

# Birmingham City Council

Planning Committee

20 December 2018

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	9	2018/06313/PA  Former BCU City North Campus Franchise Street Perry Barr Birmingham B42 2SU  Erection of a mixed use residential led development to first serve as the commonwealth games athletes village, and later converted to 1,146 residential units (Use Class C3), 268 extra care apartments (Use Class C2), 1,237sqm commercial floorspace (Use Class A1 - A3), and a community centre (Use Class D2) with associated parking, landscaping and infrastructure
Endorse – Reasons for refusal	10	2018/02839/PA  Land rear of 29-39 Reddicap Heath Road Sutton Coldfield Birmingham B75 7DU  Demolition of 33-35 Reddicap Heath Road and erection of 10 dwellings with associated parking and landscaping

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Committee Date:	20/12/2018	Application Number:	2018/06313/PA
Accepted:	15/08/2018	Application Type:	Full Planning
Target Date:	21/12/2018		
Ward:	Perry Barr		

Former BCU City North Campus, Franchise Street, Perry Barr, Birmingham, B42 2SU

Erection of a mixed use residential led development to first serve as the commonwealth games athletes village, and later converted to 1,146 residential units (Use Class C3), 268 extra care apartments (Use Class C2), 1,237sqm commercial floorspace (Use Class A1 - A3), and a community centre (Use Class D2) with associated parking, landscaping and infrastructure

Applicant: Birmingham City Council  
C/o the Agent  
Agent: Arcadis  
Cornerblock, 2 Cornwall Street, Birmingham, B3 2DX

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#### Recommendation

#### **Approve subject to Conditions**

#### 1. Proposal

- 1.1. The application is for a residential led mixed-use development which will regenerate an existing brownfield site. The scheme will comprise, in "legacy mode" of 1,146 one, two, three and four bed apartments/duplex apartments/towns houses (C3) and 268 one and two bed extra care apartments (C2). A total of 1,237 sqm of commercial floorspace (A1-A3) would be provided at ground floor in 'key' locations across the site including within the frontage of the extra care development. A 500+sqm community centre (D2) would also be provided central to the site and include informal and formal space, seating for up to 100 people, changing areas and a café area. A range of civic and green spaces including a central park area and a new north/south parkour pedestrian/cycle link are proposed across the site in addition to significant landscaping, including retention of existing and, provision of, additional trees.
- 1.2. The site has been divided into a series of 11 different plots positioned around a central green park supported by a hierarchy of streets and other public spaces (see Fig 1 below). All of the plots are designed to provide active frontage to public facing areas with a clear demarcation between public and private areas. The scale of the proposed buildings range from 2 to 15 storeys across the site, with the lower density elements primarily to the east and the larger scaled buildings to the west of the site.

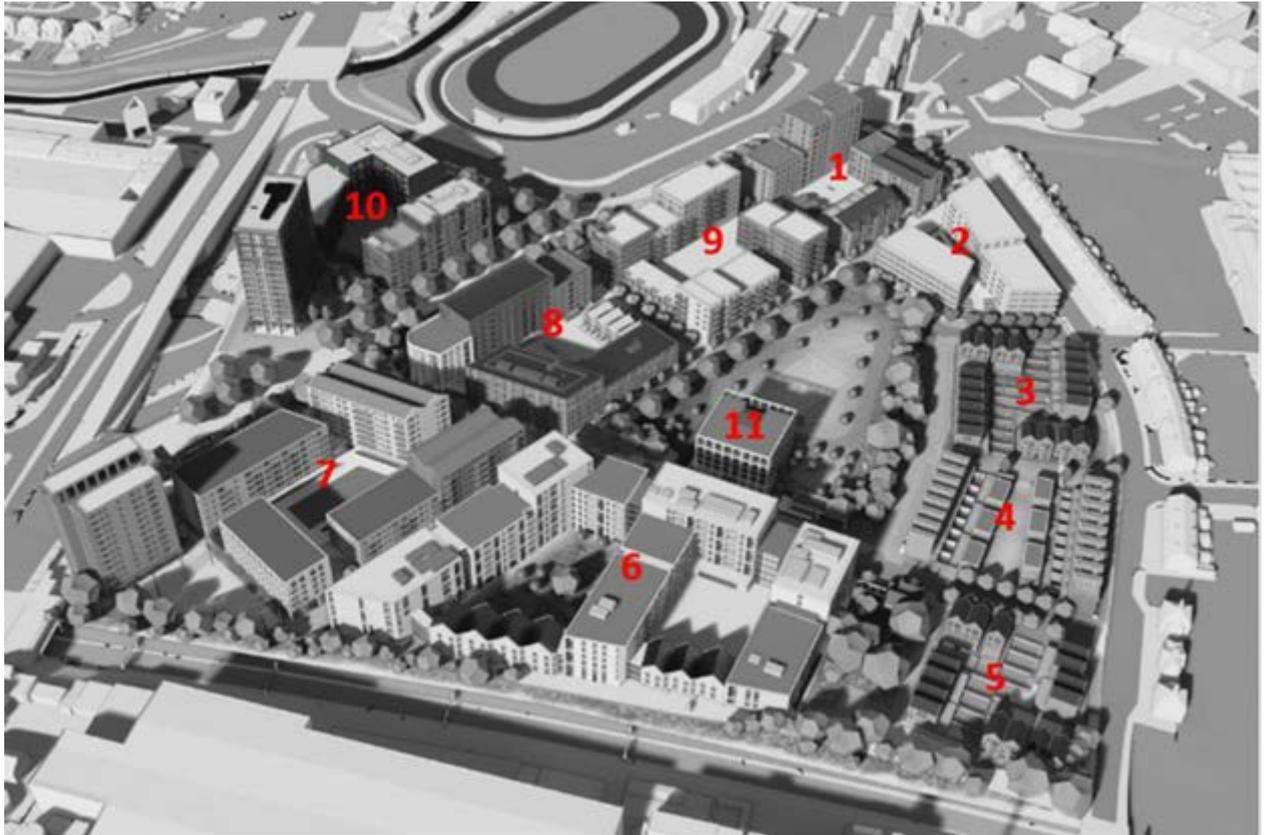


Fig: 1 – Proposed plots

Specifically, the blocks would be the following heights:

Plot one – 3 to 10 storeys  
 Plot two – 5 to 6 storeys  
 Plot three – 3 storeys  
 Plot four – 2 to 4 storeys  
 Plot five - 3 storeys  
 Plot six – 3 to 8 storeys

Plot seven – 5 to 15 storeys  
 Plot eight – 3 to 8 storeys  
 Plot nine – 3 to 8 storeys  
 Plot ten – 6 to 15 storeys  
 Plot eleven – 6 storeys

- 1.3. The architectural concept focuses on creating a family of buildings reflecting a modern interpretation of more traditional building types increasing scale and density towards the west of the site. Consequently it is proposed that the development would be constructed primarily in brick with additional materials to bring interest to key buildings. In summary plots one, three, five and ten would be built using red bricks, metal features, glass/metal balustrades and dark stone with plot 10 also featuring Nordic bronze cladding. Plot two, four, six, seven, nine and eleven would be built using blonde, pale buff or white brick, dark grey anodised metalwork, accent glazed copper brick, acid etched cream/off white concrete brick, acid etched cream/off white concrete, glass balustrades and dark grey anodised metalwork. Plot eight would differ slightly and feature a variety of white, red, blue and grey bricks with copper frames and stone features. The specific details would be controlled by condition.



Fig 2 - Site visual (Wellhead Lane in the foreground).

- 1.4. The residential accommodation would comprise of one, two, three or four bedrooms, bathroom and open plan kitchen/dining/living space. In excess of 80% of the proposed units would have private amenity space in the form of a terrace/balcony/garden with plots 3-5 having private amenity space in excess of 70 sq m for each unit and plots 1, 2, and 6-11 with access to 14,775 sq m of communal podium/roof terrace amenity space. The accommodation would all meet national housing standards with 37% 1 bed, 56% 2 beds, 1% 3 beds and 6% 4 beds. The accommodation would be offered as a mix of Affordable (24%), Private Rent and Market Sale tenures.
- 1.5. The commercial units would be distributed across the site as 10 units on plots 1, 6, 7 and 10. The community centre, including a potential café, would be on the ground floor of plot 11.
- 1.6. The proposal includes the closure of the A453 through the site and the provision of two pedestrian/cycle north-south routes, two pedestrian east-west routes and a new pedestrian route to the western edge adjacent to the re-aligned gyratory. Vehicular access would be concentrated to the eastern side of the site, with servicing of the site, including refuse, done via Wellhead Road with the exception of plot 10 which would be serviced from a new access point to the north-east of its plot.
- 1.7. 375 car parking spaces would be provided across the site, including 13 spaces within the highway on Wellhead Lane. The spaces would be plot specific with parking for the townhouses (plots 3-5) provided near to each plot within parking bay, driveways or garages dependent on the plot. Parking for the apartment buildings (plots 1, 2, 7, 8, 9 and 10) and the extra care centre (plot 6) would be within parking courts associated with each block, often under a landscaped podium level. The spaces would be allocated to the residents and the internal layout designed as such that informal parking would not be available but parking enforcement would be managed across the site by a separate company. A residents parking scheme for Wellhead Lane and Oscott Road would also be funded by the applicant. A comprehensive Travel Plan with a range of measures has also been submitted in support of the application. Consequently parking would be provided at a level of

95% for the 2, 3 and 4 bed houses, 23% for the 1 and 2 bed flats and 23% for the extra care accommodation.

- 1.8 100% covered secure cycle parking would be provided for the residential accommodation along with additional short and long stay visitor cycle parking would be provided across the site.
- 1.9 Approx. 31,782sqm of informal and formal public open space/public realm would be provided (see fig 3 below). This provision includes a plaza, station forecourt, public square, public green, a village green, football pitch, play park, “woodland” track and a multi-use games area in addition to an extensive amount of hard and soft landscaping across the site. A pallette of material has been identified however the specific details of these would be controlled by condition.



Fig 3: POS/public realm

- 1.10 Prior to the occupation of the development by residents, the development would serve as the Athlete’s Village for the 2022 Commonwealth Games, which are to be held in Birmingham. In “games mode” the village would provide 6500 bedspaces for athletes and associated support and include provision of a mix of accessible units across the site, associated storage, amenity areas and supporting social areas.
- 1.11 The site layout and building footprints would be the same for both modes with minimal internal changes only required to move between games and legacy mode.
- 1.12 An Air Quality Assessment, Construction Management Plan, Ecological Appraisal and Phase 1 Ecology Survey, Design and Access Statements (1 for the entire site and 1 for each of the individual plot, a masonry booklet and a site wide design code), Energy Strategy, Environmental Noise Assessment, Flood Risk Assessment and SuDs, Land Contamination Report, Heritage Assessment, Landscape Masterplan, Transport Assessment, Travel Plan, Tree Survey, Planning Statement

(including Health Impact Assessment and Community Engagement) and a Financial Viability Assessment have been submitted in support of the application.

1.13 A screening request was considered prior to the formal application submission which concluded an ES was not required.

1.14 [Link to Documents](#)

## 2 Site & Surroundings

2.1 The site is approx. 9.75 hectares and comprises of the former BCU North Campus and land to the west of the A453 Aldridge Road previously occupied by Trucks Direct UK and known as Gailey Park. It is situated to the North West of the City Centre and close to the southern boundary of Perry Barr Constituency.

2.2 Prior approval has been granted for the demolition of buildings on both sites and demolition work has started. Both sites will be cleared, except for the retained trees.

2.3 The southern boundary of the site is adjacent to a railway line, with all other site boundaries being bound by road to include Wellhead Lane, Walsall Road and the Aldridge Road. Vehicular access to the eastern part of the site is currently via Franchise Street, with access to Gailey Park from the north off Aldridge Road. There is a mix of residential, industry and commercial uses including Perry Barr Greyhound Stadium to the north, in the immediate vicinity and the existing adjacent highway network is a dominant feature. The site is opposite both Perry Barr train station and Perry Barr Bus interchange.

2.4 The nearest listed building is the Grade II Gatehouse Building on Wellhead Lane, immediately opposite Franchise Street. The former Wellhead Tavern P.H. is locally listed building Grade B and is located within the site. The nearest conservation area (Aston Hall and Church Conservation Area) is over 950m to the south east.

2.5 [Site location](#)

## 3 Planning History

3.1 12<sup>th</sup> April 2018 – 2018/02001/PA Application for Prior Notification for demolition of former City North Campus – Prior Approval required and granted, subject to conditions.

3.2 19<sup>th</sup> October 2018 – 2018/07955/PA Application for Prior Notification for proposed demolition of various existing buildings at Gailey Park - Prior approval required and granted, subject to conditions.

## 4 Consultation/PP Responses

4.1 Cadent Gas – informative for applicant.

4.2 Education – A financial contribution of £1,169,222.01 is required for nursery, primary and secondary school provision.

4.3 Environment Agency – No objection subject to a condition

- 4.4 Highways Agency – No objection subject to conditions with regard an event management plan.
- 4.5 Lead Local Flood Agency – currently object due to insufficient information.
- 4.6 Leisure Services – In principle support the transforming legacy of the proposal. However, this proposal generates the need for 47,420sqm and that whilst there is POS provision on site it does not meet this need. A Clerk of Works based on 2.5% of the value of the POS is therefore required to ensure the proposed POS is of the highest quality.
- 4.7 Network Rail – No objection subject to conditions to secure the safety and continued operation of the railway.
- 4.8 NHS – £83,715.00 required to provide additional services and capacity to meet patient demand.
- 4.9 Regulatory Services – This is a major development and there is an absence of detail however no objections are raised subject to conditions with regard air quality, noise, vibration, contaminated land and construction management plan.
- 4.10 Sport England - Taking into account the proposed investment into sports facilities by the Council related to the Commonwealth Games it is not considered that a section 106 contribution is necessary as would otherwise normally be recommended for residential developments of this size.
- 4.11 Severn Trent – No objection subject to conditions with regard disposal of foul and surface water.
- 4.12 Transportation Development – No objections to amended details subject to conditions with regard construction/development phasing plan, S278, charging points for electrical vehicles, visibility splays, construction traffic management plan, cycle storage and travel plan.
- 4.13 West Midlands Fire Service – various comments but no objections.
- 4.14 West Midlands Police – various comments on each plot, but overall no objection subject to conditions with regard cctv and lighting conditions.
- 4.15 Wildlife Trust – Support overall ambition and aim of proposal. Suggest a number of measures and conditions with regard ecology, landscaping and SuDs to ensure the opportunity is maximised.
- 4.16 Local residents' associations, neighbours, Ward Councillors, District Director and MP were notified. Site and press notices were also displayed. 5 letters of objection have been received raising the following, summarised, concerns;
- Noise has not been adequately assessed particularly in relation to the existing Speedway venue. This needs to be considered to avoid conflicts with future residents.
  - The proposed flyover removal would have significant and currently unknown wider implications on the highway network.

- Proposal not innovative comprises of insufficient landscaping and biodiversity enhancements, with inadequate cycle storage and fails to contribute to de-carbonising the city.
- Proposal could be more sustainable and currently proposes insufficient measures to localise economic impact.

17 letters of comment, including 1 from Cllr Hunt, have also been received. Comments summarised as follows;

- Overall aims of wider redevelopment of this brownfield site are largely welcomed, in particular the significant contribution to multi-generational housing. However the sustainability and 'green' elements of the proposal should be maximised. Greater use of renewable energy, green space, allotments, on site anaerobic digestion of food waste and rainwater collection needed.
- Birds and bats need to be incorporated.
- On site police station needed, along with careful thought for who is housed on the site post games.
- Closure of section of A453 should only be done if it does not affect journey times on surrounding roads.
- Provision of strategic cycle network needs to be prior to first occupation.
- Insufficient category 2 accessible and adaptable homes are proposed.
- Concerned re the loss of employment land/opportunities
- Density of development particularly in relation to 15 storey tower and its outlook,
- Insufficient information with regard future transport arrangements
- Reassurance needed with regard wider community engagement with site and its facilities post games
- S106 monies should be used to improve access to existing open space networks in the community i.e. River Tame and Perry Barr Park.

## 5 Policy Context

- 5.1 Birmingham UDP 2005 saved policies; Birmingham Development Plan 2017; Places for Living SPG; Places for All SPG; Access for People with Disabilities SPD; Car Parking Guidelines SPD; Lighting Places SPD; Public Open Space in New residential Development SPD; Affordable Housing SPG; Aston Area Action Plan; Planning Policy Guidance and the National Planning Policy Framework.

## 6 Planning Considerations

### Background

- 6.1 An issues report about this application was considered at the Planning Committee meeting on 13th September 2018. In response to the issues identified Members were content with the mix of uses, scale and design of the development and largely welcomed the proposal. However, comments about the developments 'green' credentials and the limited car parking provision seemed to suggest that it was not very family orientated were made and these points are addressed in detail below.

### Principle

- 6.2 In January 2017, the City Council adopted the Birmingham Development Plan (BDP). The BDP is intended to provide a long term strategy for the whole of the

City and replaced the UDP 2005 with the exception of the saved policies in Chapter 8 of that plan.

- 6.3 Policy PG1 advises that over the plan period significant levels of housing, employment, office and retail development will be planned for and provided along with supporting infrastructure and environmental enhancements. Policy GA3 reinforces the Aston Area Action Plan (AAP) and recognises that the BCU campus as an identified development opportunity has the potential to accommodate high quality housing and TP27 expects new residential development to contribute to making high quality sustainable developments.
- 6.4 In respect of housing need the BDP states that its objectively assessed need is 89,000 across the plan period (until 2031) to meet the forecast increase in Birmingham's population of 150,000. Due to constraints across the administrative area the Plan only plans to provide 51,100.
- 6.5 This scheme would, in legacy mode, deliver a total of 1,146 residential units plus 268 extra care apartments within a mixed use scheme, on a sustainable, brownfield and well-linked site that has not previously had consent for residential redevelopment. It would bring significant investment to this part of the City and make an important contribution to the housing stock in this locality.
- 6.6 The use of the site as an athlete's village for the 2022 Commonwealth Games prior to the permanent residential occupation of the site would be temporary only and require minimal changes. Policy PG2 and TP25 of the BDP seek to reinforce and promote Birmingham's role as a centre for tourism and events and these policies would support this approach.
- 6.7 I therefore raise no objection in land use policy terms to the proposed mixed use residential led redevelopment of this site subject to all detailed matters.

#### Layout, scale and design

- 6.8 The recently revised NPPF makes it clear that good design is a necessity. Birmingham Development Plan Policies PG3 and TP27 state the need for all new residential development to be of the highest possible standards which reinforce, or create, a positive sense of place as well as a safe and attractive environment. Supplementary documents, including Places for All and Places for Living, provide further detailed guidance on this matter.
- 6.9 There have been no significant changes to the design of the proposed development since your Committee considered the application as an Issues Report as no fundamental issues of concern were raised. Therefore, the vision the site is identified to be the need to create a positive and long-lasting community; the creation of a mix of residential typology with different scales and massing; place making through siting of the buildings, routes and public/private spaces; improving the physical and visual connections; and the creation of a green and sustainable place. As such, as detailed in the proposal (para 1.1-1.10) the development would range in height from 2 to 15 storeys increasing its density east to west, with the development mass reduced by the introduction of 11 separate development plots focused around a series of formal and informal spaces including a central public green and a Commonwealth Parkour along the closed Aldridge Road. Buildings have been positioned to maximise the site's layout around the central green space and retained trees, with buildings of greater scale to mark key entrances with active frontages across the site. Defensible space to ground floor residential

accommodation has been introduced to ensure future occupiers are not adversely affected by passers-by and individual plot layouts have been designed to ensure that opportunities for overlooking and invasion of privacy have been minimised without compromising the sites overall development potential. Further, the sites layout would significantly improve pedestrian connectivity in the area and link into existing, and future, train, bus and cycle networks. The site has also been designed and laid out to encourage active lifestyles and includes a significant provision of both informal and formal civic/green spaces for multi-generational living.

- 6.10 The buildings would be of a modern design, constructed in brick and use a range of common design details such as large window openings, deep window reveals, vertical piers, horizontal brick banding, projecting and recessed balconies and a mix of flat and pitched roofs alongside a common pallet of materials. Resulting in a family of coherent buildings with individually identifiable plots, thus ensuring the development would have a high level of interest that is neither overly repetitive or oppressive. More traditional town houses are proposed on plots 3 and 5 whilst plot 4 includes more innovative town and mews houses. Extensive supporting documents have been submitted in support of the application, including Design and Access Statements for each plot, as well as site wide, which provide a comprehensive commentary to justify the design and layout of the overall development. Design codes for materials and landscaping, and amended plans have been submitted to address detailed concerns where necessary. As such the applicant considers that the proposal would result in an exemplar, landmark development with its own identity appropriate to the locality. The Head of City Design welcomes the level of detail submitted in support of the application and considers that both the architectural design and the layout of the proposed development would result in a high quality development which would help regenerate a significant site within Perry Barr in accordance with both local and national planning policies. I concur with this view.
- 6.11 The existing site includes a number of trees, hedgerows and landscaping of ecological benefit. However, the proposed design and layout retains existing trees where possible and offers a significant amount of mitigation/compensatory habitat to include 420 new trees in a range of size and type, extensive amount of landscaping across the site, bird and bat roosts, allotments, extensive and intensive green roofs and SuDs/rain garden features all of which would result in a site with a greater overall diversity of habitat. Therefore, subject to conditions, including a maintenance strategy, to secure these provisions my Ecologist, Tree Officer and Landscape Architect raise no objection to the proposal. I concur with this view and consider the quality of the environment would be significantly enhanced.
- 6.12 Over 80% of the proposed units would have private amenity space in the form of a terrace, balcony or private garden. In addition, units within plots 1, 2, 7, 8, 9, 10 and 11 would have access to communal amenity space at podium and/or roof level and unit 6 would have access to a communal podium area and allotments. Total communal space provided would be in excess of 14,000sqm. Units within plots 3 and 5 would have more traditional rear gardens and plot 4 would have a combination of rear courtyard/garden and terrace/roof gardens. In addition, I note that there would be extensive landscaping and the incorporation of a significant amount of informal and formal public open space. Consequently, future residents would have an excellent provision of both public and private amenity provision with multiple opportunities for active engagement.
- 6.13 Overall therefore I consider the proposed design; layout and scale of this development would meet with the aims and objectives of both local and national

planning policy and would result in a sustainable, landmark development regenerating a major brownfield site.

