respecting the Jewellery Quarter with intricate architecture reference the industrial character of the Quarter itself. The scheme is confident and bold and would deliver regeneration to a site that has long been a missing piece in the restoration of the City Centre and would introduce much needed footfall and vibrancy to this sterile road frontage.

8.2 It is however acknowledged that there is concern about the impact of the development would have on local heritage assets particularly in respect of the 39 storey (Block A). However in my judgement and considering all the factors at play in this scheme can be supported as the considerable public benefits offered in favour of the development are of sufficient weight to justify departure from the development plan and outweigh the substantial weight that has been apportioned to the identified less than substantial harm and the presumption against the development.

9. Recommendation

- 8.1 That application 2020/02256/PA be APPROVED subject to the prior completion of a Section 111 Agreement which requires the applicants to enter into a Section 106 Legal Agreement immediately following their acquisition of the site to secure the following:
- a) 36 (5%) on-site affordable private rent dwellings at a 20% discount to Market Rent for 18 x 1 bed 2 person apartments and 18 x 2 bed 4 person apartments in perpetuity
 - b) The provision of high quality landscaping of the amenity spaces including for the public arrival space on Livery Street opposite the entrance to Snow Hill Station to a value of approximately £960,000 (index linked from the committee resolution date)
 - c) The repaving the pavements around the perimeter of the site to Ludgate Hill, Lionel Street and Livery Street in traditional Staffordshire blue brick and repaving of Great Charles Street in concrete blocks to a value of £605,000 (index linked from the committee resolution date)
 - d) A Contribution of £30,000 (index linked) towards improvements to and/or maintenance of the Great Charles Street subway
 - e) Provision of CCTV across the development, including external coverage of the Great Charles Street/Livery Street exit of the Great Charles Street subway.
 - f) Creation of service laybys for use by all businesses in the vicinity and taxi drop off area and signage/street furniture for use by local community to a value of £210,000 (index linked from the committee resolution date)
 - g) Payment of a monitoring and administration fee associated £10,000.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 15 February 2021, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
- 1. In the absence of a legal agreement to secure any on-site affordable market rent dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
 - 2. In the absence of any legal agreement to secure new areas of public realm and improvements to the existing footways adjacent to the site the development is contrary to Policies PG3, TP12, TP27 and TP39 of the Birmingham Development Plan and the National Planning Policy Framework.
 - 3. In the absence of any legal agreement to secure the creation of service laybys and a taxi drop off area the contributions towards improvements to the subway adjacent to the site the development is contrary to Policies PG3, GA1.3 and TP39 of the Birmingham Development Plan and the National Planning Policy Framework
- 8.4 That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 8.5 That in the event of the Section 111 agreement being completed to the satisfaction of the Local Planning Authority on or before 15 February 2021, or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/02256/PA be APPROVED, subject to the conditions listed below:-

1	Requires the prior submission of a contamination remediation scheme
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- 2 Requires the submission of a contaminated land verification report
 - 3 Requires the prior submission of a foul and surface water flow strategy drainage scheme
 - 4 Requires the prior submission of a sustainable drainage scheme
 - 5 Requires submission of a crane management plan
 - 6 Requires the prior submission of a construction employment plan
 - 7 Requires the prior submission of a construction method statement and management plan
 - 8 Requires the submission of hard and/or soft landscape details
 - 9 Requires the submission of hard surfacing materials
 - 10 Requires the submission of boundary treatment details
 - 11 Requires the submission of a landscape management plan
 - 12 Requires the submission of details of public art
 - 13 Requires the submission of a lighting scheme
 - 14 Requires the submission of a scheme for ecological and biodiversity enhancement measures
 - 15 Requires surveys and mitigation of any impacts on the GSM-R equipment.
 - 16 Requires the submission prior to occupation of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 17 Requires the submission of a car parking management and residential travel plan
 - 18 Requires the submission of details of a delivery vehicle management scheme
 - 19 Requires the submission and completion of works for the S278/TRO Agreement
 - 20 Requires the submission of a CCTV scheme
 - 21 Requires submission of the retail/commercial Shop Front Designs.
 - 22 Requires a post completion telecommunications reception assessment
 - 23 Requires the prior submission of sample materials for Block A
 - 24 Requires submission of an air quality management plan for Block A
 - 25 Allows a review of the air quality mitigation measures for Block A
 - 26 Requires the submission of window frame details for Block A
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| 27 | Requires a scheme of noise mitigation measures for Block A |
| 28 | Requires Noise Commissioning Testing for Block A |
| 29 | Requires the prior submission of noise insulation for Block A |
| 30 | Requires the prior submission of the plant enclosure, flues and lift overruns |
| 31 | Requires the submission of details of green/brown roofs for Block A |
| 32 | Requires the prior submission of sample materials for Block B |
| 33 | Requires submission of an air quality management plan for Block B |
| 34 | Allows a review of the air quality mitigation measures for Block B |
| 35 | Requires the submission of window frame details for Block B |
| 36 | Requires a scheme of noise mitigation measures for Block B |
| 37 | Requires Noise Commissioning Testing for Block B |
| 38 | Requires the prior submission of noise insulation for Block B |
| 39 | Requires the submission of plant enclosure, flues and lift overruns details for Block B. |
| 40 | Requires the submission of details of terraces for Block B |
| 41 | Requires the submission of details of green / brown roofs for Block B |
| 42 | Requires the prior submission of sample materials for Block C |
| 43 | Requires the submission of details for the car park doors on Block C |
| 44 | Requires the submission of window frame details for Block C |
| 45 | Requires a scheme of noise mitigation measures for Block C |
| 46 | Requires Noise Commissioning Testing for Block C |
| 47 | Requires the prior submission of noise insulation for Block C |
| 48 | Requires the submission of plant enclosure, flues and lift overruns details for Block C. |
| 49 | Requires the submission of details of terraces for Block C |
| 50 | Requires the submission of details of green/brown roofs for Block C |
| 51 | Requires the prior submission of a noise assessment and extraction and odour control details for some commercial uses |
| 52 | Requires the glazing to the commercial/retail units and ground floor communal areas to be clear and not obstructed |
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- 53 Limits the noise levels for Plant and Machinery
 - 54 Removes PD rights for any roof top equipment
 - 55 Prevents storage except in authorised area
 - 56 Requires the provision of vehicle charging points
 - 57 Requires the provision of cycle parking prior to occupation
 - 58 Limits the commercial floorspace and confirmation of uses
 - 59 Limits the hours of use of the commercial/retail units to 7am -11pm Monday - Saturday and 8am - 11pm Sundays
 - 60 Limits delivery time of goods to or from the commercial/retail units to 8am-8pm
 - 61 Requires the submission of details of the solar panels.
 - 62 Requires the scheme to be in accordance with the energy statement
 - 63 Requires the the commercial/retail floorspace to meet BREEAM excellent.
 - 64 Require implementation of the wind mitigation measures
 - 65 Requires the scheme to be in accordance with the listed approved plans
 - 66 Implement within 3 years (Full)
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Case Officer: Lesley Sheldrake

Photo(s)



Photo 1: Birds Eye view of site



Photo 2: Internal view of site from Ludgate Hill



Photo 3: View of site from Great Charles Street



Photo 4: View of site looking up Ludgate Hill towards St Paul's Square

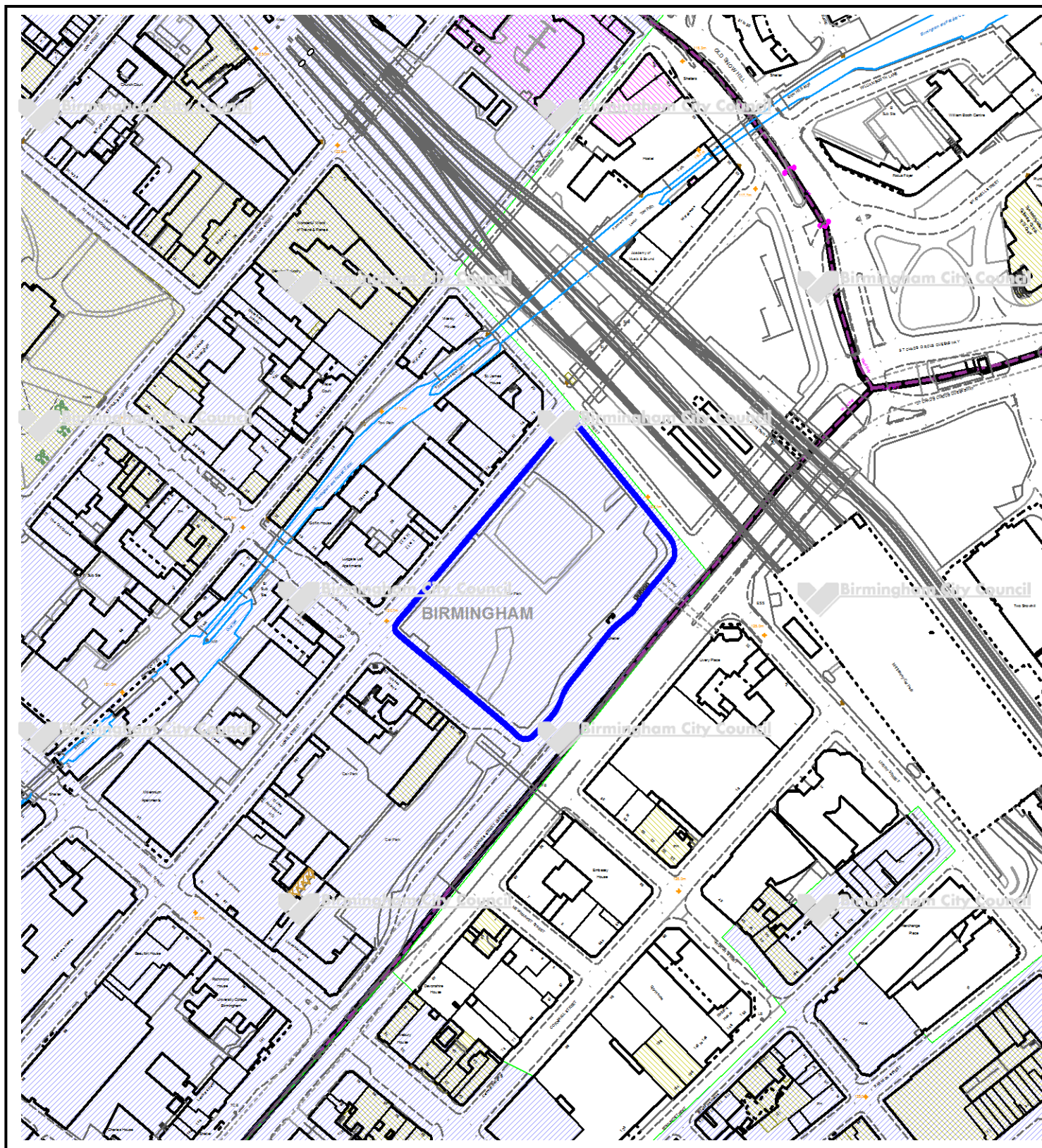


Photo 5: View of site from Lionel Street



Photo 6: View of site from Livery Street

Location Plan



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Committee Date:	19/11/2020	Application Number:	2020/04784/PA
Accepted:	26/06/2020	Application Type:	Full Planning
Target Date:	20/11/2020		
Ward:	Bordesley & Highgate		

Priory House, Gooch Street North/Kent Street, Birmingham, B5 6QU

Conversion and refurbishment of Priory House, including change of use from Use Class B1(b) to include 79 residential apartments (Use Class C3), ancillary internal and external resident's amenity areas, secure car and cycle parking and other associated works

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. This application for full planning permission proposes the conversion and refurbishment of Priory House to create 79 residential apartments with ancillary internal and external residents amenity space, along with secure car and cycle parking area. The building currently benefits from a B1 use class and was last in use as a forensic science laboratory but has been vacant for approximately 8 years.



Figure 1 – Priory House from junction of Kent Street and Goch Street North

- 1.2. The proposal includes a mix of 1 bedroom, 2 bedroom and 3 bedroom apartments, typically set over a single floor (beginning on the elevated ground floor level). There are also three townhouse style apartments fronting Kent Street which have been designed specifically to take account of the change in levels, occupying basement and ground floor levels. 10 car parking spaces are proposed along with 98 cycle spaces, which exceeds the 100% cycle parking provision, all at basement level.
- 1.3. The scheme proposes 98 sqm of indoor resident's amenity space at basement level, accessible by lift and stairs leading from the entrance area. A further 29 sqm of amenity space would be provided on the ground floor, which would be accessible through the entrance way and ground floor corridor.
- 1.4. An outdoor resident's amenity area approximately 330sqm is proposed in the existing courtyard area, accessed at ground floor level. This would be treated with soft landscaping and enclosed by existing walls to create a communal garden space for residents. Apartments facing onto this courtyard at ground floor level would benefit from private gardens in addition to the communal amenity space.
- 1.5. The exterior of the building would be retained and refurbished to retain its character. New windows would reflect the original window fenestration with amendments proposed at roof level to accommodate a lift overrun.
- 1.6. The townhouse apartments along the Kent Street elevation would have new facades to enclose the space. The proposals also include improvements to the pavements outside of the townhouse apartments, reinstating the original kerb line that was dropped to provide servicing to the loading bays. The appearance of the rear elevations would be enhanced and the existing duct work would be removed.
- 1.7. The residential unit mix is broken down in figure 2, below:

Unit Type	Number	Percentage
1 bedroom (1 person)	28 units	47%
1 bedroom (2 person)	9 units	
Subtotal	37 units	
2 bedroom (3 person)	24 units	44%
2 bedroom (4 person)	11 units	
Subtotal	35 units	
3 bedroom (4 person)	7 units	9%
Subtotal	7 units	
Total	79 units	100%

Figure 2 – residential unit mix

- 1.8. All apartments comply with or are in excess of minimum floor areas set within the Nationally Described Space Standards. The majority of the 1 bedroom 1 person units (1B1P) proposed almost qualify as 1 bedroom 2 person units (1B2P), measuring either 46 sqm or 48 sqm (threshold is 50 sqm). These units are designed without internal corridors to maximise the use of the living space. In addition, due to the existing internal arrangements, the floor to ceiling heights within all of the proposed apartments exceed typical internal heights for new residential developments (almost 3m high).
- 1.9. The majority of residents would gain access from the main entrance on Gooch Street North. The entrance would lead to a lobby area with lift and stair access to the upper floors. On the ground floor, there would be access to an external, communal garden. The garden capitalises on an existing void area and would provide a communal area for residents. The proposed townhouse apartments would have private access directly from Kent Street.

4.3 Proposed Floor Plans



Figure 3 – Ground Floor Plan

- 1.10. The cycle and car park is proposed in the basement level and would be accessed through the existing car ramp off Gooch Street North which would be modified. The car park would provide 10 car parking and 98 cycle spaces, also accessed from the car ramp, separate from pedestrian entrance. The proposals include a waste storage room for general waste and mixed recyclables, serviced through a refuse chute.

1.11. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site covers 0.136 hectares and is located in the defined city centre, to the south of the city core within the 'Southside' quarter of the city centre, as defined in the Big City Plan. The site is immediately bounded by existing built form to the north-east (16 Kent Street) and to the north-west (120-129 Bromsgrove Street), Kent Street to the south-east and Gooch Street North to the south-west. The application site comprises a 7-storey building named 'Priory House'. The building was constructed in the 1950s and has been vacant since March 2012.
- 2.2. The site is in close proximity to transport links, with a 10 minute walk to both Birmingham New Street Station and Digbeth Coach Station. There are local amenities such as the Bullring Shopping Centre and Mailbox within walking distance as well as many bars and restaurants.
- 2.3. There are a number of emerging residential schemes in close proximity, the former Kent Street Baths site to the west, Unity House & The Armouries to the north, both benefiting from extant consents, and 16 Kent Street immediately to the east which is currently awaiting determination.