### Sustainability

- 6.14 During consideration of the issues report your Committee noted the interest in the sustainability/green credentials of the scheme and I note that there have also been a number of comments raised from interested parties on this matter. Policies TP1 – TP4 identify the need for any new development to adopt a ‘sustainable’ approach to development and include measures to reduce Co2 emission, promote low and zero carbon and adapt to climate change.
- 6.15 An Energy Strategy has been submitted in support of the application and following your Committee’s comments additional information has also been provided. The supporting information confirms that the proposed development has been developed on the Be Lean – Be Clean – Be Green strategy and on-site energy efficiency measures include the provision of enhanced building insulation, suitable glazing ratios, mechanical ventilation with heat recovery, enhanced building fabric, enhanced air tightness, high efficiency gas boilers, variable speed pumps, suitable heating controls, insulated pipe and ductwork and high efficiency lighting. Details of assessments such as the overheating and CHP (combined heat and power) undertaken as background work to the energy strategy have also been provided. In particular I note the CHP assessment concludes that the CO2 reductions would be less than the individual boiler approach adopted particularly given the improvements in harnessing energy for the National Grid. The approach and these measures would exceed building regulation requirements. In addition, I note that SuDs and swales are proposed alongside a comprehensive landscaping strategy across the site which includes 150% increase on on-site trees, ecological improvements, over 40% green/brown roofs across the sites buildings, provision of 32% on-site public open space, 26% car parking provision (site wide), 100% cycle provision, direct access to bus and train networks and a mixed type and tenure of accommodation. Subsequently, I consider the proposal would meet policies TP1-TP4 of the BDP, positively contribute to the City’s aspiration to hold the greenest games and, most importantly, it would positively contribute to decarbonising the city as part of a comprehensive multi-generational, legacy, sustainable development.

### Mix and need

- 6.16 Considering housing mix, policies within the BDP and the Birmingham Strategic Housing Market Assessment (Jan 2013) identify the need for a mix of type and tenure. This scheme is located in the district centre of Perry Barr and would provide a range of dwellings and apartments, including Private Rented Sector, Market Sale, Affordable Housing and Extra Care units of the following mix; 1-bed 37%, 2-bed 56%, 3-bed 1% and 4-bed 6%. 344 units (24%), including all of the 3 and 4 bed townhouses would be affordable. Therefore whilst there is a high concentration of apartments on this site I consider this is reflective of the site’s local centre locality, it does provide a mix of tenure and type and that the applicant considers it meets the need of the wider location. I also note that the applicant expects that a second phase of redevelopment to the north east would support a lower density/higher number of ‘family’ housing. In addition I note policy PG1 which identifies the need to provide 51,000 new homes up until 2031 and I consider that the current scheme would positively contribute towards the City’s figures in this respect. I therefore consider the proposed mix is acceptable and in line with policy.

## Parking

- 6.17 Policies TP38-41 encourages development where sustainable transport networks exist and/or are enhanced. In addition to supporting sustainable transport networks the Car Parking SPD identifies the expected maximum car parking provision for each land use, dependent on the sites location, and in this instance identifies a maximum provision of 1.5 car parking space per dwelling. T1 within the AAAP also identifies that residential development should be within a 10-20min walk of various amenities.
- 6.18 Car parking provision is proposed at a level of 26% across the site which breaks down to 95% car parking for the townhouses (plots 3, 4 and 5) and 23% for plots 1, 2, 6, 7, 8, 9 and 10). A 100% cycle provision is also proposed and a Travel Assessment and Travel Plan have been submitted in support of the application. The TA highlights the sites excellent existing and proposed connections to public transport networks, including future infrastructure changes such as the City's cycle network and Sprint, which although planned prior to the Commonwealth Games being awarded to Birmingham, have had their delivery accelerated, and are infrastructure alterations required to be delivered prior to the games in 2022. Furthermore, in response to concerns raised by your Committee with regard parking provision the TA addendum presents evidence that indicates that the parking provision would be in line with car ownership with similar developments in the city centre (in terms of type and access to public transport networks). The applicant therefore considers that this would be an exemplar development entirely consistent with the City's Movement for Growth aspiration to reduce car mode share. The Travel Plan submitted highlights a range of measures to ensure the parking provision on site remains acceptable including identifying the need for on-site parking management and the funding of a resident's parking zone for Wellhead Lane and Oscott Road.
- 6.19 Transportation Development note the site's excellent existing public network links, its ease of access to existing and future amenity provisions and the required infrastructure changes prior to 2022 and therefore raise no objection to the proposal subject to safeguarding conditions. I concur with this view and note the multi-generational opportunities and facilities this site would provide to future residents and existing residents in the vicinity.
- 6.20 Objections have been received on the basis of the removal of the flyover, however this falls outside the red line plan and is not for consideration as part of this scheme.
- 6.21 The proposal requires the stopping up of both public footpaths and highways. This has been advertised and no objections have been received. Furthermore, the resultant legacy development would significantly increase the permeability of the site north – south, east- west and I do not therefore consider that the stopping up required would compromise existing or future occupiers' opportunities for movement across this site.

## Air quality and noise

- 6.22 The whole of Birmingham falls within an air quality management zone (AQMA) and whilst there is air quality monitoring data for some localities, such as the City Centre, there is none specific to Perry Barr and as a consequence the air quality report relies on data from Sandwell. Air quality impact is not just a function of traffic volume but also of speed, congestion, junction layout and operation however there

has also been no assessment of the highways infrastructure changes planned. Whilst the majority of the anticipated transport changes are beyond the remit of this application Regulatory Services consider that the current air quality assessment is inadequate. However, given the lack of site specific date, that the site is not to be occupied until 2022, the number of anticipated transport infrastructure changes including behaviour change programmes and the limited number of single aspect units which would front onto the high risk roads (A34 and the gyratory) Regulatory Services recognise it would be unreasonable to object to the proposed development. I also note that there would be insufficient reasons to refuse the application on this basis. However Regulatory Services do consider it necessary to require further surveys, including NO2 monitoring in the locality, to assess air quality. I concur with this view and consider this along with any mitigation (if necessary) could be appropriately secured via condition. Any potential mitigation would not need to fundamentally alter the design or appearance of the scheme.

- 6.23 The noise report submitted in support of the application identifies that the Tufnol works to the south east of the site generates significant noise levels which would have an adverse impact on future occupiers (primarily plot 5) and that the current proposal would introduce a noise sensitive use where the noise climate may represent a statutory nuisance which could potentially result in the loss of employment activities. However, the applicant has confirmed that they are liaising directly with Tufnol's to develop a solution to the plant noise at source by relocation to the ground. Subject to a proposed solution being implemented prior to first occupation of the residential accommodation Regulatory Services raise no objection. I note that the applicant is happy with a condition to secure this and I consider this would be entirely consistent with the agent of change approach identified within the recently revised NPPF.
- 6.24 Regulatory Services also identify that the noise and vibration reports raise some issues in relation to night freight movements from the railway line to the south. Consequently Regulatory Services require additional monitoring and highlight the need to consider potential mitigation, including the reconfiguration of the affected plots. However given the existing layout, with particular reference to plot 6, where there is limited accommodation (5%) that have some/or all of their windows that directly overlook the adjacent railway line I am satisfied that if mitigation is required it would be possible achieve this through measures to each individual unit, such as sealed windows and mechanical ventilation, instead of plot reconfiguration. I do not therefore consider it would be appropriate delay the determination of the application on this basis and recommend conditions accordingly.

#### Planning Obligations

- 6.25 The proposed development does not attract a CIL contribution but given the level of development proposed Policy TP9, which requires new public open space to be provided in accordance with the Public Open Space in New Residential Development SPG, and Policy TP31, which requires 35% affordable housing unless it can be demonstrated that this would make the development unviable, are applicable.
- 6.26 344 affordable units (24%) across plots 3, 4, 5 and 6 would be provided as a mix of shared, rented and discounted units. The site also provides approx. 31,782 sqm of public open space which includes provision of a multi-use games area, football pitch, walking trail and a children's park.

- 6.27 A financial appraisal has been submitted in support of the application and this has been independently assessed. The independent assessment does not disagree with the applicant's conclusions and notes that the current planning obligations are only possible due to the significant amount of public funding, as such the current offer exceeds the scheme's viability.
- 6.28 Leisure Services note that policy requirements mean that there would be a shortfall of approx. 15,000sqm of public open space being provided on site. However, I note the lack of viability of this development, the good level of affordable housing provision, the on-site public open space provision and its quality which includes a children's park, football pitch and multi-use games area and future occupiers opportunity to access existing facilities in the vicinity. Furthermore, I also note Sport England's comments that the proposals form part of a wider £250 million investment by the City Council into hosting the 2022 Commonwealth Games including investment in to new sporting infrastructure such as the existing Alexander Stadium, Perry Barr and that this application forms a crucial part of the Games infrastructure. However Sport England, as well as local residents, raise queries about the potential to improve links to existing sports and open space facilities. However, given the level and quality of the POS proposed on site, the site's financial constraints and an anticipated wider (phase 2) redevelopment which would pick up and improve links to existing facilities in the immediate vicinity, I consider the schemes viability is such that these provision cannot be sort. As such I consider the proposed contributions accord with policy.
- 6.29 The City Council is the applicant and it would not therefore be appropriate to require it to enter into a legal agreement with itself. However to secure the identified contributions planning conditions, including a personal permission, and conditions with regard the provision and maintenance of affordable housing and POS in perpetuity, and to a certain spec, are recommended. This is approach is entirely consistent with other City Council developments. Furthermore, given the nature of the conditions I do not consider it would be appropriate to require a Clerk of Works agreement as suggested by Leisure. I also note that the City Council will not adopt the landscaping/POS and a management company will be established to maintain it long term, this would also therefore be conditioned.
- 6.30 I note the request received from the NHS Trust, for a sum of £83,715. Our position is that we do not consider the request would meet the tests for such Section 106 contributions in particular the necessity test (Regulation 122(2)(a) necessary to make the development acceptable in planning terms). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to plan for population growth. Discussions with the relevant Trust are continuing on this matter in order for us to understand more fully their planned investments in the City and how we might best be able to support that.
- 6.31 Education have also requested a financial contribution however I note education is identified on the CIL 123 list and it would not therefore be appropriate to request a further contribution in this instance.
- 6.32 The revised NPPF and PPG is clear that the assessment of viability for decision-taking purposes should be based on current costs and values. However guidance and case law notes that larger, multi phase projects take longer to build and are likely to be subject to changing economic conditions and therefore, could be appropriately considered for review mechanisms. Ordinarily therefore, the size and scale of this development and its potential to be built in a series of phases could

mean it would be appropriate to require a S106 review mechanism. However, the site's redevelopment is required as part of the City's hosting of the Commonwealth Games and the site is to be delivered in a single delivery phase by January 2022. On this basis I do not consider it appropriate to require a review mechanism.

Other

- 6.33 The submitted Heritage statement considers that the proposed reinstatement of a street frontage to Franchise Street will benefit the existing locally listed building and that the archaeological value of the site is low. My Conservation Officer concurs with these views and raises no objection on this basis.
- 6.34 In terms of land contamination and site operation Regulatory Services raise no objection subject to conditions to include land contamination reports, construction management plan, extract and odour control, noise levels for plant and machinery, lighting, hours of use and delivery and electric charging points. A condition with regard low emission vehicle parking would not meet the required planning condition tests in relation to this development and it is not therefore recommended.
- 6.35 A number of the consultee respondents have provided comments/requested informatives are attached. This information has already been passed to the applicant.
- 6.36 The Lead Local Flood Authority currently object to the proposal on the basis of insufficient information. The applicant has submitted additional information and is currently seeking to address this matter. I will update your Committee verbally.
- 6.37 Public art would not normally be required as part of a residential development. However, I note the applicant identifies the potential for a local competition to be held to design manhole covers is identified within the submission. Therefore, given the association of this development with the City's hosting of the Commonwealth Games I consider it would be appropriate to commemorate this through some form of public art and consider this opportunity should be explored as part of the detailed landscape proposals.
- 6.38 West Midlands Police have provided detailed comments on each of the plots. Most of the comments made relate to matters that would be controlled by other legislation and these details have been passed on to the applicant. However conditions with regard lighting and cctv are recommended.

## 7 Conclusion

- 7.1 The proposed mixed use, residential led, redevelopment of this site would, initially, enable Birmingham to accommodate athletes and associated support teams for the internationally important Commonwealth Games in 2022. More importantly, post games the proposal would result in a significant legacy development which would provide much needed well-designed new homes, high quality informal and formal public open space as part of a sustainable urban development in accordance with local and national planning policy. Therefore subject to safeguarding conditions, I welcome the proposed development and consider it should be approved.

## 8 Recommendation

- 8.1 That the City Solicitor be authorised to make an Order in accordance with the provision of Section 257 of Town and Country Planning Act 1990.

8.2 That planning permission be granted subject to following conditions;

- 
- 1 Requires the prior submission of a contamination remediation scheme
  - 2 Requires the submission of a contaminated land verification report
  - 3 Sets a minimum age of residents for plot 6 in "legacy" mode
  - 4 Requires the submission of sample materials in a phased manner
  - 5 Requires the prior submission of a construction method statement/management plan
  - 6 Requires the submission of details of green/brown roofs
  - 7 Requires the submission of a lighting scheme in a phased manner
  - 8 Requires the submission of a landscape management plan
  - 9 Requires the submission of boundary treatment details
  - 10 Requires the submission of hard and/or soft landscape details
  - 11 Requires the prior submission of details of bird/bat boxes
  - 12 Requires the prior submission of a habitat/nature conservation management plan
  - 13 Requires the submission of shop front design details
  - 14 Requires the scheme to be in accordance with the listed approved plans
  - 15 Restricts display of vinyls.
  - 16 Requires scheme of noise mitigation in relation to adjacent site
  - 17 Requires submission of pre and post games masterplan
  - 18 Requires provision of affordable housing
  - 19 Requires vibration mitigation
  - 20 Grants a personal permission to Birmingham City Council
  - 21 Requires the submission of a CCTV scheme
  - 22 Requires the prior submission level details on a phased manner
  - 23 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
  - 24 Requires the prior submission of a vibration protection scheme
  - 25 Requires a further air quality assessment
-

- 
- 26 Requires an employment construction plan
  - 27 Limits the noise levels for Plant and Machinery
  - 28 Limits delivery time of goods to or from the commercial units (A1-A3) (0700-1900)
  - 29 Requires a further noise and vibration assessment
  - 30 Requires the submission of extraction and odour control details
  - 31 Limits the hours of use 0700-2300 (commercial units)
  - 32 Implement within 3 years (Full)
  - 33 Requires the submission and completion of works for the S278/TRO Agreement
  - 34 Requires the provision of a vehicle charging point
  - 35 Requires vehicular visibility splays to be provided
  - 36 Requires pedestrian visibility splays to be provided
  - 37 Requires Residents Parking Zone
  - 38 Requires "legacy" travelplan.
  - 39 Requires an event management plan.
  - 40 Requires the provision of on site public open space
  - 41 Arboricultural Method Statement and Tree Protection Plan - Implementation
  - 42 Requirements within pre-defined tree protection areas
  - 43 Requires the implementation of the submitted mitigation/enhancement plan
  - 44 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 45 Requires the provision of cycle parking prior to occupation
  - 46 Requires the prior submission of a drainage scheme
  - 47 Requires detail of management company
- 

Case Officer: Joanne Todd

## Photo(s)

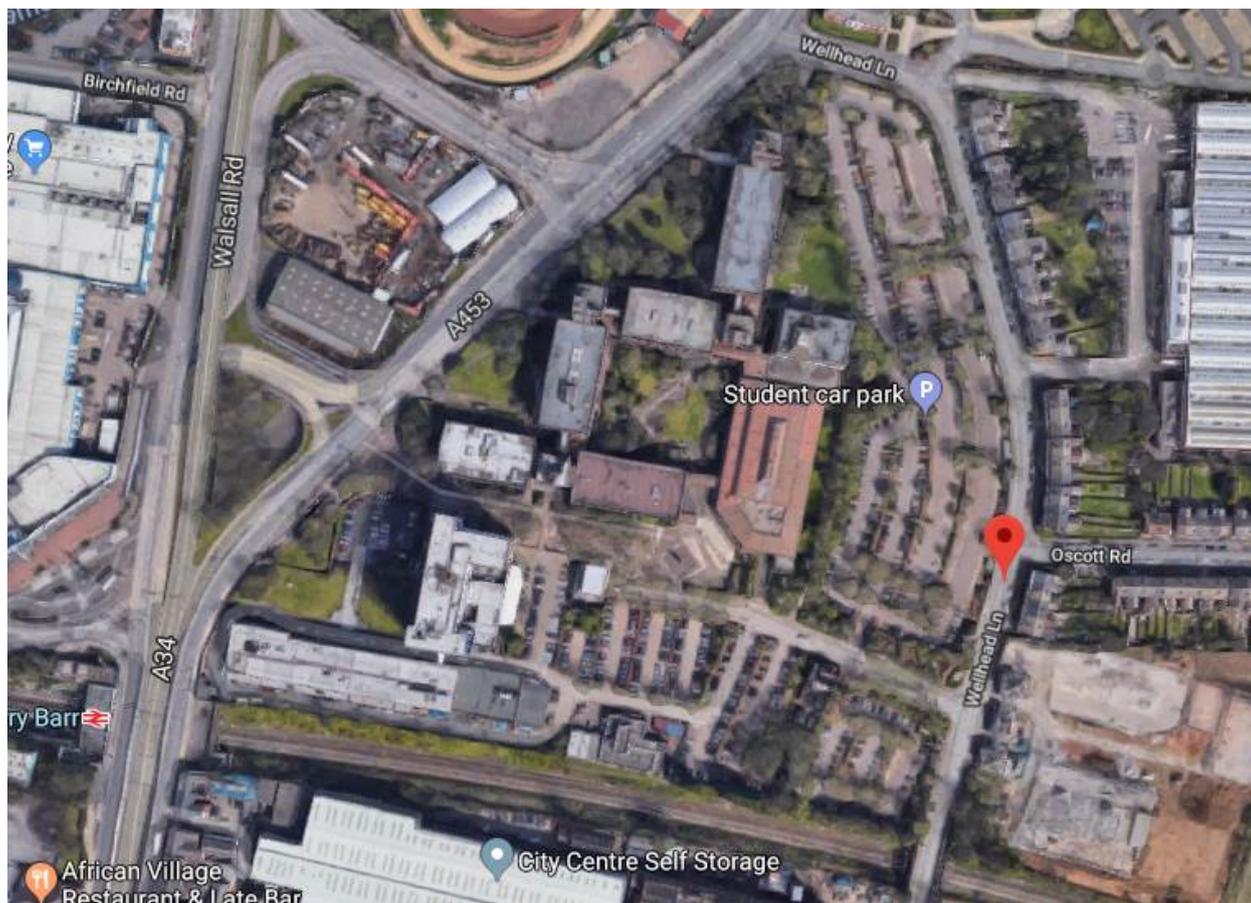


Photo 1 – google ariel view of site prior to demolition

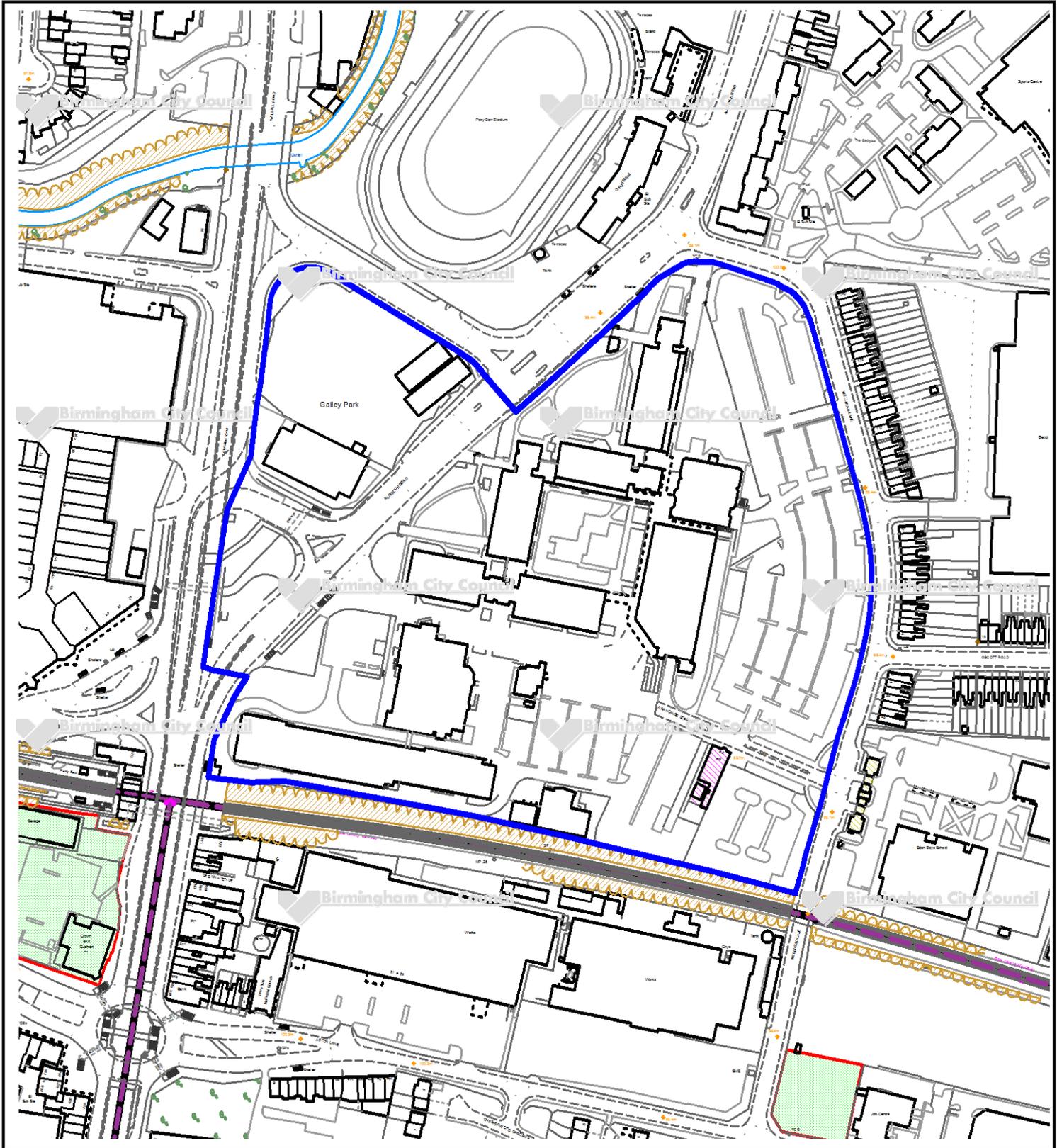


Photo 2 – Prior to demolition



Photo 3 – From A453 looking across to Gailey Park

## Location Plan



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Committee Date: 20/12/2018      Application Number: 2018/02839/PA  
Accepted: 23/04/2018      Application Type: Full Planning  
Target Date: 23/07/2018  
Ward: Sutton Reddicap

Land rear of 29-39 Reddicap Heath Road, Sutton Coldfield, Birmingham, B75 7DU

Demolition of 33-35 Reddicap Heath Road and erection of 10 dwellings with associated parking and landscaping

Applicant: Massey Ltd  
C/o Agent  
Agent: Cerda Planning  
Vesey House, 5-7 High Street, Sutton Coldfield, Birmingham, B72 1XH

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Recommendation  
**Refuse**

**Endorse reasons for refusal**

Background

This application for full planning permission was registered on the 23rd April 2018 and a decision was not made within the 13-week time period (23rd July 2018). After this period the applicant has the right to make an appeal against non-determination, which they have done on this occasion. Consequently the decision has now been taken from the Local Planning Authority and now rests with the Planning inspectorate. The purpose of this report is to seek endorsement of the recommendation if the Local Planning Authority had been in a position to determine the application and will form the basis of the Council's appeal case.

1. Proposal

1.1. The application seeks consent for the demolition of two existing dwellings fronting Reddicap Heath Road and the erection of 10 no. new dwellings. It is proposed to erect one dwelling on the road frontage and the other nine on land behind numbers 29 to 39 Reddicap Heath Road on land which is currently garden areas to these 6 no. houses. The site takes approximately two thirds of the rear gardens of these properties.

1.2. The application has been submitted with a Design and Access Statement, Tree Survey, Ecology Survey, CIL form and site layout plan.

1.3. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is approximately 0.32 hectares in area and, as noted above, is currently made up of one pair of semi-detached houses on Reddicap Heath Road and the rear garden areas of four other houses.
- 2.2. It is located on Reddicap Heath Road, close to the junction with Hollyfield Road. The wider area is predominately residential with a mix of Victorian terrace houses and post war rendered houses. To the east of the site are a row of two storey terrace houses, opposite the site are traditional semi-detached houses with more modern detached and semi-detached houses in Rectory Park Avenue. The gardens of the houses on Hollyfield Road, Hollyfield Crescent and Rectory Park Avenue back onto the application site. At the junction of Reddicap Heath Road and Hollyfield Road are a number of commercial premises including shops, hot food takeaways and a restaurant. 2 protected Oak Trees (TPO 1196) are located to the rear of 29 Reddicap Heath Road.

### 2.3. [Site Location](#)

## 3. [Planning History](#)

- 3.1. 2018/08269/PA – Demolition of 33-35 Reddicap Heath Road and erection of 10 no. dwellings with associated parking and landscaping – Current Submission not yet determined – Same as current non-determination appeal application.
- 3.2. 2010/06365/PA – Application for a new planning permission to replace an extant planning permission 2007/01377/PA in order to extend the time limit for implementation for Demolition of 33-39 Reddicap Heath Road & erection of 5 town houses, 2 pairs of semi-detached houses and one block of 6 apartments, access, parking, amenity space & associated works – approved subject to conditions 03.03.11
- 3.3. 2007/01377/PA – Demolition of 33-39 Reddicap Heath Road & erection of 5 town houses, 2 pairs of semi-detached houses and one block of 6 apartments, access, parking, amenity space & associated works – approved subject to conditions 26.11.07

## 4. [Consultation Response](#)

- 4.1. Local Ward Councillors, M.P, Residents Associations and adjoining occupiers were notified and Site Notice displayed outside site.
- 4.2. 9 no. letters have been received from local residents raising the following concerns:
- Over development of the site,
  - No need for this development,
  - Schools already oversubscribed,
  - Three storey housing is out of character with prevailing 2 storey, semi-detached and terrace houses,
  - Overlooking of neighbouring properties, some of which have been extended or have permission to extend, Juliet balconies unacceptable,
  - Loss of light to gardens,
  - Loss of view, views will become of brick walls,
  - Disruption and disturbance during construction,
  - Dust, noise and dirt during construction into neighbours gardens and houses,

- Volume of construction traffic and impact on existing houses, vehicle movements and school,
  - Increase in traffic from proposed houses,
  - Roads already congested and suffer from on street parking and three schools in close proximity,
  - Lack of parking on site,
  - Impact on pedestrian safety, especially school children,
  - Loss of trees, some with TPOs, ecology, open space and gardens.
- 4.3. 1 letter has also been received in support of the proposal.
- 4.4. Cllr Hodivala – That a site visit should be undertaken to fully assess the proposal and understand its context.
- 4.5. Transportation Development – Insufficient information provided.
- The submitted tracking analysis is for a smaller refuse vehicle than that used to serve this type of development and therefore, would not be acceptable.
  - Amendments to the layout which would include replacing the garages to both sides of the sites turning head into car-parking spaces which would then enable the turning head to be enlarged sufficiently.
  - Tracking information has not been undertaken to / from the highway onto/from the proposed access.
- 4.6. Severn Trent Water – No objection, subject to conditions to require details of drainage to be submitted.
- 4.7. Regulatory Services – No objection, recommend noise insulation, contamination and electric vehicle charging point conditions.
- 4.8. West Midlands Police – No objection, recommends Secured by Design.
- 4.9. University Hospitals Birmingham NHS Foundation Trust – Request for contribution of £14,735.00 to provide additional services and capacity to meet patient demand.
5. Policy Context
- 5.1. The following policies are applicable:
- Development Plan (BDP) 2017;
  - Unitary Development Plan 2005 (saved policies 3.14-3.14D and Chapter 8);
  - Places for Living SPG (2001);
  - Mature Suburbs SPD (2008);
  - Car Parking Guidelines SPD (2012); and
  - National Planning Policy Framework (2018).
  - TPO 1196
6. Planning Considerations
- 6.1. The main considerations for this application are whether the proposed development would be acceptable in principle and whether it would have a detrimental impact on the character and appearance of the local area and on the amenities of existing and future occupiers, as well as highway safety and ecology.

### *Principle of Development*

- 6.2. The site is located within a residential area, close to local shops and services and I also note that the two houses to be demolished are not listed nor within a conservation area. The site has previously obtained planning permission for redevelopment for housing.
- 6.3. In principle I consider the plot constitutes appropriate infill site. Furthermore the site is located in a sustainable location and is adequately serviced by a number of services and facilities within walking distance of the site. As such the proposal complies with the aims of policy TP27 of the Birmingham Development Plan (BDP) (2017) with principle of residential development generally supported in this case, subject to all other material considerations being adequately dealt with.

### *Scale, Layout and Design and Residential Amenity*

- 6.4. Within the submitted Design and Access Statement the agent notes that pre-application advice given prior to the submission of this application raised concerns. The D&A comments that the current proposal is less harmful than the previous consent for apartment blocks and corner turning houses. However, the D&A does not deal with all of the issues raised at pre-application stage, specifically related to plot 1, garden lengths, separation distances and the scale of the proposed dwellings.
- 6.5. The scheme has been amended since the pre-app advice was provided. The surrounding area, particularly this section of Reddicap Heath Road comprises of semi-detached and terraced properties, although it is noted that there is a wide fronted detached house on Rectory Park Avenue. The proposed plot 1 dwellinghouse in terms of its building form has a narrower frontage at 5.7m wide compared to adjacent properties at 6.6m. Whilst it would appear narrower and be detached from its immediate neighbours, the wider context is far more varied and on balance it is considered that this does not represent a reason for refusal.
- 6.6. Furthermore, the side elevation of this new house comprises of 2 no. windows only, 1 no. at ground and 1 no. at first floor level with only the ground floor window serving a habitable room. Whilst this results in a largely blank gable wall to the main site entrance, it does provide some active frontage, and again on balance it is considered that this does not represent a reason for refusal.
- 6.7. Places for Living SPG advise that careful design rather than a blanket application of numerical standards can often address concerns such as privacy and amenity. However the numerical standards provide a useful guide and starting point. The site has residential dwellings to all sides with the proposed dwellings to the rear of the site are of a 2½ storey scale, some with habitable accommodation within the roofspace with windows to bedrooms facing the rear elevation.
- 6.8. The application site proposes 4 no. 2 ½ storey dwellings to the rear of the site which would be 10.6m high along with a proposed 2 storey dwelling (plot 4) which would be 9.6m high. The prevailing scale of development in the area is two storey dwellings, such as those found along the site frontage. These dwellings are approx. 7.6m high. Therefore, the proposed dwellings, both 2 and 2 ½ storey, throughout the site would be seen from the public realm above the roofscape of surrounding residential dwellings much in the same way of the previously approved 2007 and 2010 planning consents and as such no objection is raised to this arrangement.

- 6.9. Places for Living SPG states that 5m per storey setbacks are required between windows serving habitable rooms and existing private gardens. The proposed scheme includes a number of shortfalls. Plots 2, 4, 9 and 10 are 2-storey and have setbacks of 9.65m, 9.5m, 8.64m and 9.8m respectively. Whilst a shortfall of some 0.5m can sometimes be considered marginal particularly when there are mitigation measures a shortfall of 1.36 is more substantial and it is noted that the garden to 6 Rectory Park Avenue has a depth of some 16m, which would result in an unacceptable harmful impact on neighbour amenity. Plots 5-8 are 2.5-storey properties, though plots 6 and 7 have roof lights to the rear that are secondary to the master bedroom and could be obscurely glazed. The setback distance of these properties are 9.9m. However, Plots 5 and 8 have bedroom windows to the rear at second floor level and have a setback of 11.2m and 10m respectively. Likewise, shortfalls of 3.8m and 5m respectively would have an adverse impact on the residential amenity to neighbours to the north on Hollyfield Crescent and as such contrary to Places for Living SPG.
- 6.10. It is noted however, that sufficient garden space (i.e. minimum of 70sq.m as stipulated within Places for Living SPG) is proposed for the size of the dwellings proposed throughout the site and these are shown as enclosed, secure spaces which is supported.
- 6.11. I therefore consider that the proposed development fails to comply with the National Planning Policy Framework, Policy PG3 of the Birmingham Development Plan 2017 and saved policies 3.14–3.14C of the Unitary Development Plan 2005.

#### *Highways Impact and Parking*

- 6.12. Transportation Development state that the submitted tracking analysis relates to a smaller refuse vehicle than that to be used to serve this type of development and therefore, would not be acceptable. This could be addressed with amendments to the layout which would include replacing the garages to both sides of the sites turning head into car-parking spaces which would then enable the turning head to be enlarged sufficiently. Furthermore, the tracking information has not been undertaken to / from the highway onto/from the proposed access. As such, the proposal is recommended for refusal on the basis that inadequate servicing arrangements within the site are proposed which would also adversely impact upon the surrounding highway network, in particular Reddicap Heath Road.
- 6.13. The adopted car parking standards and guidance suggests a maximum of 2 parking spaces per dwelling for this area. The proposals provide each plot (apart from plot 1) with a minimum of 2 no. spaces (1 no. space and 1 no garage), with plots 2, 4 and 10 having 2 no. spaces and a garage each and plot 1 having 2 no. spaces and no garage. In total the development would provide 23 no. spaces for 10 no. units which would equate to 230% provision.
- 6.14. Furthermore, 2 no. replacement parking spaces would be created adjacent to the site entrance for no. 31 Reddicap Heath Road in order to facilitate the proposed access road. As such, whilst the proposal exceeds the maximum parking standards as contained within the Car Parking Guidelines SPG, it is considered that the over provision of parking on site would enable limited visitor parking to take place given that there is limited availability to provide on street parking within the proposed cul-de-sac or upon Reddicap Heath Road.
- 6.15. However, a number of the proposed garages, specifically related to plots 6 and 7 have both a garage and a parking space that are detached from the plots they would

serve, i.e. the other side of the turning head. I am of the view that this represents poor layout and design and signals that the site would be over developed with no on plot parking proposed for plots 6 and 7.

- 6.16. The submitted site layout plan shows that the existing rear positioned garden to no. 31 Reddicap Heath Road is to be retained. However, as the shared access drive that currently serves no. 31 and 33 would be removed as a result of the current proposal (i.e. the new access road), no proposed access to the garage is proposed either from Reddicap Heath Road or from within the application site with a grassed area and trees positioned alongside the garage within the application site. No clarification on this point has been sought or provided.

#### *Trees and Landscaping*

- 6.17. The application form acknowledges that the development of this site in the form proposed will result in the removal of the existing trees. A tree survey and arboriculture report has therefore been submitted with the application. The report notes that there are 21 individual trees, 4 groups of trees and 1 hedge within and adjacent to the site. Vegetation adjacent to the site will be protected through a conclusion exclusion zone. Within the site there is 1 category A tree, 1 category B and 19 category C trees.
- 6.18. Seventeen of the category C trees as well as all four groups of trees and the hedge are to be removed, and the report advises that the removal is required to enable the development. This is a significant proportion of the trees within the existing site being removed and it is unfortunate that so many trees are to be removed. It is accepted that the category A and B trees are to be retained, as are two of the category C trees and root protection areas will be formed prior to the development commencing so as to protect the retained trees.
- 6.19. Furthermore, new tree planting is also proposed within the application site within both front and rear gardens of a number of plots. TPO 1196 applies to two oak trees to the rear of 29 Reddicap Heath Road and the proposal would see their retention.
- 6.20. The Council Tree Officer has advised that the tree report submitted and the protection details are adequate and must be named on any consent in order to avoid the need for separate tree related conditions. As such, although a significant number of trees are proposed to be removed, I do not consider that there is sufficient justification against which to refuse the application on these grounds. The tree protection plan can be incorporated into any list of approved plans to deal with this matter along with securing an appropriate landscaping scheme.
- 6.21. The landscape officer has been consulted on the proposal and was of the view that the buildings and hard surfacing should be pulled away from the site boundaries to better accommodate boundary vegetation and additional planting. This has largely been addressed within an amended site layout. However, the officer is of the view that the planting, and space for it, is needed for the full length of both sides of the access drive and that boundary treatment proposals are not clear on the submitted site layout plan. However, I consider that such details can be secured by an appropriately worded planning condition securing a suitable hard and soft landscape (planting) and boundary treatment scheme.

#### *Ecological impact*

- 6.22. An ecology survey has been submitted with the application which, in summary, suggests the site has low ecological value but does have a number of habitats which have the potential to support protected species. The report also notes the wider area and potential ecological habitats and previous records of protected species. Nesting birds were noted as present on the site and there is the potential for bats.
- 6.23. The submitted report recommends further surveys for bats as such the submitted information is insufficient to fully understand the impact of the development on protected species to then establish as to whether the proposal is acceptable and what mitigation measures would be required. The applicant was advised of the requirement to provide such information. However, such surveys can only be undertaken during certain times of the year and the applicant was advised to withdraw the application, undertaken the required survey work outside of nesting/breeding season and resubmit for assessment. This was not done. As such, the proposal is recommended for refusal on this basis also.

*Community Infrastructure Levy (CIL)*

- 6.24. The applicant has submitted a CIL form confirming acknowledgement of CIL liability for the site which equates to a payment of approx. £48,852.25.

*Other Matters*

- 6.25. I note the request received from the NHS Trust, for a sum of £14,735. Our position is that we do not consider the request would meet the tests for such Section 106 contributions, in particular the necessity test (Regulation 122. (2)(a) necessary to make the development acceptable in planning terms). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to allow the Trust to plan for population growth and associated. Discussions with the relevant Trust are continuing on this matter, in order for us to understand more fully their planned investments in the City and how we might best be able to support that.

7. Conclusion

- 7.1. The proposed scheme is considered to be inappropriate for a number of reasons which relate to highway safety, adverse residential amenity impacts to neighbouring properties and insufficient information to adequately assess the proposals ecological impacts. As such, the proposal is recommended for refusal on this basis.

8. Recommendation

- 8.1. That had the Planning Committee had the opportunity to determine 2018/02839/PA, it would have been refused for the following reasons.

Reasons for Refusal

- 
- 1 The proposal does not provide an adequate separation distance to existing residential units and would lead to a loss of privacy. As such the proposal would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017, saved Paragraph 3.14C of the Birmingham UDP 2005, guidance in Places for Living adopted as Supplementary Planning Guidance, and the National Planning Policy Framework.
- 2 The proposal has not adequately demonstrated that protected species and their
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habitats would not be harmed as a result of the development proposal. As such, the proposal fails to accord with Policies PG3 and TP8 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.

- 3 The servicing facilities proposed are inadequate and would lead to a detrimental impact on highway safety within the application site and upon the adjoining highway network. As such it would be contrary to Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 

Case Officer: Christopher Wentworth

**Photo(s)**



**Photo 1 – Streetscene along Reddicap Heath Road (Location of Proposed Access).**



**Photo 2 – View of the site's eastern boundary**



Photo 3 – View of the site's western boundary looking towards the rear of properties on Rectory Park Avenue



Photo 4 – View of the site's northern boundary looking towards the rear of properties on Hollyfield Crescent

# Location Plan



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# Birmingham City Council

Planning Committee

20 December 2018

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	11	2018/03004/PA  16 Kent Street Southside Birmingham B5 6RD  Demolition of existing buildings and residential-led redevelopment to provide 116 apartments and 2no. commercial units (Use Classes A1-A4, B1(a) and D1) in a 9-12 storey building

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Committee Date: 20/12/2018      Application Number: 2018/03004/PA  
Accepted: 14/06/2018      Application Type: Full Planning  
Target Date: 13/09/2018  
Ward: Bordesley & Highgate

16 Kent Street, Southside, Birmingham, B5 6RD,,

Demolition of existing buildings and residential-led redevelopment to provide 116 apartments and 2no. commercial units (Use Classes A1-A4, B1(a) and D1) in a 9-12 storey building

Applicant: Prosperity Developments and the Trustees of the Gooch Estate  
C/o Agent  
Agent: PJ Planning  
Regent House, 156-7 Lower High Street, Stourbridge, DY8 1TS

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Recommendation

**Approve Subject to a Section 106 Legal Agreement**

1. Proposal

1.1. This planning application is for demolition of existing buildings and the redevelopment of the site to create a building of between 9 and 12 storeys, comprising 116 apartments and two ground floor commercial units (Use Classes A1-A4, B1(a) and medical services within use class D1) of 268sqm and 479sqm, respectively.

1.2. The residential element comprises 64 x 2-bed (55%) and 52 x 1 bed (45%) apartments as follows:-

- 9 x Type A - 2 Bed @ 73.4sqm
- 9 x Type B - 2 Bed @ 74.7sqm
- 26 x Type C - 2 Bed @ 73.5sqm
- 8 x Type D - 2 Bed Apartment @ 71.8sqm
- 17 x Type E - 1 Bed Apartment @ 55.7sqm
- 8 x Type F - 1 Bed Apartment @ 54.9sqm
- 8 x Type G - 1 Bed Apartment @ 54.1sqm
- 8 x Type H - 1 Bed Apartment @ 50.6sqm
- 8 x Type I - 1 Bed Apartment @ 51.7sqm
- 3 x Type J - 2 Bed Apartment @ 70.9sqm
- 3 x Type K - 2 Bed Apartment @ 70.0sqm
- 3 x Type L - 1 Bed Apartment @ 50.9sqm
- 2 x Type M - 2 Bed Apartment @ 72.3sqm
- 2 x Type N - 2 Bed Apartment @ 75.8sqm
- 2 x Type O - 2 Bed Apartment @ 70sqm

- 1.3. The proposed building would comprise of three blocks: ground plus 8 storeys to Lower Essex Street, ground plus 9 storey to Kent Street, and set back ground plus 11 storeys to the corner.
- 1.4. The two main facade elements would be constructed with buff brick, with the corner piece constructed with a contrasting black/blue brick. Three different types of brick bond - dog-tooth, extruded Flemish and recessed brickwork – would be used to add interest. Regular window opening groups set up horizontal movements in what are otherwise vertically stacked elevations. Window openings would be full height with some having an aluminium surround reveals and glass Juliet balconies.
- 1.5. The ground floor is set up against the site boundary apart from the ground floor of commercial Unit 1, which is set back from Lower Essex Street to create space for potential outdoor seating. Above ground floor level the building is “L” shaped with wings along both street frontages. At first floor level is a landscaped courtyard garden of 341sqm for prospective residents.
- 1.6. Pedestrian access to the apartments is via the corner of the site where Kent Street and Lower Essex Street meet. Whilst there is a central courtyard/garden, this is exclusively for residents of the scheme, accessed via the 1st floor. Pedestrian access to commercial Unit 1 is provided along Lower Essex Street and Unit 2 along Kent Street.
- 1.7. The development proposals do not incorporate onsite vehicle parking. Within the centre of the scheme on the ground floor, a space is allocated to cycle parking for 116 bicycles on a two-tiered rack system, allowing for 1 space per residential unit.
- 1.8. An 83sqm space has been allocated for bin storage in the centre of the site. The storage is accessed through a service corridor from Kent Street. Collection vehicles would stop for a short duration along Kent Street or Lower Essex Street as per the existing waste collection arrangements for the site and adjacent properties.
- 1.9. In support of the application the following documents have been submitted:-
  - Planning Statement;
  - Design and Access Statement;
  - Daylight and Sunlight Study;
  - Ecology;
  - Ground Conditions;
  - Transport Statement and Travel Plan;
  - Noise Report; and
  - Sustainable Urban Drainage Report.
- 1.10. A Viability Statement has been submitted, which seeks to demonstrate that with a policy compliant contribution, the scheme would not be financially viable. However, the applicant has offered 11 affordable low cost units at 75% open market value, which would be delivered on-site. This equates to an affordable provision of approximately 9.5% and the proposed mix is 4 x 2 bed and 7 x 1 bed units.
- 1.11. [Link to Documents](#)
2. Site & Surroundings
  - 2.1. The application site is located on the south side of the City Centre in the Chinese Quarter, at the junction of Kent Street and Lower Essex Street. It is within close

proximity to major attractions; the Hippodrome Theatre, Birmingham Royal Ballet and China Town. The site is also within easy walking distance to the central retail and commercial districts of Birmingham, with a 10 minute walk to Birmingham New Street Station and the Bullring Shopping Centre.

- 2.2. The site covers an area of 0.129 hectares and comprises a 3 storey former office building. The office use has been vacated but the lower floor of the building is in use as an occasional nightclub and entertainment premises.
- 2.3. The northern site boundary is formed by the Unity & Armouries site which has planning consent for residential development. The scheme is currently under construction. The western site boundary is formed by existing office buildings occupied by Peter's Books, a supplier of educational books and furniture. On the opposite side of Lower Essex Street to the east is the Nightingale Club and a further phase of the Unity & Armouries development site. Further to the east on Kent Street is Medusa Bar and Sidewalk Bar. These bars / clubs operate each day of the week and open into the early hours of the morning. Across Kent Street to the south is a catering wholesale warehouse. Surrounding uses include offices, leisure and residential.
- 2.4. Direct distances from the application site to the nearby late night entertainment venues are as follows:-
  - Nightingale Club, Kent Street – 12m
  - Medusa Lodge 139-147 Hurst Street – 45m
  - The Fox, Lower Essex Street – 45m
  - The Loft, 143 Bromsgrove Street – 62m
  - Sidewalk, 125-131 Hurst Street – 66m
  - Equator Bar, 123 Hurst Street – 78m
  - The Village Inn, 152 Hurst Street – 115m
  - Missing, 48 Bromsgrove Street – 116m

2.5. [Site location](#)

3. Planning History

- 3.1. There is no relevant planning history for the application site but there are relevant applications for residential development nearby as detailed below.