Figure 4 – Emerging Schemes

3. Planning History

- 3.1. Reference 1993/02915/PA - Gooch street north, city -, Birmingham forensic laboratory dev alterations to elevations. Approve subject to Conditions 10/09/1993
- 3.2. 1995/03136/PA - Gooch street north/kent street, city - priory house dev provision of internal administration office to basement and new fire escape to exit onto Kent Street. Approve subject to Conditions 05/10/1995

- 3.3. 1995/00706/PA - Gooch street north, priory house, city dev installation of roller shutter door. Approve subject to Conditions 18/05/1995

4. Consultation/PP Responses

- 4.1. Leisure Services – Requested public open space and play area contribution totalling £215,775. This would be directed towards the provision, improvement and / or biodiversity enhancement of POS and the maintenance thereof at Highgate Park in the Bordesley and Highgate Ward
- 4.2. Cllr. Gareth Moore – Has objected to other applications in the area on the basis of the potential for further residential development to harm the viability and vitality of the Gay Village. Potential for future residents to raise noise complaints against existing bars and clubs, which could affect viability and harm the night time economy and subsequently the LGBTQ+ community. In respect of this application the Councillor raises no specific objection to residential use of the building given the distance from the Gay Village and the blank façade facing the nearest licensed premises (The Nightingale) provided the highest level of noise mitigation is implemented. Also requests that any S.106 contributions be directed towards public realm improvements in the Gay Village, so that the LGBTQ+ community see a direct benefit.
- 4.3. West Midland Police – request cycle storage pods be provided rather than Sheffield hoops, and numerous security and building management features be included as part of the development. Also highlight a high propensity for serious crime and the gang threat in the area. Request S.106 contributions be directed towards improving security in the area by provision of additional street lighting or CCTV.
- 4.4. Lead Local Flood Authority – Acknowledge there are very limited opportunities to make a substantial difference to the site to incorporate SuDS or new drainage infrastructure. No objection.
- 4.5. Ecology – No objection subject to conditions requiring a scheme from ecological/biodiversity enhancement measures and for the provision of bat/bird boxes.
- 4.6. Severn Trent Water – No objection subject to a condition requiring the prior submission of foul and surface water drainage plans, and for said plans to be implemented before the development is first brought into use.
- 4.7. Transportation – No objection subject to conditions requiring a suitable Highway Agreement to reinstate the redundant footway crossing on Kent Street back to footway with full height kerb, to BCC specification at the applicants expense, to be completed prior to occupation; cycle parking and car parking to be provided prior to occupation of the development.
- 4.8. Regulatory Services – No objection subject to conditions requiring the submission and implementation of a noise insulation scheme prior to occupation, submission of a construction method statement/management plan and the provision of an electric vehicle charging point.
- 4.9. Southside BID - The proposal would bring a derelict site back into positive use which will benefit the area. The refurbishment of the existing building is very much

welcomed as it will prevent the building from deteriorating further into significant disrepair and improve the visual appearance of the area. In addition, I understand as part of the Section 106 agreement for this project, a sum amounting to £200k is being proposed for public realm and security improvements within Southside. This from a BID perspective is much needed and will be very well received. I therefore, fully support this application.

- 4.10. Site and Press Notices displayed. Neighbouring occupiers, Ward Members, Southside BID and Resident's Associations consulted with no representations received.

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

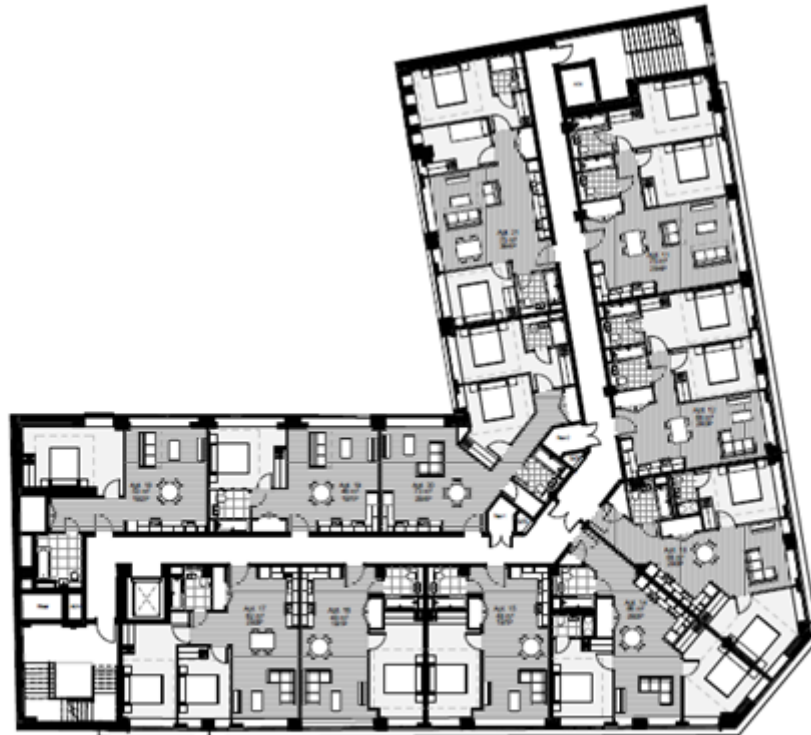
- 6.1. The BDP identifies the application site as being within the City Centre Growth Area where the focus will primarily be upon re-using existing urban land through regeneration, renewal and development.
- 6.2. The application site lies within the Southside and Highgate wider City Centre area of change as an opportunity for cultural, entertainment and residential development.
- 6.3. Key issues for consideration are the principle of the development; noise levels; loss of employment land; impact on a community with protected characteristics; the application of 'Vacant Building Credit; 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 79 apartment scheme would have a circa 47% - 44% split between 1 and 2 bedroom apartments with 3 bedroom units making up the remaining 9% of the total mix. 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.
- 6.5. The housing mix proposed is influenced by a number of factors including housing needs and demands in this part of the city and affordability. The configuration of the existing building (including the position of existing windows) has also influenced the arrangement of the residential apartments, with beams, columns and shear walls supporting the structure needing to be retained.
- 6.6. 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. The majority of the 1 bedroom 1 person units (1B1P) proposed almost qualify as 1 bedroom 2 person units (1B2P). The 1B1P units generally measure either 46 sqm or 48 sqm. The threshold for 1B2P units is 50 sqm. 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 and is deemed acceptable in that respect. Given the overall housing needs of the city and the site's location the proposed mix is considered acceptable, with the 3 bed units being particularly welcome.



PRIORITY HOUSE, BIRMINGHAM | DESIGN AND ACCESS STATEMENT | JUNE 2020

Figure 5 – Typical Floor Plan

Vacant Building Credit

- 6.7. The scheme does not propose any affordable dwellings on the basis of the application of 'vacant building credit' (VBC). Paragraph 63 of the NPPF confirms that VBC is: *'to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped... any affordable housing contribution due should be reduced by a proportionate amount'*. In this instance given the proposal is for conversion of an existing building and does not include the construction of any new buildings, the applicant would not be required to make an affordable housing contribution.
- 6.8. Guidance as to where and when VBC can be applied to a development is contained within the Government's National Planning Practice Guidance – Planning Obligations, which states: *"The vacant building credit applies where the building has not been abandoned. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings"*

- 6.9. In order to assess whether vacant building credit applies to the development a site visit was undertaken by the case officer and the independent financial viability assessor to inspect the building. Upon inspection it was clear that the building was in some disrepair with signs of damp, missing ceiling tiles and damage to the former laboratories. However, it was concluded that the building was structurally sound and the signs of disrepair were to be expected. With moderate remediation and refurbishment works the building could be brought back into use quite easily.



Figure 6 – Former Laboratory



Figure 7 – Former Canteen

- 6.10. The building has been vacant for a period of approximately 8 years, but the lease was only surrendered by the former holder in 2019. There has been no intervening use since the forensic laboratory closed 8 years ago. During the inspection it was evident that security had been present at least at some point since the building was vacated. For these reasons the building is not considered to have been abandoned.
- 6.11. Given that the building has been vacant since 2012 but the lease holder only surrendered the lease in 2019, it is not considered that the building has been made vacant solely for the purpose of redevelopment. In addition, the site does not benefit from an extant or recently expired consent for residential use, and as such the

application of building credit in this instance would not result in the loss of previous contribution commitments.

- 6.12. Having taken into consideration all of the above and the spirit of the relevant sections of the NPPF and NPPG which seek to incentivise brownfield development, I can conclude that vacant building credit applies in this instance.

Loss of Employment Land

- 6.13. Although the building has been vacant for approximately 8 years, its former use was for research and development, formerly falling under use class B1(b) (now use class E) and as such Policy TP20 of the BDP is applicable. The policy seeks to ensure the protection of employment land, such land includes former B1(b) uses 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.
- 6.14. The Loss of Industrial Land to Alternative Uses SPD produced in 2006 is referenced in the BDP and is therefore consistent with the more recent Policy TP20 and therefore continues to carry weight. The SPD, which defines industrial uses as those within the former B1, B2 and B8 Use Classes, 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.
- 6.15. 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. It states that non-conforming uses may be those that have a history of complaints against them due to their operation. The application site is approximately 0.33 acres and located within a predominantly residential area, with further residential schemes under construction or seeking consent. Examples included Kent Street Baths opposite, 16 Kent Street and the Unity and Armouries development. The site has been vacant for a prolonged period and as such there are no recent complaints, and it is not inconceivable that a research and development use could co-exist with residential. However, 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.
- 6.16. 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 Southside and Highgate 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.
- 6.17. 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. The proposal also preserves a building of local architectural interest bringing it back into a viable use appropriate in the city centre which serves to strengthen the distinctive character of the Southside and Highgate area. The scheme would also be of benefit to the area by ensuring the reinstatement of the redundant footway crossing on Kent Street back to footway which would improve a pedestrian route as sought by Policy GA1.3. On balance, for the reasons outlined above, the proposal is considered to comply with the BDP as a whole.

DESIGN

- 6.18. Policy PG3 of the BDP states that all new development will be expected to be designed to the highest possible standards which reinforces or creates a positive sense of place and safe and attractive environments. Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development and creates better places to live and work and Para 127 states that planning policies seeks to ensure developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture and layout, are sympathetic to local character and history, including the surrounding built environment and maintain a strong sense of place.
- 6.19. Priory House was built in the 1950's where the existing signage indicates it housed the Southall Bros & Barclay firm. The building consists of 7 storeys and is of buff brick construction, with concrete piers/lintels and large 4 panel windows. The character to the south of the site remains largely industrial with low-rise warehouse buildings and surface car parks. The application site is in close proximity to the Grade B locally listed 134 & 135 (Unity House). The existing roof mounted structure housing plant is also proposed to be removed and will improve the appearance of the building by giving the flat roof a clean finish. Given the increasing need for housing the retention and conversion of an industrial building of this architectural style is welcomed.
- 6.20. Replacement windows, within both original openings and additional openings to be created would draw from details, proportions and materials of the existing window fenestration. Typical windows would be broken into 10 panels, with dark grey metal frames to complement the existing brickwork and concrete piers, which is considered acceptable. In regards to brick where needed, the use of a match to the existing brick blend material to make the facades look comprehensive is supported.



Figure 8 – Gooch Street North/Kent Street Corner

- 6.21. The ramped car park/vehicular entrance and refuse access appear mundane with the repetition of the dark grey colour, therefore it is suggested a condition be applied

to any approval that requires their detail to be agreed, which could potentially include an art mural which would make their appearance less utilitarian by adding a form of interest. It is also suggested that lighting is thoroughly integrated into the scheme to provide further enhancement of the buildings appearance, hence a condition is also attached. The retention of the signage “Southall Bros & Barclay” is supported and retains the character of the industrial building.

- 6.22. Conditions requiring the submission and approval of materials, architectural details, boundary treatments, hard and soft landscaping, external doors, hard surfacing and public art are also recommended to be attached to any approval.



Figure 9 – Townhouse apartments on Kent Street

HERITAGE

- 6.23. Paragraph 197 of the NPPF requires 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 or loss and the significance of the heritage asset.’*
- 6.24. Given that the application site is in close proximity (approximately 45m to the north) to the Grade B locally listed 134 & 135 (Unity House), a non-designated heritage asset, it is necessary to consider the application in respect of the aforementioned paragraph in the NPPF. Given that the application proposes relatively minor alterations to the external appearance of the building and that it retains its industrial architectural appearance, the significance of the non-designated heritage asset is considered not to be harmed. It should also be noted that the Unity & Armouries site has extant consent for construction of residential apartments and construction is ongoing.

ECOLOGY

- 6.25. The ecological survey found that the building was in use by gulls and feral pigeons therefore any demolition or renovation the roof or balconies should be undertaken outside of the bird breeding season. This requirement is covered by legislation outside of the planning system and therefore no condition to this effect is recommended.
- 6.26. Although there is no evidence of the site being used by black redstarts. There is potential for nesting habitat to be present for this declining species. As such a condition requiring the provision of bird boxes is recommended. The boxes should be either in the form of integrated bird bricks or schwegler nest boxes where practical once redevelopment is complete. The requisite condition is attached.
- 6.27. Biodiversity of the site can be enhanced by using native plants in landscaping providing habitat and foraging, as well as the use of climbing plants on the walls which can provide shelter and foraging opportunities for wildlife. A condition requiring the ecological enhancement of the site is attached and as such the proposal accords with Policy TP8 of the BDP.

RESIDENTIAL AMENITY

Noise

- 6.28. The eastern site boundary is formed by existing part used office buildings which, currently, are the subject of a planning application for new residential development. The lower levels of this building are currently occupied by the Amusement 13 night club. Beyond this property to north east is Nightingale club at the junction of Kent Street and Lower Essex Street which operates each day of the week and is open into the early hours of the morning. As such it is necessary to assess whether noise generated by these premises would have a detrimental effect on the development proposal to an extent that would make it inappropriate.
- 6.29. Consequently a noise assessment has been conducted in support of the application proposal. Noise measurements have been made in the vicinity of Priory House on a number of occasions in recent years in order to support planning applications for residential developments on adjoining sites. Given the current restrictions due to Covid-19 this archive data has been used to provide an assessment of the normal noise climate at Priory House. The data used has previously been submitted to BCC to support the applications for these adjoining sites and takes into consideration noise generated by both the Nightingale club and Amusement 13.
- 6.30. The results of the noise survey, including observations made whilst on site during both the deployment and collection of the equipment, and during the attended night-time site visits, indicate that the general noise climate of the site and surrounding area is dominated by the road traffic on Bristol Street to the west, Hurst Street to the east and other roads in the vicinity. Additional noise occurs during the late evening and night time periods, particularly for Thursday to Saturday, and is attributable to break-out from Nightingale Club, and occasionally Amusement 13, together with associated pedestrian and vehicle activity.
- 6.31. The facades overlooking Gooch Street North and Kent Street are subject to traffic noise during the daytime and night-time which exceed acceptable levels and, therefore, require mitigation to reduce the impact upon habitable rooms.
- 6.32. Attended site visits conducted by the applicant's acoustic consultant together with the survey data indicate that there is a clear increase in sound levels during the late

evening and night time due to activity associated with nearby entertainment premises with high levels of music break-out from Nightingale and Amusement 13 and also from patrons in and around the premises including activity on Kent Street and Lower Essex Street. It was observed that the Nightingale outdoor balconies were in full use during the site measurements and that 1st floor windows were open.