134, 139, 140, 141 Bromsgrove Road, Unity House and The Armouries.

- 3.2. 8 November 2007. 2006/03254/PA - Erection of 2 buildings and retention of Unity House to provide 162 apartments, 395sqm of ground floor commercial floorspace (A1,A2,A3,A4,B1,D2) and 98 car parking spaces - approved at appeal. In allowing that appeal, the Inspector stated:

“The appeal site lies within Birmingham City Centre in the Entertainment Zone of the Bull Ring/Markets Quarter. It is an area that includes major new high density residential development bringing forward the Council’s aspirations for City Living as well as a large number of entertainment and leisure facilities. In all respects, other than the concerns about low frequency bass noise, the application was considered to accord with the development plan and SPG policy and I have found no objection to the principle of mixed use development including residential on the site which enjoys support from PPS1, PPS3 and PPS6. The development of residential apartments in the

close proximity of night clubs and the particular problems of low frequency noise may present particular challenges but that does not preclude its successful execution.”

“Having heard detailed noise evidence from the Council, appellants and the Club and visited the area in the early evening and in the early hours of the morning and having been inside the Club and a Southside apartment, I am satisfied that the achievement of acceptable living conditions for the residents of the proposed flats would be possible in the current external noise environment, would meet accepted standards and could be secured by way of condition. I have further concluded that the scheme would not adversely impact on the adjoining land uses and more particularly the operation and activities of Nightingales. I have taken into account all other matters raised but I find none to be of such weight as to override my conclusions that the appeal should be allowed subject to the conditions set out in the attached schedule.”

- 3.3. 27 April 2011. Planning Application 2010/02473/PA. Extension of time limit granted to previously approved application 2006/03254/PA for erection of 2 buildings and retention of Unity House to provide 162 apartments, 395sqm of ground floor commercial floorspace (A1, A2, A3, A4, B1, D2) and 98 car parking spaces.
- 3.4. 7 August 2013 Application 2013/03202/PA. Planning consent granted for the variation of conditions 1, 3, 5, 8, 9, 10, 12, 14, 15 and 16 following grant of planning permission 2010/02473/PA.

Land at Pershore Street and Skinner Lane

- 3.5. 3 September 2018 Planning Application 2017/09461/PA. Planning consent granted for the erection of 6-14 storey building comprising 379 residential apartments (Use Class C3), ground floor commercial units (use Classes A1-A5 and B1a), associated car parking and amenity space.

#### 4. Consultation/PP Responses

- 4.1. Adjoining occupiers, residents associations, Southside BID, local ward councillors, and M.P. notified. Site and press notices displayed. Objections received from Cllr Gareth Moore, owner of the Nightingale Club / Loft Lounge and from solicitors acting on behalf of Medusa Lodge.

- 4.2. Cllr Gareth Moore –

The application would be contrary to the NPPF, which states that existing businesses should not be hindered in the continuance of their business by new development. This application would compromise the Gay Village as a late night entertainment district due to noise complaints from the residents who would occupy this development, putting businesses at risk.

The noise report does not make reference to noise from people late at night, music from licensed premises, conversations from smokers outside licensed premises and vehicle noise, especially taxis. In light of the above, it is clear that there would be at least an adverse effect for residents of this development, and more likely a significant adverse effect. The noise impact assessment recommends that suitable glazing and mechanical ventilation would offer sufficient mitigation to residents for outside noise. This does not

take into account that residents would need to keep their windows closed to avoid noise nuisance, and so impact on residential amenity by providing poor living conditions and quality of life. This application cannot offer a good standard of amenity and is therefore contrary to the NPPG.

Whilst this application does not propose sealed windows, this mitigation would only add to the existing poor living conditions. Recent appeal cases recognise that closed window units and mechanical ventilation diminish the quality of life for residents. Birmingham City Council have refused planning permission for several applications on the grounds that noise nuisance and the mitigation offered would result in unacceptable living conditions. There have also been two recent appeals considered by the Planning Inspectorate which have been dismissed.

The applicant makes reference to the appeal APP/P4605/A/07/2039953 for the Unity House and Armouries site. This appeal decision dates back to 2007, and so would not have regard to the changes that have taken place within the Gay Village during the intervening 11 years. That decision also pre-dates the NPPF, which attached greater weight to protecting existing businesses from noise complaints through change in land uses. This appeal decision has therefore been superseded and is no longer relevant in respect of this application.

Fundamentally, it is not possible for this application to offer a good standard of amenity for future occupiers of the proposed development due to the noise from being within a late night entertainment district and adjacent to a major nightclub, which will create a significant adverse impact on their health and quality of life. Any mitigation offered cannot address this and would instead create poor living conditions. The development would also not allow existing business to develop in continuance of their business due to the restrictions that would have to be put in place in order for there not to be an adverse effect. It is therefore contrary to both the NPPF and NPPG and should be refused planning permission.

- 4.3. Owner/ occupier of the Nightingale - The Nightingale is only a few metres from the proposed residential development. It operates throughout the night on several nights of the week and has a capacity of 2200 people. Should this development be approved then noise complaints from new residents may result in measures imposed which will force the club to cease trading. The Nightingale is the main venue in the gay village and should this venue close the entire LGBT community and businesses would be decimated and would cease to exist as a community.
- 4.4. Owner / occupier of the Loft Lounge - The Loft Lounge is close by the development and will be negatively impacted by this development. Potential noise complaints from new residents may result in the Loft lounge being forced to close.
- 4.5. Letter from solicitors acting on behalf of Medusa Lodge –

The applicant has not related their application to the businesses in the Night Time Economy, in the near vicinity of the proposal. In particular, premises which comprise SEV (sexual entertainment venues) have their licences renewed annually, and at the time of each renewal, the character of the area, and the suitability of the premises to continue trading in that area is taken into account. One of the key factors is whether there have been any changes to the character of the locality since the last grant, and whether there is any

potential for conflict between the licensed premises and any new development. New residential development would undoubtedly be a factor that could be taken into consideration in refusing the renewal of a SEV licence in any future renewal, and could also be taken into account in reviewing the premises licence. No mention or recognition of any of these matters has been made by this Applicant in the course of this application.

The acoustic assessment is too limited, and has not taken into account all of the affected night time economy premises. The Applicant has not considered the premises licences for the premises in question. There is no basis for the assumption that Friday and Saturday nights will be predominantly affected. Many of the premises have licences which authorise the same hours throughout every night of the week, until the early hours of the morning (eg; 06:00). Different premises have their key nights on different nights of the week. Many are active or have events throughout the year during the day, particularly associated with the Pride event. The Report undertakes no research to identify whether any complaints have ever been received from extant residents against the local licensed premises

The Applicants are clearly working on assumptions that residents will not open their windows, due to the local soundscape. This is a residential amenity issue. The NPPG already makes it plain that if the expectation is that glazing performs as the sound insulation medium, and that, therefore, windows cannot be opened in order to perform their insulating properties, then alternative forms of ventilation will be required. It is not clear whether this Report is indicating that no alternatives will in fact be provided in this proposal.

For the period of time that the measuring was conducted, this only took in one weekend of activity with the surrounding licensed premises, and has focuses disproportionately on one of them - The Nightingale. Directional microphones were focussed upon these premises. This approach does not give a complete picture of: (a) what the noise output from this club would be on a different occasion to the occasion measured. (b) what the noise output from other premises might be. (c) what the cumulative noise impact of all the premises taken together might be.

The onus upon the developer is to present a proposal which can ensure that the status quo between the existing land users, particularly in the night time economy, and the proposed residents can co-exist harmoniously together under all circumstances, and worst case scenarios. This is the basis of the Agent of Change principle and this developer has failed adequately to offer mitigation for their proposal or any of the surrounding businesses to a level that would meet this principle.

The Applicant has not taken into account guidance in the NPPG. The Applicant has not referenced the relevant paragraphs, nor addressed them in the application, and specifically not in the DAS or the Acoustic Report, which is where they should be addressed in detail. The Applicant has simply failed to relate their assessments of the soundscape and likely impact on future residents of the proposal to the guidance in the NPPG. Equally, they have failed to address the likely future effects on local businesses and the ability of those businesses to flourish and development, which is contrary to guidance and a material consideration.

The Development Plan is the Birmingham Plan 2017 – 2031. Policies TP27 Sustainable Neighbourhoods, Policy TP28 Location of new housing and TP30 Type, size and density of new housing are relevant. There is conflict with these policies by introducing new residential units in the centre of the night time economy with a multitude of licensed premises and SEVs. If the Council changes the character of the area, contrary to objections to introduce residential units where previously there were none, and no conflicting land uses existed, then this is contrary to the rights of the current businesses in the Night Time Economy. The new residents would not “identify” and “feel a pride in” their neighbourhood if they experienced noise and other impacts from the night time economy. They would, on the contrary, complain about it, and seek enforcement with a view to curtailing or closing those licensed activities which currently proceed without any issues.

The licensed premises in this locality, so proximate to the Gay Village, are heavily involved in the Birmingham Pride organisation, and many other endeavours. Impacting upon these businesses would have a domino effect on all other enterprises with which these businesses are involved, to the significant detriment of this key area and all those community groups that access it. This is a cultural issue. It is also contrary to the sustainability of this area.

The licensed premises in the area surrounding this development are cultural assets. Some, such as the Nightingale, are of iconic status within Birmingham, and the LGBT community. Many others, including Medusa Lodge provide safe and regulated entertainment experiences, which make Birmingham a lively, vibrant, diverse cultural centre, attractive to local people, visitors and tourists. This is of vital importance to the Birmingham economy. National Planning Policy (NPPF) recognises this explicitly.

The juxtaposition of this application proposal and the existing licensed premises would not create a sustainable community or a successful neighbourhood. Development which conflicts with policies of the Development Plan should not be permitted unless material considerations outweigh the conflict. The Applicant has not even identified any conflict with Development Plan policies in this regard, let alone proposed any material considerations capable of outweighing them.

The National Planning Policy Framework (NPPF) identifies that the purpose of the planning system is to contribute to sustainable development. The environmental role protects, amongst other things, the built environment, and part of its role is to minimise pollution, including noise pollution upon residents. The planning system should contribute to and enhance the local environment by preventing noise pollution. New development should not be permitted which would be unacceptably impacted by noise from extant sources, but similarly, proposed development should not be allowed to put existing businesses at risk from future complaints and enforcement.

The duties placed upon the Council by the Environmental Protection Act 1990 require noise nuisance to be identified and enforced against where found. It is imperative, therefore, that these potential conflicts between land users are considered at the time that development is seeking permission. It is contrary to Human Rights law and natural justice for the Local Authority to enforce against pre-existing businesses, who have not changed their operation, as a result of the introduction of more noise sensitive receptors which the Local

Authority has chosen to permit, despite having the future likely consequences of the permission pointed out to them at the time of the decision.

- 4.6. BCC Regulatory Services – initially recommended that the application be refused on the grounds that the submitted noise assessment was not adequate. A subsequent noise assessment has been submitted and BCC Regulatory Services have commented that:-
- Measured noise levels – in general these are slightly higher than those measured in an EPU survey in 2007. So can be accepted.
  - The noise report recommends a glazing spec (values of R in octave bands to achieve) NR20 for the Lower Essex Street and Kent Street facades. Windows to ALL habitable rooms on these facades need to achieve the recommended performance. (Living rooms and bedrooms are treated in the same manner
  - As these recommendations will require residents to keep windows closed to have an acceptable indoor amenity. Suitable ventilation will be needed – normally 4 air changes per hour – and an overheating Assessment (in line with CIBSE TM59) will be needed.
  - This is a sensitive location subject high levels of entertainment noise, to protect both the amenity of future residents and the operation of the entertainment business it is essential that the developer is aware of the implications of both the noise report and the necessary ventilation system before permission is granted. Therefore the glazing specification (with associated laboratory test data showing that it meets the required performance), ventilation system (with overheating assessment and details of noise generated) need to be submitted as part of the scheme and included on the approved plans prior to approval being granted.
- 4.7. BCC Transportation Development – no objections subject to conditions to secure cycle parking and redundant footway crossings on both frontages reinstated. There are two taxi bay areas provided in front of the site on both Kent Street and Lower Essex Street that are only in force from 9pm through to 6am. Consideration should be given to alter the Traffic Regulation Order to provide defined servicing and/or additional on street pay and display parking.
- 4.8. BCC Education (School Organisation Team) – request a S106 contribution of £337,986.49 as the development could impact on the provision of places at schools.
- 4.9. BCC Leisure Services – in accordance with BDP policy, this development should be liable for an off -site POS contribution of £234,000. This could be directed towards the creation of new POS in the Southern Gateway or an extension / improvement of Highgate Park which is the nearest existing significant green space. As the development is within the City Centre it is not regarded as family accommodation and therefore would not however generate a play area contribution.
- 4.10. BCC Employment Access Team – request a S106 planning obligation or condition to secure local employment and training.
- 4.11. Local Lead Flood Authority – no objections subject to suitable drainage conditions.
- 4.12. Severn Trent Water – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows.

4.13. West Midlands Police:-

- the scheme should be to the standards laid out in the Secured by Design 'New Homes 2016' and Secured by Design 'Commercial 2015' guides;
- each individual apartment should be treated as a separate dwelling for the purpose of the standards of door security;
- there is only one communal door into the ground floor lobby area before access is gained to the lifts, stairwell and post room. The creation of only one layer of security within this entrance leaves the building vulnerable to an offender tailgating through the doorway. The lobby should be redesigned, or an additional second, internal, communal door be installed to create an additional line of security;
- the location of the cycle storage area within the interior of the building would have very little natural surveillance;
- a suitable CCTV system should be installed to cover the site and an intruder alarm should be installed to the commercial units; .
- concerned that there is a service corridor between the two retail units and the communal areas of the residential aspect of the building, which could lead to potential issues around offenders accessing one of the uses from the other.

4.14. West Midlands Fire Service – approval of Building Control will be required with regard to Part B of the Building Regulations 2010. Where fire mains are provided in the building there should be access to the riser inlet within 18 metres and each access point should be clearly visible. Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting”

4.15. University Hospitals Birmingham NHS Foundation Trust - request a financial contribution of £7,232.00 to provide additional services and capacity to meet patient demand.

5. Policy Context

5.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan (saved policies) 2005; Places for All SPG, Places for Living SPG,; Affordable Housing SPG; Public Open Space in New Residential Development SPD; Car Parking Guidelines SPD and Revised National Planning Policy Framework 2018.

6. Planning Considerations

Principle of Development

6.1. The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area as defined by Policy GA1. Policy GA1.3 identifies that development in this location should support the growth of the area's distinctive cultural, entertainment and residential activities, its economic role and provide high quality public spaces and pedestrian routes. Policy GA1.1 also states that the City Centre will be the focus for retail, office, residential and leisure activity. Furthermore, policy states that residential development will continue to be supported in the City Centre where it provides well-designed high quality living environments and this echoes national planning policy which encourages well-designed development on brownfield land within sustainable locations. The site is also in close proximity to Smithfield which is identified as part of a wider area of change where a significant mix of uses will be expected. The provision of a residential development with

ground floor commercial uses on this site is therefore considered to be acceptable in principle subject to detailed matters.

#### Noise and Air Pollution

- 6.2. The site is within a vibrant mixed use area with a number of late night entertainment venues including Medusa, The Village Inn, Sidewalk, Loft and The Nightingale. These venues have significant capacity, are open and licensed for live and recorded music, some until 06:30 in the mornings and are part of the functional night time economy in Birmingham. Local residents and business' have therefore raised concerns that the proposed development would introduce noise sensitive receptors into this area which could, in turn, result in restrictions being placed upon the way existing businesses conduct themselves/provide their service. Consequently, there are concerns that this could then adversely affect the areas diverse entertainment offer and, ultimately, the character of the area, contrary to policy.

Below is a list of the licensed premises close to this development and their opening hours, according to their licences held under the Licensing Act 2003:

- Equator Bar, 123 Hurst Street - Sunday to Thursday 10:00-00:00 and Friday to Saturday 10:00-03:00
- The Loft, 143 Bromsgrove Street - Sunday to Wednesday 08:00-02:00 and Thursday to Saturday 08:00-04:00
- Medusa Lodge Gentleman's Club, 139-147 Hurst Street - Monday to Sunday 10:00-06:30
- Missing, 48 Bromsgrove Street - Monday to Saturday 10:00-04:30 and Sunday 12:00-02:30
- Nightingale Club, Essex House, Kent Street - Monday to Thursday 10:00-04:30 and Friday to Sunday 10:00-06:30
- Sidewalk, 125-131 Hurst Street - Monday to Sunday 10:00-04:30
- The Village Inn, 152 Hurst Street - Sunday to Thursday 12:00-06:00 and Friday to Saturday 10:00-08:00
- The Fox, Lower Essex Street – Monday to Thursday 10:00-Midnight, Friday to Saturday 10:00-02:00 and Sunday 12:00-23:30.

- 6.3. The NPPF and PPG were revised 24th July 2018. Paragraph 182 states that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

- 6.4. Policy TP25 of the BDP advises that proposals that reinforce and promote Birmingham's role as a centre for tourism, culture and events will be supported. It adds that this will include supporting smaller scale venues that are an important element of creating a diverse offer.

- 6.5. There are already residents living close to/above some of the existing entertainment venues where there are no live noise complaints with Regulatory Services. In addition, this development would reflect and build upon the existing mixed use

nature of area. I do not consider this proposal would materially change the character of the area. Furthermore I note that the Council lost an appeal, on noise grounds for new residential accommodation at the Unitary and Armouries site, to the north/northwest of The Nightingale, where the Inspector noted “City Living is not for everyone. Those choosing to occupy apartments in the appeal scheme would be aware of the nature of the area....and the likely night time street and noise environment. Those whom it would not suit would go elsewhere.” Ultimately concluding that subject to conditions to secure noise insulation, ventilation and non-openable windows on Lower Essex Street the future occupiers would enjoy an acceptable living condition. Notwithstanding Cllr Moore’s comments that this appeal decision was some time ago, I consider this should be given weight.

- 6.6. More recently, Members may recall that at the meeting on the 16th August 2018, a report about residential development for a nearby site at Pershore Street and Skinner Lane was considered. At the meeting your Committee resolved to grant planning consent subject to safeguarding conditions.
- 6.7. For the current application, to achieve an acceptable internal noise level within bedrooms overlooking Lower Essex Street and Kent Street, the building fabric would be designed to achieve specified minimum composite sound reductions. For windows, the sound reduction requirements would require the use of a high performance secondary glazing system. It will be necessary to review the window and structural wall configurations during the design phase to confirm the window configuration to be used which achieves the performance requirements.
- 6.8. In accordance with the results of the site survey and the requirements of BCC Regulatory Services, it is recommended that all living and bed rooms that overlook Lower Essex Street and Kent Street be fitted with windows with a minimum manufacturer’s rating of  $R_w + C_{tr} 35$  dB. All habitable rooms overlooking Lower Essex Street and Kent Street should be provided with mechanical ventilation to enable residents to close windows as required. Any external vents to habitable rooms overlooking Lower Essex Street and Kent Street should be specified to achieve a sound reduction equal to that achieved by the room window system.
- 6.9. For habitable rooms on the rear elevations of the building and which are further from the nightclub and screened from the roads, it is recommended that windows should have a minimum rating of  $R_w + C_{tr} 32$ dB whilst any vents to atmosphere should, when open, have a minimum rating of  $D_{new} + C_{tr} 38$ dB.
- 6.10. BCC Regulatory Services initially objected to the application but following submission of a further report they have now withdrawn their earlier objection. They consider that the measured noise levels are acceptable as they are slightly higher than those measures in an Environmental Protection Unit survey in 2007. BCC Regulatory Services have raised no objections to the recommended glazing specification; however, these recommendations require residents to keep windows closed to have an acceptable indoor amenity. Therefore suitable ventilation will be needed – normally 4 air changes per hour.
- 6.11. As this is a noise sensitive location, subject high levels of entertainment noise, to protect both the amenity of future residents and the operation of the entertainment business BCC Regulatory Services consider that it essential that the developer is aware of the implications of both the noise report and the necessary ventilation system before permission is granted. They have therefore requested the glazing specification (with associated laboratory test data showing that it meets the required performance) and ventilation system (with overheating assessment and details of

noise generated) be submitted as part of the scheme and included on the approved plans prior to approval being granted.

- 6.12. The applicants have questioned whether or not it is possible to deal with details of the glazing specification and ventilation system by condition. Notwithstanding the comments from BCC Regulatory Services I consider that appropriate conditions could be attached as follows:-
- Prior to commencement of development except for enabling works, a scheme of noise insulation shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall reflect the recommendations provided in Section 7.3.2 of the Hoare Lea Report (Document reference: 16 Kent Street REP-1006881-05-AM-20180927-Noise Assessment-Rev2 DFC.docx). The scheme shall be implemented in accordance with the approved details and thereafter maintained.
  - Prior to commencement of the development except for enabling works, a ventilation scheme shall be submitted to the Local Planning Authority for written approval. The scheme shall provide details for all flats where Section 7.3.2 of the Hoare Lea noise report (Document reference: 16 Kent Street REP-1006881-05-AM-20180927-Noise Assessment-Rev2 DFC.docx) identifies that entertainment noise will be audible at the façade. The detail shall identify how background ventilation and purge ventilation of these apartments will be achieved and how the risk of overheating will be mitigated for occupants, by the installation of an enhanced mechanical solution. Once the scheme is approved in writing, the development shall be implemented in accordance with the approved details and thereafter maintained.
  - Prior to occupation of the residential premises, a validation report shall be submitted to and approved in writing by the Local Planning Authority which shows that the internal noise levels set out below are achieved. Total internal noise levels (from the ventilation system and external noise break-in) at residential bedrooms and living rooms shall not exceed NR25 when the ventilation is providing minimum throughput and shall not exceed NR35 at maximum throughput. The validation report shall include the ventilation and glazing specifications, and its methodology shall be agreed in writing by the Local Planning Authority prior to the commencement of tests.

#### Apartment Mix and Size

- 6.13. BDP Policy TP27 Sustainable Neighbourhoods requires that new housing development is provided in the context of creating sustainable neighbourhoods, which contain a mix of dwellings types, sizes and tenures. Policy TP30 Housing Mix states that proposals for new housing should seek to deliver a range of dwellings to meet local needs and account will be taken of the Strategic Housing Market Assessment which sets out the appropriate proportionate city-wide housing mix.
- 6.14. BDP Policy GA1 states that the city centre has the capacity to accommodate in the region of 12,800 dwellings. According to the latest available data (April 2017), approximately 5,800 1 and 2 bed apartments have either been completed or are in the pipeline (under construction or with detailed planning permission not yet started) in the city centre – just 6 years into the 20 year BDP plan period. This represents the majority (95%) of the total number of dwellings completed and in the pipeline in the city centre.

- 6.15. When assessed against the Strategic Housing Market Assessment, which is City wide, there is a potential projected oversupply of 1 and 2 bed dwellings and an undersupply of 3 and 4 bed dwellings. This is skewed by the high percentage of apartments under construction or consented in the City Centre.
- 6.16. Whilst a high proportion of apartments can be expected in the city centre it is important that the scale of provision proposed for any individual dwelling type and size is not so great so as to impact on the ability to create sustainable communities.
- 6.17. The proposed development provides only 1 and 2 bedroom apartments. Whilst it is disappointing that the scheme does not include some larger 3 bedroom apartments, I do not consider that refusal could be justified for this reason alone.
- 6.18. Although the City Council has not adopted the Technical housing standards - nationally described space standard (NDS) it provides a reasonable yardstick against which to assess the proposed apartments. When assessed against these standards all apartments comply with the minimum standard of 50sqm and 70sqm for 1 bedroom 2 person and 2 bedroom 4 person apartments, respectively.
- 6.19. All the apartments therefore meet the minimum space standards and whilst the scheme does not include any larger 3 bedroom apartments, no small studio or 1 bedroom 1 person apartments are proposed. In addition, the scheme includes an outdoor amenity space of 341sqm. Overall therefore I am of the view that the housing mix and size of the apartments are satisfactory.

#### Urban Design

- 6.20. Local and national planning policy requires high quality residential development. The proposal would result in the provision of perimeter development on a prime site to the south east of the City Centre close to the Smithfield development site. It would provide active ground floor uses, result in a development at a scale reflective of, and appropriate to, the surrounding existing development and provide a clear distinction between public and private spaces. In addition, the proposed uses would be appropriate for the site's location and increase both the city's commercial/retail and residential offer in a prominent location.
- 6.21. I consider that the design results in a robust and simple building, the use of three blocks, with a height range of 9-12 storeys successfully breaks up the massing of the building. Moreover, the elevations are well articulated with large window openings, projecting window frames, glass Juliette balconies. The two types of brick and the three types of brick bond further break up the mass of the building and add visual interest.
- 6.22. Comments made by the Fire Service and Police have been forwarded to the applicant. Conditions are attached to secure CCTV and lighting.
- 6.23. A Right of Light Study has been submitted by the applicant to check whether or not the habitable units which face into the courtyard at the first and second floor of the proposal receive satisfactory levels of daylight and sunlight. The findings of the Study are that all rooms meet the BRE Average Daylight Factor targets with the exception of three of the living/dining/kitchen units served by windows (two apartments on the first floor and 1 apartment on the second floor). These rooms all achieve ADF scores of 1.8% and above against the BRE recommendation of 2.0%. However, the BRE Guide recommends that where kitchens are part of open plan

rooms, they should be linked to a well-lit living room. Since all three rooms achieve ADF scores above those recommended for a living room (1.5%), they are of the opinion that the quality of daylight should be considered as acceptable.

#### Transportation Issues

- 6.24. The Transport Assessment notes that the site currently accommodates office and leisure uses. It is highly accessible by non-car travel modes, with full integration with pedestrian networks and very good access to regular bus and rail services. The site is also located within the southern area of Birmingham city centre and as such is located within short walking distances of various local amenities and opportunities.
- 6.25. The TA adds that it is highly likely that people choosing to reside in a location such as that of the proposed development site would work within the city centre or immediate surrounding area. Therefore, residents would likely commute to work by walking, cycling and public transport.
- 6.26. BCC Transportation have no objection to zero parking being provided given on-street parking is all controlled across a large area and the site is adjacent to the City Centre. I concur with this view and conditions are attached to secure cycle parking and the reinstatement of redundant footway crossings / Traffic Regulation Orders.

#### Drainage and Ground Conditions

- 6.27. An Outline Drainage Strategy has been submitted, which notes that the site lies within an area classified as Flood Zone 1. The site is smaller than 1 hectare and therefore a Flood Risk Assessment is not required to support the planning application for management of surface water run-off. The report proposes to discharge to the existing STW foul sewer within the site. All surface water would be piped to an underground Attenuation Tank, where the runoff would be stored and discharged at greenfield runoff rates for the site. The development includes a proposed first floor garden 340m<sup>2</sup> in plan area. It is proposed that some Sustainable Urban Drainage features like tree planters and turf be placed within the garden area to reduce runoff rates.
- 6.28. Following submission of additional information, the Local Lead Flood Authority and Severn Trent Water have raised no objections and suitable drainage conditions are recommended.
- 6.29. The land contamination survey recommends further survey work prior to the commencement of the development and appropriate conditions are attached.

#### Ecology

- 6.30. The City Council's Planning Ecologist notes that the submitted ecological appraisal by Guma provides a good representation of the ecological value and the opportunities for ecological enhancement. While the site is of low value for bats and there was no evidence of nesting birds at the time of the survey the potential for nesting was there and would increase if and when the building deteriorates further. The building is within a key area for one of our most scarce bird species – the Black Redstart and it is possible that the building has been used as a song post and foraging point. The kestrel observed is/ has been nesting locally. Both of these species utilise brown field/ derelict sites and disused buildings. Mitigation for both these species has been included in recent developments locally and this should be extended to this development too.

- 6.31. Conditions are attached to secure ecological enhancement measures including the provision of biodiversity / brown roofing and suitable nesting boxes.
- Planning Obligations and Community Infrastructure Levy
- 6.32. Policy TP9 of the BDP requires new public open space should be provided in accordance with the Public Open Space in New Residential Development SPD whilst TP31 requires 35% affordable housing unless it can be demonstrated that this would make the development unviable.
- 6.33. A financial appraisal has been submitted to demonstrate that, with a policy compliant contribution the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000. I consider that in this instance, the delivery of affordable housing is a higher priority than public realm improvements. It is therefore suggested that the whole sum be used toward securing affordable housing, which in this case would equate to 11 (9.5% provision) affordable low cost units (4 x 2 bed and 7 x 1 bed) at 75% of open market value
- 6.34. BCC Education have requested a contribution towards the school places, however, school places are funded through CIL payments.
- 6.35. The University Hospitals Birmingham NHS Foundation Trust have requesting a financial contribution of £7,232.00 to be used to provide additional services and capacity to meet patient demand. The representation states that the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It adds that contracts (and therefore budgets) are set based upon the previous year's activity and due to delays in updating tariffs and costs the following year's contract does not meet the full cost impact of the previous year's increased activity. They consider that without such a contribution the development is not sustainable and that the proposal should be refused.
- 6.36. However, I do not consider the request would meet the tests for such Section 106 contributions in particular the necessity test (Regulation 122.(2)(a) necessary to make the development acceptable in planning terms). I believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to plan for population growth. I also note the request relies on inaccurate calculations. Discussions with the relevant Trust are continuing on this matter in order to understand more fully their planned investments in the City and how best to be able to support that.
- 6.37. The site is located in a low value residential area and does not therefore attract a CIL contribution.

## 7. Conclusion

- 7.1. I consider that the scheme is acceptable subject to safeguarding conditions and completion of a legal agreement to secure on-site affordable housing.

## 8. Recommendation

- 8.1. That consideration of planning application 2018/03004/PA be deferred pending the completion of a planning obligation agreement to secure the following:

- a) 11 affordable low cost units (4 x 2 bed and 7 x 1 bed) at 75% of open market value;
  - b) payment of a monitoring and administration fee associated with the legal agreement of £10,000
- 8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 20 January 2019 the planning permission be refused for the following reason:
- a) In the absence of any suitable legal agreement to affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan, Affordable Housing SPG and the Revised NPPF.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20 January 2019, favourable consideration be given to this application subject to the conditions listed below.

- 
- 1 Requires the prior submission of a contamination remediation scheme
  - 2 Requires the prior submission of a contaminated land verification report
  - 3 Limits the hours of operation 0700-2400
  - 4 Requires the prior submission of a drainage scheme
  - 5 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
  - 6 Requires the prior submission of details of bird/bat boxes
  - 7 Requires the submission of extraction and odour control details
  - 8 Limits the noise levels for Plant and Machinery
  - 9 Requires the scheme to be in accordance with the glazing specification
  - 10 Requires the prior submission of a ventilation strategy
  - 11 Requires the prior submission of a internal noise validation report
  - 12 Requires the prior submission of noise insulation (variable)
  - 13 Requires the prior submission of a CCTV scheme
  - 14 Requires the scheme to be in accordance with the listed approved plans
  - 15 Requires the prior submission of sample materials
  - 16 Requires the prior submission of details of green/brown roofs
-

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- 17 Requires the prior submission of a lighting scheme
  - 18 Requires the prior submission of boundary treatment details
  - 19 Requires the prior submission of hard and/or soft landscape details
  - 20 Requires window/door reveal/setbacks
  - 21 Requires an employment construction plan
  - 22 Requires info to future occupiers
  - 23 Requires the provision of cycle parking prior to occupation
  - 24 Requires the prior submission and completion of works for the S278/TRO Agreement
  - 25 Implement within 3 years (Full)
- 

Case Officer: David Wells

**Photo(s)**



View east along Kent Street

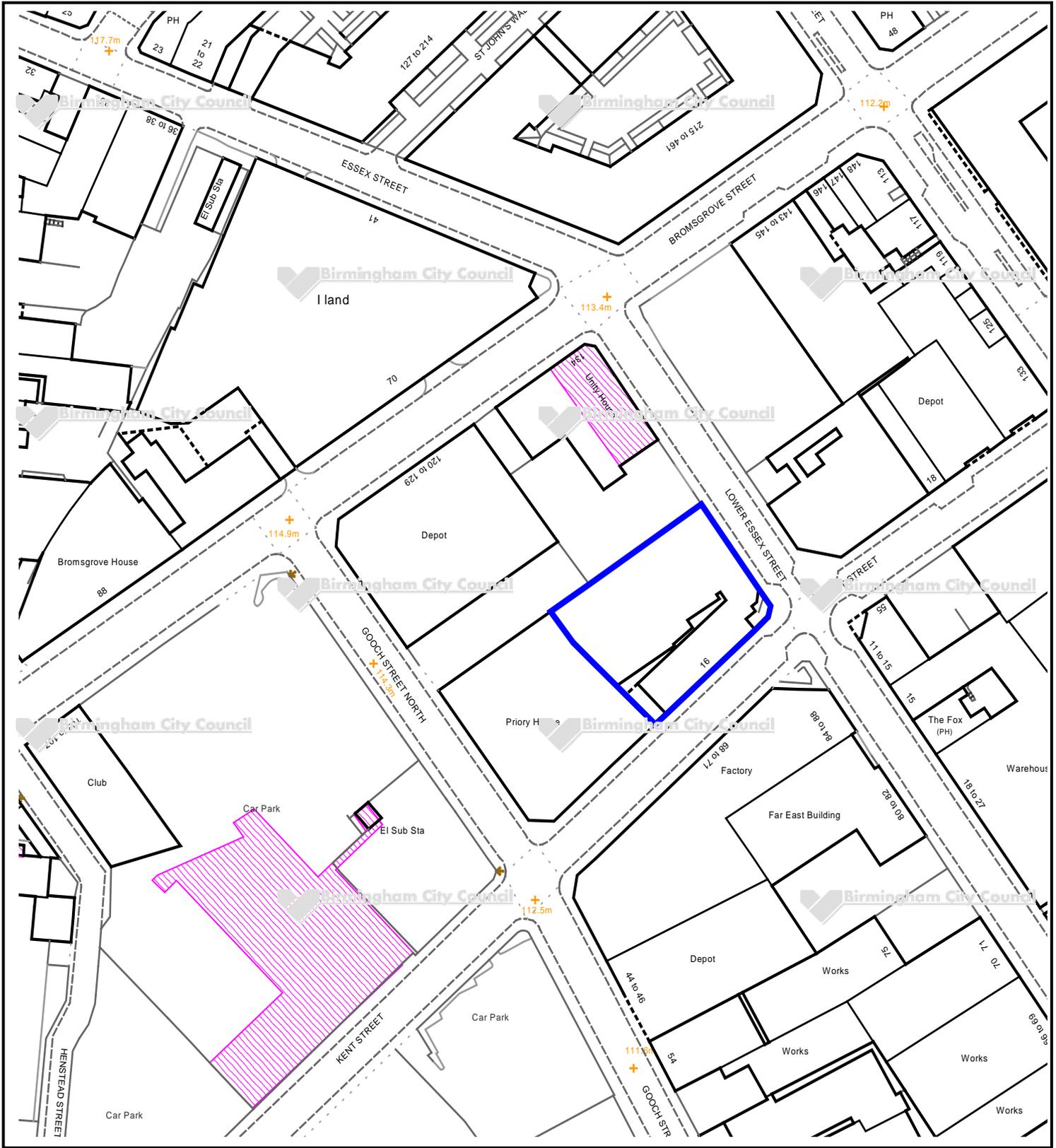


View from corner of Kent Street and Lower Essex Street



View north along Lower Essex Street

# Location Plan



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# Birmingham City Council

## Planning Committee

20 December 2018

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	12	2017/09275/PA  Western Power Distribution Warstock Road Birmingham B14 4ST  Demolition of existing buildings and redevelopment of the site to provide a foodstore (Use Class A1) with associated car park and landscaping.
Approve - Conditions	13	2018/07715/PA  69 Billesley Lane Moseley Birmingham B13 9QX  Erection of two storey side and rear, single storey rear extensions and first floor extension, roof alteration with dormer windows to front and rear and front porch
Approve - Conditions	14	2018/06395/PA  61 Langleys Road Birmingham B29 6HR  Erection of two storey side and rear extensions and single and first floor rear extensions.
Approve - Conditions	15	2018/08457/PA  145 Stonor Road Hall Green Birmingham B28 0QW  Erection of two storey side and rear extensions and porch to front.

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Committee Date:	20/12/2018	Application Number:	2017/09275/PA
Accepted:	09/11/2017	Application Type:	Full Planning
Target Date:	30/04/2018		
Ward:	Highter's Heath		

Western Power Distribution, Warstock Road, Birmingham, B14 4ST

Demolition of existing buildings and redevelopment of the site to provide a foodstore (Use Class A1) with associated car park and landscaping.

Applicant: Godwin Developments and Western Power Distribution  
c/o Agent  
Agent: Rapleys LLP  
55 Spring Gardens, Manchester, M2 2BY

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Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Planning permission is sought for the erection of a Use Class A1 food retail store with associated parking and landscaping. The development would comprise of enabling ground works; formation of a new vehicular access from Warstock Road and closure of existing access; laying out of a car park, footpaths and soft landscaping and the erection of a steel framed store with warehousing and delivery facilities.
- 1.2. The proposed store would have a gross external area of 2,206sq.m and a net retail floor of 1,325sq.m. This would comprise 1,060sq.m (80%) convenience goods and 265sq.m (20%) comparison goods. In addition to the sales area, a warehouse extending to 547sq.m and ancillary floor space including staff welfare facilities, customer toilet, utility space, freezer and bakery would be provided.
- 1.3. The building would be 78m in length (at its longest) and 70m at its public front, 31m in width with a maximum 6.8m height from ground level at the entrance and 6m at the loading bay. The building would front Warstock Road (to the south) with its main glazed frontage whilst the main body of the building would front Limekiln Lane and the car park (west). This frontage would be primarily blank with a small area of glazing at the entrance and advertisement panels along the building side. The store warehouse would be located behind this west elevation. An oversailing canopy would form the entrance feature.
- 1.4. The building would have white rendered walls with grey Alucobond metal cladding above. The roof and store entrance canopy would be covered in grey metal roof sheeting. A glazed entrance and shopfront glazing would run along the Warstock Road frontage elevation and would also form a small part of the car park elevation at the entrance corner.

- 1.5. 120 car parking spaces are proposed including 8 parent and child spaces and 6 spaces for people with mobility issues. 5 motorcycle spaces and further bicycle spaces would be provided under the store entrance canopy.
- 1.6. Proposed opening hours are 0700-2200 hours Monday to Saturday and 1000-1600 hours on Sundays.
- 1.7. The proposed development would require the removal of 14 of the 17 trees surveyed. These would comprise 4 Category C Sycamores; 2 Category B Sycamores; 1 Category C Ash, 2 Category C Cherry Plum, 1 Category C Field Maple, 1 Category B English Oak and 1 Category C English Oak, 1 Category C Loral and 1 Category B Silver Birch.



- 1.8. 40 local full-time equivalent retail jobs are proposed.
- 1.9. The application is supported by a Design and Access Statement; Planning and Retail Statement; Statement of Community Involvement; Land Contamination Phase 1 Environmental Site Assessment, Site Investigation Report and Desk Study Appraisal; Preliminary Ecological Appraisal; Arboricultural Survey; Transport Assessment and Travel Plan; Flood Risk Assessment, Drainage Strategy and a Site Drainage Management; Energy Statement; Economic Statement and Employment Viability Assessment.

1.10. Site area: 0.73Ha.

1.11. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The application site lies at the western end of a commercial/industrial area. The site is bordered by Limekiln Lane to its northern and western edge and Warstock Lane to its southern edge. To its eastern edge, are premises used as a self-storage facility.

The site comprises a vacant, two storey flat roofed building located in the south eastern corner. The remainder of the site is tarmacked and houses approximately 110 car parking spaces and other external storage areas. The site has two existing access points; an exit to the north of the site onto Limekiln Lane and the main access point in the south east corner onto Warstock Road.

- 2.2. The site has been previously uses as a distribution centre and stock yard for Western Power Distribution with accompanying offices. The site is now vacant after Western Power relocated to a larger site to the north of the City.
- 2.3. The wider area to the east comprises a mixture of commercial and industrial uses ranging from self-storage units, a carpet warehouse, tyre fitters and a boat yard. To the north of the site is Cocks Moor Woods golf course and leisure centre. To the west of the site, on the opposite side of Limekiln Lane is an Esso petrol filling station and to the south, on the opposite side of Warstock Road, is a residential neighbourhood containing Grendon Primary School, Maypole Children's Centre, other community uses and the E57 Social Club.
- 2.4. [Site Location Plan](#)

### 3. Planning History

- 3.1. The site has extensive history relating to its former use. The application outlined below relates to where an alternative use for the site was sought.
- 3.2. 24 January 2002. 2001/00776/PA. Outline planning permission refused for residential development. Refused for the following reasons:
  - 1) The proposed development would result in the loss of "best urban" industrial land and would thereby adversely affect economic and employment opportunities in the area and conflict with the policy stated in Paragraph 4.31 of the Birmingham Unitary Development Plan.
  - 2) Occupiers of the proposed residential development would be adversely affected by noise and nuisance arising from use of the adjoining industrial premises and the application proposals therefore conflict with guidance given in Planning Policy Guidance Note No. 24 (Planning and Noise).

### 4. Consultation/PP Responses

- 4.1. Local residents and businesses, resident associations, Local Ward Councillors and MP notified. Site and press notice posted. Four responses received including a letter of comment/support from Steve McCabe MP and an objection from a local resident. The objection raised the issues of:
  - need;
  - traffic impact; and
  - site would be better left in traditional employment use.The letter of comment/support from Steve McCabe MP identified receipt of an objection from a local resident, raised concern regarding potential highway safety impacts but welcomed the development as it would provide further local employment opportunities.
- 4.2. A further two letters of objection were received from Jigsaw Planning and TPS Transport, both on behalf of ASDA Stores Limited. These objections refer to the following issues:

- Deficiency in the transport assessment on road safety, delivery and servicing and trip generation and has not therefore demonstrated that the proposed development would not cause a severe impact.
  - Retail Impact – no sensitivity test has been undertaken; the 17.6% turnover drawn from other units within Kings Heath District Centre is considered an underestimation.
  - Loss of Employment Land – proposal is contrary to policy TP20 as less than two years marketing of the site has been undertaken.
- 4.3. West Midlands Fire Service – no adverse comments. Fire matters will be covered under Part B of the Building Regulations.
- 4.4. Severn Trent Water – no objection subject to a drainage condition.
- 4.5. West Midlands Police – no objection subject to conditions relating to CCTV and alarm system and lighting.
- 4.6. Lead Local Flood Authority – no objection subject to sustainable drainage conditions.
- 4.7. Regulatory Services – no objection subject to conditions relating to opening and delivery hours, contaminated land, delivery code of best practice, vehicle charging point, plant and machinery noise and extraction and odour control details.
- 4.8. Transportation – no objection subject to conditions relating to construction management, means of access for construction, parking management strategy, delivery and service area completion, cycle storage and a Section 278 Agreement.
5. Policy Context
- 5.1. Birmingham Development Plan (BDP); NPPF, NPPG, Saved Policies of the Birmingham UDP (2005), Shopping and Local Centres SPD, Places for All SPD, Car Parking Guidelines SPD.
6. Planning Considerations
- 6.1. I consider the principal issues raised by this application include Retail matters, Loss of Employment Land issues, Design, Transportation, and Other Matters such as Drainage and Land Contamination.

#### THE APPLICANTS' CASE

- 6.2. The proposed store operator's (LIDL) philosophy is to provide high quality own brand products at the lowest prices. The store would stock a limited product lines including:
- Seasonal fruit and vegetable lines;
  - General tinned, bottled and pre-packed groceries;
  - Frozen and chilled goods including pre-packed meats;
  - Beers, wines and spirits;
  - Pre-packed bread, morning goods and cakes; and
  - A limited everyday range of non-food household items.
- The applicant considers it important to note that the proposed store occupier does not sell cigarettes or lottery tickets and the stores do not include specialist butchers, fishmongers, bakery, delicatessen or a chemist/pharmacy They also do not provide

other services including café, mobile phone shop, post office, dry cleaning or photographic services and do not provide home delivery. On this basis, they consider it important that they do not offer a 'one stop shop' and that they complement rather than compete with other traders and would help to address Government objectives of reducing social exclusion. They also note that LIDL (the proposed store operator) have shorter standard opening hours than the main convenience retailers.

- 6.3. Crucial to the LIDL business model is the tried and tested store format of circa 2,000sq.m (gross) alongside the ability to minimise manual handling of the products by displaying them in their original box or pallet that they were delivered to store in or on. This is enabled through the process whereby goods would be unloaded directly into the store via a dock leveller and transferred directly to the shop floor. All stores have a consistent proportion and layout.

## POLICY

### NPPF - General

- 6.4. The National Planning Policy Framework (NPPF) was published on 24 July 2018. Paragraph 12 states that *“where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*
- 6.5. Paragraph 11 states that for decision making this means *“approving development proposals that accord with an up-to-date development plan without delay; or where there are no development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless (i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*
- 6.6. Thus, if the application accords with the development plan, the provisions of Paragraph 11 of the NPPF suggest that it should be permitted without delay, unless material considerations indicate otherwise. Conversely, it is clear that applications which do not accord with an up to date development plan should be refused, unless material considerations indicate otherwise.