- 6.33. As such, it would be necessary to implement suitable mitigation measures to reduce the potential noise impact on the proposed development. The noise assessment refers to glazing standards in relation to their overall performance. Performance at each 1/3 octave band must also be deemed sufficient. Additionally the noise assessment suggests the acoustic insulation specified will be 1dB less effective than required at the 250 and 500Hz bands. This is not considered to be acceptable by BCC Regulatory Services and a higher level of mitigation is required.
- 6.34. However, a 1dB difference in noise level is not considered to be significant, and can be achieved through improved mitigation measures. As such Regulatory Services have raised no objection to the proposal subject to conditions requiring the prior submission of two noise insulation schemes, one relating to the courtyard elevation and one relating to the Kent Street elevation. In addition conditions requiring the submission of a construction method statement/management plan and the provision of an electric vehicle charging point are also requested. I agree with the EPU officers assessment that noise levels can be suitable mitigated and as such the requested conditions are attached.

Residents Amenity

- 6.35. As previously discussed, all of the units would be compliant with the Nationally Described Space Standards and the plans include furniture layouts that demonstrate that an adequate residential environment would be provided for future occupiers.
- 6.36. Private amenity space is provided in the form of a circa 300sqm courtyard 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. A garden room is also provided for use by residents. The units fronting the courtyard at ground floor level would also benefit from their own private amenity space. Internal amenity (98sqm) space is also provided at basement level. A lift provides access to the allocated amenity areas for all prospective residents.
- 6.37. All internal room sizes are in excess of the guidelines within 'Places for Living SPG'; and all habitable rooms have a suitable outlook onto surrounding streets or the external amenity space.
- 6.38. In respect of the amenity of emerging residential properties in the vicinity, there are no overlooking or overshadowing implications. Noise and disturbance generated by future occupiers is unlikely to be material given the surrounding context and proposed residential developments.

HIGHWAY MATTERS

- 6.39. A Transport Statement has been submitted in support of the application. The statement concludes that the site is in a highly sustainable location in close proximity to services and facilities. Its location benefits from being fully integrated with existing pedestrian and cycle networks and has good access to regular bus and rail services.

- 6.40. The statement concludes that the provision of limited on-site parking is commensurate with the good level of access to local services and public transport. The proposals include 10 car parking spaces and 98 secure cycle spaces within the basement level. Sheffield hoops would be provided to allow secure storage of bicycles as storage pods are bulky and would reduce the number of cycle spaces provided. The limited number of car parking spaces accords with the adopted Car Parking Guidelines SPD and the cycle storage provision accords with the emerging Birmingham Parking SPD. As such, the proposal is considered to be in accordance with policies TP38, TP39, TP40, TP44 of the BDP and paragraph 109 of the NPPF).
- 6.41. The transportation officer has raised no objection to the proposals subject to conditions requiring the provision of car parking spaces and cycle storage facilities prior to occupation of the development and that the applicant enters into a suitable highway agreement to ensure the reinstatement of the redundant footway crossing on Kent Street back to footway with full height kerb, to BCC specification. I concur with the officer's assessment and attach the requested conditions.

SUSTAINABILITY & DRAINAGE

Energy Efficiency

- 6.42. Policy TP3 of the BDP requires development to be designed and constructed in ways that maximise their sustainability credentials, limiting the overall impact of the works. This includes maximising energy efficiency, use of low carbon energy, conserving water, reducing flood risk, use of sustainable materials, building in flexibility, minimising waste and maximising recycling in construction and operation, and enhancing biodiversity value.
- 6.43. A Sustainable Construction and Energy Statement has been produced by the applicant to explain how the proposal will meet policy requirements set out in Policy TP2 (Adapting to climate change) to minimise overheating. The Statement also sets out how the conversion, through use of fabrics alongside other construction techniques will increase the energy efficiency of the building and reduce carbon emissions by approximately 52% from its previous use as an office. This is considered to be a significant improvement in terms of energy efficiency and would contribute towards the City Council's goal of achieving a 60% reduction in total carbon dioxide emissions produced in the city by 2027 from 1990 levels, as required by Policy TP1. The planning policy officer has raised no objections on sustainability grounds and I concur with his assessment.

Drainage

- 6.44. The application does not propose any alteration to the amount of impermeable areas within the development site, or a net gain of internal floorspace. The site is not at risk of surface water or fluvial flooding, and there would not be any alterations to the existing drainage infrastructure. As such there are very limited opportunities to make any substantial alterations to the current site to accommodate SuDS or new drainage infrastructure. The proposal is considered to be low risk in terms of flooding and the Lead Local Flood Authority raise no objections on that basis. Severn Trent Water requested that a drainage scheme for foul water be submitted prior to commencement of development. However, it is not deemed necessary as the scheme will be utilising existing drainage infrastructure and connection to said infrastructure is covered by legislation outside of the planning system.

EQUALITIES ACT

- 6.45. The Equalities Act 2010 requires that Local Authorities take special account of people or groups with 'protected characteristics'. The application site is located on the edge of Birmingham's Gay Village, and in close proximity to a number LGBTQ+ friendly bars and nightclubs. As such, the development proposal has the potential to affect a community that is defined as having protected characteristics under section 12, Part 2 of the Act.
- 6.46. Section 149 of the Act, Public Sector Equality Duty states: '*A public authority must, in the exercise of its functions, have due regard to the need to— ... (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*'
- 6.47. As regeneration has taken place in and around the Gay Village in recent times, the LGBTQ+ community and proprietors of local bars and clubs have raised concerns that the community is being eroded by the increasing number of residential developments in the area. Priory House is currently unoccupied and has been for approximately 8 years. It is not contributing to the community or its economy and the conversion of the building to residential use has the potential to contribute to both. It is considered that the development proposal is suitable in this location and would not cause harm to a community with protected characteristics in this instance. The provision of more residential units in this location may give a greater opportunity for people from the LGBTQ+ community to live in the area. The potential for an increased residential population to come into conflict with the local night time economy is addressed earlier in this report and can be adequately mitigated against.
- 6.48. In addition, the LGBTQ+ forum has been consulted as part of the wider planning consultation process and no comments on the proposal have been received. As such, the LPA has given due consideration to a community with protected characteristics as legislated for under the Equality Act 2010.

PLANNING OBLIGATIONS

- 6.49. Given the application of vacant building credit has been accepted in relation to the development, there are no grounds to require an affordable housing contribution from the applicant. However, the 'Public Open Space In New Residential Development' SPD requires residential developments of 20 units or more to make either an on site or off site contribution towards the provision of public open space. Given the nature of the site, it is not possible to provide public open space within the development itself, and as such an off site contribution will be required in line with Policy TP47 and the SPD.
- 6.50. The development would generate 128 people and using the formula in the SPD this would equate to a public open space contribution of £166,400. Leisure Services have requested this sum be directed towards the provision, improvement and / or biodiversity enhancement of POS and the maintenance thereof at Highgate Park in the Bordesley and Highgate Ward. Given that the development only proposes 7no. 3 bed units (family dwellings), it does not attract a contribution towards children's play equipment, thus the contribution requested by Leisure Services for this purpose has been deducted from the final amount in accordance with the SPD.
- 6.51. During the planning consultation process a response was received from West Midlands Police which highlighted safety concerns in the area surrounding the application site. It was highlighted that the area suffers from a higher than average level of crime and that gang activity is common. West Midlands Police therefore

requested that any Section 106 monies be directed towards improving the safety of the area by potentially upgrading street lighting or providing CCTV.

- 6.52. Councillor Gareth Moore has also requested that Section 106 monies be directed towards safety improvements such as CCTV and enhanced street lighting after consultation with the Southside BID.
- 6.53. The applicant has been made aware of the safety concerns raised by WM Police and the desire of the BID to enhance the public realm and has agreed to make an additional voluntary contribution of £33,600 towards improvements. As such, the total Section 106 contribution would be £200,000.
- 6.54. Given the comments of West Midlands Police and the views of local stakeholders it is considered that the entirety of the Section 106 contribution be allocated to the Southside BID in order to provide public realm improvements in the vicinity of the development site. I make this recommendation based upon the distance from the site to Highgate Park and the likelihood future residents would receive limited benefits from its improvement and maintenance.
- 6.55. In addition, it has been highlighted that the provision of street lighting in the vicinity of the site falls below the BS standard and there are relatively high levels of crime in the area. The area is home to Birmingham's LGBTQ+ population, a group who can be the target of hate crime. It is my opinion that improving the public realm and safety of the area is a high priority and funds should be directed to this effect, above other priority areas such as POS provision and affordable housing in this instance. As such it is considered that the £200,000 planning contribution money be directed towards public realm improvements in the vicinity of the application site.
- 6.56. It will also be necessary for the applicant to enter into a suitable Highway Agreement to reinstate the redundant footway crossing on Kent Street back to footway with full height kerb, to BCC specification, with works to be completed prior to occupation of the development.

7. Conclusion

- 7.1. This proposal represents a conversion of an industrial building of architectural interest to residential use while retaining its distinctive character and makes efficient use of a brownfield site. The scheme would play a part in meeting the city's housing demand identified over the current plan period. It has been concluded that suitable noise mitigation measures can be implemented to ensure future residents are not adversely affected by the local night time economy, and these will be secured by condition. Further planning conditions are also proposed to ensure high quality materials and design features are used. In addition a financial payment will be made towards the enhancement of the local public realm, and this would be secured via a Section 106 agreement. Therefore, subject to appropriate safeguarding conditions, I recommend that this application be approved.

8. Recommendation

That application 2020/04784/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- a) A contribution of £200,000 (index linked) towards public realm improvements within the vicinity of the application site and/or the Gay Village.

- b) 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.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the **20th December 2020** or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-
- In the absence of a legal agreement to secure off-site public open space provision the proposal conflicts with Policy TP47 of the Birmingham Development Plan and the National Planning Policy Framework.
- 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 **20th December 2020** planning permission for application 2020/04784/PA be APPROVED, subject to the conditions listed below:-

-
- | | |
|----|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 4 | Requires the prior submission of details of bird/bat boxes |
| 5 | Requires the submission of sample materials |
| 6 | Requires the submission of architectural details: |
| 7 | Requires the submission of hard and/or soft landscape details |
| 8 | Requires the prior submission of external fixtures and fittings |
| 9 | Requires the submission of boundary treatment details |
| 10 | Requires the submission of external door details |
| 11 | Requires the submission of hard surfacing materials |
| 12 | Requires the submission of lighting details |
| 13 | Requires the submission of details of public art |
| 14 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 15 | Requires the prior submission of a construction method statement/management plan |
| 16 | Requires the provision of cycle parking prior to occupation |
-

17 Requires the provision of car parking prior to occupation

18 Requires the submission and completion of works for the S278/TRO Agreement

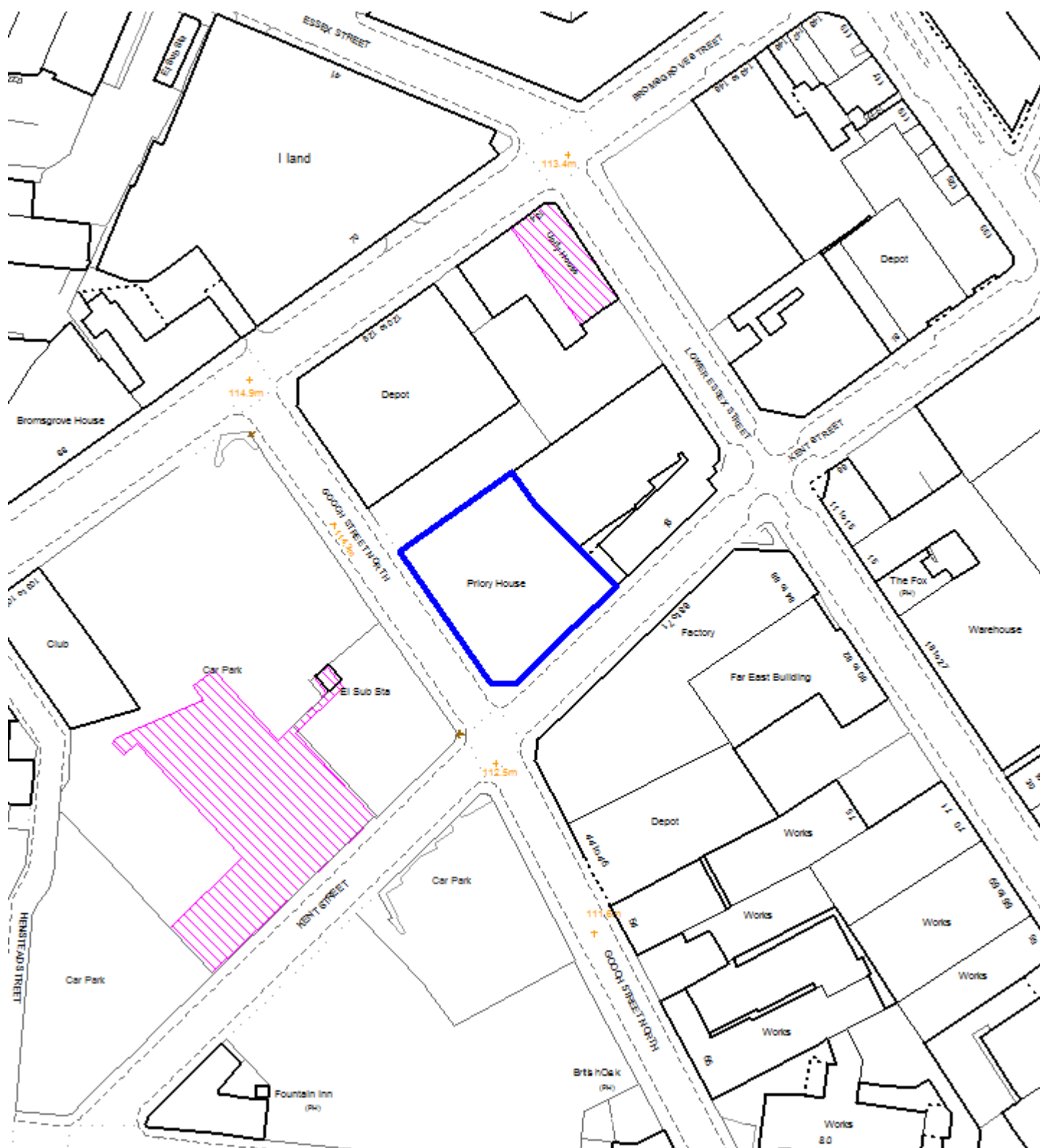
Case Officer: Tom Evans

Photo(s)



Figure 10 – Priory House

Location Plan



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Birmingham City Council

Planning Committee

19 November 2020

I submit for your consideration the attached reports for the **North West** team.