### NPPF - Retail

- 6.7. Paragraphs 85 to 90 of the NPPF deal with the need to promote the vitality of town centres and are particularly relevant to this proposal. Paragraph 85 states that planning policies should support the role that town centres play in local communities through a positive approach to growth, management and adaption this differs from the previous NPPF that sought the promotion of competitive town centre environments. Paragraph 85 encourages planning policies to allocate a range of sites in town centres to meet the scale and type of development likely for at least ten years and where necessary, centre boundaries should be kept under review. It goes on to state that *“where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre.”*
- 6.8. Paragraph 86 states that *“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing*

*centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*

- 6.9. Paragraph 87 goes on to state that *“when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”*
- 6.10. Paragraph 89 of the NPPF then sets out the impact tests for applications for retail, leisure and office development that is located outside town centres and which is not in accordance with an up-to-date Local Plan. Paragraph 89 requires applications for such development, which are over 2,500sq.m (or a locally set threshold), to include an assessment of:
- *“a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
  - *b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).”*
- 6.11. Paragraph 90 of the NPPF states that *“where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”*

#### Birmingham Development Plan

- 6.12. The development plan for Birmingham comprises the BDP and the saved policies of the Birmingham Unitary Development Plan (UDP). All elements of the development plan contain policies relevant to this application, so that the development plan is not ‘absent’ or ‘silent’. The remaining issue, therefore, is whether the development plan is ‘up to date’. As the BDP was only adopted in January 2017 and this included a number of saved policies from the Birmingham UDP, I consider that all relevant policies are ‘up-to-date’.
- 6.13. Policy TP21 covers local centres policy and identifies that centres are the preferred location for retail, office and leisure developments along with community facilities and proposals which *“will make a positive contribution to the diversity and vitality of centres will be encouraged.”* The Policy goes on to identify that proposals for main town centre uses outside of the identified centre boundaries will not be permitted unless they satisfy the requirements of national planning policy. Policy TP22 supports the principle of convenience retail in centres, subject to it being at an appropriate scale for the individual centre and identifies that *“proposals that are not within a centre will be considered against the tests identified in national planning policy and other relevant planning policies set at local level, in particular the policies for the protection of employment land.”*

#### RETAIL CONSIDERATIONS

- 6.14. The application site lies outside of a defined and allocated Centre boundary. As a consequence, the application proposal faces the sequential and impact tests set out in Paragraphs 85 to 90 of the NPPF.

- 6.15. The Applicants' position with respect to retail policy is that their proposals, at 2,206sq.m gross floor area, fall below the 2,500sq.m threshold for requiring a full retail impact assessment as outlined in the NPPF and the BDP. However, in order to demonstrate that the trading effects of the proposal are insubstantial, a proportional impact assessment was carried out alongside a sequential site assessment.

#### The Sequential Test

- 6.16. Paragraph 86 of the NPPF sets out the sequential test that applies to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. In considering edge and out-of-centre proposals, Paragraph 87 states that *'...preference should be given to accessible sites that are well-connected to the town centre'*.
- 6.17. In applying the sequential approach, Paragraph 87 requires that applicants and Local Authorities should demonstrate flexibility on issues such as format and scale. Paragraph 87 also makes no specific reference to the issue of viability in assessing the suitability of sites however; Paragraph 85 does include a viability requirement for the allocation of sites.
- 6.18. The NPPG provides further advice on the sequential test and confirms that there is a requirement to demonstrate flexibility, with respect to format and scale, in assessing the suitability of more central sites. Paragraph 2b-011 states that *'...use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.'*
- 6.19. In undertaking an impact and sequential test assessment, the applicants originally reviewed the availability, suitability and viability of sites within a five-minute drive-time catchment for the proposed store, focusing on Yardley Wood Local Centre, Maypole District Centre and outside of the five minute drive time catchment area; Kings Heath District Centre. At the request of the LPA, three further sites have also been considered:
- Moss House/Druids Lane, Maypole;
  - Land to the rear of Hare and Hounds Public House, York Road, Kings Heath; and
  - Former Kingsway Cinema, High Street, Kings Heath.
- 6.20. In applying the sequential test, a number of parameters were used including:
- A site which can accommodate a store in excess of 2,200sq.m (gross external area);
  - A site that can allow for the safe manoeuvring of customer vehicles and delivery vehicles on site;
  - A prominent site with ability to attract passing trade;
  - A site that is easily accessible by a choice of means of transport;
  - A site that is able to offer benefits to its customers, including adjacent surface level car parking;
  - Provision of a dedicated service area to the rear of the store, including ability to accommodate HGV's; and
  - The need for a single storey open and unrestricted sales floor area that benefits from a level topography, or which has the ability to be developed as such.
- 6.21. Yardley Wood Local Centre is located to the north and west of the Yardley Wood Road/School Road junction, approximately 770m to the east of the application site.

The primary shopping area is focused on the eastern side of Yardley Wood Road and the northern side of School Road. The centre comprises primarily of ground floor town centre uses, with residential uses above focused around independent shops and services and a McDonalds. The centre has no vacant units.

- 6.22. Maypole District Centre is located approximately 760m to the south west of the application site. The primary shopping area is focused on the eastern side of Alcester Road South and extends from Hawkhurst Road to the north to Sainsbury's to the south. The centre is characterised by leisure services and comparison goods retailers although the centre also houses Sainsbury's, Aldi, KFC, Greggs, Wilko, Wholefoods and Ladbrokes. The centre has no vacant units.
- 6.23. Kings Heath District Centre is located approximately 2km to the north west of the application site and is characterised by a linear shopping centre along Alcester Road South. The centre extends from the junction of Alcester Road South with Valentine Road to the north to junction of Alcester Road South with Redwood Croft to the south. The centre is characterised by town centre uses on the ground floor with residential uses above and is home to mostly comparison goods retailers and leisure services. Many national retailers are located within the centre including Asda, Sainsbury's, Iceland, Poundland, Argos, Wilko, Costa Coffee, Boots, Superdrug and WH Smith. The centre has a vacancy rate of 5%.
- 6.24. Moss House/Druids Lane – this site is located within the designated Maypole District Centre and whilst not allocated, in retail policy terms the site is regarded as 'in-centre'. The site comprised a three storey office building of 516sq.m and 24 car parking spaces. At the time of the survey, the on-site marketing board had identified that the site had been sold. As such, the applicant deems the site to be unavailable and the site could not accommodate the store size and car parking required by the operator. As such, the site is not considered by the applicant to be sequentially preferable.
- 6.25. Land to the rear of the Hare and Hounds, York Road, Kings Heath is approximately 2.3km to the north of the application site and extends to 0.05ha. In retail planning terms, the site is regarded as 'in-centre'. The site has planning history that supports the use of the site for retail however this is no longer extant. The applicant considers that whilst the site is sequentially preferable, it would not be suitable for the proposed operator as it is too small (being below the minimum 0.6ha required), the highway too constrained and is not located with a prominent main road frontage as such, whilst the site is deemed suitable, the applicant does not consider this site to be sequentially preferable.
- 6.26. The Former Kingsway Cinema site is located 2.2km to the north of the application site and is 0.23ha in size. In retail planning terms, this site is also deemed to be 'in-centre' Planning permission has previously been granted for the demolition of the building and erection of a 929sq.m retail unit with apartments above. As such, the site is considered sequentially preferable to the application site. However, the applicants have dismissed the site on the basis that it has been sold and is therefore unavailable; the site could not accommodate the proposed development (even in the most flexible of approaches) and the site would give rise to significant impact on the highway network.
- 6.27. Two further sites were also reviewed; the former Baverstock Academy site on Bells Lane and Land at the A435/Druids Lane – both have been assessed as 'edge of centre' in retail planning terms. The former Baverstock Academy site has no evidence of being marketed since the Academy school closed in 2017 and is

surrounded by a housing regeneration allocation subject to policy TP32 of the BDP. Whilst the site is considered suitable and of a size to accommodate the proposed development, the applicant has dismissed the site as being sequentially preferable on the basis that the site is unavailable. In relation to the second site, land at the A435/Druids Lane, the site is adjacent to the Maypole District Centre, approximately 1km south of the application site. The site is currently up for sale and as such, the applicant considers the site to be available. However, the site, whilst sitting within the administrative boundary of Bromsgrove District Council, is allocated green belt. As the proposed development would be considered as inappropriate development in the green belt; the applicant has dismissed the site.

- 6.28. Having reviewed the submitted sequential test, I consider that the three centres have no sites that are available or suitable within the NPPF tests that are located 'in centre'. I consider that the sites located within the designated centre boundaries, namely Moss House; land to the rear of the Hare and Hounds Public House and the former Kingsway Cinema have been discounted correctly as being too small for the proposed development. I do not agree however that the sites are not available, just on the basis that they have been sold. I also note that the Moss House site has planning permission for a drive-thru coffee shop and that this permission would appear to be being implemented; as such this would deem the site as unavailable for the purpose of a sequentially preferable site. I also concur with the site assessment for the edge of centre site at Land at the A435/Druids Lane being discounted as the site is allocated green belt land where planning permission for the proposed development would not be granted.
- 6.29. This leaves one remaining site reviewed through the sequential test assessment, that of the former Baverstock Academy. The site was assessed as being suitable due to its size and edge of centre location but has been discounted by the applicant as not being available as the site has not been marketed. I do not consider that this is a valid reason for discounting the site as unavailable and as such would fail the policy tests. However, I consider the policy TP32 relating to the wider Druids Heath housing regeneration to be a valid reason for discounting the site. The site forms a key site within the housing regeneration area that is owned by the City Council and as such, whilst proposals are evaluated for the clearance and renewal of the Druids Heath estate, the site would remain unavailable. In this instance, I consider that whilst suitable this edge of centre site is unavailable and unlikely to become available within a reasonable time prospect and as such, the site can be discounted as a sequentially preferable site.
- 6.30. On the basis of the submitted sequential site assessment, I and my strategic planning advisor consider that the proposed development meets the tests required by policy and therefore complies with Paragraph 87 of the NPPF and Policies TP21 and TP22 of the BDP; as such the application site is the only sequentially preferable site within the locality.

#### Retail Impact

- 6.31. As previously discussed, the applicant identifies that the proposed development falls below the 2,500sq.m threshold for which an impact assessment is required but in order to demonstrate that the trading effects of the proposal are insubstantial, a proportional impact assessment has been undertaken, although this would have limited weight in any decision.
- 6.32. Paragraph 2b-016 of the NPPG sets out the key considerations in assessing the likely impact on proposed investment; these are:

- the policy status of the investment;
- the progress made towards securing the investment; and
- the extent to which an application is likely to undermine planned investments based on the effect on forecast turnover, operator demand, and investor confidence.

Paragraph 2b-017 then sets out the key considerations in assessing the likely impact on trading levels and on town centre vitality and viability. The advice states that ‘...a judgment as to whether the likely adverse impacts are significant can only be reached in light of local circumstances’ and that ‘...in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact’. In instances where the evidence suggests that there would be no significant impact on the town centre, the Local Planning Authority ‘...must then consider all material considerations in determining the application, as it would for any other development’.

#### Impact on Investment

- 6.33. As previously stated, the proposed development would serve a 5 minute drive time catchment, which includes Yardley Wood Local Centre and Maypole District Centre. This catchment has therefore been utilised for the purpose of an impact assessment, with the addition of Kings Heath District centre and Shirley Town Centre.
- 6.34. In terms of impact on investment at Yardley Wood Local Centre, the applicant has determined that there are no existing, committed or planned public or private investments that the proposed development may impact on. In terms of the Maypole District Centre, the west and north-west section of the centre is included within the Druids Heath Housing Regeneration Area and is allocated primarily for housing, in line with BDP Policy TP32. The regeneration plan is likely to take 15 to 20 years and as the nature of the regeneration is primarily to regenerate existing housing stock, the assessment concludes that the proposed development would not have a significant impact on the District Centre, in this context.
- 6.35. In Kings Heath, a business improvement district (BID) is currently in place and is a partnership of local businesses, which agree to an additional levy on their business rates in order to fund projects and improve the shopping environment within the centre. The BID boundaries match that of the district centre. Given the BID programme to improve the local trading environment, the applicant considers that the proposed development would not have a significant adverse impact on the Centre.
- 6.36. In regards to Shirley Town Centre, the Shirley Economic Plan 2016-2026 provides the economic plan for the Centre. The purpose of the plan is to recognise key opportunities to improve the quality of the retail, leisure and community offer. The plan makes reference to two major regeneration projects namely Parkgate and Powergen. The Parkgate scheme was completed in 2014 whilst the Powergen redevelopment was granted planning permission in March 2016 for a retirement village, 113 dwellings, Asda petrol filling station and associated parking and highway works. The scheme completion is anticipated in 2020. Based on the two major regeneration sites and their progress, the applicant considers that the proposed development would not have a significant impact on Shirley Town Centre.

#### Impact on vitality and viability

- 6.37. The same catchment has been utilised for this impact test as for the sequential site assessment and impact on investment test. Yardley Wood Local Centre is the

nearest centre to the application site and comprises 32 units of which 13% are for convenience goods. The proposed development, as a discount retailer, would, in the applicant's view operate as a top-up function to this Centre. Given the small percentage of the centre utilised for the sale of convenience goods and the lack of vacant units within the centre, the applicant considers that the proposed development would not have a significant adverse effect on the Yardley Wood centre.

- 6.38. Maypole District Centre has a total of 38 units with a mix of retailers. Comparison goods retailers account for 26% of the units within the centre while convenience food retailing accounts for 13% including Iceland, Aldi and Sainsbury's. The applicant acknowledges that the proposed development would draw some trade from Sainsbury's on like for like items however, discount retailers complement larger food retailers as consumers use multiple stores to complete their shop and as such, the trade draw from Sainsbury's would not result in a significant adverse impact on the centre. The proposed store is also expected to draw a proportion of its trade from the existing Aldi store. However, given the product offer of own branded goods for each retailer and a degree of brand loyalty shown by their customers; the applicant considers that the impact would not be significantly adverse and that customers may make linked trips between both discount retailers. On this basis; the applicant considers that the proposed development would not have a significant adverse impact on the viability and vitality of Maypole District Centre.
- 6.39. Comparison retailers account for 34% of the total number of units in Kings Heath District Centre whilst convenience retailers account for 6%. The proposed range of comparison goods sold by the proposed retailer would, in the applicant's view, have a negligible impact upon the existing comparison retailers within the centre. Kings Heath convenience providers include Asda, Sainsbury's, an existing Lidl store and independent retailers. The applicant considers that whilst there would be some trade draw from Sainsbury's and Asda on a like for like product basis, the impact would be limited. The existing Lidl store, in the applicant's view, caters for a different catchment and would have its own five minute drive time catchment that the proposed store would fall outside of and as such, they consider that the impact would be limited. As the centre as a whole has limited vacancy rates, has a mix of uses and performs well against the vitality and viability indicators, the applicant considers that the proposed development would not have a significant adverse impact on Kings Heath.
- 6.40. Shirley Town Centre has a mix of uses with convenience and comparison retailers comprising 5% and 27% of the centre respectively. Convenience retailers include Morrison's, Asda, Aldi, Iceland and local independent retailers. An out of centre Tesco also provides a retail offer to the centre and the wider locality but this is not afforded protection under the impact policy tests as the store is not 'in-centre'. The assessment identifies that there would be limited trade draw from Tesco and the town centre convenience shops on a like for like basis, including Aldi however, this trade draw is assessed as not being significantly adverse.
- 6.41. Based on the assessment, the applicant has concluded that whilst some trade would be diverted by the proposed development from other centres, this impact could not be considered to be '*significantly adverse*'. In relation to the investment impacts, at the time of submission, they considered that there was no committed or planned investment in nearby centres on which the proposal could potentially impact.
- 6.42. Based on the assessment undertaken, I and my strategic planning advisor conclude that:

- There is insufficient evidence currently before the Council to demonstrate a ‘significant adverse’ impact on the overall investment proposed at any of the identified centres within and adjacent to the catchment.
- The limited trade draw and overall vitality and viability of the identified centres will not reach the ‘significant adverse’ level for the purposes of the second of the tests set out in Paragraph 89 of the NPPF.

6.43. On the basis of the above conclusions, I consider that the issues of impact, on both investment and vitality and viability have been assessed and concluded to be within acceptable parameters. With regards to the sequential test, I conclude that the proposal meets the relevant sequential test as an available, suitable and viable site does not exist within or adjacent to the identified centres. Whilst I note the objection received on behalf of Asda stores in relation to the impact assessment; as policy does not require the submission of an impact assessment as the proposal falls below the threshold limit and the applicants have submitted a proportional impact assessment that illustrates that the proposal would not have a significant adverse impact, I consider that the objection fails to have significant weight in this instance. I also note the objection related to the ‘need’ for the development. Need is no longer part of the retail policy tests and as such, this objection has limited weight. On this basis, I conclude that the proposed development meets the sequential and impact requirements of Paragraphs 86, 87, 89 and 90 of the NPPF and Policy TP21 and TP22 of the BDP.

#### LOSS OF EMPLOYMENT LAND

##### Policy

- 6.44. The application site is located on employment land. Policy TP17 of the BDP establishes the requirement for a portfolio of employment sites ranging from regional investment sites and a five year minimum reservoir of 96ha of other employment land made up of ‘best quality’, ‘good quality’ and ‘other quality’. Using the definition within the policy, the application site falls within the definition of ‘good quality’ as it is more than 0.4ha in size.
- 6.45. Policy TP20 of the BDP covers the protection of employment land and states that *“Employment land and premises are a valuable resource to the Birmingham economy and will be protected where they contribute to the portfolio of employment land and are needed to meet the longer term employment land requirements set out in Policy TP17. Outside Regional Investment Sites and Core Employment Areas there may be occasions where employment land has become obsolete and can no longer make a contribution towards the portfolio of employment land. In such cases change of use proposals from employment land to other uses will be permitted where it can be demonstrated that either:*
- *The site is considered a non-conforming use, or*
  - *The site is no longer attractive for employment development having been actively marketed, normally for a minimum of two years, at a price which accords with other property of a similar type in the area. Where it is argued that redevelopment for employment purposes would be commercially unviable, a viability assessment may also be required which should include investigations into the potential for public sector funding to overcome any site constraints.”*
- 6.46. Paragraph 120 of the NPPF states: *“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local*

*planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:*

*a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and*

*b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”*

- 6.47. Paragraph 121 goes on to state that “*Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:*
- a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and*
- b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.”*
- 6.48. The applicant’s submission identifies that the site is not a non-conforming use and as such, compliance with the second part of Policy TP20 is required. The site has been marketed for a number of months prior to and during submission of the application and I note the objection made on behalf of Asda in relation to the marketing of the site. The marketing details submitted identify that the site has been marketed as being suitable for redevelopment for a range of uses including trade counter, drive-thru or retail (subject to planning). I acknowledge that since submission, the site has now been marketed for over the required two year period, to limited interest from traditional ‘B’ use class employment generators. However, my strategic planning officer has advised that enquiries for the site were unlikely to be made once the site had been acquired/options for retail purposes and that the marketing undertaken, whilst it may meet the time period quota, was not undertaken correctly for the purposes of seeking employment regeneration – rather than an alternative use. As such, I and my strategic planning officer consider that the site has not been marketed satisfactorily and as such, fails to comply with the marketing test of policy TP20.
- 6.49. The application is further supported by a viability appraisal (to meet the second half of the second TP20 policy test) that was reviewed by Lambert Smith Hampton (LSH), on behalf of the LPA. At that time, LSH concluded that the appraisal showed a land value that equated to approximately £205,000 per acre which is towards the lower end of employment land sales. However, there may be opportunities for cost efficiency savings to be made that could improve the land value or an owner occupier could acquire the site and develop the site through with different drivers other than profit. LSH went on to conclude that although the site may be too small for some developers, the employment land market is finding it increasingly difficult to secure employment development opportunities for a circa 3,000sq.m building. Overall, they accept that the site would sell for a higher premium for retail development but if the site was openly marketed for employment use it would sell at an appropriate level to incentivise the land owner to release the site for re-development.
- 6.50. Further viability and marketing evidence has subsequently been submitted by the applicant. Whilst the marketing evidence does not change the conclusions drawn

previously, the further viability submission presented evidence detailing a number of site constraints outlined below:

- **Site Entrance** – the proposed entrance off Warstock Road is the only location where the new bell mouth to the site can be installed. The existing site entrance cannot be used due to being insufficient in size. In doing so, it has created an appropriate HGV access to the site which restricts the length of the proposed industrial unit.
- **Major sewer easement** – There is an existing sewer on the site which has a no build-over easement of 10m in width. This renders the east part of the site undevelopable for anything other than car parking. The cost of the movement of the sewer would be prohibitive.
- **Site Levels** – The level drop across the site is 4.7m. This has meant the inclusion of a retaining wall at the north, east and west perimeters of the site. In the case of where the sewer easement occurs, the soil is to be compressed to reduce site levels. Not only does this restrict how much of the site can be developed it is also a function of cost.
- **HGV Tracking & Turning** – In order to facilitate and service a development, the site needs to accommodate HGV trips. This would require full HGV turning circle to facilitate this and the size of the land it inhabits, again restricting the size of the unit that can be built.
- **Car Parking** – With a development of this size, it is an accurate assumption that there would need to be between 25-30 spaces for the future employees and owners.
- **Electrical Substation** – In order to service a development, a new electrical substation would be required on the site. The location of this would need to be as close to the boundary as possible in order to not incur unnecessary cost.

6.51. The identified site constraints and further viability assessment were once again reviewed by LSH on behalf of the LPA. The revised viability assessment indicated the following changes:

- **Land Value** – Following the reduction in the industrial unit area, the land value has dropped and reduced the cost per acre to £141,030/acre. It also notes land sales for industrial land are generally between £275k-£590k/acre. This is far higher than what is being projected here. Notwithstanding that, it is further exaggerated when looked in conjunction with the size of the total plot. On this basis, it concludes that the LSH sale value is not realistic and far under the market value, meaning that it would not be sold at this level.
- **Abnormals Cost** – The appraisal also notes that the LSH review did not include any abnormal costs for this site's construction. It is accepted that that the £70/sq.ft should be sufficient to build the unit and ancillary spaces. However, within the context of this site there are many site "abnormals" which attract a cost which are £360k over and above what has been included within the LSH appraisal for construction. In this scenario, when this figure is added to the LSH appraisal model, the resulting land value is -£87,000.

6.52. Based on the submitted revised information, LSH now conclude that as information has now come to light regarding the site specific abnormals, this does impact on the viability of the site for employment use. It is accepted that the land value may well be nominal when targeting a developer's profit on cost of 15% inclusive of the site specific abnormals. Notwithstanding this, if the site were to be marketed it may well achieve a higher value if sold to an owner occupier with a build to occupy requirement with other drivers other than pure profit. That being said, based purely

on a theoretical appraisal basis the land value would not be sufficient to incentivise the land owner to release the site for re-development.

- 6.53. Taking into consideration the assessment provided by LSH alongside the supporting information provided by the applicant; I and my strategic planning advisor are satisfied that, on balance, the site would not be viable for employment generating uses falling with a 'B' use class and as such, the proposed development would comply with the second test of policy TP20 of the BDP. In turn, the proposed development would also comply with paragraphs 120 and 121 of the NPPF. As such, the loss of employment land is considered acceptable and in accordance with policy.

#### DESIGN, LANDSCAPING AND TREES

- 6.54. Policy PG3 of the BDP states that *“All new development will be expected to demonstrate high design quality, contributing to a strong sense of place. New development should:*
- *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 and appropriate use of innovation in design.*
  - *Create safe environments that design out crime and make provision for people with disabilities through carefully considered layouts, designing buildings and open spaces that promote positive social interaction and natural surveillance.*
  - *Provide attractive environments that encourage people to move around by cycling and walking.*
  - *Ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term.*
  - *Take opportunities to make sustainable design integral to development, such as green infrastructure, sustainable drainage and energy generating features.*
  - *Support the creation of sustainable neighbourhoods.*
  - *Make the best use of existing buildings and efficient use of land in support of the overall development strategy.”*
- 6.55. Paragraph 3.14D of the Birmingham UDP (saved policies) refers to the same principle design guidelines as that of Policy PG3 of the BDP.
- 6.56. The proposed store would have a gross external area of 2,206sq.m and a net retail floor of 1,325sq.m. The building would front Warstock Road (to the south) with its main glazed frontage whilst the main body of the building would front Limekiln Lane and the car park (west). This frontage would be primarily blank with a small area of glazing at the entrance and advertisement panels along the building side. The store warehouse would be located behind this west elevation. An oversailing canopy would form the entrance feature. The building would have white rendered walls with grey Alucobond metal cladding above. The roof and store entrance canopy would be covered in grey metal roof sheeting. A glazed entrance and shopfront glazing would run along the Warstock Road frontage elevation and would also form a small part of the car park elevation at the entrance corner.
- 6.57. My City Design Advisor considers that most aspects of the scheme are acceptable in design. The general position and orientation of the store are in accordance with policy. The most active elevation is along the main frontage and it more or less respects the predominant building line on Warstock Road. The store entrance is also located in the most prominent position enabling views from Alcester Road. Concern

is however raised regarding the proposed sign which awkwardly protrudes above the roof line, and it would be much better if this could be wholly contained within the building fascia. I concur with this view and consider that the proposal is acceptable in design and in accordance with the spirit of policy PG3 relating to place making. In relation to the proposed signage, this would require separate advertisement consent however to ensure that the signage is amended, I consider it necessary to recommend a safeguarding condition to indicate that no consent is granted for the proposed signage shown on the submitted elevations.

- 6.58. In relation to landscaping, detailed landscaping plans have not been submitted and will be required to be secured via condition. The supporting information indicates that ornamental shrub planting and groundcover mix is proposed along all boundaries of the site. Tree planting is also proposed along the edges of the car park. My landscape officer has raised no objections to the proposed development relating to landscaping subject to safeguarding conditions. I concur with this approach and relevant safeguarding conditions are recommended below.
- 6.59. The submitted Arboricultural Assessment indicates that a total of seventeen individual trees and two groups of trees were surveyed. The survey found 4 Category B trees, and 13 Category C along with two groups of Category C trees. The proposed development would require the removal of 14 of the 17 trees surveyed. These would comprise 4 Category C Sycamores; 2 Category B Sycamores; 1 Category C Ash, 2 Category C Cherry Plum, 1 Category C Field Maple, 1 Category B English Oak and 1 Category C English Oak, 1 Category C Lural and 1 Category B Silver Birch.
- 6.60. As already identified no detailed landscaping proposals have been submitted with the application and this includes details of replacement trees. As such, I am unable to advise the number and type of replacements proposed. However, landscaping details are recommended to be secured by condition and this would include replacement tree planting to compensate for these losses.
- 6.61. My arboricultural officer has reviewed the assessment and identified that the three trees identified for retention are all outside of the applicant boundary. Of the trees for removal, 4 are of Category B quality. Ideally there should be tree replacements for at least the Category B rated trees. The alternative would be to provide some off site tree planting to add to the two tree groups G1 and G2. As such, my arboricultural officer considers that a minimum of 5 suitable trees planted as part of a plan for replacement are required. I concur with the Arboricultural Officer's view and relevant safeguarding conditions are recommended below.

#### HIGHWAYS AND PARKING

- 6.62. The application is accompanied by a transport assessment and draft travel plan. The assessment identifies that Warstock Road forms the southern perimeter of the site and is a dual carriageway with a wide central reservation. There are a number of crossing points/gap junctions within the central reservation to allow for vehicle turning. There are no parking restrictions along either side of the carriageway and the road is subject to a 30mph speed limit. The nearest bus stops are located on Alcester Road within 85m of the proposed site. Further bus stops are available to the north of the nearest bus stops, some 300m away. The bus stops are serviced by the 50, 50A and 150 bus routes.
- 6.63. The site would be accessed via a new access point along Warstock Road to the west of the existing site access which would be closed as part of the proposed

development. The new access would form part of an all movement junction with Warstock Road. To facilitate this, the existing gap junction would be amended to tie into the proposed site access. This would allow vehicles to access the site from the west, turning right from Warstock Road and to egress the site towards Alcester Road South.

- 6.64. Servicing would be undertaken from the same new access point from Warstock Road. Lidl limit deliveries to one or two vehicles per store per day with waste material generated by the store taken away by the same vehicle. Tracking assessments have been provided to illustrate HGV delivery movements within the customer car park.
- 6.65. 120 car parking spaces are proposed including 8 parent and child spaces and 6 spaces for people with mobility issues. 5 motorcycle spaces and further bicycle spaces would be provided under the store entrance canopy. This level would comply with Your Committee's Car Parking Guidelines.
- 6.66. Junction assessments have been undertaken and determine that the Alcester Road South/Warstock Road junction would operate within capacity on all arms with the addition of the development generated traffic. The assessment also demonstrated that the Warstock Lane arm of the Warstock Road/Warstock Lane/School Road/Highters Heath Lane roundabout exceeded satisfactory levels and would be over capacity with the addition of the development generated trips. The mitigation proposed would require the widening on the Warstock Lane arm on the approach to the roundabout. Amendments to the School Lane arm of the junction would also be necessary. The mitigation would result in all arms in both scenarios operating significantly below the threshold that denotes satisfactory operation.
- 6.67. Transportation has reviewed the proposal, the supporting transport assessment and addendum transport note. They conclude that the addendum note provides satisfactory updates and additional analysis relating to the originally submitted Transport Assessment and that a Framework Travel Plan has been submitted and updated. The submission also includes a Stage 1 Road Safety Audit, including designer's response.
- 6.68. They conclude that the submission provides satisfactory information/analysis regarding on-site parking provision/demand, swept path analysis, servicing facilities and estimation of local highway network impact and agree that the proposal is unlikely to impact significantly on the highway network. As such, they raise no objection subject to conditions relating to construction management, s278 Agreement relating to the required bellmouth access and highway modification (both in the vicinity of the site and also at the Warstock Road/Warstock Lane/School Road/Highters Heath Lane Roundabout Junction, car park management particularly during store deliveries and servicing and cycle parking provision. I concur with their view that the proposal is acceptable in relation to highway impact and parking.
- 6.69. I note a number of objections raised on behalf of Asda Stores Limited relating to deficiencies in the transport assessment relating to road safety, deliveries and servicing and trip generation. As previously acknowledged further highway assessment was undertaken following the original submission and Transportation now conclude that this satisfies the requirements and the development, subject to highway modifications, would be unlikely to impact significantly on the highway.

#### FLOOD RISK AND DRAINAGE

- 6.70. The submitted Flood Risk Assessment identifies that the site sits within Flood Zone 1 and is not considered to be at risk of flooding from any source. The proposed A1 retail store would also be within the less vulnerable development category. The proposed redevelopment would increase the impermeable area by approximately 9.6% and in turn increase the volume and rate of surface water runoff from the site. It is proposed that attenuation would be provided in a cellular attenuation tank and discharged to the existing sewer at the greenfield discharge rate.
- 6.71. The LLFA has raised no objection as overall they are in acceptance of the principles within the FRA and Surface Water Drainage Strategy. Severn Trent Water has also raised no objection. Conditions are sought by the LLFA relating to sustainable drainage and Severn Trent Water in relation to mains drainage. I concur with the LLFA and Severn Trent Water and I consider that the proposed development is acceptable in terms of flood risk and surface water drainage. The relevant drainage safeguarding conditions are recommended below.

### ECOLOGY

- 6.72. An ecological appraisal has been submitted in support of the application. This report is informed by the results of an ecological records search, Phase 1 habitat survey and daytime assessment for bats in October 2017.
- 6.73. The site is dominated by buildings and hardstanding, with limited areas of vegetated habitats – scattered trees, introduced shrub and species-poor / amenity grassland. A narrow belt of self-set, maturing woodland is present beyond the western and northern boundaries, bordering Limekiln Lane. Apart from the areas of woodland (mostly outside the site), the habitats present are considered to be of poor quality and as such, the site has limited value for wildlife. None of the four buildings present, nor any of the trees, are considered to have potential to support roosting bats. The buildings are well-sealed and their structural characteristics mean they are generally unfavourable for bats. Therefore, in relation to bats, the City Ecologist considers that there is no constraint to demolition of these structures. None of the trees are mature enough to contain decay features or other crevices that would provide suitable roosting sites. Scattered trees within the site and those around the northern and western boundaries provide suitable habitat for nesting birds, and the tree-lined section of Limekiln Lane provides useful habitat resource for foraging and commuting bats, particularly in association with the adjacent canal corridor. The site has negligible potential to support other protected / notable species.
- 6.74. New lighting is proposed for the car parking area. The Ecological Appraisal concludes that light spill is unlikely to reach the canal due to intervening habitats, and therefore impacts on nocturnal wildlife, such as foraging and commuting bats, are unlikely. The Planning Statement notes car park lighting is designed in accordance with Lidl's "Dark Sky" policy, with light fittings carefully specified in order to keep light spill beyond the site boundary to a minimum, with Lux and timer controls fitted. Looking at the proposed lighting layout (drg O-2013795), there would be minimal light spillage onto the canal corridor: light levels are at, or close to, 0 Lux apart from a location opposite the Limekiln Lane access, where a 6m column mounted LED luminaire will be installed. Existing trees along the site boundary and the opposite side of Limekiln Lane will also help to screen the canal corridor from light pollution from the site.
- 6.75. Re-development of the site provides an opportunity to enhance the site's biodiversity value. The submission highlights that ornamental shrub planting and groundcover mix is proposed along all site boundaries, with additional tree planting incorporated

at the edges of car parking. This new planting should be designed to maximise its value for wildlife, in line with recommendations in the ecology report. The City Ecologist considers that further details of biodiversity enhancement measures, incorporating other recommendations in the ecology report, should be secured by condition. I concur with this view and relevant ecology conditions are recommended below.

#### CONTAMINATED LAND

- 6.76. A site investigation report is submitted in support of the application. This identifies that the site includes an element of made ground of depths extending to 1.5m. Below the made ground, glacial till deposits comprising gravelly sandy clay were recorded to depths of up to 2m with Mercia Mudstone strata below. No potential contaminant concentrations above the assessment criteria for commercial development were found on site.
- 6.77. Regulatory Services have reviewed the submitted reports and have concerns regarding a number of issues that are highlighted in the reports including "*prior to construction, any Made Ground should be removed and replaced with Engineered Fill*". They confirm that this information will be specifically required prior to any condition details being approved. Should it not be forthcoming, the applicant will need to undertake an extended gas monitoring programme (to extend to at least 3 months and to include monitoring when atmospheric conditions are not suppressing gas flows into boreholes) i.e. avoiding "*flow from the atmosphere into the standpipe*". Borehole monitoring needs to capture falling or fallen atmospheric pressures. The report also identifies further investigative work that is required including:
- A survey of potential asbestos containing materials (ACMs) to be undertaken - if identified, demolition works carried out in accordance with statutory requirements.
  - Discovery Strategy put in place during site development works, such that any unidentified contamination encountered is reported to a geoenvironmental specialist for further investigation.
  - Support be provided, or sides battered back, in any excavations requiring man entry, in compliance with the relevant risk assessment. Instability may occur in deeper excavations.

Given this concern, Regulatory Services have requested safeguarding conditions relating to contaminated land are attached to any approval of planning permission. These conditions are recommended below.

#### OTHER ISSUES

- 6.78. The proposed development does not attract a CIL contribution.

#### 7. Conclusion

- 7.1. I consider that design, highway impact, car parking, drainage and ecology are satisfactorily addressed. The proposed development complies with the requirements of the sequential test as an available, suitable and viable site does not exist within or adjacent to the identified centres and the proposed development would not have a significant adverse impact on investment or the vitality and viability of the identified centres. The proposed development is also located on 'good quality' employment land for which the site has not been adequately marketed in accordance with policy but has satisfactorily addressed the policy tests and determined that the site is not

viable for employment development. As such, its redevelopment for an A1 food store is considered to be in accordance with policy.

8. Recommendation

8.1. That planning permission is granted subject to the conditions listed below.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the agreed mobility access to be maintained
  - 3 Requires the prior submission of a contamination remediation scheme
  - 4 Requires the submission of a contaminated land verification report
  - 5 Limits the hours of use 0700-2200 Monday to Friday and 1000-1600 Sundays
  - 6 Limits delivery time of goods to or from the site to 0700-2200 Monday to Friday and 1000-1600 on Sundays
  - 7 Requires the prior submission of a sustainable drainage scheme
  - 8 Requires the prior submission of a drainage scheme
  - 9 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
  - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Implementation in accordance with the Ecological Appraisal
  - 12 Requires the submission of extraction and odour control details
  - 13 Limits the noise levels for Plant and Machinery
  - 14 Requires the prior submission of a goods delivery strategy
  - 15 Requires the submission of hard and/or soft landscape details
  - 16 Requires the prior submission of earthworks details
  - 17 Requires the submission of boundary treatment details
  - 18 Requires the submission of a landscape management plan
  - 19 Requires the prior submission of a construction method statement/management plan
  - 20 Requires the submission of sample materials
  - 21 Requires the submission of a CCTV and alarm scheme
  - 22 No consent for advertisements
-

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- 23 Requires the window not to be obscured
  - 24 Requires the prior installation of means of access
  - 25 Requires the submission of a parking management strategy
  - 26 Requires the delivery and service area prior to occupation
  - 27 Requires the parking area to be laid out prior to use
  - 28 Requires the submission of cycle storage details
  - 29 Requires the submission and completion of works for the S278/TRO Agreement
  - 30 Requires the implementation of tree protection
  - 31 Requires the provision of a vehicle charging point
  - 32 No subdivision of the A1 retail unit
  - 33 Implement within 3 years (Full)
- 

Case Officer: Pam Brennan

**Photo(s)**

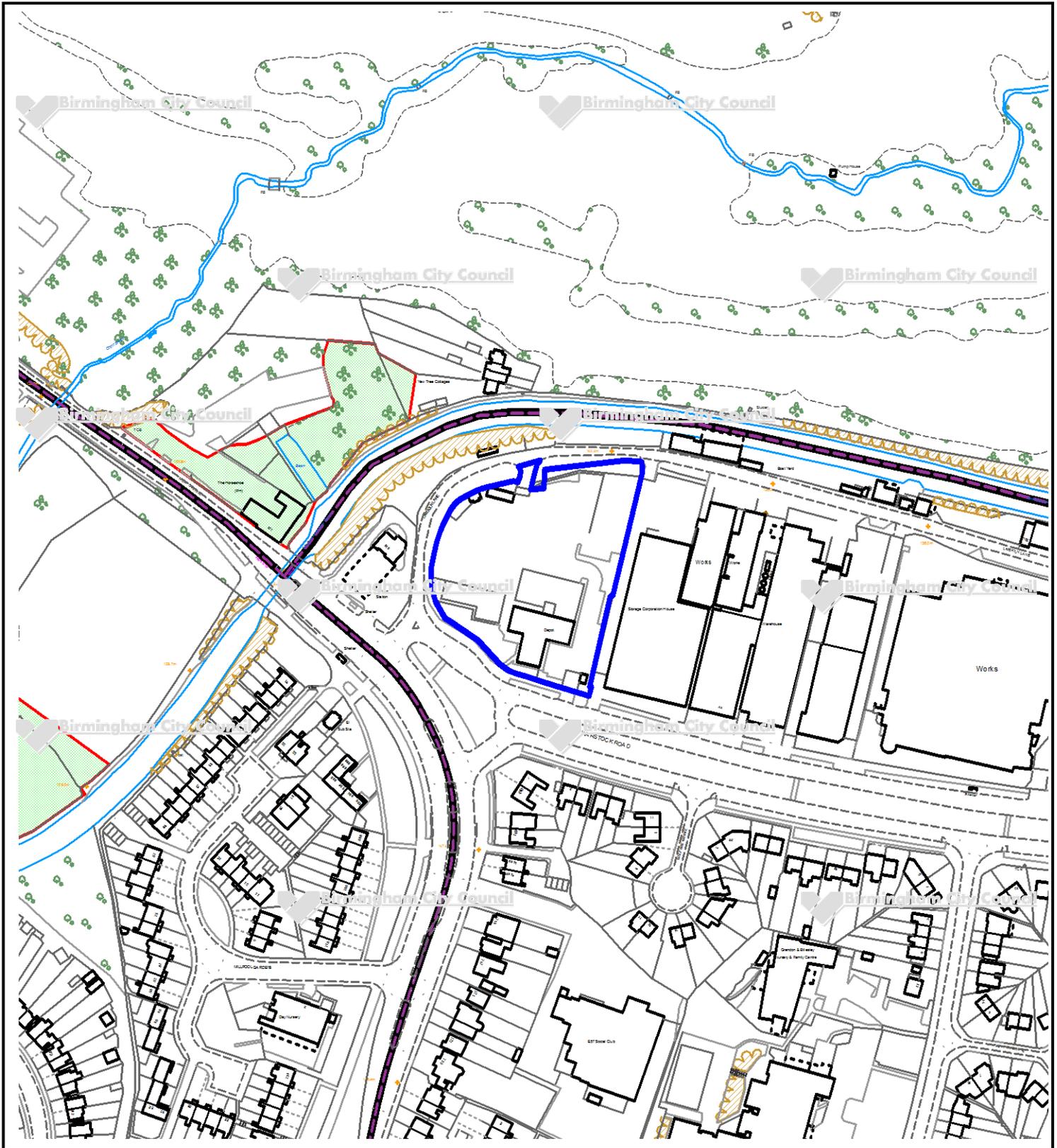


Photograph 1: Application site looking north from south side of Warstock Road.



Photograph 2: Application site looking north-west from the A435

# Location Plan



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Committee Date:	20/12/2018	Application Number:	2018/07715/PA
Accepted:	21/09/2018	Application Type:	Householder
Target Date:	21/12/2018		
Ward:	Moseley		

69 Billesley Lane, Moseley, Birmingham, B13 9QX

Erection of two storey side and rear, single storey rear extensions and first floor extension, roof alteration with dormer windows to front and rear and front porch

Applicant: Mr N Rafiq  
69 Billesley Lane, Moseley, Birmingham, B13 9QX  
Agent: Ali Architectural Services  
414 Coventry Road, Small Heath, Birmingham, B10 0UF

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Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Planning consent is sought for the proposed erection of two storey side and single storey rear extensions in addition to roof alterations with dormer windows to front and rear as well as a front porch.
- 1.2. The proposed development would give rise to an eight bed two storey dwelling. The proposed development will reconfigure the interior of the dwelling adding a reception, formal lounge, games room, utility kitchen and annexe. The proposal will also reconfigure the kitchen creating an open plan kitchen and family lounge/breakfast area and add four upstairs bedrooms.
- 1.3. A two storey side extension will replace what is currently the lounge and utility area which the new bedrooms will be created from as well as the kitchen, games room and family lounge/breakfast room. The two storey rear extension will be used to add volume to bedroom 1. The single storey rear extensions create the utility kitchen, formal lounge, and annexe spaces.
- 1.4. The site has received planning permission for a similar scale scheme in 2015 under application reference number 2015/06879/PA, however it is understood that this scheme was not carried out as the ground floor could not support the proposed first floor extensions as was originally intended, this led to the submission of the current scheme.
- 1.5. Amendments have been received ensuring compliance with the 45 degree code and reworking the design of the original proposal into a more sympathetic style to the arts and crafts heritage of the area.

1.6. At the time of the site visit on 30/10/18 building works had already commenced, however it is unclear whether these works are for the granted 2015 permission or for the as yet undetermined 2018 application.

1.7. [Link to Documents](#)

## 2. Site & Surroundings

2.1. The site is located within the St Agnes, Moseley Conservation Area and is a large dormer bungalow. The application property has brick elevations with a gable roof over. The property has been significantly extended previously. The property is set within a spacious site which is well screened from Billesley Lane. The surrounding properties are predominantly large traditional Arts and Crafts style dwelling houses.

2.2. [Site Location](#)

## 3. Planning History

3.1. 14/02/1980- 16185003- New games room, garage, utility and bedroom extensions- Approved subject to conditions.

3.2. 04/11/2003- 2003/05737/PA- Extension of existing dormer bungalow to provide two storey house and two storey front extension and two storey side extension- Refused.

3.3. 2015/06879/PA - 15/10/2015. Erection of first floor and single storey front and rear extensions – Approved Subject to Conditions.

## 4. Consultation/PP Responses

4.1. PP carried out, site notice posted, Ward Councillors and Neighbours notified, 6 objections.

4.2. Objections come from a mix of neighbours, the St Agnes Residents Association and the Moseley Society, the objections are summarised below:

- The proposed development is too large for the plot of land it rests on.
- The proposed development is overbearing on nearby houses.
- The proposed development is contrary to the St Agnes Conservation Area
- The proposed development will set an unwelcome precedent.
- The proposed development description is inaccurate.
- The proposed development design is out of character with the St Agnes Conservation Area.
- The proposed development will overlook neighbouring properties.
- The proposed development will come close to established trees and potentially impact them.
- The proposed development contains transparent windows that are close to existing neighbouring amenity space.
- The proposed development has a design that differs majorly from the original dwelling
- The proposed development will require clearing of the front garden which is presently home to a number of trees. This will mean the development is more visible from the street.

## 5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan 2005 (Saved Policies 3.14 –3.14D and Chapter 8)
- Birmingham Development Plan (2017)
- Places for Living (Adopted Supplementary Planning Guidance 2001)
- Extending your Home (2007)
- Regeneration Through Conservation SPD (1999)
- The 45 Degree Code (Adopted Supplementary Planning Guidance 1996)

5.2. The following national policies are applicable:

NPPF: National Planning Policy Framework (2018)

## 6. Planning Considerations

6.1. This application has been assessed in accordance with the objectives and guidelines contained within the policy outlined above.

6.2. The key factors for consideration in the determination of this application are the scale, massing, layout and design of the proposal as well as the impact on amenity.