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	10	2020/06176/PA 41 Britwell Road Sutton Coldfield Birmingham B73 5SW Change of use from dwelling house (Use Class C3) to children's home (Use Class C2)
Approve - Conditions 106 Legal Agreement	11	2020/03216/PA Western Business Park Great Western Close Winson Green Birmingham B18 4QF Outline planning application (with appearance and landscaping reserved) for the erection of 5 no. residential blocks at between 5 and 7 storeys, comprising up to 310 no. residential units (Use Class C3); together with ancillary day nursery (Use Class D1) and gymnasium (Use Class D2) and associated car parking
Approve - Conditions	12	2020/04626/PA 144 Hamstead Road Handsworth Birmingham B20 2QR Retention of change of use from dental surgery (Use Class D1) to 8-bed HMO with ancillary staff rooms (Sui Generis)

Committee Date:	19/11/2020	Application Number:	2020/06176/PA
Accepted:	18/08/2020	Application Type:	Full Planning
Target Date:	20/11/2020		
Ward:	Sutton Vesey		

41 Britwell Road, Sutton Coldfield, Birmingham, B73 5SW

Change of use from dwelling house (Use Class C3) to children's home (Use Class C2)

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This application seeks permission for the change of use of 41 Britwell Road, Birmingham, from a dwelling house (Use Class C3) to a children's home (Use Class C2).
- 1.2. The proposed children's care home would cater for young people (boys and girls) between the ages of 10-17, with Emotional Behavioural Difficulties who may have suffered abuse, neglect, exploitation, and exclusion in the past. The Home will offer placements on a short or long-term basis and this will be led by the young person's individual needs.
- 1.3. The applicant has advised that the aim of the home is to provide a safe, nurturing, stable and consistent living environment, where a young person can have the opportunity to develop to their full potential and achieve positive outcomes.
- 1.4. The supporting information submitted sets out that the provision would be for 4 children, mostly, with a maximum of 5 children/young people during transitional periods.
- 1.5. Staff would work on a rota basis. As a base support: in the day time there would be 2 staff and a manager working (1 staff to work 8am-10.30pm; 1 staff doing a 24hour shift starting at 8am; manager works 9am-5pm). Overnight there would be 2 staff (1 staff to work 10pm-8:30am; 1 staff doing the 24hour shift).
- 1.6. There would be 2 visits a week from professionals (social workers / health care professionals) between 9am-5pm. There would also be fortnightly / monthly visits from parents and on rare occasion's visits from friends. Visiting times for family and friends are between 4pm-8pm Monday to Friday, and 12pm-8pm Saturdays and Sundays. Visits would be pre-booked and limited to 2 people per visit.
- 1.7. The applicant has advised that the manager for the proposed home has 33 years of experience within residential childcare. In addition, the operations manager has been working in the field of residential children's homes for the past 25 years, initially in the role of a support worker and then in managerial roles.
- 1.8. The applicant expects to receive referrals via Birmingham Children's Trust portal as well as other neighbouring local authorities in the West Midlands.

- 1.9. No external physical changes to the property are included as part of the application, albeit building works are currently ongoing at the site in relation to a previously approved application (reference: 2018/08658/20), further details of which can be seen in the planning history section below.
- 1.10. No changes are proposed to the existing access and parking area, which has space for 3 vehicles.
- 1.11. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. The application property is a spacious semi-detached six bedroom dwelling built over three floors. The proposed layout consists of an office, living room, dining and multi-purpose room, and kitchen on the ground floor. On the first floor would be four bedrooms, one with ensuite, a bathroom and separate WC. On the second floor would be two further bedrooms and an additional bathroom. Externally there is a large enclosed rear garden.
 - 2.2. The property has a front drive way with a dropped kerbed access, and can accommodate 3 cars. On-street parking is also available in the local vicinity. The property was last in use as a single family residential dwellinghouse.
 - 2.3. The surrounding area is predominantly residential in nature, with Boldmere Local Centre located a short walking distance away, which benefits from numerous shops and facilities.
 - 2.4. [Site Location](#)
3. Planning History
 - 3.1. 2018/08658/PA – Erection of two storey side and rear extensions, single storey forward extension and detached gym & playroom to rear. Approve subject to conditions 13.12.2018
4. Consultation/PP Responses
 - 4.1. Transportation Development – No objections.
 - 4.2. Regulatory Services – No objections subject to a condition restricting one of the bedrooms for staff accommodation.
 - 4.3. West Midlands Police – Object on the basis that the proposals could potentially place further demands on police and other agencies if not managed well.
 - 4.4. Childrens Commissioning – have commented that this provider is not known to Birmingham Children's Trust and has submitted limited additional information. However from the information they have submitted they show good understanding of the needs of the young people they will be caring for and the operation of children's homes. The only concern from the Application Statement is that the provider states that if a young person is frequently going missing "the placement will be terminated". We would expect the provider to work with the young person, their social worker and partner agencies to put measures in place to reduce the likelihood of them going missing and to sustain the placement. They commented that the provider has

already started to engage with the neighbours, local policing and other key stakeholders in the area which is a positive move. The provider has undertaken a location risk assessment which gives due regard to the risks and issues within the neighbourhood that may impact on the care they are able to offer the young people. Ofsted will inspect the home and all of its policies, and interview the Home Manager before they will consider registering the home. The home will only be registered once Ofsted are satisfied that everything is in place. Once registered, Ofsted will regularly inspect the home to ensure that it is meeting the required standards. It has also been pointed out that there are eight other children's homes currently registered with Ofsted within the Sutton Coldfield areas B72 – B76, with 4 of these being located in B73.

- 4.5. Royal Sutton Coldfield Town Council – expressed concern over highways and noise impacts of the proposals.
- 4.6. Adjoining properties and local ward councillors have been notified and site notices have been displayed.
- 4.7. 1no. letter of support has been received from Cllr Kath Scott in her capacity as a local resident. She comments that Britwell Road has ample parking and housing that is well-spaced out. The area is safe, secure and there is a great community spirit that would only benefit children in care.
- 4.8. Cllr Rob Pocock has commented that a total of 4 children would be fair in quantity given established family capacity in the road, but the application for 6 together with staff would seem to exceed the established 'carrying capacity' of this traditional residential street. Similarly the provision for onsite car parking (3 spaces) would appear to be inadequate given that 3 staff and a manager are intended to be on site, with the additional visits for up to 2 professional workers. As there is also an overlap between operating hours for staff and the permitted visits of 2 family members potentially also travelling in separate cars, shows this volume of activity is both out of scale for the area and exceeds the parking available, both on-site and on the street, if up to 8 private cars might then be present at any one time. A battle for available street parking between site users and current residents would not be conducive to 'good neighbour' relations, which will be critically important to maintain if the premises is to be sustainable for the children concerned and not a magnet for community tensions. There needs therefore to be a tighter restriction on this volume, or a revised application of a smaller scale. To conclude, a well-managed, modest family style care facility could be regarded as compatible with the area and meet a recognised need.
- 4.9. 62no. objections from residents have been received (some are duplicates from the same address) on the following grounds:
 - Increased demand for on-street parking;
 - Additional noise and disturbance;
 - De-value house prices on the road;
 - Increased comings and goings to the property by visitors;
 - Antisocial behaviour;
 - Lack of consultation with neighbours;
 - Loss of privacy;
 - Design and appearance not in-keeping with the rest of the houses on the road;
 - Lack of suitable fire escape from the loft bedrooms;

- The proposed use does not fit in with the demographics of the street and is inappropriate;
- The property is not prioritising Sutton Coldfield as the primary care;
- Already experienced disturbance as a result of ongoing building works at the property;
- The owners are circumventing planning;
- Britwell Road is a quiet residential road with lots of retirees;
- The use could be referred to as a business / commercial;
- Request examples of what type of behaviour / history will be considered suitable for children in the home;
- Might result in regular police presence which will be unsettling for residents;
- Police service already stretched in the area;
- The children could run away and hide in neighbouring gardens;
- There is an enclosed unlit passage next to the property where trouble has already been experienced in the past;
- There is a similar care home on Maney Hill where there has been trouble;
- Concerns for safety and well-being of family;
- The back of the property doesn't have a fence, will all the perimeters be sufficiently secured;
- The property is semi-detached and this is likely to cause a noise nuisance;
- There is a known issue with drug dealing at the church at the end of the road, which vulnerable children from the home could be exposed to;
- A residence was previously established in Wakefield Close, which resulted in trespassing into gardens;
- There has been a lack of information about the proposal;
- The previously approved extensions have not been completed and so this request for change of use with the premises having been un-occupied in the interim must create an opportunity to review the appropriateness of the original planning decision;
- The local schools are already oversubscribed;
- The deeds state that any building should not be used other than as a private dwelling house or for professional use;
- Fears around security will have a negative commercial impact on the high street;
- Think that a maximum of 4 children should be allowed to reside at the scheme at any one time;
- If approved, the change of use would set a precedent for the local area;
- The children have a history of bad behaviour and may be abusive to those that already may reside in the street;
- There are pubs and off licences available around the corner which will make it easy for the children to obtain alcohol and cigarettes;
- On school runs many children may find it daunting to pass a house full of youths;
- Question whether the physical works undertaken to date have planning permission;

5. Policy Context

5.1. Relevant Local planning policy:

- Birmingham Development Plan (BDP) 2017;
- Birmingham Unitary Development Plan (UDP) (Saved Policies) (2005);
- Specific Needs Residential Uses SPG (1992);
- Car Parking Guidelines SPD (2012).

- 5.2. Relevant National planning policy:
- National Planning Policy Framework (NPPF) (2019).

6. Planning Considerations

- 6.1. The relevant local planning policies that apply to residential care homes, as defined by Use Class C2 (Residential Institutions), are contained within saved paragraphs 8.28 and 8.29 of the Birmingham Unitary Development Plan (UDP) (Saved Policies) and the Specific Needs Residential Uses SPG.
- 6.2. Paragraph 8.29 of the UDP states that proposals for care homes should not cause demonstrable harm to the residential amenity of occupiers of nearby properties by reason of noise and disturbance nuisance. Residential care homes are normally most appropriately located in large detached properties set in their own grounds. The development of such uses in terraced/semi-detached houses will not be acceptable, unless adjoining occupiers can be safeguarded against loss of amenity due to, for example, undue noise disturbance.
- 6.3. Where a proposal relates to a site in an area which already contains premises in similar use, and/or houses in multiple paying occupation and/or properties converted into self-contained flats, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area.
- 6.4. Proposals for care homes should not prejudice the safety and free flow of traffic in the adjoining highways and adequate outdoor amenity space (minimum 16sqm of space per resident) should be provided to ensure a satisfactory living environment for residents.
- 6.5. Based on the above, the key considerations in the determination of the application are considered to be the principle of the proposals, the impact of the proposals on residential amenity, highway and pedestrian safety and antisocial behaviour and crime.

Principle of the development

- 6.6. The Specific Needs Residential Uses SPG (1992) sets out a policy preference for detached properties set in spacious grounds for uses such as that proposed, whereas the application site comprises a semi-detached property.
- 6.7. The proposed use of a semi-detached house for a children's care home is considered acceptable in this instance, given that it is a spacious 6-bedroom property, with a large amount of external amenity space. Officers are also proposing that a condition be attached limiting the maximum number of children situated at the home to 4. It is therefore considered that the number of people residing at the property would be similar to that of a six-bedroom dwelling, and as such the proposals would not cause any undue noise and disturbance to adjoining occupiers, over and above what would be expected from the existing residential dwelling house use.
- 6.8. The surrounding area is residential in nature and primarily comprises single family dwelling houses. In terms of the cumulative effect the proposal would have on the existing residential character and appearance of the area, using latest records available to the City Council, as assessment of the area indicates that there are 59 properties within a 100m radius of the site, and none of them are currently within an intensive residential use. I therefore do not consider that the introduction of the

proposed children's care home would result in an overconcentration of intensive residential uses that would cause a detrimental impact on the residential character and appearance of the area.

- 6.9. Although the proposal would cause the loss of a family dwellinghouse, the property would stay within the overarching 'residential' use class, and would provide housing for a specific group of individuals; therefore I do not consider it would conflict with Policy TP35 of the BDP.
- 6.10. A supporting statement and Location Risk Assessment has been provided by the agent/applicant identifying why this location has been chosen for this use. To summarise, the applicant considers that Britwell Road has the potential to provide a warm and nurturing community environment for children and young people in need. There are nearby local Primary, Junior, Secondary schools and Colleges to support further education. Metropolitan Police Crime statistics are low within this ward as are reported levels of anti-social behaviour due to an active Met Police Safer Neighbourhood Team and Council ASB Team, so the risk of any child being a victim of crime or becoming involved in gang related crime or anti-social behaviour is extremely low. There are also other nearby facilities e.g. parks, sports and leisure facilities that would enhance the children's quality of life.
- 6.11. In light of the above, officers consider that there are insufficient grounds to refuse the principle of the proposed development, and the change of use from residential dwelling house (Use Class C3) to a children's care home (Use Class C2) for 4 children / young people is therefore considered acceptable, subject to the proposal complying with other material planning considerations.

Impact upon residential amenity

- 6.12. The Specific Needs Residential Uses SPG advises that the minimum bedroom size for care home uses is 6.5sqm for individual bedrooms that provide shared facilities. The six bedrooms provided at the care home are 20sqm, 15sqm, 12sqm, 11sqm, 11sqm and 10sqm, and would be in excess of this recommendation. An outdoor amenity space of 312sqm would be provided to the rear of the building, which is well in excess of the 16sqm per resident policy requirement (64sqm total). It is accordingly considered that the residents would be afforded a good standard of living.
- 6.13. In terms of the impact the proposal would have on neighbour's amenity, the application proposes the conversion of a six bedroom semi-detached house to a children's care home, for a maximum of four children. Regulatory Services were consulted and have no objection, subject to a condition securing one of the bedrooms for a staff member to occupy. It has not been considered necessary to include such a condition given that the number of children has been limited to 4, and there are 6 bedrooms.
- 6.14. On the basis that the home would be occupied by 4 children/young people, and taking into consideration the large size of the property, it is considered that the proposed total occupation would be similar to that of the existing use of the property. The home is also proposed to operate as closely as possible to a typical family environment, with the day to day activity associated with the proposed children's home being similar to that of a family dwelling e.g. children going out to school in the day. The proposed use is accordingly unlikely to have a greater noise and disturbance impact on the adjoining properties than that of a typical large family dwelling house.

- 6.15. Conditions are recommended to restrict the number of children living at the property to 4, and restricting the property to be used as a children's home only and for no other use within the C2 use category. This is to protect the residential amenity of neighbouring occupiers.
- 6.16. In light of the above, it is considered that the proposed development would provide an acceptable standard of accommodation for future occupiers of the children's care home, and would cause no detrimental impact on the amenities of neighbouring occupiers.

Highway and pedestrian safety

- 6.17. Transportation Development have assessed the proposals and raise no objection.
- 6.18. The Car Parking Guidelines SPD (2012) specifies a maximum car parking provision of 1.5 spaces per residential dwelling and 1 space per 3 bed spaces for a care home in this location. 3 off-street car parking spaces are available at the front of the property. There is also opportunity for on-street parking along Britwell Road.
- 6.19. It is considered that the development is not likely to increase parking pressure nor would it result in a significant increase in generated trips. The site has a fair level of public transportation accessibility with several frequent bus services available within easy walking distance of the site.
- 6.20. Given the assessment above, the proposed development is considered to be acceptable in relation to highways and pedestrian safety and parking matters.

Anti-social behaviour and crime

- 6.21. A number of comments were received from neighbouring properties with regards to crime. Crime and the fear of crime is a material planning consideration. However, the 'Specific Needs Residential Uses' SPG is clear that the nature and type of people to occupy premises is not a material planning consideration. It is also important to stress that the behaviour of tenants/occupiers is not a matter for Planning Authorities.
- 6.22. WMP were consulted and have objected to the proposal, as they are of the view that the application could potentially place further demands on police and other agencies if not managed well. They also considered that the application lacked supporting information. Following receipt of WMP comments, the agent/applicant provided additional information with regards to the overall management and operation of the home, including a Location Risk Assessment.
- 6.23. Birmingham's Childrens Trust have been consulted and consider that the operator has demonstrated a good understanding of the needs of the young people they will be caring for and the operation of children's homes. They have also confirmed that Ofsted will inspect the home, its policies and interview the Home Manager before they will consider registering the home. Once registered, Ofsted will regularly inspect the home to ensure that it is meeting the required standards. As such, whilst I have considered the concerns raised by WMP, officers are of the view that the applicant has sought to satisfy the issues raised and overall there are no Crime grounds to refuse the application. With regards to securing the premises from intruders, installing fire rated doors and smoke detectors, these matters would be covered under separate legislation.

Other matters

- 6.24. The objections and concerns from local residents are noted. Consultation has been carried out correctly and in accordance with the City's Statement of Community Involvement. Issues of fear of crime have been addressed above.
- 6.25. Several comments received, including that of the police, make comment on the physical works carried out at the site and whether they have the relevant planning permission. Whilst these works do not form part of this application, I can confirm that this has been investigated by the Council's enforcement team. The conclusion of the investigation was that the works undertaken all have planning permission or are permitted development. The latest planning enforcement case has therefore been agreed for closure.
- 6.26. The impact of the proposals to house prices, legal deeds, the proximity of the property to shops, and speculative comments regarding the tenants behaviour are not material planning considerations and as such are unable to be taken into account in the determination of the application.

7. Conclusion

- 7.1. The proposed change of use from a family dwelling house to a children's home for 4 children is considered acceptable. The proposed development would help meet an identified need, and would not cause significant harm to residential amenity, visual amenity or highway safety therefore it is considered that the application should be recommended for approval.

8. Recommendation

- 8.1. Approve subject to conditions.

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Restricts the number of children living in the property to a maximum of 4 |
| 3 | Requires the prior submission of noise insulation between nos. 41 and 43 Britwell Road |
| 4 | Prevents the use from changing within the use class |
| 5 | Implement within 3 years (Full) |
-

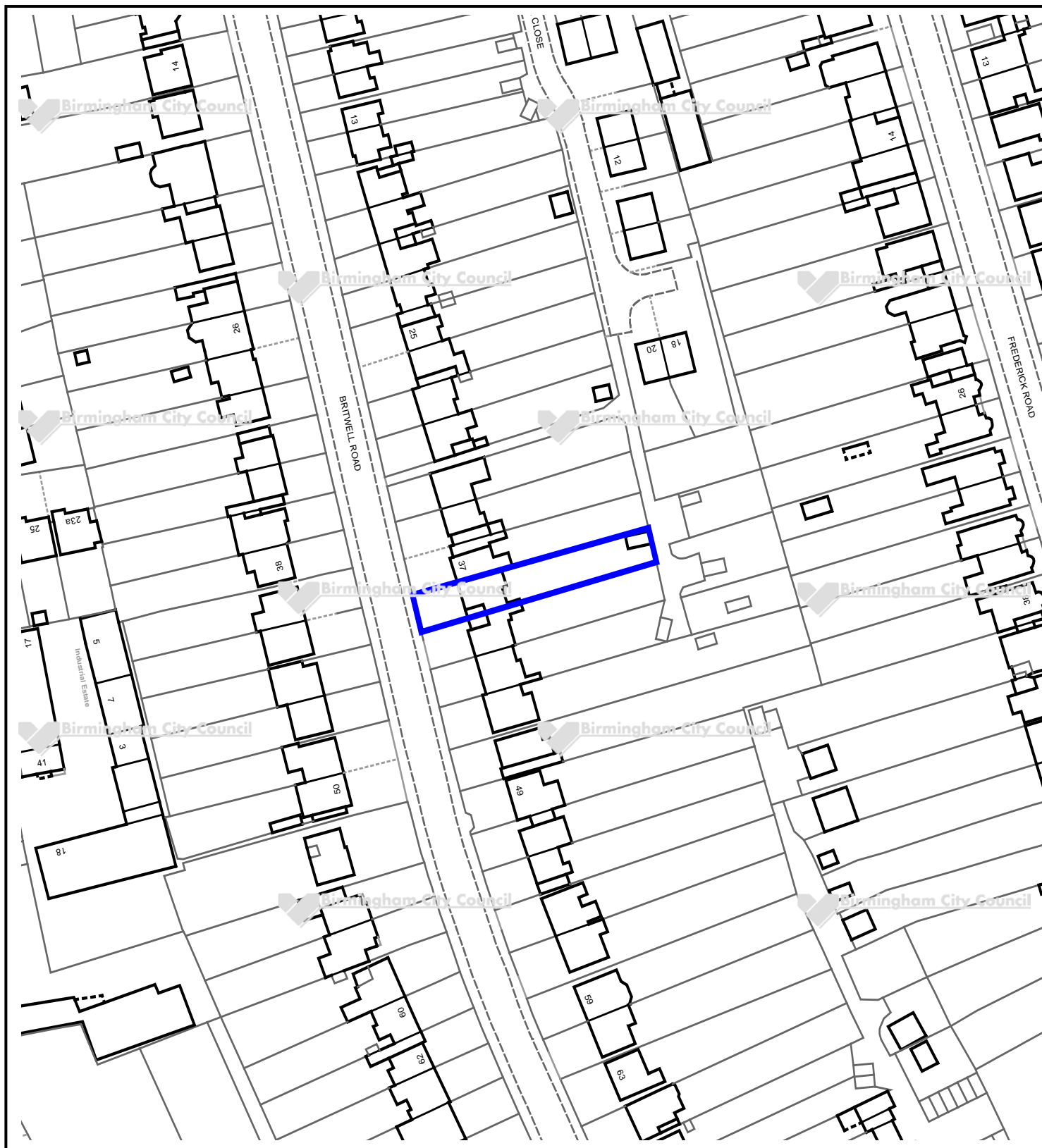
Case Officer: Holly Martin

Photo(s)



Photo 1 - Frontage of application property

Location Plan



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Committee Date:	19/11/2020	Application Number:	2020/03216/PA
Accepted:	21/05/2020	Application Type:	Outline
Target Date:	20/11/2020		
Ward:	Soho & Jewellery Quarter		

Western Business Park, Great Western Close, Winson Green, Birmingham, B18 4QF

Outline planning application (with appearance and landscaping reserved) for the erection of 5 no. residential blocks at between 5 and 7 storeys, comprising up to 310 no. residential units (Use Class C3); together with ancillary day nursery (Use Class D1) and gymnasium (Use Class D2) and associated car parking

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. This planning application seeks outline planning permission for the erection of 5 no. residential blocks at between 5 and 7 storeys, comprising up to 310 no. residential units (Use Class C3); together with ancillary day nursery (Use Class D1) and gymnasium (Use Class D2) and associated car parking on land at Great Western Close, Winson Green.
- 1.2. The application seeks consent for access, layout and scale, with the matters of landscape and appearance reserved for future determination. A Site Layout Plan has been submitted which represents the proposed arrangement of five blocks of residential units, comprising between five and seven storeys.

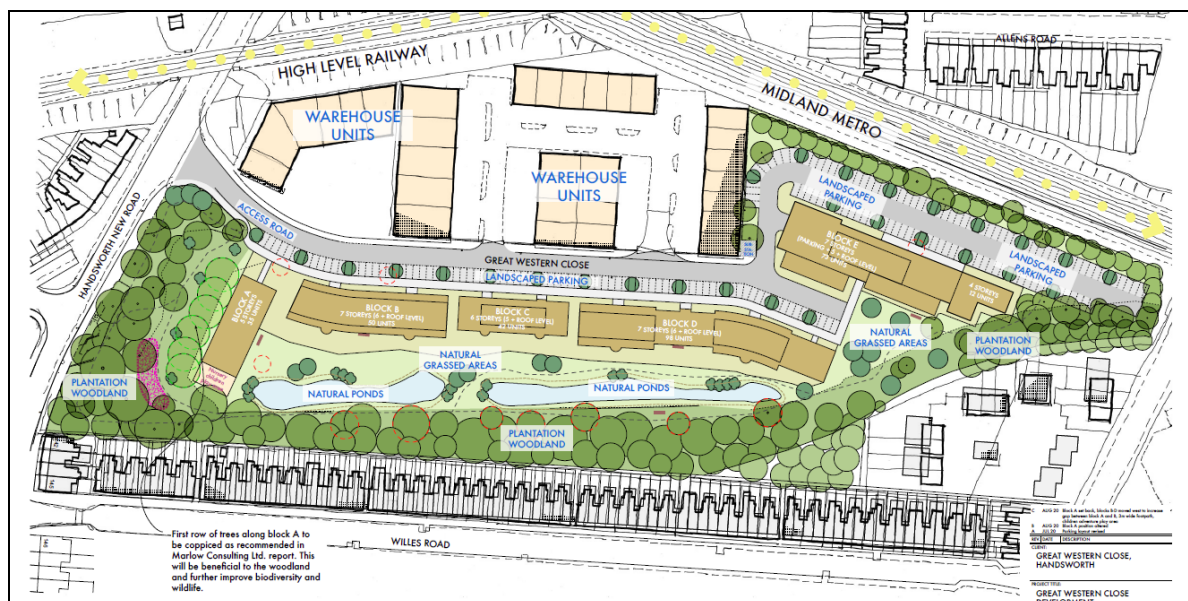


Figure 1: Site Layout Plan

- 1.3. The proposed location of the blocks seek to retain the tree belt on the southern and western boundaries of the application site which contain TPO trees alongside the provision of landscaped areas which will be utilised as communal residential amenity space. Elements of formal and natural play would be introduced within the landscaped areas. Natural ponds are also proposed to be located within the landscaped area, providing surface water run-off and drainage for the site.
- 1.4. Car parking is proposed in a linear arrangement, fronting on to blocks A – D and adjacent to the access road, with car parking related to block E proposed in the north eastern corner of the site. Access is proposed off Handsworth New Road, which would utilise the existing access to the site.
- 1.5. Block A is also proposed to accommodate a gym and a day nursery on the ground floor of block A. Separate outdoor children's play area is proposed to be located at the southern end of this building.
- 1.6. The outline planning application is supported by a full complement of supporting documents, including Transport Assessment; Flood Risk Assessment; Ecological Assessment; Landscape and Ecological Management Plan; Phase 1 Ground Contamination Survey; Noise Impact Assessment; Air Quality Assessment; and Design and Access Statement.
- 1.7. [Link to Documents](#)
2. [Site & Surroundings](#)
 - 2.1. The site is located on a parcel of land which is bounded by Handsworth New Road to the west, Great Western Close Industrial Units and railway lines to the north, Bacchus Road to the east and Willes Road to the south. The site was formally used as a railway yard and comprises of overgrown grassland with mature trees around the periphery which are subject to Tree Preservation Order 1457. The site has been subject to fly tipping in part.
 - 2.2. There is a noticeable change in levels from Great Western Close and Willes Road which is approximately 10m. The site drops down to an embankment which then shelves down steeply to Great Western Close which provides vehicular access to the site from Handsworth New Road.
 - 2.3. The surrounding area contains a mix of Victorian terraced houses and newer infill residential developments including 17 houses on Berry Drive which is located to the south east of the site. There is a grade II* listed church (Bishop Latimer Memorial Church) and a locally listed grade B building adjacent to the church to the west of the application site.
 - 2.4. The railway line partially bounds the site on the north western boundary with the industrial units forming a barrier between the remainder of the site and the railway lines to the north.
 - 2.5. Winson Green metro stop is approximately 150m from the western side of the site on Handsworth New Road.
 - 2.6. [Site Location](#)

3. Planning History

- 3.1. 14.02.2019 - 2018/06134/PA - Outline application (with appearance and landscaping reserved) for the erection of 6 blocks between 3 and 7 storeys comprising up to 296 residential units (Use Class C3) together with day nursery (use class D1) (88sqm) and gymnasium (use class D2) (88sqm) and associated car parking – Refused due to insufficient information to adequately assess proposals, loss of trees, lack of planning obligations and over-intense form of development. Application dismissed at appeal.
- 3.2. 12/02/1997 - 1996/01707/PA. Land reclamation works to provide for public open space use. Withdrawn.
- 3.3. 05/07/1990 - 1990/00665/PA. Gatehouse and flat, offices 52 No. light industrial. Approved subject to conditions.
- 3.4. 24/04/1984 – 29599005. Development comprising 23 factory units for class III light industrial use, access road, hardstandings and car parking. Approved subject to conditions.
- 3.5. Other historic permissions / consents relate to industrial / warehouse developments which are of no relevance to this planning application.

Adjacent Site - Berry Drive

- 3.6. 14/08/2012 - 2012/03392/PA. Erection of 17 new dwelling houses, associated access road, parking and landscaping works. Approved subject to conditions.
- 3.7. 10/12/2007 – 2007/05371/PA. Outline application to establish the principle of the erection of 14 houses (2 two bed, 4 three bed and 8 four bed). Layout, scale and access from Bacchus Road under construction. All other matters reserved. Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Transportation Development – no objection subject to conditions.
- 4.2. Regulatory Services – no objections subject to conditions to secure a noise and insulation assessment; an air quality assessment; a lighting scheme to be submitted; a construction management plan; contamination remediation scheme; contaminated land verification report; electric vehicle charging point; and adequate mitigation in relation to the proposed commercial uses.
- 4.3. Lead Local Flood Authority – no objection subject to conditions.
- 4.4. BCC Leisure Services – require financial contribution towards provision, improvement and/or biodiversity enhancement of public open space at Bacchus Road, Musgrave Recreation Ground and All Saints Park within the Soho and Jewellery Quarter wards.
- 4.5. BCC Housing – require off site commuted sum.
- 4.6. BCC Education – require financial contribution.

- 4.7. BCC Employment – recommend conditions to secure a construction employment plan and local employment strategy.
- 4.8. Natural England – no comment.
- 4.9. Severn Trent Water – recommend condition to secure drainage plans for the disposal of foul and surface water flows.
- 4.10. Network Rail – No objections and recommends a Risk Assessment and Method Statement.
- 4.11. West Midlands Police – support development in principle but recommend amendments at the detailed design stage of the planning process.
- 4.12. Press and site notices posted. MP, Councillors, Residents' Associations and neighbouring occupiers notified. One letter of objection received, raising the following comments:
- Proposed buildings too high and development over-intense;
 - Development offers no benefit to local community;
 - Adverse impact on biodiversity of application site;
 - Threat to wildlife species on site;
 - Commercial surroundings to site would have adverse impact on residential units;
 - Opportunity to create nature reserve on site;
 - Concerns that the development would result in an increase of crime in the area;
 - Development does not relate positively to the surrounding family oriented area.
- 4.13. One letter received, raising concerns that there is too much car parking and the development should seek to achieve a higher density.
- 4.14. Cllr Chaman Lal has commented in support of the scheme however raises concerns regarding the proposed height of the blocks, the proposed number of flats and recommends that more family houses should be proposed, as they are desperately needed in this area.

5. Policy Context

- 5.1. National Planning Policy Framework (2019); Birmingham Development Plan (2017); Birmingham UDP saved policies (2005); Places for Living SPG (2001); Places for All SPG (2001); Car Parking Guidelines SPD (2012); Public Open Space in New Residential Development SPG (2007); Affordable Housing SPG (2001); Shopping and Local Centres SPD (2012).

6. Planning Considerations

Background

- 6.1. The application site has been subject to a recent refused outline planning application for the erection of 296 residential units over five blocks, a gym and a day nursery (reference 2018/06134/PA) which was subsequently dismissed at appeal (reference APP/P4605/W/19/3235238). The application was refused due to insufficient information to adequately assess proposals, loss of trees, lack of planning obligations and over-intense form of development. The appeal concluded that whilst there were some inadequacies, a number of the issues were not insurmountable and the application proposals set out within the current outline planning application seek to address these matters.