6.3. As has been noted above a previous application (2015/06879/PA) has been made on this site and gained approval for a similarly sized 7 bed proposal. As a result it is considered that the additional floor area proposed in this application does not create a significant enough change to merit refusal. The initially submitted plans for this site differ little in scale to the 2015 plans however in design terms the original submission was a retrograde step. Amended plans were sought and received which altered the design elements of the proposal bringing them more in line with the previous 2015 proposal.

6.4. In terms of scale, massing, layout and design the amended proposal is considered acceptable. My Conservation Officer noted that the initial design of the proposal was unacceptable on the grounds of the sites impact on the conservation area that it rests in, however the Officer revised their conclusions on the basis of the submitted amended plan and now has no objection. The amended proposal is now closer to the accepted design from the 2015 application and is not considered to be harmful to the designated heritage asset of the St Agnes Conservation Area and now better reflects the art and crafts heritage of the properties in the surrounding area. The proposal, whilst large, is not the only example of such scale in the surrounding area and has been previously noted a proposal this size was established within the 2015 proposal. As such the scale of the proposed development is considered acceptable. The proposal is not judged to harm the architectural amenity of the original dwelling or the surrounding area.

6.5. In terms of impact on amenity the proposal is considered acceptable. Following amendments the proposal now complies with the 45 degree code. The proposed development maintains the required 21.5m separation distance and the 70sqm of private amenity space as required by the 'Extending Your Home' SPD. The proposal

does contribute issues regarding overlooking with the glass walled connection between the kitchen and utility kitchen overlooking the private rear amenity space and into side windows of number 71, as such the connection will be conditioned to be obscurely glazed to preserve the amenity and privacy of the neighbouring property.

6.6. The Tree Officer has been consulted and believes the proposed development could conflict with some trees on the site. For this reason and due to the quality of the submitted arboricultural report the Officer recommends the attachment of a condition preventing development until a site specific arboricultural report and tree protection plan is submitted. This application is recommended to have a pre-commencement condition requiring the submission of a site specific arboricultural report and tree protection plan prior to development commencing. This condition will be recommended to identify and safeguard the trees present on the site.

7. Conclusion

7.1. The proposal complies with the guidelines and objectives outlined within the policy above. This proposal is 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 | Requires that the materials used match the main building                                    |
| 3 | Requires the submission details obscure glazing for specific areas of the approved building |
| 4 | Arboricultural Method Statement - Submission Required                                       |
| 5 | Implement within 3 years (Full)                                                             |
- 

Case Officer: Emma Bradley

**Photo(s)**



Figure 1 – Front Elevation

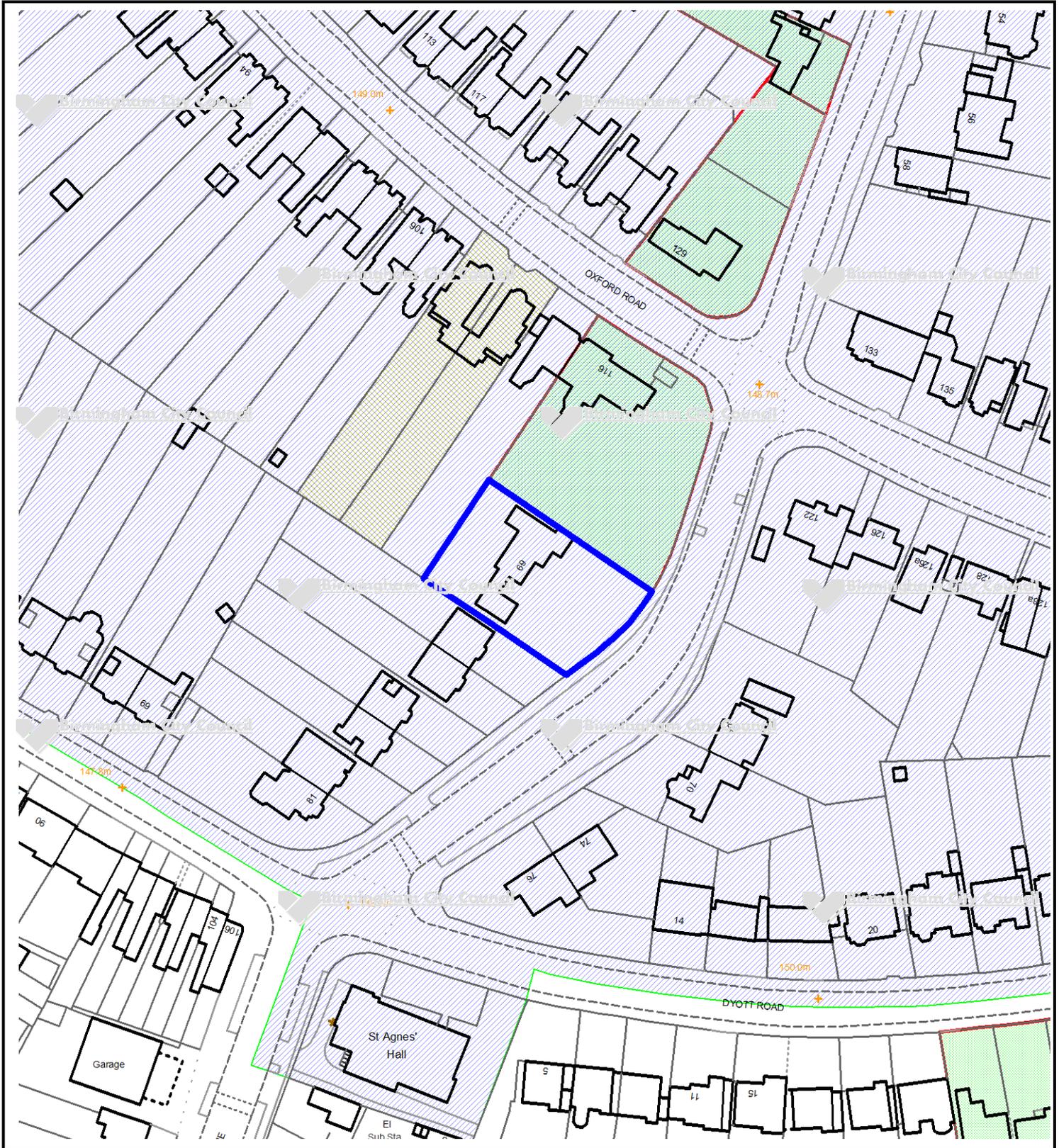


Figure 2 Figure 3 – Rear Elevation Looking East



Figure 3 – Rear Elevation Looking West to Number 71

# Location Plan



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Committee Date: 20/12/2018      Application Number: 2018/06395/PA  
Accepted: 02/08/2018      Application Type: Householder  
Target Date: 27/09/2018  
Ward: Bournville & Cotteridge

61 Langleys Road, Birmingham, B29 6HR

Erection of two storey side and rear extensions and single and first floor rear extensions.

Applicant: Mr Pervinder Sandhu  
61 Langleys Road, Birmingham, B29 6HR  
Agent: Easyplan Birmingham  
Brackenfield, Leasowes Lane, Halesowen, B62 8QE

---

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Consent is sought for the erection of a two storey side, first floor rear extension and single storey front extension at 61 Langleys Road, Selly Oak, B29 6HR.
- 1.2. The dormer window to the rear roof slope would constitute permitted development and can be undertaken through the property's permitted development rights. As such this does not form part of this application.
- 1.3. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises a semi-detached property with a hipped roof design located within a residential street comprising properties of a similar design and scale to the application site. The property is currently in the process of being extended, with a single storey extension under construction at the time of the site visit. Neighbouring property No. 59 is of a similar design and scale to the application site, with a ground floor lounge window and first floor bedroom window to the rear elevation of the property nearest the application site. To the adjacent side No. 65 Langleys Road has been heavily extended with a two storey side and rear extension, single storey rear extension and dormer windows to the rear roof slope.
- 2.2. [Site Location Plan](#)

3. Planning History

- 3.1. 06/12/2016 - 2016/09283/PA - Erection of 6.0 metres deep single storey rear extension. Maximum height 3.6 metres, eaves height 3.0 metres – Accepted as not need prior approval from the Council

- 3.2. Adjacent neighbour planning history
- 3.3. 27/05/2016 - 2016/02839/PA – Erection of first floor side, single storey rear and front extensions – to No. 65 Langleys Road – Approved with conditions

4. Consultation/PP Responses

- 4.1. Local Ward Members, Residents Associations and neighbouring properties have been consulted. 6 responses have been received raising the following concerns:
- Would result in a terracing effect
  - Concerns property would be used as a HMO
  - Over-intensity of development
  - Would not comply with the 45 Degree Code
  - Loss of light and outlook
- 4.2. Trees – No objections subject to condition

5. Policy Context

- 5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan (Adopted 2005)
- Birmingham Development Plan (2013)
- Places For Living (Adopted Supplementary Planning Guidance 2001)
- The 45 Degree Code (Adopted Supplementary Planning Guidance 1996)
- Extending your Home (2007)

- 5.2. The following national policies are applicable:

- NPPF- National Planning Policy Framework (2018)

6. Planning Considerations

- 6.1. This application should be assessed against the objectives of the policies as set out above. Following discussions with the agent, amended plans have been received reducing the depth of the first floor rear extension by 0.6m. At the time of my site visits, the single storey rear extension approved under the prior approval application was under construction.
- 6.2. The design and scale of the proposal, as amended, is acceptable. Whilst a separation between the two storey side extension and the neighbouring property at No. 65 would be preferable I do not consider the proposed extension would be sufficiently detrimental to warrant refusal of the application. The two storey side extension has been set back from the front elevation, with the ridge height below the ridge of the original property, to aid in creating a subservient appearance. Consideration is also given to other extensions within the existing street scene which already set a precedent. I consider that the proposed development would not compromise the existing character or architectural features of the property, or have a detrimental impact on the general street scene. On balance the resulting building would not be out of scale or character with other properties within the locality, and would not be an over development of the site. The proposal would be in accordance

with the principles contained within 'Extending Your Home' Supplementary Planning Document.

- 6.3. The proposed development, as amended, complies with the 45 Degree Code Policy, and minimum distance separation guidelines contained within 'Places for Living' and 'Extending Your Home' would be met. There would be no overlooking issue, or adverse impact on the amenities of the occupiers of the adjacent properties by virtue of loss of light or outlook.
- 6.4. There is local concern that the property is to be used as a House in Multiple Occupation. There is no evidence within the application as submitted to suggest that the property would be used as a HMO and the applicant has confirmed its use as a family dwelling house. If this is not the case, as the property is located within the HMO Article 4 Direction, planning permission would be required if more than 3 unrelated people occupy it. Within the Article 4 planning permission is required for a change of use from Use Class C3 (residential dwellinghouse) to Use Class C4 (smallscale HMO).
- 6.5. I consider that the remaining objections have been addressed above.
- 6.6. The proposed development does not attract a CIL contribution.

7. Conclusion

- 7.1. This application is recommended for approval as the proposal complies with the policies as outlined above.

8. Recommendation

- 8.1. Approve subject to the following conditions

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires that the materials used match the main building
  - 3 Requires the implementation of tree protection
  - 4 Implement within 3 years (Full)
- 

Case Officer: Leah Russell

**Photo(s)**



Photograph 1: Front elevation



Photograph 2: Rear elevation of No. 59 Langleys Road



Photograph 3: Rear elevation of No. 65 Langleys Road



Photograph 4: Existing street scene

# Location Plan



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Committee Date: 20/12/2018      Application Number: 2018/08457/PA  
Accepted: 17/10/2018      Application Type: Householder  
Target Date: 12/12/2018  
Ward: Hall Green South

145 Stonor Road, Hall Green, Birmingham, B28 0QW

Erection of two storey side and rear extensions and porch to front.

Applicant: Mr Gul Bahar  
145 Stonor Road, Hall Green, Birmingham, B28 0QW  
Agent: Arcon Architects  
250 Walsall Road, Perry Barr, Birmingham, B42 1UB

---

Recommendation

**Approve subject to Conditions**

1. Proposal

1.1. The application proposes the erection of a two storey side and two storey rear extension to add three additional bedrooms, one additional bathroom and an extension to the kitchen. There will be two additional bedrooms on the first floor with one additional bedroom on the ground floor. The proposal will also add a porch to the front of the dwelling.

1.2. [Link to Documents](#)

2. Site & Surroundings

2.1. The proposal site is a two storey semi-detached corner dwelling located on Stonor Road in Hall Green. The property is located on a residential street comprised of properties of a similar style. The attached neighbour number 143 has an existing side extension of a similar style to the current proposal.

2.2. [Site Location](#)

3. Planning History

3.1. 2018/08467/PA – Erection of 4.0 metres deep single storey rear extension. Maximum height 4.0 metres, eaves height 3.0 metres – No prior Approval Required.

4. Consultation/PP Responses

4.1. Local Residents and Ward Councillors were notified. 7 objections were received which are summarised below:

- Development will overshadow neighbouring properties and their gardens;
- The proposal is too large for the existing plot;
- The proposed development is of a larger size and scale than any other property on the road and so will not be in keeping with the local character;

- Proposal will lead to overlooking issues;
- Harmful impact on road safety as it is located on a corner at a bend in the road. Cars parked on the street may cause accidents with 'boy racers' present in the area.
- The proposed development will result in additional strain on schools in the local area.
- The proposed development will result in the property hosting a number of taxis which will increase local traffic.
- The building works will result in a large number of HGV's accessing the site which will impact parking and create additional hazards for pedestrians and drivers and raise congestion; and
- Insufficient parking for proposal

4.2. An objection has been received from Councillor Huxtable. His concerns are summarised below:

- The size and scale of this development would be completely out of proportion to other properties in the immediate vicinity;
- The proposal would probably lead to a shortage of parking spaces in Stonor Road and impact on both the visual amenity and the provision of natural light to local residents; and
- The proposal will also almost certainly lead to increased parking on grass verges, which are highly valued in Hall Green, and part of what makes Hall Green attractive to live in.

## 5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan 2005 (Saved Policies 3.14 –3.14D and Chapter 8)
- Birmingham Development Plan (2017)
- Places for Living (Adopted Supplementary Planning Guidance 2001)
- Extending your Home (2007)
- The 45 Degree Code (Adopted Supplementary Planning Guidance 1996)

5.2. The following national policies are applicable:  
NPPF: National Planning Policy Framework (2018)

## 6. Planning Considerations

6.1. This application has been assessed in accordance with the guidelines and objectives contained within the policy outlined above.

6.2. The key factors for consideration in the determination of this application are the impact on character, residential amenity and transportation.

### *Impact on Character*

6.3. Amended plans have been requested and received. The amendments introduced a setback in the first floor to mirror the neighbouring property of 143 Stonor Road; the amendments also introduced a 0.5 side setback from the boundary.

6.4. The scale, massing, layout and design the proposal is considered acceptable. The proposed side extension as amended is now more in line with the character of the

street than the original proposal and mirrors the frontage of the existing side extension at 143 Stonor Road. The two storey side extension is considered subservient to the existing dwelling, as the extension set down from the roofline and the set back from the front elevation of the dwelling. The two storey rear extension is not excessive in size and therefore does not over-dominate the host dwelling. The proposal is not considered to harm the architectural appearance of the original dwelling or the character of the wider area in accordance with the Extending Your Home SPD.

#### *Impact on Amenity*

- 6.5. The proposal complies with the 45 degree code which has been measured from the closest ground floor windows of both number 143 Stonor Road and number 147. It is therefore considered that a loss of light would not occur. Concerns have been raised over the potential for adjoining private gardens to be overshadowed. However, the two storey rear extension is set 2m from the side boundary ensuring that the proposal would not appear unduly dominant and any overshadowing would not be significant.
- 6.6. The proposal leaves the required 21.5m separation distance between the rear elevation of the proposal and the closest neighbouring dwelling with facing windows at number 19 Nayland Croft as required in the 'Extending Your Home' SPD. The proposal also leaves approximately 80sqm of private amenity space which is 10sqm over the minimum required as specified within 'Extending Your Home'. With regards to overlooking, typically a window in a proposal is required to be set back by 5m per storey from the boundary of the site to preserve the amenity of neighbours. To prevent overlooking all side facing windows can be obscurely glazed, which can be secured via condition. The windows on the rear provide views down the applicant's garden rather than into the private amenity space of adjoining properties ensuring no significant loss of privacy.
- 6.7. In conclusion the impact on residential amenity is considered to be acceptable

#### *Transportation*

- 6.8. A number of concerns have been raised regarding highway safety and parking provision. The proposal would retain sufficient space for 2 cars to be parked within the application site. In addition there are no parking restrictions on Stonor Road and therefore is scope for additional off-site parking.
- 6.9. Concerns were raised over the operation of a business use from the site. The application, as presented is purely for a house extension. The operation of a taxi service business from the dwelling would require a separate planning application, at which time its impact upon the area could be assessed

#### 7. Conclusion

- 7.1. This proposal complies with the guidelines and objectives as set out within the policy above. This application is 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 Requires the submission details obscure glazing for specific areas of the approved building
  - 3 Requires that the materials used match the main building
  - 4 Implement within 3 years (Full)
- 

Case Officer: Emma Bradley

**Photo(s)**



Figure 1 – Front Elevation



Figure 2 – Side Elevation

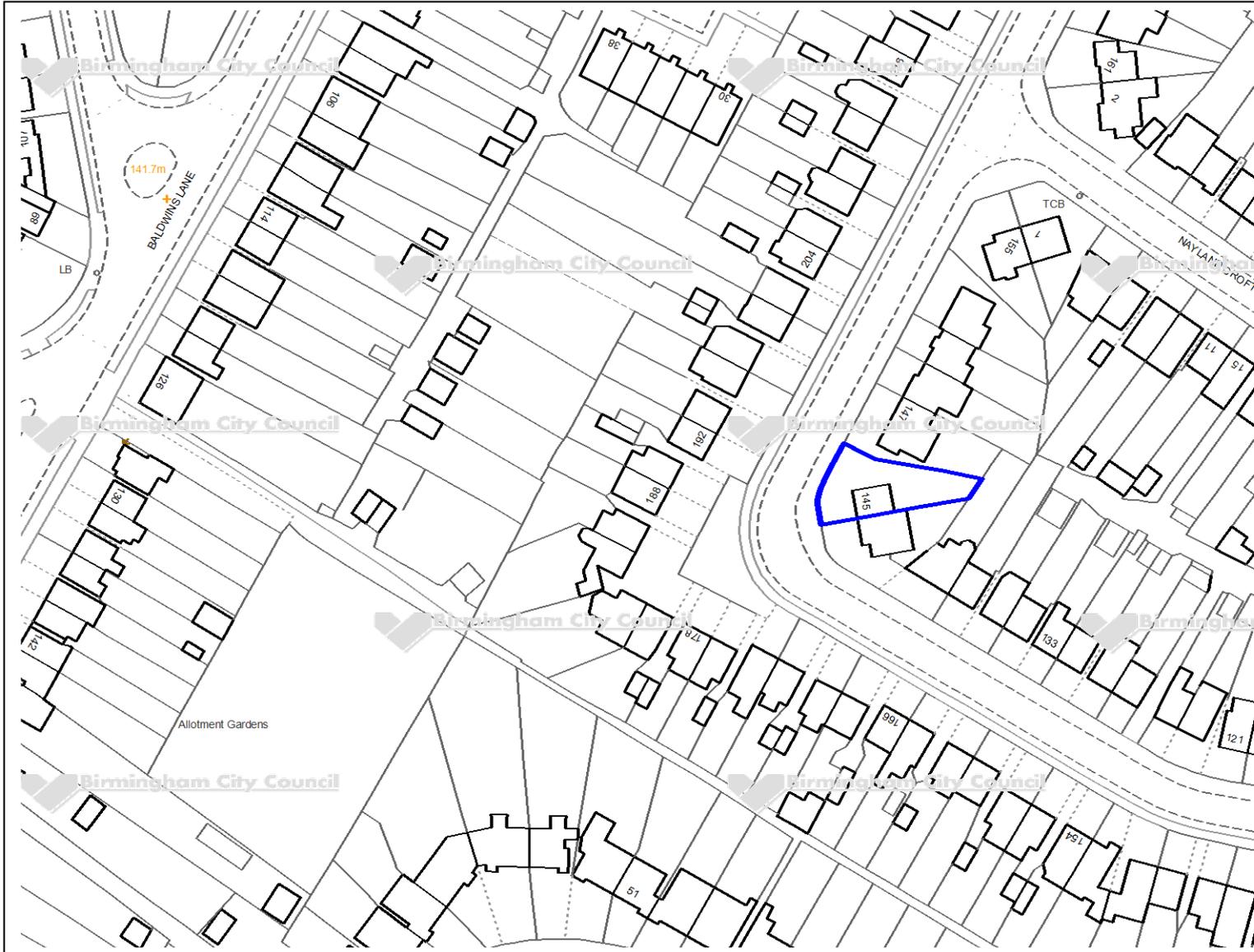


Figure 3 – Rear Elevation 1



Figure 4 – Rear Elevation 2

# Location Plan



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**Birmingham City Council  
Planning Committee 20 December 2018**

**Appeal Decisions Received from the Planning Inspectorate in November  
2018**

<b><u>CATEGORY</u></b>	<b><u>ADDRESS</u></b>	<b><u>USE</u></b>	<b><u>DECISION</u></b>	<b><u>TYPE</u></b>	<b><u>PROCEDURE</u></b>
<b>Householder</b>	58 Overton Road, Acock's Green	Erection of two storey side and single storey forward and rear extensions. 2018/03433/PA	Dismissed	Delegated	Written Representations
<b>Householder</b>	1 Dalkeith Road, Sutton Coldfield	Erection of attached double garage to side. 2018/04907/PA	Dismissed	Delegated	Written Representations
<b>Householder</b>	44 Kensington Road, Selly Park	Retention of existing railings and piers to front. 2018/03247/PA	Dismissed	Delegated	Written Representations
<b>Householder</b>	19 Second Avenue, Selly Oak	Installation of roof lights to front and dormer to rear. 2018/01500/PA	Allowed (see note 1 attached)	Delegated	Written Representations

**Total - 4 Decisions: 3 Dismissed (75%) 1 Allowed**

**Cumulative total from 1 April 2018 - 74 Decisions: 58 Dismissed (78%), 16 Allowed**

## **Notes relating to appeal decisions received in November 2018**

### **Note 1: (19 Second Avenue)**

**Application refused** because: 1) The scale/design of the proposed development by virtue of scale and design would not preserve or enhance the character of the Selly Park Avenues Conservation Area. 2) The design of the proposed extension would be out of keeping with the design/character/appearance of the existing house. 3) The size of the proposed extension would be out of scale with the existing house and would dominate its appearance/the street scene.

**Appeal allowed** because the Inspector concluded that the proposed development would not have an adverse impact on the character and appearance of the host property or area and would preserve the character and appearance of the Conservation Area.