Principle of Development and Loss of Open Space

- 6.2. The application site is situated on a former railway yard which is now a brownfield parcel of land without any buildings. Paragraph 6.57 of the BDP defines open space as all open land that has recreational or public value, including playing fields, which primarily consist of natural elements such as trees, grass and water that may or may not have free public access. The site according to this definition therefore is deemed to be open space.
- 6.3. TP9 of the BDP applies which relates to open space, playing fields and allotments and it states that planning permission will not normally be granted for development on open space except for particular circumstances. One of the exceptions is when it can be demonstrated that the area of open space is underused and its loss would result in the remaining part of the site being significantly improved. It is noted that, at present, the site is limited by restricted access and a relative lack of visibility, and accordingly is underused as open space. Furthermore, there are high instances of flytipping and anti-social behaviour associated with the site currently.
- 6.4. The application is supported by a proposed site layout plan which represents a proportion of the site providing 1.78 hectares of public open space, including natural ponds, woodland, woodland walks and natural grassed areas. The applicant submits that the 1.78 hectares public open space proposed is in excess of the 0.9 hectares required by the Public Open Space in New Residential Development SPD (at 2 hectares per 1,000 population).
- 6.5. Regard is had towards the proposed open space in terms of how it would be accessible and usable by the public, and it is considered unreasonable that the amenity grassland proposed could be incorporated into the public open space given its position immediately against the residential blocks, and public access to this would have an adverse impact on residential amenity. This area of land (approximately 0.8ha) should be considered as communal residential amenity open space and discounted from the public open space area. This plantation woodland is denoted as separated from the amenity grassland by a knee rail fence, which suggests a difference in the character of the two areas of open space.
- 6.6. On this basis, the public open space would relate only to the areas of plantation woodland in the east, south and west of the site and children's adventure play area, with this area amounting to approximately 0.9ha. Whilst this amounts to a smaller area of public open space which has been submitted by the applicant, it is my view that the public open space proposed would be reasonably accessible by the public through the pedestrian access from Great Western Close and would achieve the

requirements of policy TP9 and the Public Open Space in New Residential Development SPD to secure 0.9 hectares.

- 6.7. I am satisfied that adequate justification has been presented for the principle of the residential development of the site, as I conclude that the site in its current form does not comprise readily accessible public open space and the proposals would enhance and improve access to the prospective use of it, delivering wellbeing benefits to members of the public that choose to access it.

Layout and Scale

- 6.8. This planning application is made in outline but seeks detailed consent for scale and layout. Plans therefore show how the development would be accommodated on the site. The proposed built form consists solely of apartments.
- 6.9. The City Design Officer has been consulted and broadly supports the design approach, raising no objection to the proposed scale and massing, following amendments to increase the space between development blocks and open up views from the front of the blocks into the landscaped areas to the south of the site.
- 6.10. With regards to the site layout, block A has been set back from the private road frontage to overlook a formal “square”. This approach is considered to present a stronger gateway to the development, when balanced with the need to retain important trees subject to a TPO fronting Handsworth New Road.
- 6.11. The Appeal Inspector within their decision expressed concern that the blocks included car parking at ground level which removed the active frontage to those blocks. Amendments to the layout from the previous application and subsequent appeal have resulted in improved active frontages at ground floor, as the result of the removal of undercroft car parking. This is considered to comprise an acceptable arrangement and a reasonable streetscene alongside the car parking areas.
- 6.12. Within the Appeal decision, the scale of the proposed apartment blocks of 5 to 7 storeys was confirmed as acceptable by the Inspector in principle, due to the unique location of the site in relation to the surrounding area. The cross section below illustrates the considerable level changes between the application site and the existing residential dwellings located to the south on Willes Road. The retained and protected trees also provide a further physical boundary between the development site and its surroundings. On this basis, it is considered that the scale of the proposed blocks would be acceptable in the context of the surrounding physical environment.

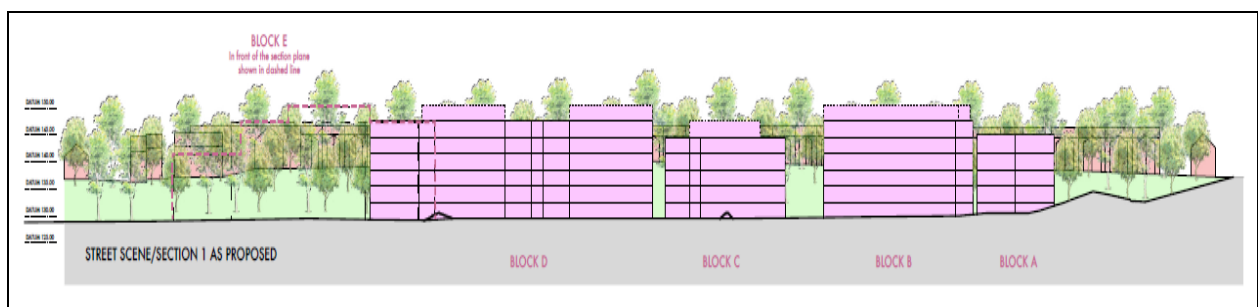


Figure 2: Site Cross Section

- 6.13. Leisure Services has been consulted on the planning application, and raise concerns that no real attempt has been made to make the on-site open space and

children's play facilities proposed truly publicly accessible to anyone outside the residential development itself, as they are proposed to be located behind the residential blocks and surrounded by substantial tree belts. On this basis, Leisure Services discount it as an on-site public open space provision, and would regard it as equivalent to communal resident's gardens. Accordingly, a financial contribution for off-site public open space would be applicable.

- 6.14. In my view, the proposed layout demonstrates reasonable public access from Great Western Close into the plantation woodland proposed in the west of the site, with woodland walks laid out to move across the southern area of plantation woodland and the adventure playground. Although there is no pedestrian access through to Bacchus Road in the east, I maintain that the proposed public open space would achieve health and wellbeing benefits to members of the public that would choose to access it.
- 6.15. Whilst I am conscious of Leisure Services concerns, on balance, I consider that the proposed layout would achieve substantial benefits with regards to the usability of this land by prospective residents, including the creation of an adventure play area for children. I have concluded that communal residential amenity space is proposed in the form of amenity grassland to the rear of the development blocks, with immediate access to the wider open space beyond.
- 6.16. The proposed children's adventure play area is located within an area of plantation woodland, adjacent to the landscaped area to the rear of blocks A and B, as a natural play area. Whilst there is a suggestion from City Design that the children's play area should be relocated to a more central location, the benefits of natural play are considered to outweigh this locational requirement. A condition has been attached to this recommendation to ensure the delivery of the children's play area in the approved location, due to the matters of layout being submitted for approval as part of this outline planning application.
- 6.17. It is considered that the reserved matter of "appearance" further presents the opportunity to ensure the creation of a strong sense of place and a positive urban environment.

Trees, Ecology and Landscape

- 6.18. The site is subject to an Area Tree Preservation Order number 1547, which applies to the steeply sloping woodland area mainly but also covers some of the younger successional trees that have arisen near the site entrance.
- 6.19. The application proposals incorporate the retention of TPO trees within the tree bank on the southern and western boundaries of the site, alongside the creation of landscaped areas to the south of the proposed development blocks and ecological mitigation associated with both of these elements.
- 6.20. The City's Tree Officer has confirmed that the loss of trees proposed is acceptable, particularly given the potential biodiversity gains presented in the landscaped areas and retention of site wetlands. It is concluded that the successional woodland needs to be arrested and alternative habitats should be enhanced.
- 6.21. The planning application is supported by an Ecological Impact Assessment (EclA), a Landscape and Ecological Management Plan (LEMP) and a Biodiversity Impact Assessment (BIA). The City Ecologist has been consulted and advises that provided the mitigation measures set out in the EclA are implemented, the proposed

development would be unlikely to have an adverse impact on protected/notable species that are using the site or may potentially be present.

- 6.22. It is noted that the proposals would result in the loss of approximately 1ha of existing habitats, however, the majority of the existing woodland and wetland habitats would be retained and enhanced. The proposals also include the creation of approximately 0.7ha of new habitats, including green roofs on all five development blocks. The LEMP provides further details of the proposed habitat creation and enhancement.
- 6.23. Taking account of the projected habitat losses and gains, the BIA concludes the proposals will achieve a 12% biodiversity gain against the pre-development baseline. On this basis, no objection is raised to the proposals, subject to conditions to secure ecological mitigation and enhancement, as described in the EclA and LEMP.
- 6.24. The Council's Landscape Officer raises no objection to the proposals subject to conditions to secure details of hard and soft landscape proposals; hard surfacing materials; earthworks; boundary treatments; landscape management; and levels.
- 6.25. It is considered that the application proposals would have an acceptable impact on landscape, trees and ecology, securing a net biodiversity gain whilst preserving the most important trees on the site. The recommended conditions are reasonable and necessary in the context of the proposals.

Highway Safety

- 6.26. The application proposals do not propose any altered or new access from Handsworth New Road and the existing road, Great Western Close, would remain private. It is understood that the accesses to the existing commercial units located opposite the application site would remain unaltered from Great Western Close. It is noted that the existing lighting columns located along Great Western Close would be likely to require removal.
- 6.27. Transportation Development raises no objection as the increase in traffic would be unlikely to have severe impact on surrounding highways.
- 6.28. Car Parking Guidelines SPD designates the site within Area 2, specifying a maximum parking provision of 1.5 space per residential unit (150% provision). A maximum parking provision for the proposed 310 apartments would be 465 spaces. The application seeks to provide 197 spaces (approx. 64% provision for the residential units) and no details have been submitted with regards to the provision of parking for the proposed nursery and gym. Accordingly, concerns have been raised that the proposed parking provision would unlikely to fully cater for demand associated with the development. However, it is accepted that the site has a good level of accessibility to public transport; waiting is unrestricted on Handsworth New Rd and Great Western Road; and there are lower than average instances of private vehicle ownership within the locality. Taking all this into account, it is considered on balance, that the proposals are acceptable with regards to their likely impact on highway safety.
- 6.29. Transportation Development recommend conditions to secure disabled parking spaces to be provided at appropriate locations; commercial uses to be restricted to the proposed uses; secure and covered cycle parking to be provided/maintained; and parking spaces to be formally marked out on site and parking & vehicle

circulation areas not to be used for any other purpose. I am satisfied that the recommended conditions are reasonable and necessary.

Housing Mix

- 6.30. The residential accommodation would consist of 182 one bed, 116 two bed and 12 three bed apartments. TP30 of the BDP states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhood. It also identifies that higher density schemes would be sought in the city centre.
- 6.31. Housing Strategy has been consulted on the proposals and raise concerns that the proposed housing mix does not meet the overall housing need for family accommodation, which is in need in this location however the Inspector for the previous appeal dismissed the mix as a reason for refusal, due to the physical constraints of the site by virtue of its irregular shape and the presence of protected TPO trees which would prevent the provision of houses. Accordingly, there is an understanding that these elements would prevent the adequate development of the site for a more traditional housing scheme.
- 6.32. On balance, although there are concerns raised in respect of the proposed housing mix at the site, it is not considered that this would constitute a justifiable reason for refusal against the development proposals. On a positive note, it is clear that the site constitutes a sustainable location with good, short distance access to the city centre via public transport, which does demonstrate demand for smaller residential units.

Planning Obligations

- 6.33. Given the nature of the application proposals, public open space and affordable housing would be required in accordance with policies TP9 and TP31, unless it can be demonstrated this would compromise the viability and deliverability of the scheme. A financial appraisal has been submitted in support of the planning application, which sets out marginal viability for the development and accordingly sets out that the development could not sustain planning obligations in the form of financial contributions. Consequently, the proposal offers no affordable housing or public open space contribution.
- 6.34. An independent financial viability assessment was undertaken by Lambert Smith Hampton which accepts the position set out by the applicant and concludes that the viability of the proposed development is at best marginal and realistically in the absence of grant funding, is considered unviable and unable to sustain any affordable housing or Section 106 contributions.
- 6.35. It is understood that the Applicant is keen to explore the potential to secure grant funding from the West Midlands Combined Authority (WMCA) or a disposal of the site to an affordable housing provider who would deliver a far greater proportion of affordable housing. A likely condition of any WMCA grant funding would be the provision of a minimum 20% on-site affordable housing for Low Cost Home Ownership at 10% discount on Market Value and under such a scenario the scheme would therefore provide affordable housing. The viability of the scheme should be reviewed if grant funding is secured or material amendments to the design are proposed at a later stage of the planning process.
- 6.36. In order to ensure that any prospective planning obligations that could be sustained by the development should an improved level of viability be achieved through

securing funding are delivered, it is considered necessary that a resolution be attached to any grant of planning permission for the developer to enter into a Section 106 Agreement. This Section 106 Agreement would be required to secure on-site affordable housing or an off-site financial contribution should an updated financial appraisal demonstrate that the development could sustain such a planning obligation.

- 6.37. Furthermore, the public open space that is proposed to be delivered as part of the development (to the south of the development blocks A - E) is required to be secured via the Section 106 Agreement to ensure that access by the public is maintained in perpetuity.
- 6.38. A request for a financial contribution has been received from Education, however this would be sourced through other funding mechanisms and is not applicable to this outline planning application.

Flood Risk and Drainage

- 6.39. The application site is situated entirely within Flood Zone 1 – Low Probability. There is evidence however that suggests the underlying geology of the site to be slowly permeable and seasonally wet consequently, resulting in potential drainage issues at the site. The use of infiltration techniques as the primary method of surface water disposal is not considered practicable. However, it is understood that due to the current topography within the Site a wetland area has naturally established itself along the southern boundary. It is proposed this wetland area is retained, and formalised as natural ponds, presenting the opportunity at the detailed design stage to direct surface water runoff into this feature. An engineered overflow should be provided to cater for exceedance events. This feature also presents ecological benefits, as noted above.
- 6.40. The Lead Local Flood Authority and Severn Trent Water raise no objection to the proposals, subject to conditions to secure the prior submission of a sustainable drainage scheme and a Sustainable Drainage Operation & Maintenance Plan, alongside drainage plans for the disposal of foul and surface water flows. I concur with this view.

Residential Amenity

- 6.41. The application site sits within a mixed commercial residential area, which is defined predominantly by two storey terraced and semi-detached houses and the warehouse units opposite the site on Great Western Close. The railway line and metro line form the northern site boundary. The residential development of the site is considered to be reflective of the surrounding character, with apartments considered to comprise an appropriate form when considering the proximity of the commercial units opposite.
- 6.42. It is noted that the development site is located at a considerably lower level than the residential dwellings located to the south of the site. This is a result of the former use of the site as a railway sidings which has been subject to historic engineering works on the current tree belt along Handsworth New Road and consequently the land is up to about 9 metres lower than the dwellings located on Willes Road. The closest existing residential dwelling would be approximately 30m to the south of Block A, with a substantial tree belt separating the new and existing dwellings.

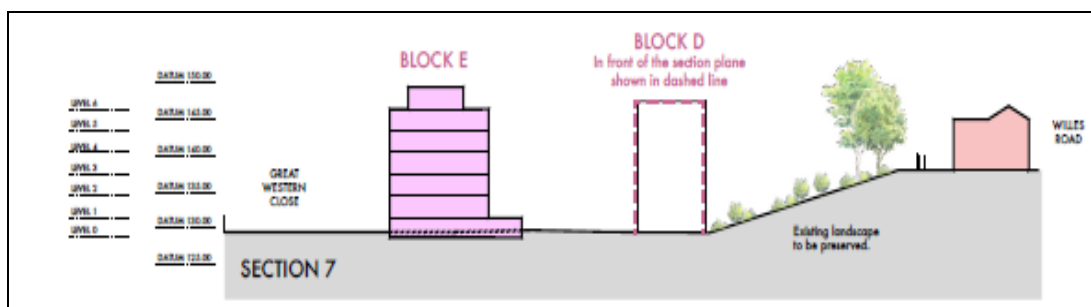


Figure 3: Site Cross Section

- 6.43. Network Rail and Regulatory Services raise no objections to the proposals subject to a series of conditions, most notably a noise and vibration assessment on the prospective residential units. I concur with this view.

Commercial Uses

- 6.44. A day nursery and gymnasium form part of the application proposals. Policy TP21 highlights the preferred location of such uses within a defined district or local centre. As the proposed location is outside a defined district or local centre, a sequential test would be required to comply with TP21.
- 6.45. It is noted that the proposed commercial uses formed part of the previous application proposals and the Inspector at the appeal felt that the Gym and Nursery would not only give benefit to the new development by helping to ensure its success as a whole but that their provision could improve the lives of the wider community in view of its proximity to the Metro Station and adjacent Primary School.
- 6.46. On balance, I concur with the appeal Inspector that the provision of the day nursery and gym would be likely to achieve benefits for the prospective residents of the residential development, as well as existing residents in the vicinity of the site. Limited information is provided in respect of the proposed floorspaces however I am of the view that these commercial units would be unlikely to have an adverse impact on the vitality and viability of nearby local and district centres (Handsworth). Furthermore, the site's sustainable location with good access to public transport would be considered appropriate for such uses.

Other Matters

- 6.47. Sustainable construction is briefly covered within the supporting information submitted with the planning application. This has been assessed by Planning Strategy colleagues, with the principles accepted, subject to a condition being attached to any grant of planning permission to secure the details of these features of the new buildings.
- 6.48. Regulatory Services recommend conditions relating to contaminated land verification and remediation. Given the nature of the site and the surrounding commercial uses to the north, I consider such conditions and prospective mitigation reasonable and necessary.

7. Conclusion

- 7.1. The application proposals are considered, on balance, acceptable and would comprise an appropriate form of residential development. Whilst it is regrettable that

the development would not be able to sustain financial contributions or on site affordable housing, the benefits that could be achieved through a net gain of biodiversity, the provision of accessible and usable public open space, and the delivery of a substantial quantum of residential development.

- 7.2. For the reasons set out above, the application is recommended to be approved subject to conditions.

8. Recommendation

- 8.1. That application 2020/03216/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- a) In the event that any grant funding is secured towards the costs of the development, an updated financial appraisal shall be submitted for assessment by the Local Planning Authority. If that financial appraisal identifies that the development could sustain a planning obligation it shall take the form of affordable housing (on-site or an off-site financial contribution) totalling no more than 35% affordable housing.
- b) The delivery of 0.9ha of on-site Public Open Space, including a children's play area, and including a Plan for the management and maintenance arrangements thereof to ensure it is maintained to an agreed standard and be made available in perpetuity for the public to gain unfettered access. The POS and play area shall meet BCC recreational amenity standards and shall be fully accessible to both the residents of the proposed development and surrounding areas, safe for all users, secure from illegal vehicle incursion and no attenuation tanks or other SUDS facility shall be located within the POS in a manner which would detract from its recreational function or landscape design of the space. The equipment shall be robust and include at least one item of fully accessible inclusive play. Timing of laying out and bringing into use of the POS and junior play area to be agreed prior to the first occupation of any residential units.
- c) 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

- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 31st December 2020 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-

- In the absence of any suitable legal agreement to secure suitable public open space and play area provision and a mechanism to review the scheme's financial viability to deliver affordable housing, the proposal would be contrary to policy TP9 and TP31 of the Birmingham Development Plan and NPPF.

- 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 31st December 2020 or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/03216/PA be APPROVED, subject to the conditions listed below:-

-
- 1 Implement within 3 years (outline)
 - 2 Requires the submission of reserved matter details following an outline approval
 - 3 Requires the scheme to be in accordance with the listed approved plans
 - 4 Limits the maximum number of dwellings to 310
 - 5 Limits the maximum number of storeys
 - 6 Requires the submission of play area details
 - 7 Requires the submission of public open space details
 - 8 Requires the implementation of tree protection
 - 9 Requires the submission of detail of the day nursery play space
 - 10 Prevents the use from changing within the use class
 - 11 Requires the prior submission of a contamination remediation scheme
 - 12 Requires the submission of a contaminated land verification report
 - 13 Requires the prior submission of drainage plans for the disposal of foul and surface water
 - 14 Requires the prior submission of a sustainable drainage scheme
 - 15 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 16 Secures noise and vibration levels for habitable rooms
 - 17 Requires the submission of hard surfacing materials
 - 18 Requires the prior submission of earthworks details
 - 19 Requires the submission of boundary treatment details
 - 20 Requires the submission of details of green/brown roofs
 - 21 Requires the submission of a landscape management plan
 - 22 Requires the prior submission of level details
 - 23 Requires the submission of cycle storage details
 - 24 Requires the provision of a vehicle charging point
 - 25 Requires the parking area to be laid out prior to use
 - 26 Requires the submission of vehicle parking and turning details
-

-
- 27 Requires the prior submission of a further air quality assessment
 - 28 Requires the submission of a lighting scheme
 - 29 Requires the prior submission of a construction method statement/management plan
 - 30 Requires the prior submission of details of bird/bat boxes
 - 31 Requires the prior submission of a construction ecological mitigation plan
 - 32 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 33 Requires the submission of extraction and odour control details
 - 34 Requires the prior submission of a Landscape and Ecological Management Plan
 - 35 Requires the prior submission of Lighting Design Strategy for Biodiversity
 - 36 Requires the prior submission of a construction employment plan
 - 37 Requires the prior submission of further sustainable construction information
 - 38 Requires the prior submission of details of the low/zero carbon energy source
-

Case Officer: Claudia Clemente

Photo(s)



Photo 1 - Northern boundary of the site on the right from Great Western Close

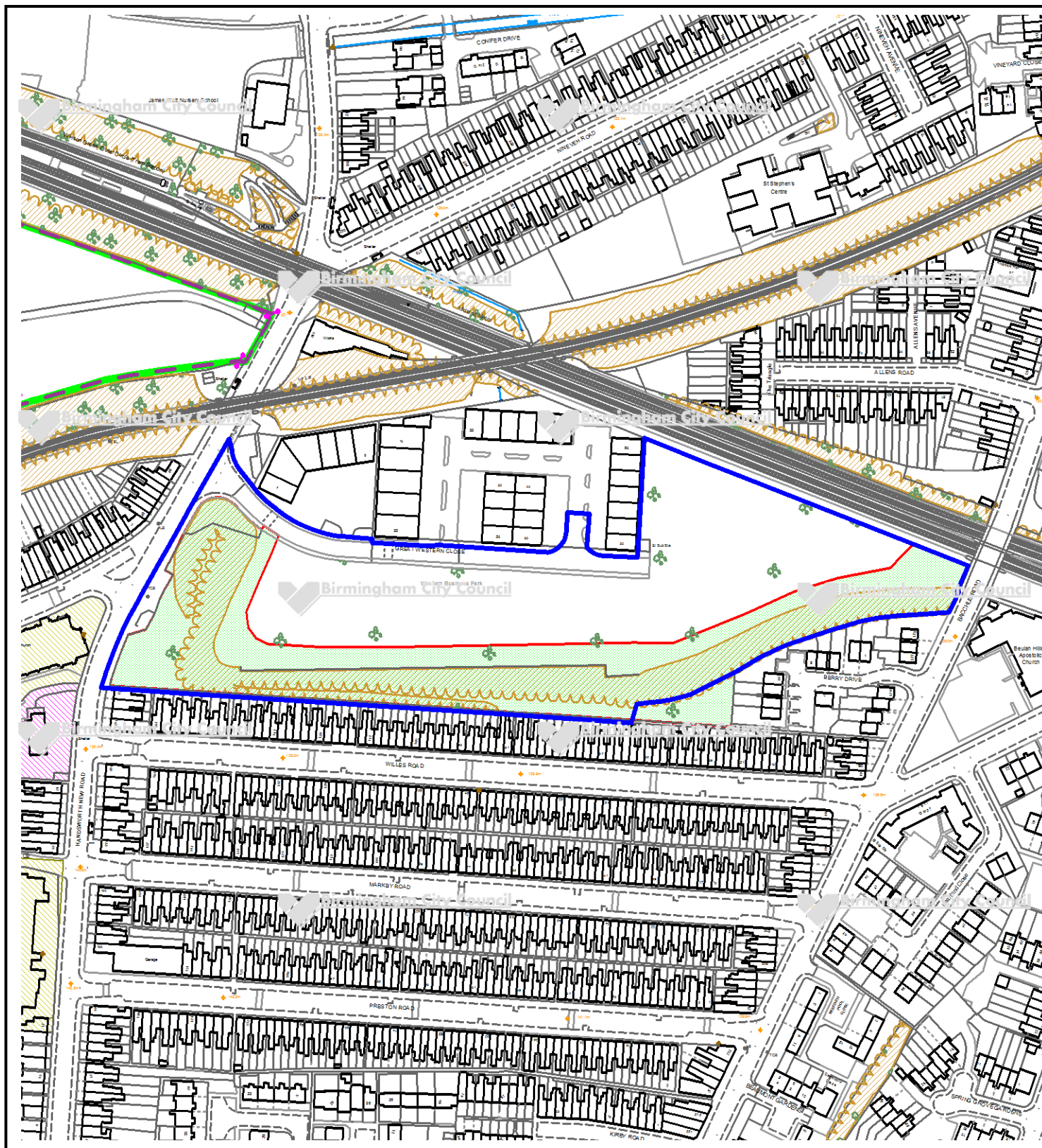


Photo 2 - Western boundary of the site on the left from Handsworth New Road



Photo 3 - Google Maps Image showing extent of site

Location Plan



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Committee Date:	19/11/2020	Application Number:	2020/04626/PA
Accepted:	01/07/2020	Application Type:	Full Planning
Target Date:	04/12/2020		
Ward:	Birchfield		

144 Hamstead Road, Handsworth, Birmingham, B20 2QR

Retention of change of use from dental surgery (Use Class D1) to 8-bed HMO with ancillary staff rooms (Sui Generis)

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Retrospective planning permission is sought for the change of use of the premises from a dental surgery (Use Class D1) to an 8-bedroom HMO (Use Class Sui Generis) at 144 Hamstead Road, Birmingham.
- 1.2. This application follows the previous planning proposal (2019/02190/PA) which was refused on the basis of unacceptable amenity space for future occupiers of the proposed development.
- 1.3. As originally submitted, the proposal included 1 no. self-contained flat at the ground floor. The amended plans have been received which omit the flat element and replace it with a communal game room for the residents. The internal layout comprises:

Ground floor

- Game room (42.6m²)
- Administration office with a bathroom (22.39m²)
- Administration office/meeting room (32m²)
- HMO element; bedroom 1 (12.5m²), bedroom 2 (18.2m²), bathroom (2.7m²)

First floor

- HMO element; bedroom 3 (19.6m²), bedroom 4 (11.3m²), kitchen (18.6m²), lounge (12.4m²), bathroom (3.7m²), toilet

Second floor

- HMO element: bedroom 5 (20.3m²), bedroom 6 (10.6m²), bedroom 7 (12.6m²), bedroom 8 (14.8m²), shared bathroom for bedrooms 7 and 8 (2.7m²), bathroom (6m²)

- 1.4. The current proposal addresses the previous refusal by Planning Committee (2019/02190/PA) which was refused on the basis of unacceptable amenity space, by a provision of a private amenity space which comprises a rear hard surfaced area of approximately 165m².

- 1.5. The agent and the applicant confirmed that the property is being used as an HMO with support but no care provision is being provided to the residents. They confirmed the following;
- The HMO is run by an organisation “Our Lives Supported Living” which provides supported accommodation for adults with mental health problems. The manager of the HMO is previously registered manager traded under the regulation of CQC and has the relevant qualifications, skills and experience to operate this organisation.
 - The potential residents are referred to the organisation by the NHS, hospitals, GPs, housing sectors, homeless team and social services. The referrals are male only clients between ages 25-64. All of the potential residents are vetted and the necessary risk assessment is being carried. No residents are being accepted if they have a history of arson, drug or alcohol misuse that could be of a risk to other residents and staff.
 - The HMO is currently used by 9 no. residents. The accommodation operates on 24-hour support. Each resident has an individual low support plan and risk assessment devised around their referral and needs which aims to promote their autonomy. The level of support ranges from 2-3 hours per week and is reviewed on monthly bases. The typical support includes emotional and mental support, training and employment, support with budget management, education or filling out benefit forms.
 - Staff is on site from Monday-Friday (10:00-18:00) and after 18:00 there is an on-call service. There are currently 2 no. part-time support workers that work Monday to Friday and 1 no. full time Manager.
 - The office element of the HMO is ancillary to the main use and is used for 1:1 meetings between the residents and support staff and as admin office.
- 1.6. No additional off-street parking provision is being proposed to the existing front drive which provides some off street parking spaces.
- 1.7. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application site comprises a three storey property with link at first floor to No. 146 Hamstead Road. The premise is a former dental/medical treatment centre (Use Class D1). The application site is located within a residential area and many of the large semi-detached and detached houses along this frontage have been converted to flats.
- 2.2. The surrounding properties are reminiscent of substantially sized detached and semi-detached Victorian properties which are setback from the highway with shallow boundary walls along the stretch of the application site. On the opposite side of the road there is Welford Primary School and further residential dwellings mainly made up groups of post-war terraces. There is a mixture of residential through family occupied dwellings as well properties which have been converted into flats.
- 2.3. The site is located within a designated Area of Restraint - Handsworth, Sandwell and Soho.

2.4. [Site Location](#)

3. [Planning History](#)

- 3.1. The site has a long planning history; the most relevant planning history includes;
- 3.2. (2018/04002/PA) - Change of use from dental surgery (Use Class D1) to 2 no. self-contained flats (Use Class C3) and 8 bedroom HMO (Sui Generis) – Refused – 14/08/2018
- 3.3. (2018/08294/PA) - Change of use from dental surgery (Use Class D1) to 2 no. self-contained flats (Use Class C3) and 8 bedroom HMO (Sui Generis) – Refused – 17/12/2018
- 3.4. (2019/02190/PA) - Retention of change of use from dental surgery (Use Class D1) to 1 no. self-contained flat (Use Class C3) and 8-bed HMO (Sui Generis) – Refused – 15/08/2019

4. [Consultation/PP Responses](#)

- 4.1. Local Ward Councillors, Residents Association and neighbouring properties notified.
- 4.2. 11 letters of objections have been received from local residents (3 of which were from the occupiers of the same dwelling) raising the following issues (in summary):
- Overconcentration of HMO's in the area
 - Worsen existing high crime rate and levels of anti-social behaviour in the area
 - Increase in noise and disturbance, crime, pollution and fear of crime
 - Illegal and unregulated HMOs in the vicinity
 - Fear for safety
 - Drug use and prostitution in the area
 - Noise and disturbance from the existing HMO's in the area
 - Congestion and parking problems
 - Littering
 - Inadequate living accommodation and layout
 - The nature of the intended clientele
 - Devaluation of properties in the area
 - The site is located in area of restraint
 - The site is locate opposite of school

- 4.3. Regulatory services – No objections subject to a condition in relation to noise insulation scheme.

- 4.4. Transportation Development – No objections subject to conditions in relation to cycle storage and for parking spaces to be clearly marked out.

- 4.5. West Midlands Police – No objections.

5. [Policy Context](#)

- 5.1. The following local policies are applicable:
- Birmingham Development Plan (2017)
 - Birmingham UDP (saved policies) (2005)

- Places for Living (adopted SPG 2001)
- Specific Needs Residential Uses SPG.
- Area of Restraint Handsworth, Sandwell and Soho.
- Car Parking Guidelines SPD (2012)

5.2. The following national policy is applicable:

- NPPF – National Planning Policy Framework (2019)

6. Planning Considerations

6.1. The main considerations in the determination of this application are the principle of the change of use, standard of accommodation and quality of the living environment for future occupiers, impact on residential amenity as well as parking and highway safety.

Principle of change of use to a large HMO (Sui Generis)

6.2. Whilst the Birmingham Development Plan 2017 contains no policies directly relating to HMO uses, it contains policies which seek to create sustainable, mixed and balanced communities (Policies TP27 and TP30).

6.3. The Birmingham UDP 2005 has guidance relating specifically to HMO's in 'saved' policies 8.23 to 8.25. These set out the criteria to assess proposals including the effect on amenities, size and character of the property, floor space standards, car parking facilities and cumulative impacts.

6.4. The Specific Needs Residential Uses SPG is clear that the nature of the type of people to occupy the premises is not a material planning consideration, and that HMO accommodation has a role to play in providing housing for certain groups in society.

6.5. The application site is located in the Handsworth Area of Restraint which seeks to avoid over-concentration of non-family dwelling houses within particular road frontages. It is important to note that the loss of a single family home has long been established within this large property which has last been in use as a dental/medical treatment centre (Use Class D1).

6.6. Saved Policy 8.25 of the UDP states that where a proposal relates to a site in an area which already contains premises in similar use, and/or properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area.

6.7. It is noted that within this frontage of Hamstead Road between Radnor Road and Gibson Road, which measures some 261 meters, a number of properties have been converted into self-contained flats and commercial uses. As previously stated, the proposed development would not result in the loss of a further single family dwelling due to the previous D1 use. In terms of the building typologies in the area, there is a mixture of large villa style dwellings which have been converted into flats and commercial units as demonstrated with the application site. The post-war terraced dwellings remain as C3 residential use and all of which contribute to the mixed character of the vicinity. The public register of HMOs licences identifies within this particular frontage of Hamstead Road only No. 130 and 166A and the application site as HMOs.

6.8. In addition, according to a search of the address points, the following conversions have already taken place along Hamstead Road between Radnor Road and Gibson Road:

- 11 properties converted to self-contained flats, equating to 26.2% of the 42 properties. There are also 4 commercial properties including offices and a training therapy centre within this frontage between Radnor Road and Gibson Road on both sides of the road within the 261 meter stretch.

6.9. As such, it is considered that the principle of the proposed use of this property as a large 8-bedroom HMO would not adversely affect the area's residential character given that the application site was previously in non-domestic D1 use.

Standard of accommodation

6.10. The Specific Needs Residential Uses SPG provides a guidance that will be expected to demonstrate that the following space standards can be achieved:

- Single room used for living/sleeping/cooking – 15m² minimum floor area.
- Two room letting as living/sleeping room and separate kitchen (excludes bathroom and kitchen)
 - One Individual: 12.5m² living/sleeping room floor area
 - Two Individuals: 18 m² living/sleeping room floor area
- Two room letting with kitchen/living room and separate bedroom
 - One individual: 6.5m² bedroom floor area
 - Two individuals: 12.5m² bedroom floor area

6.11. The submitted floor plans show that bedrooms 2, 3, 5, and 8 range from 14.8m² – 20.3m² and as such exceed the minimum required standards as set in the Specific Needs Residential Uses SPG for rooms being used as single rooms for living/sleeping/cooking by 1 no. individual. In addition, bedrooms 2, 3, 5 and 8 meet and exceed the minimum standards for bedroom floor areas for rooms being used by 2 no. individuals as bedrooms with shared kitchen and living room and those bedrooms could be used for sharing by 2 no. individuals. Bedrooms 1 and 7 measure 12.5m² and 12.6m² respectively, and as such meet the required minimum standards of 12.5m² for living/sleeping room floor area for two room letting as living/sleeping room and separate kitchen by 1 no. individual. Finally, bedrooms 4 and 6 measure 10.6m² and 11.3m² respectively, and therefore meet the required minimum standards of 6.5m² for room letting used by 1 no. individual with communal kitchen/living room.

6.12. All of the bedrooms share first floor kitchen (18.6m²), lounge (12.4m²) and 3 no. bathrooms which are located on each floor. In addition, bedrooms 7 and 8 share an additional bathroom at second floor. All of the bedrooms provide natural light and satisfactory outlook for the existing and future occupiers. All of the residents also benefit from a communal game room (42.6m²) which can be used for sport and recreation or as a prayer room if needed.

6.13. The previous planning proposal was refused on the basis of unacceptable amenity space for future occupiers of the proposed development (2019/02190/PA).

- 6.14. The current proposal addresses the previous reason for refusal by removing parking spaces from the hard surfaced space to the rear and replacing it with the provision of a private amenity space of approximately 165m².
- 6.15. Whilst there is no guideline for HMO's in the Council's Places for Living SPD in terms of amenity space; the hard surfaced space to the rear that provides approximately 165m² of private amenity space is considered to be acceptable as the residual space for amenity. As such, I consider that the current scheme has addressed previous reasons for refusal and there are no planning grounds to refuse this application on the basis of unacceptable amenity space.

Impact on residential amenity

- 6.16. It is noted that concerns have been raised by local residents that the proposed HMO would increase noise and disturbance in the area. Regulatory Services have assessed the proposal and raised no objections subject to the safeguarding condition for a noise insulation scheme. It is considered that subject to the safeguarding condition for a noise insulation scheme; an 8-bedroom HMO is unlikely to affect the amenities of the existing neighbouring residential occupiers in terms of general noise and disturbance within the context of the previous use.
- 6.17. The proposal complies with the required distance separation guidelines contained in Places for Living SPG and as such, there would be no detrimental on the amenities of the occupiers of the neighbouring properties by way of overlooking.
- 6.18. It is noted that the proposal comprises a bathroom to the front elevation. As such, a safeguarding condition for obscure glazing has been attached to protect the privacy of the existing and the future occupiers.

Highway safety and parking

- 6.19. Hamstead Road is a classified road with TRO restriction applied to the highway both sides of the road at the application site with restrictions prohibiting on-street parking between 7:45am and 6:45pm on both sides of the road. Transportation Development have assessed the proposal and raised no objections subject to conditions in relation to a cycle parking storage and that any parking spaces should be clearly marked out on the ground.
- 6.20. The site was previously used as a dental surgery (Use Class D1). Transportation officer considers that the traffic generated by the proposal would not be expected to significantly differ from that generated by the previous use of the site. Although the proposal does not include additional off-street parking provision; the site is served with an existing footway crossing leading to front drive which clearly provides some off street parking spaces. The Transportation officer recommended that these should be clearly marked out on the ground within the sites red line boundary. However, given that there are no parking standards for HMOs within the local planning policy I consider that a condition to this effect is therefore not necessary in this instance. In addition, Transportation officer requested that each unit should be provided with at least 1 secure cycle storage space. Whilst there is no cycle storage facility shown on the submitted plans, it is considered that there would be adequate space within the site for this to be accommodated. I concur with this view and I consider that the application site is located within a sustainable location with accessible transport networks and the proposal is unlikely to increase parking

demand in the vicinity of the site and there would be no adverse impact on highway safety.

Other matters

- 6.21. It is noted that concerns have been raised by local residents with regards to the nature of existing occupants in existing HMO's on the street and increase in crime as a result and that the proposal would worsen existing high crime rate and levels of anti-social behaviour in the area and a fear of crime. However, the Specific Needs Residential Uses SPG is clear that the nature of the type of people to occupy the premises is not a material planning consideration, and that HMO accommodation has a role to play in providing housing for certain groups in society.
- 6.22. West Midlands Police have assessed the proposal and visited the site and raised no objections. The HMO element of the proposal has already been running from the application site for some time and there has not been a detrimental effect on police service demand caused by it. The prospective occupiers of the HMO are vetted beforehand, and any referral from BCC or NHS outlet is not accepted if there are drugs, drink or previous arson convictions. As such, West Midlands Police raise no objections to the proposal.
- 6.23. Moreover, objections have been raised by local residents with regards to the management of the existing HMOs in the area and Illegal and unregulated HMOs in the vicinity of the site. However, this is considered to be outside of the control of planning legislation. To obtain a license under separate Housing Legislation, the Council (Private Rented Services) must be satisfied, amongst other things that proper management standards are in place. The Council records show that an application for a HMO licence has been granted at the application premises.
- 6.24. In addition, concerns have been raised by local residents with regards to littering on the street. However, there is an adequate space to accommodate bin(s) of a suitable size for the proposed use.
- 6.25. Finally, concerns have been raised by local residents that the proposal would devalue the properties in the area. However, this matter is not a material planning consideration and cannot be taken into account when assessing this application.
- 6.26. The proposed development does not attract a CIL contribution.

7. Conclusion

- 7.1. This application is recommended for approval as the proposal complies with policies that have been set out above. The proposal provides satisfactory living accommodation for the existing and future occupiers and is acceptable in terms of amenity and highways considerations. The current scheme has addressed previous reasons for refusal in terms of private amenity space and there are no planning grounds to refuse this application.

8. Recommendation

- 8.1. Approve subject to Conditions.

1	Requires the scheme to be in accordance with the listed approved plans
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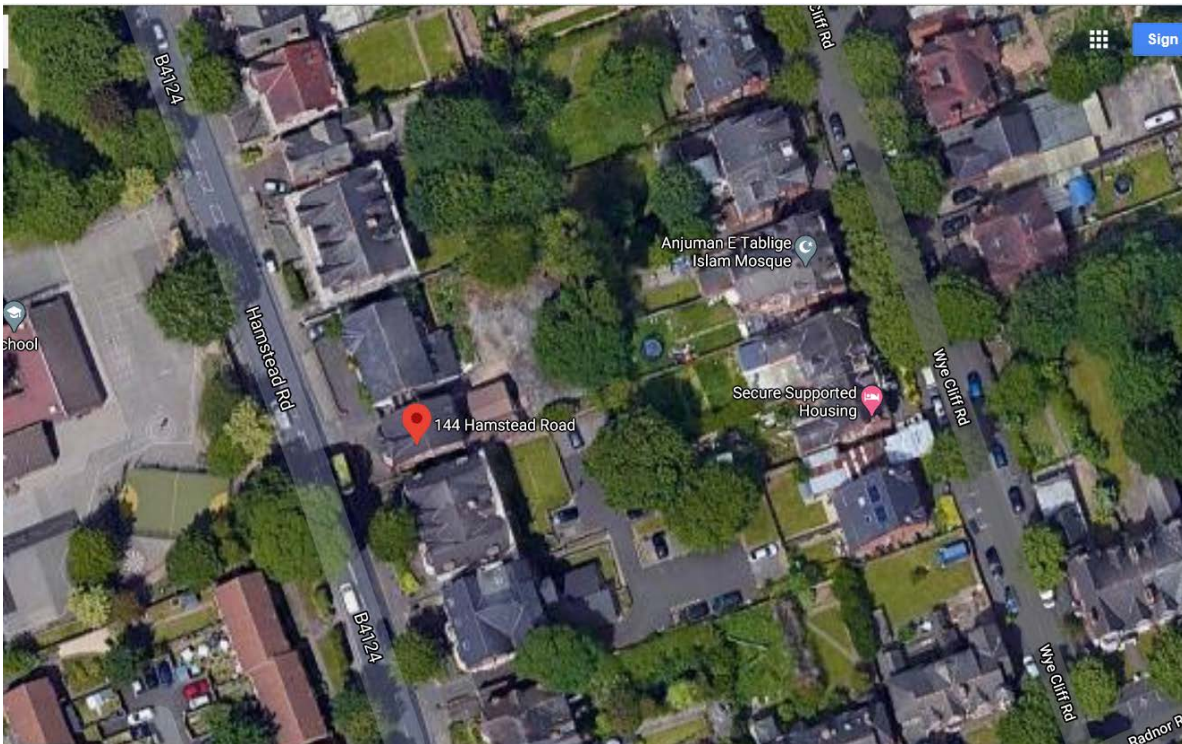
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- 2 Requires the submission of details of refuse storage within 3 months
 - 3 Requires that the approved offices are incidental to the main use
 - 4 Requires the submission of cycle storage details within 3 months
 - 5 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection within 3 months
 - 6 Requires obscure glazing for specific areas of the approved building
 - 7 Limits the number of residents to 9 people
-

Case Officer: Lucia Hamid

Photo(s)

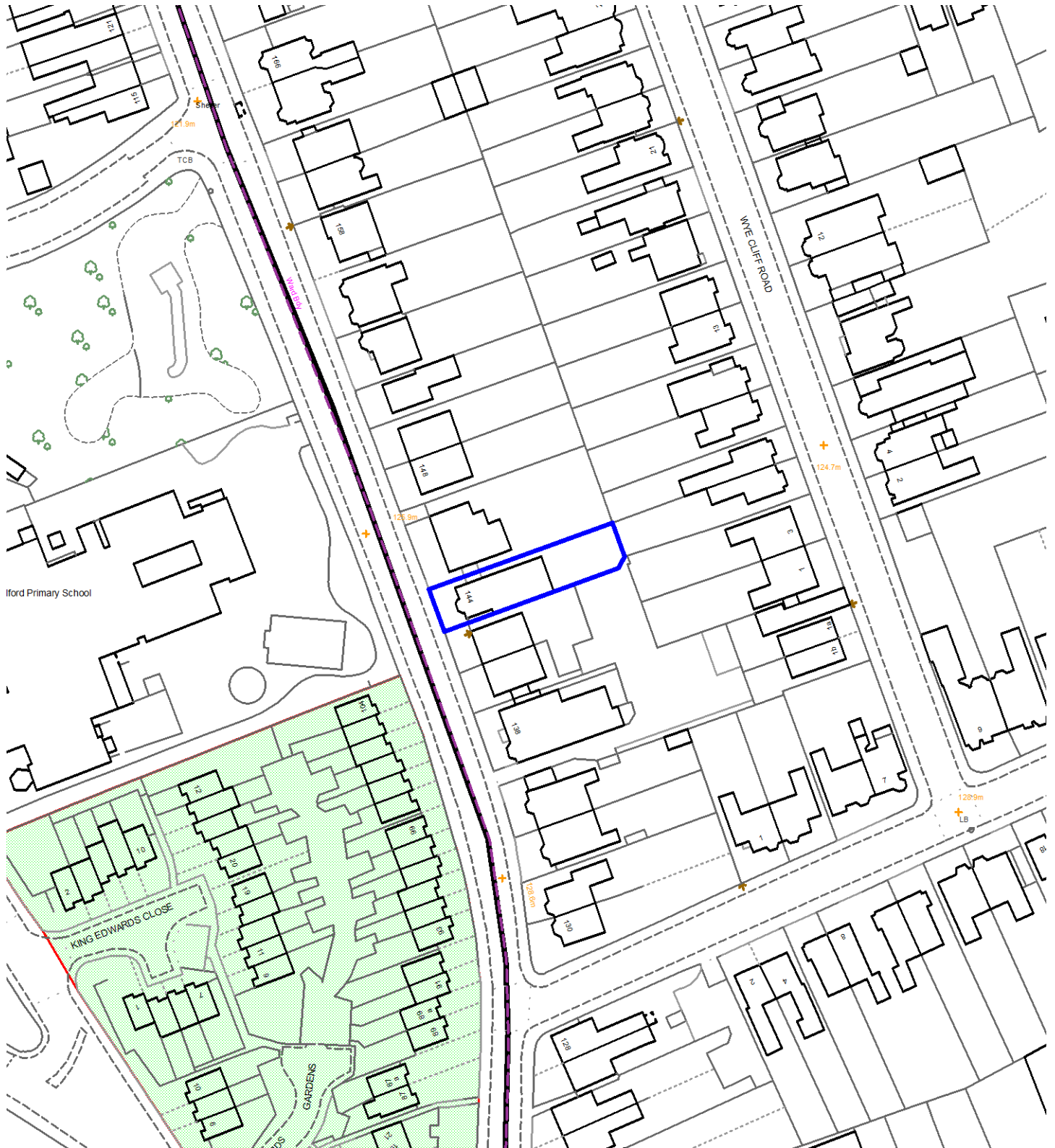


Picture 1: Front of the property view from Hamstead Road



Picture 2: Ariel view of the property

Location Plan



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